ing Citizen Banquet and attending services at First United Methodist Church. At that time many of us understood he was sounding out the state political situation and considering very strongly tossing his hat into the gubernatorial ring. In conversations with him Thursday evening we got the distinct feeling that he is still very much in the race and an announcement may be forthcoming in that regard soon.

Sen. Gore, the seasoned and wise politician that he is, appears more confident of reelection, but at the same time realizing that he is in for a strong battle. He is not discounting the appeal of Republican Candidate Tex Ritter, particularly to the Wallace voters. Gore believes he has the support of a vast majority of the young people including the college students but is not sure how to evaluate their overall contribution to his vote. Obviously, he is worried about the negative effect that long-haired students may have on the older voters (or should we say, silent majority).

Rep. Evins has been extremely busy in committee hearings. He looks real good and appears to have recovered from a heart attack last year. In his job as Chairman of the House Appropriations Committee, Rep. Evins had the task of considering legislation providing for approximately $20 billion—one-tenth of the entire national budget. In our conversations with members of Congress and other government officials, we constantly heard the comment that our own Joe L. Evins is one of the most powerful men in the nation's capital. He has been a member of the House of Representatives since 1946.

Rep. Evins predicts that the efforts to depose House Speaker John McCormack will be unsuccessful and that McCormack will run again because all the talk that he step down has displeased him. "I don't believe he would have run this time," Evins said, "if all this had not arisen." Evins blames the ultra-liberals and several newly elected Congressmen for working to oust the House Speaker. However, should McCormack step down as Speaker, Evins predicts that Arkansas' Wilbur Mills will succeed him.

Friday morning we visited the fastest growing and I believe the largest agency, the Pentagon excepted, the Department of Health, Education and Welfare. Here we heard from John G. Veneman, the Under Secretary and two lesser lights. We got the impression that a family of four may expect a guaranteed annual wage of $1,600 with an additional earnings of $720 exempt from taxes in the coming scheme of the Welfare program and that payments will be uniform in all states. All Washington seems to think the guaranteed wage is coming.

A walk across the street to the Department of Transportation was next. Here we heard from three outstanding men: Francis Turner, Administrator, Federal Highway Administration; Carlos C. Villarreal, Urban Mass Transportation Administrator; and Douglas W. Toms, National Highway Safety Bureau Director.

Turner told us that the Interstate Highway System Carries 20% of all traffic and that the accident rate there is one-third that on other systems. When the system is complete in 1976 (66% complete now) we will be saving 8,000 lives every year and millions of dollars in travel time and operating costs!

Toms told us about safety plans for automobiles. He said alcohol presents a tremendous safety problem because 90% drink and drive. He said approximately 10,000 lives are lost each year as a result of alcohol. No real solutions were offered.

During the afternoon we visited the Executive Offices of the White House and heard from Mr. Daniel P. Moynihan, counselor to the President, who, incidentally, has been in the news this week for memoranda he gave President Nixon purportedly calling for a "cooling off period" in race relations. The do-gooders and the left are out to get Mr. Moynihan for suggesting such a thing and especially so because he was always considered "one of them." Mr. Moynihan told us that he thinks we should be lowering our voices and that the time has now arrived to consolidate some of the gains made in the field of Civil Rights. "Put some of those gains to practical use," he said.

Mr. Moynihan is a brilliant man, but he had trouble communicating with his audience because his mind was always ahead of what he was saying.

A briefing on Drug Abuse by representatives of the National Institute of Mental Health, turned out to be a lecture on how to rear our children. Which was good but did not tell us what we expected to hear: What the government knows and is doing about the problem of Narcotics. Many of the publishers cited cases where students in junior high and even the eighth grade were involved with narcotics in their respective cities.

SENATE—*Tuesday, March 31, 1970*

The Senate, in executive session, met at 12 o'clock meridian and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

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

Our Father God, we thank Thee for the day of resurrection attesting the invincibility of truth and the omnipotence of love. We thank Thee too for the renewal of faith and hope in all who follow Thee in spirit and in truth.

As Thy servants here enter upon the waiting tasks of the new week, grant them a solemn sense of the stewardship of public office. Equip them with patience and perseverance for strenuous hours, sound judgment in difficult decisions, and the vision to see beyond the day's duties the working of Thine eternal kingdom.

O God, bless this Nation and so mend every flaw, heal every sickness, and perfect her in ways of justice and righteousness as to make her a blessing to all mankind.

In the name of Him who is the Light of the World. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 31, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on March 25, 1970, the President had approved and signed the following acts:

S. 495. An act for the relief of Marie-Louise (Mary Louise) Pierce; and

S. 3427. An act to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) 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 Labor and Public Welfare:

To the Congress of the United States:

For all of our arts institutions, these are times of increasing financial concern. The Fiscal Year 1969 Report of the National Endowment for the Arts, which I am transmitting herewith, notes that "the services offered by arts institutions, and the costs which they incurred, continued to expand at a faster rate than earned income and contributions. Therefore as the year continued, these institutions were confronted by mounting financial pressures."

The sums appropriated by the Congress for the Endowment during this period were at the levels established in prior years. Its programs, though limited in size, were of benefit to all of the fifty States and the five special jurisdictions, and in some instances were the means by which fine institutions in the performing arts were enabled to survive.

It was in response to the growing financial problem that on December 10, 1969, I sent to the Congress a special message on the Arts and the Humanities. I noted then that "Need and opportunity combine . . . to present the Federal government with an obligation to help broaden the base of our cultural legacy. . . ." Accordingly, I asked the Congress to extend the legislation creating the National Foundation on the Arts and the Humanities, and to provide appropriations for the National Foundation in Fiscal 1971 in an amount "virtually double the current year's level."

In urging the Congress to approve a $20 million program for the National Endowment for the Arts, and an equal amount for the National Endowment for the Humanities, I maintained that few investments we could make would give us so great a return in terms of human satisfaction and spiritual fulfillment. More than ever now, I hold to that view.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

REPORT ON UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-289)

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) 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 Labor and Public Welfare:

To the Congress of the United States:

The United States-Japan Cooperative Medical Science Program was undertaken in 1965 following a meeting between the Prime Minister of Japan and the President of the United States. This joint research effort in the medical sciences focuses upon diseases which are widespread in Asian nations: cholera, tuberculosis, leprosy, viral diseases, parasitic diseases, and malnutrition. Its efforts are significant not only for the people of Asia, however, but for all people—wherever they may live.

The Cooperative Medical Science Program is only now beginning to reach maturity. Yet it has already made substantial progress—progress which is highlighted in the report of the Program which I am today submitting to the Congress.

This joint undertaking is an important contribution to world peace as well as to world health. By providing a way in which men of different nations can work together for their mutual benefit, this Program does much to foster international respect and understanding.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

DISTRICT OF COLUMBIA BUDGET—MESSAGE FROM THE PRESIDENT (H. DOC NO. 91-240)

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following message from the President of the United States, which, with the accompanying document, was referred to the Committee on Appropriations:

To the Congress of the United States:

I am transmitting to the Congress the budget for the District of Columbia for the fiscal year beginning July 1, 1970.

This budget represents the programs and policies of the government of the District of Columbia for providing the municipal services and for the local needs of our Nation's Capital City. It also reflects the financial contributions of the Federal Government in providing resources to help finance the local budget.

Washington, D.C., is a great city of monumental beauty, national history, and governmental activity vital to the Nation's domestic and international affairs. Washington is also the center city of one of the Nation's fastest growing metropolitan areas and as such is the hub of business and commercial activity and the home of 828,000 residents. To protect and promote the interests of the residents, visitors, employees in both the public and private sectors, national and international leaders, requires critical attention to the needs of the Capital City and the urban problems it shares with the other cities of our country. It also requires that the best and most effective use be made of the local and Federal tax dollars which are used to finance the District's budget.

This budget, as approved by the Mayor and the City Council, proposes prudent and realistic programs and means of financing to move toward our goal to establish a quality environment for Washington and make it the kind of city we all look for and want as a Nation's Capital.

This budget recommends appropriations of $881 million for the fiscal year 1971 and includes $654 million for operating programs and debt service and $227 million for local public works projects. The estimates for operating expenses and debt service, which cover the basic ongoing programs and provide for the city's services, represent an increase of $86 million or 15% above the amount estimated for the current fiscal year.

SOURCES OF FINANCING

The proposed $881 million in budget authority for fiscal 1971 will require total local expenditures of $647 million for operating and debt service expenses and $227 million for capital outlays. The operating and debt service requirements are to be financed by $488 million of local taxes from existing sources; $21.5 million from a proposed increase in individual income tax rates as contained in Section 301 of H.R. 15151; $1.5 million from a proposed 1-cent increase in the gasoline tax; and $136 million in Federal funds which includes $4 million for water and sewer services provided for Federal agencies and $132 million for the annual Federal payment to defray the operating expenses of the City Government on the basis of a proposed formula which would set the Federal payment authorization at 30% of local District revenues.

The proposed 30% Federal payment authorization would provide for an equitable sharing by the Federal Government in meeting the needs of the District Government—including better law enforcement capability, strengthened crime prevention and control activities, health and welfare programs, and pay increases for District employees, including an increase for its teachers, policemen, and firemen which is now pending before the Congress.

These various local requirements make it imperative that the Congress promptly enact the proposed Federal payment and local income tax measures in order that they will become effective this fiscal year. If the Congress fails to take timely action on these financing proposals the city will lose an estimated $15 million in resources for fiscal year 1970 which are needed to fund programs both in the current year and in fiscal 1971.

NEW DIRECTIONS

As part of this administration's effort to shift priorities, turn toward new directions, and take stock of past practices—this budget for the District of Columbia proposes several changes in Federal financing and includes significant local initiatives.

Changes in Federal financing.—The budgets for the Federal and District Governments are based on several new changes in Federal financing which are designed to strengthen the local government and reflect a proper balance between Federal and District responsibility. In addition to the proposed 30 percent Federal payment formula the budget proposals for fiscal year 1971 would—

Shift the direct responsibility for the city's public works loan financing from the U.S. Treasury to the private investment community by authorizing the city to issue its own local bonds. This will place the District's capital outlay program on a basis similar to that of other cities and will permit immediate savings to the U.S. taxpayer who must otherwise shoulder the immediate burden of direct Federal borrowing. Offsets accruing to the Federal budget are estimated at about $55 million for fiscal year 1971;

Provide direct Federal capital contributions, estimated at $20 million for 1971, for the permanent facilities for Federal City College and Washington Technical Institute;

Shift the responsibility from the District to the Federal Government for financing the operating expenses of the National Zoological Park which is a part of the Smithsonian Institution's national museum complex. This proposal reflects the Federal and metropolitan character of the National Zoo for which the District alone has been bearing the burden of its operating expenses. The $3 million estimated for fiscal year 1971 has been included in Federal budget totals thus providing equivalent relief to the city government;

Reallocate parkland between the Federal and District Governments. Those local parks serving primarily the local community which do not have national historical or monumental significance are to be transferred directly to the District. This will eliminate the need for the city to continue to make reimbursements to the National Park Service which will assume full financial responsibility for the parks remaining under its jurisdiction. This measure represents a shift of about $7 million from the District to the Federal budget.

Freeze the level of reimbursements by the city to Saint Elizabeth's Hospital pending a determination of future arrangements for an appropriate relationship between the Federal and District Governments concerning the financing and administration of the Hospital.

Local initiatives.—The most significant local initiatives proposed in the District's budget are directed to establishing a Capital City with safe streets and a quality environment.

Safe streets.—This budget provides for strengthened law-enforcement capability, improved administration of justice, and augmented action measures to reverse the City's crime rate. The 1971 budget estimates include $130.5 million for operating expenses of police courts and corrections. This amount represents an increase of $46 million—or 55%—over the level for 1969 and would provide—

Increased street patrols by an actual

police strength of 5,100 policemen on the force compared to an actual strength of 3,589 men as of June 30, 1969;

Increased police mobility and effectiveness through additional scout cars, patrol scooters, and communications equipment as well as more civilians to support police operations and relieve policemen from civilian duties;

An augumented program of narcotics treatment and control, including centralized local responsibility under a new narcotics treatment agency;

A roving leader corps of 282 to work with delinquent prone and other youth, compared to a staff of only 37 for fiscal 1969;

A reserve of $4 million to provide for costs of additional judges and other expenses related to reorganization of the court system of the District of Columbia upon enactment of S. 2601;

Strengthened court support services through expansion of public defender services, the D.C. Bail Agency, and juvenile probation services;

Construction of police stations—to support consolidation of 14 police precincts into 6 police districts, and planning and construction of a new jail and a new courthouse; and

An allowance for pending police pay raises which would increase starting salaries for new recruits from $8,000 to $8,500.

Quality environment.—New and increased efforts to improve the environment of the Nation's Capital include—

$40 million for waste treatment facilities to reduce pollution in the Potomac River;

Development of additional facilities for recreation activity including a campsite in Scotland, Maryland, to provide about 3,000 inner city youth with summer camping opportunities, and construction of swimming pools and other recreation projects in Anacostia; and

Balanced transportation.—The budget continues the efforts to provide a balanced transportation system for the District. In particular, the long-awaited rail rapid transit system for the entire metropolitan region takes a major stride forward with the $34.2 million for the city's share of the rail rapid transit program. Contracts for over 16 miles of subway within the District will be let during the fiscal year, giving tangible evidence of a program which is truly designed to unify the central city with the surrounding suburban communities. Increased employment, reduced air pollution, and reduced congestion are some of the benefits residents and visitors in the area can look forward to as this dynamic project moves ahead. Other elements in the city's transportation program include $12 million for the District local matching share for previously authorized highway construction and funding of local street improvement projects.

Better education.—Improved education is not only a national goal, but one which must be carried out at the local levels. This budget takes important steps in improving educational opportunity for one of the city's most precious resources—its youth.

For the first time in the District's history per pupil expenditures will be over $1,000.

In order to encourage students to stay in school, a dramatic new system-wide career development program will be initiated. The resources of private industry, colleges, and government will be marshalled in a cooperative effort to insure that students remain in school and are able to realize their full potential in choosing and working toward their employment goals.

Over 12,000 students will be able to continue their education at the District's institutions of higher learning.

A new means of financing the permanent facilities of Washington Technical Institute and the Federal City College is anticipated as part of a master plan for higher education to be developed by the affected institutions. The plan will provide the basis for the coordinated long-range growth and development of higher education in the District.

For the first time, the Board of Education is provided with appropriate staff assistance. The $100 thousand requested in the budget will help to increase the Board's ability to analyze the complex educational problems of a large city school system and increase the Board's ability to respond to community desires and interests.

This is only a summary, of course, of the most significant budget initiatives. A further indication of the directions for fiscal 1971 is contained in the Mayor's transmittal letter. These recommendations have been carefully sifted and weighed, first by the Mayor and his departments and agencies within the executive branch of the District Government, then by the public and community organizations, and finally by the City Council. The result of this thorough examination of programs and priorities is a sound and prudent budget based on a minimum of new revenue measures. I again urge the Congress to take early action on the pending local income tax and Federal payment authorization proposals.

None of our aspirations for our Capital City can be achieved, including augmented police protection, improved system of courts and offender rehabilitation, reduced pollution and congestion, and better education—unless the District is given the resources to do the job. At the same time, however, money alone can not achieve the objectives the city officials have set for themselves. I am proud, as is the Congress, of the dedicated and judicious manner in which the recently reorganized Government of the District of Columbia has proceeded forward with the tasks it faces. In fulfilling the expectations of the Reorganization Plan of 1967, the Mayor is continuing to further improve and streamline the internal organization of the City Government. Most noticeable among these efforts is the establishment of a new Department of Economic Development, an Office of Budget and Executive Management, a new Department of Human Resources, an Office of Community Services, and most recently—an Office of Youth Opportunity Services to strengthen the coordination of the city's various youth activities, including planning responsibility for juvenile delinquency prevention and control programs.

None of the tasks with which the City is faced can be completed tomorrow. Significant progress can be made with strong leadership, adequate resources, and sound programs to achieve a viable urban environment. I ask the Congress to continue its support for the Capital City through its budget and financing proposals. I recommend approval of the District of Columbia Budget for fiscal 1971.

RICHARD NIXON.

MARCH 31, 1970.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 26, 1970, be dispensed with.

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

EXECUTIVE MESSAGES REFERRED

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

ORDER FOR CONVENING OF THE SENATE TOMORROW AND ORDER FOR RECOGNITION OF SENATOR HARTKE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate convene tomorrow morning at 9:30 o'clock a.m., and that the distinguished Senator from Indiana (Mr. HARTKE) be recognized for not to exceed 30 minutes.

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

(Later in the day, the Senate entered an order for its convening at 10 a.m. tomorrow.)

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

ORDER FOR RECOGNITION OF SENATOR AIKEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont (Mr. AIKEN) be allowed to proceed for not to exceed 10 minutes today, following the conclusion of the remarks of the distinguished Senator from Ohio (Mr. YOUNG).

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

ORDER FOR RECOGNITION OF SENATOR MANSFIELD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be permitted to proceed for not to exceed 15 minutes, following the conclusion of the remarks of the Senator from Vermont (Mr. AIKEN).

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

ORDER FOR CONVENING OF THE SENATE AT 9:15 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, instead of the Senate convening at 9:30 a.m. tomorrow, it convene at 9:15 a.m. and that the first 15 minutes be allocated to the distinguished Senator from Ohio (Mr. YOUNG), to be followed, then, by the remarks, not to exceed 30 minutes, of the distinguished Senator from Indiana (Mr. HARTKE).

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF WEST VIRGINIA

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the remarks of the able majority leader today, for which an order has already been entered, I be recognized for not to exceed 20 minutes.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio (Mr. YOUNG) is now recognized for not to exceed 30 minutes.

NOMINATION OF G. HARROLD CARSWELL

Mr. YOUNG of Ohio. Mr. President, Judge G. Harrold Carswell is a mediocre judge at best. Furthermore, as a judge he has in recent years displayed personal bias against members of the Negro race. On many occasions he has been hostile and tyrannical against black defendants and their lawyers. As a citizen in his community and as a judge, his conduct has been such as to cause trial lawyers to regard him as prejudiced against those who believe in complete civil liberties and civil rights for all Americans regardless of race or color.

Four distinguished New York lawyers, Bruce Bromley, former New York appeals court judge, Francis T. P. Plimpton, president of the Association of the Bar of the City of New York, and two former presidents of that prestigious bar association, Samuel I. Rosenman and Bethuel M. Webster, have issued a statement that—

> We do not believe that Judge Carswell has the legal or mental qualifications essential for service on the Supreme Court or any high court in the land, including the one where he now sits.

They expressed deep concern that in 1956, in Tallahassee, Fla., Carswell, then U.S. states attorney was connected with and contributed money to the incorporation of a private golf club. Then, the public golf course of the city of Tallahassee, which had been constructed with WPA grant of public funds, was leased to the private golf club Judge Carswell had participated in incorporating. The lease was for 99 years at $1 a year.

At the time and during preceding years, there had been agitation in Tallahassee to force desegregation of the city's public golf course. U.S. Attorney Carswell was active in the transfer of this public golf course to his all-white private golf club.

What U.S. Attorney Carswell did was to join with others for the purpose of denying blacks the right to use a golf course supported by their taxes at a time when he was sworn not to deny constitutional rights but to uphold them.

Mr. President, it is evident to me that Judge Carswell is a bigot. I will vote against his confirmation.

Furthermore, I do not go along with the views of those who say that possibly he is a mediocre judge, but we need some ordinary, mediocre persons as judges of our courts. Very definitely, there should not be mediocrity on the Supreme Court of the United States.

Mr. President, starting with Judge C. William O'Neill of the Ohio Supreme Court and considering Republican judges of our Circuit Courts of Appeals, Common Pleas Courts and Ohio Federal Court judges, I can tick off the names of 10 or more Republican Ohio judges who are far superior to Judge G. Harrold Carswell as jurists and students of law. Any one of them, I am certain, would be far better qualified to serve with distinction on the U.S. Supreme Court.

I would expect President Nixon to fill Federal court vacancies with Republicans who hold to conservative views. I go along with all that. However, I am sure there are hundreds of Republican judges of the various U.S. courts among about 440 Federal judges who are extremely well qualified. Also, judges in our 50 States who would qualify as conservatives and have backgrounds and records as distinguished lawyers and jurists. Very easily it seems to me, our Attorney General and President Nixon should have come forward with such an eminent jurist respected and admired for his wisdom, integrity, and his compassion in dealing with lawyers and witnesses. It is my opinion that Judge Carswell is not such a man.

It is unfortunate for this administration that the Attorney General, who is supposed to advise the President on his judicial nominations, was a Wall Street lawyer considered an expert on municipal bonds, but altogether lacking in trial experience. He knows little or nothing firsthand regarding court trials and trial lawyers and the caliber of lawyers, students of the law and experienced judges capable of serving on the highest court of our land.

Mr. President, it happens that I was a trial lawyer for more than 50 years trying lawsuits in the State and Federal courts of Ohio and frequently in Pennsylvania. Some years ago I was chief criminal prosecuting attorney of Cuyahoga County. I have personally prosecuted hundreds of felony cases, including more than a hundred homicide cases and later as a trial lawyer, over the years I have defended some hundreds of men and women defendants in criminal cases in U.S. district courts and in the trial courts of my State. Also, in past years I have served as president of two bar associations in Cuyahoga County. I believe I know something about the qualifications essential for a judge.

That Judge Carswell signed a covenant on real estate he deeded a couple of years ago with an illegal restriction that his property must not be sold to anyone except of the Caucasian race is some evidence of his personal unfitness to sit as an Associate Justice of the most powerful court in the world.

Incidentally, in 1960 I purchased the Washington residence which I now occupy. At that time this home in northwest Washington was occupied by Adm. George Dufek. In my negotiations with the admiral and a real estate agent, I encountered no real difficulty in agreeing on the purchase price and having made my downpayment was about to pay the balance. A group of real estate agents, including an attorney, came into my Senate office. I read the deed they had prepared for me and was shocked to find it provided that the grantee—that is I, buying the property—agree he would not sell this real estate to any person other than a member of the Caucasian race. This was the same restrictive covenant that Judge Carswell signed regarding his property. I refused to sign this restrictive covenant. Real estate agents and their lawyers gathered in my office like vultures around a dead body. Their arguments rolled off me like water off a duck's back. I said, "I know the law. Since you claim this bigoted restriction is unlawful and, therefore, meaningless, you go ahead and blot it out. You go ahead and draft a new deed. I will sign it without that restriction. Otherwise, very definitely the deal is off." They brought in another deed which I signed.

Of course, Judge Carswell could have refused to agree to that restriction the same as I refused. The real estate agents provided me with a deed without this unconstitutional, bigoted restriction. In my opinion that Judge Carswell signed such a restriction is an indication of his insensitivity to complete civil liberties for all. It already reveals his personal unfitness to sit as an Associate Justice of our Supreme Court.

Particularly distressing about the nomination of Judge Carswell is the fact that it is one more symbol of the indifference to racial justice displayed by this administration. Those who believe that the so-called southern strategy exists only in the minds of partisan journalists should consider this nomination as a part of the following pattern of administration actions: The award of defense contracts to textile firms with a history of racial discriminations; the proposal of a voting rights bill which was designed to weaken, if not destroy, our commitment

to equal suffrage in the South; the dismissal of Leon Panetta for attempting to enforce civil rights legislation, and the elevation to high public office of those who believe that the law should not be fully enforced.

The Supreme Court is too vital an institution to be embroiled in any sectional political stratagems. It is the one institution which has represented the last hope for redressing the grievances of those denied their fundamental rights and opportunities.

If President Nixon really wanted "geographical balance," he could have named John Wisdom, Griffin Bell, Frank Johnson, or a variety of other distinguished southern jurists—all of whom are fair and impartial judges. Throughout the Southern States, possibly in almost every county, there are excellent lawyers and judges who are not narrowminded and bigoted as advocates of white supremacy and whose qualifications and life records are superior to the record of Judge Carswell.

Our Founding Fathers provided three equal coordinated branches of our Federal Government and the Supreme Court of the United States has throughout nearly 200 years been made up of the most eminent men learned in the law in our country. Considering his record of the past, it is evident to me that Judge Carswell does not come close to measuring up to the high standards we must adhere to.

Mr. President, President Nixon has nominated, for a place on the Supreme Court—occupied in the past by some of our Nation's greatest jurists—an undistinguished judge whose actions in recent years have been to continue segregationist policies.

Judge Carswell, during the period when he was a judge of the U.S. district court, was unanimously reversed by judges of the U.S. court of appeals in at least 15 cases involving civil and individual rights. Eight of these cases were filed on behalf of Negroes. In every one of those eight cases the decision of Judge Carswell was reversed by the unanimous vote of the judges of the Federal circuit court of appeals. The remaining seven cases were based on alleged violation of other legal rights of defendants. In each case, Judge Carswell decided against the defendants and, in each case, his decision was also reversed by unanimous vote of the appeal court judges.

Judge Carswell indicated in those 15 cases a deep judicial hostility toward the fundamental concept of human rights. His mind was closed; he was oblivious to repeated appellate rebuke. In many of these cases Judge Carswell refused even to grant a hearing, although clearly called for by judicial precedents. In some he was reversed more than once.

In expressing this criticism of Judge Carswell's conduct and actions on the Federal bench, I call attention to the fact that five of these 15 cases were decided in 1 year—in 1968. Not one judge of the U.S. Court of Appeals in his area expressed agreement with his views and his decisions.

Mr. President, several distinguished lawyers and legal scholars testified before the Senate Judiciary Committee that Judge Carswell berated black defendants and their northern lawyers whether black or white. Prof. Leroy Clark of New York University, who supervised the NAACP legal defense fund litigation in Florida between 1962 and 1968 testified:

> Judge Carswell was the most hostile Federal District Court judge I have ever appeared before with respect to civil rights matters.

He either could not or would not separate his judicial functions from his personal prejudices. Several members of the Judiciary Committee were forced to conclude:

> In Judge Carswell's court, the poor, the unpopular, and the black were all too frequently denied the basic right to be treated fairly and equitably.

The testimony of Judge Carswell himself before the Judiciary Committee reveals another reason for denying confirmation. Judge Carswell displayed what might graciously be interpreted as a lack of candor in responding to questions about his involvement in the incorporation of the private golf club in Tallahassee, Fla. The judge claimed he was unaware that the purpose of the private club was to exclude blacks—this from the man who was the principal Federal prosecutor in the area at the time.

Judge Carswell was less than frank in his statements before the Senate Committee on the Judiciary. He even stated that he thought the papers he signed and his check for $100 were to "fix up the old clubhouse." He even said that the matter of discrimination against blacks was never mentioned to him and that he did not have it in his mind.

One of his neighbors, the wife of the chairman of Florida's oldest bank, a white lady, stated she refused to join the new club. Her affidavit on record here stated:

> I would have been surprised if there was any knowledgeable member of the community who was not aware of the racial aspect of the golf course transaction.

Personally, I believe the statement of this lady who was born with a white skin and who did not associate herself with those seeking to form a club the purpose of which was to take from golf players, who happen to be black, a public golf course on which they were seeking to play.

In a secret meeting on January 26 with representatives of the American Bar Association Judge Carswell admitted that he was an incorporator of a segregated country club in Tallahassee. The following day he testified before the Senate Judiciary Committee, under oath, that he had no such role.

Mr. President, perhaps perjury proceedings would be more in order at this time than confirmation proceedings.

Mr. President, disregarding for the moment all of the evidence about Judge Carswell's personal and judicial insensitivity toward civil rights, no facts have been presented which would indicate that he has the professional qualifications to serve on the world's most prestigious judicial body. The fact is that Judge Carswell is seriously deficient in the legal skills necessary for an Associate Justice of the Supreme Court.

Judge Carswell was reversed on 58.8 percent of the appeals from all his printed decisions. This is three times the average for all Federal district judges in the country and two and one-half times the average for district judges of the fifth circuit.

Other judges accorded only minimal authoritative weight to Judge Carswell's decisions. His opinions were cited by other U.S. judges less than half as often, on the average, as those of all district judges and fifth circuit district judges.

Compared with the average of all district judges, Carswell's opinions were about two-fifths as well documented with case authority, and less than one-third as well documented with secondary source authority. His opinions were less than half as extensive as those of most other district judges.

The Ripon Society, a group which I understand includes no Democrats, has conducted an examination of 7,000 Federal district court cases appealed to the Fifth Federal District Court from 1959 through 1969, the years when Carswell was a Federal judge in Florida. Their study revealed that Judge Carswell ranked in the bottom tenth of all Federal judges in the number of his decisions upheld—61st of 67 judges.

It is a fact that Judge Carswell lacks any legal distinction whatever. He has written no scholarly articles. His judicial opinions have been mediocre at best.

Louis Pollak, dean of the Yale University Law School, after studying Judge Carswell's opinions testified:

> I am impelled to conclude that the nominee presents more slender credentials than any nominee for the Supreme Court put forth in this century.

Some of those who urge confirmation of Judge Carswell would have us overlook his mediocrity and his segregationist viewpoint. One proponent claims that Judge Carswell's outstanding qualification for service on the Supreme Court is the fact that he was nominated by the President. Another pro-Carswell Senator has suggested that a little mediocrity would help provide balance on the Court. Others have stated that the Supreme Court may at present be too heavily weighted with integrationists.

Mr. President, if the Senate were to accept the arguments of these supporters of the nominee before us today, we would be obligated to confirm any man—from the chairman of the American Communist Party to the imperial wizard of the Ku Klux Klan to Tiny Tim—if only he were nominated by the President. However, those who are concerned with the honor and integrity of the highest court in the land cannot condone or laugh away mediocrity and advocacy of white supremacy.

Mr. President, I feel that unless President Nixon withdraws this nomination, a majority of the Senators should vote against confirmation. Americans have every reason to honor and respect the fine men who have served as Chief Justices of the United States for nearly 200 years and for those who have served as

Associate Justices of our Supreme Court. We know that we may be proud of all of the present Associate Justices of our Supreme Court. No public official in our Government, except the President himself, has greater power or bears a greater responsibility than one of the Associate Justices of the Supreme Court or the Chief Justice of the United States.

This Court has a huge volume of most important legal questions argued before it. The decisions of the Court are of the utmost importance to the welfare of our country. Each and every member has a huge obligation and responsibility. If an Associate Justice is to fulfill his share of this obligation, as does each one at the present time, then he must study records and briefs day after day and night after night, listen to arguments of counsel and then write at least a dozen complete opinions each year.

The President should withdraw this nomination. I know that there is a unanimity of feeling in the Senate of a desire to fill this vacant chair on the Supreme Court which has been vacant far too long and we would do it immediately if the President and his advisers exercise a small degree of good judgment instead of sending us one unworthy nominee and now another. Furthermore, should Judge Carswell be confirmed by a small majority, he would be discredited from the outset.

Again, I report the Supreme Court of the United States must not be a place for any lawyer or judge whose record is that of mediocrity. Nor must it become a place for any lawyer or judge who holds opinions offensive to the basic concept of equal justice for all, black and white alike.

On Monday, April 6, there will be a vote to recommit the nomination of Judge Carswell to the Judiciary Committee where it will remain unwept, unhonored, and unsung. I hope the motion to recommit carries. I shall cast my vote in favor of this motion.

Mr. President, the St. Louis Post Dispatch recently published an editorial regarding Judge Carswell under the caption "Wrong for the Court." I ask unanimous consent that the editorial be printed in the RECORD.

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

WRONG FOR THE COURT

One of the opponents of the nomination of Judge G. Harrold Carswell for the Supreme Court has asked how any Senator who voted against Judge Clement Haynsworth for that post could go home and explain why he accepted Judge Carswell.

Explanations should not be easy. No doubt most Senators would rely on the point that they had discovered no potential conflict of interest regarding Judge Carswell, as they did against Judge Haynsworth. Yet this explanation would disregard a number of points in which the latter was the superior candidate for the high court.

There is first of all, Judge Carswell's record of obstructionism against civil rights progress. What was mildly questionable in the Haynsworth case is clear in the Carswell case: this judge consistently found against or attempted to delay desegregation actions. A judge so lacking sympathy with the law of the land and the absolute necessity for racial equality before the law has no place on the Supreme Court.

There is what a group of 400 prominent lawyers termed "a mind impervious to repeated appellate rebuke." The lawyers reviewed 15 cases in which Judge Carswell found against Negro or individual claims of rights; in every case his decision was reversed and reversed *unanimously* by a higher court. Is this the kind of record for a man to take to the highest court of all?

There is an evident lack of candor exceeding Judge Haynsworth's hazy recollections of his business dealings. What Judge Carswell insists he never realized was that the incorporation of a Tallahassee public golf course as a private course was done to further segregation. At the time the Judge helped to incorporate the club he was United States district attorney, and several federal suits were already under way in Florida to integrate other public golf courses. If Judge Carswell did not know what was going on, everyone else in Tallahassee seems to have known.

There is, finally, a record of unrelieved intellectual and judicial mediocrity which many attorneys find especially repugnant in a candidate for the highest court. How, they wonder, can a man who has contributed nothing to the law or to the study of the law take a place on a bench that has seated many of history's greatest judicial minds? How, they ask, can President Nixon so demean the court?

Lacking an answer to such a question, we may only observe that it is totally unnecessary to demean the third branch of government. If Mr. Nixon, fixed in his Southern strategy, wants to use the court to woo the South, he can easily find Southern judges, and conservative judges, who are far more distinguished, have far better judicial records and who have demonstrated far less indifference or hostility to the Constitution.

Simply because the President might have done better instead of worse, it should be difficult indeed for Senators who voted against Haynsworth to explain a vote for Carswell. On that point we would hope that more and more members would join the score or so of Senators now determined to stand against the Carswell appointment.

There is no excuse for complicity by the United States Senate in a wrong against the Supreme Court.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont is recognized for 10 minutes.

PRESIDENTIAL TENURE

Mr. AIKEN. Mr. President, as a Member of the Senate, I have served under six Presidents—two Republicans and four Democrats.

Each of them contributed much to the growth and welfare of our country.

Each of them made mistakes.

They all had one thing in common.

Each wanted to be a good President.

Quite naturally each wanted to be the best President we ever had.

And, hopefully perhaps, on my part I wanted each one to be the best.

They had another thing in common.

With the possible exception of President Eisenhower, each one was assailed and harassed not only by members of the opposite party but also by dissatisfied members of his own party.

In some instances, we might say that the opposition they engendered was warranted and contributed to the security and prosperity of the country.

In other instances, it may be said that harassment and embarrassment of the President was politically motivated and has proved costly to the people of America.

We have only one President at a time and the manner in which he conducts the duties of his office determines to a great degree whether the people of the United States are secure or insecure—prosperous or poor—happy or sad.

With this overweening belief in mind, I have to the best of my ability tried to help each to serve his country well—regardless of party.

Each President I have known has, to a great extent, been at the mercy of the times during which he served.

Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.

And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

Temptation and desire are hardy and ruthless characters—possessed by all of us in varying degrees.

Each of us wants to be important, and in order to be important we seek power.

There are many kinds of power eyed by our ambition—economic, social, political and, in some cases, racial.

We seek power as individuals and we seek it collectively, although collective success inevitably leads to the rise of individual desire within the successful group.

Democracy is the best form of government.

Our two-party system is the best method yet devised for running a democracy.

Yet, democracy and the two-party system are found to be grievously wanting in some respects.

Within months after an elected President takes office he is under attack not only by those who never wanted him to be President in the first place but also by those who may have voted for him but find themselves neglected in the distribution of the political spoils, or upset by their inability to make decisions for him which coincide with their own philosophies.

An internal warfare develops, with the President on one side and the dissident and disappointed voters on the other.

And throughout the verbal bombing and incendiary malignments fired at him, the President is expected to maintain the domestic economy, defend the security of the United States, raise the standard of living, and improve the image of our country in world affairs.

A major purpose behind the attacks on the President is to put him in such a bad light that he cannot hope for reelection even if he desires to run for a second term.

President Johnson undoubtedly decided against trying for reelection in 1968 largely because of the intensity and apparent success of the attacks made upon him.

Certainly, he made mistakes of judgment which proved to be costly; yet it is possible—indeed quite probable—that any other President elected at the time he was would have made the same errors in the belief that stability could be achieved in Southeast Asia by the greater involvement of American military strength on a temporary basis.

President Johnson was assailed full force for his mistakes, but given very little credit for the good he did.

When Richard Nixon became President 14 months ago, he was confronted with almost unprecedented problems.

Over a million American military men were stationed overseas in positions best calculated to prevent the spread of what was called a "monolithic Communist conspiracy."

About 540,000 of these troops were in the small, war-ravaged country of South Vietnam.

At home, galloping inflation and a rapidly increasing crime rate—both stepchildren of war—were running rampant.

The new President was promptly met by new demands—the most insistent, the most vociferous, and the best organized coming from those who had opposed his election.

They insisted that the troops be withdrawn from South Vietnam almost immediately, regardless of consequences to the native population.

Crime and inflation were to be controlled without delay.

Domestic programs affecting health, education, and welfare were to be expanded many times over and far beyond the means of our democratic Nation to sustain.

Of course, no President could possibly meet such demands.

He has now withdrawn just over 100,000 military personnel from Vietnam in the last 8 months, and the withdrawal continues on schedule.

He has improved our standing with many other countries and has repaired our prestige where it had been damaged.

Inflation and crime are not yet under control and will not be so long as we are involved in a foreign war to the extent we are now.

President Nixon has made mistakes, but on the whole his record to date may be given a high passing mark.

Like his predecessors, he wants to be the best President we ever had.

With a congressional election coming up on November 3 this year and a presidential election 2 years later, his present high rating has only intensified the attacks on him and his decisions both from political aspirants of the opposition party and disillusioned and angry dissidents within his own.

They make the work of his office more difficult.

Not only are impossible demands made upon the executive branch but by more indirect means many undertake to lessen the President's standing both at home and abroad.

A current example of this will be found in the Carswell case now before the Senate.

I do not know Judge Carswell and I do not know for sure how good a Justice of our Supreme Court he would make; neither do those who so enthusiastically condemn him.

Certainly, if the same microscopic scrutiny had been applied to all nominees to this Court over the last 30 years as is being applied to Mr. Carswell, I fear that the Court might have a quite different complexion today.

In fact, we might not have any sitting Justices at all if each one had to qualify under the strict requirements for brilliance and purity demanded by Judge Carswell's critics.

And yet, strangely enough, most of those Justices who for one reason or another might have been disqualified have turned out to be very good Judges.

For the last 2 weeks, Members, of the Senate have received hundreds or even thousands of letters and telegrams urging the rejection of Judge Carswell's nomination.

I am quite sure that many of these protesters did not know much of anything about Judge Carswell until they were advised by organization leaders to stir up all the opposition possible.

Some others were doubtless prompted to register their opposition by unfavorable and in some instances misleading publicity.

They did not know Carswell, but they did know President Nixon, and for most of them he is their No. 1 target.

I doubt that many of them voted for him in 1968, and I doubt that many would vote for his reelection.

I am not making this statement today as criticism of those who are simply following practices well established by tradition or of those who sincerely believe that each appointment to public office, especially to the judiciary, should be as wise as Solomon and as pure as Caesar's wife.

A loyal opposition is fully warranted so long as, in its zeal, it does not weaken those qualities that have made our Nation great.

I am making this statement to call attention to the indisputable fact that no President can give his best to the Nation or maintain our prestige in the world so long as he is constantly being fired upon by those whose principal purpose is to keep him from being reelected.

On January 17, 1969, I joined the Senator from Montana (Mr. MANSFIELD) in introducing Senate Joint Resolution 21, proposing an amendment to the Constitution limiting the President to a single term of 6 years.

The one-term limitation has worked well in other countries.

It permits the President to devote all his time and efforts to the service of his country.

This constitutional amendment would go far in discouraging would-be successors to the office from wasting their time in harassing him or trumping up unwarranted charges or impeding his work because he could not run against any of them anyway.

Mr. President, I hope that this Congress will seriously consider the amendment proposed by Senator MANSFIELD and myself.

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

Mr. AIKEN. I yield.

Mr. MANSFIELD. Let me say that I am delighted that the dean of the Republicans has indicated his strong support for the resolution which he and I introduced some months ago. We think it is a way to allow any President—regardless of party—to be himself and not to be subject to political harassments. It is a way that allows the President to assume his office with one purpose in mind—to do a good job, regardless of the consequences, and then to depart.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Vermont may have 5 additional minutes.

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

Mr. MANSFIELD. May I express the hope that, on the basis of the speech made by the distinguished Senator, the appropriate subcommittee within the Committee on the Judiciary would undertake hearings on this matter as soon as possible. Senator AIKEN's most positive statement has placed this issue in its proper context indicating that it is aimed at the Presidency—at the office itself—and is not concerned so much with the man.

Mr. President, I was impressed by what the distinguished Senator from Vermont had to say on page 2 of his speech:

> With this overweening belief in mind, I have to the best of my ability tried to help each—

That is, each President—

> to serve his country well—regardless of Party.
>
> Each President I have known has, to a great extent, been at the mercy of the times during which he served.
>
> Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.
>
> And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

All I want to say is that the distinguished Senator has certainly lived up to those words in his many years of service in this body.

I only hope that as a Senator from the State of Montana and as majority leader, I can do almost as well as the distinguished Senator from Vermont, who has just addressed us.

Mr. AIKEN. I thank the Senator from Montana. It has been a privilege to be associated with him on certain proposed constitutional amendments. I still feel they are all amendments which should be approved by Congress.

Since I have enough time remaining, I am happy to yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I wish to indicate my great appreciation for another very significant statement made by the dean of Republicans in the U.S. Sen-

ate. It is a statement which is very important. Of course, it reaches far beyond the matter of the nomination of Judge Carswell. However, I am very conscious of the fact that the distinguished Senator from Vermont by his statement has placed the opposition to the nomination of Judge Carswell in proper perspective.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Vermont yield?

Mr. AIKEN. I yield.

Mr. WILLIAMS of Delaware. I join the Senator from Montana and the Senator from Michigan in complimenting the Senator from Vermont upon his remarks today. The Senator from Vermont has called our attention to some of the major problems confronting our country and has offered a solution. I wholeheartedly support the proposal that he and the Senator from Montana have made, that there be a constitutional amendment to limit the term of the President to 6 years. I think that would be the most constructive step that could be taken toward a better government, so far as Congress is concerned. I join in expressing the hope that some consideration will be given to that resolution.

Mr. AIKEN. Mr. President, if the Senator from Montana is agreeable, we might add the name of the Senator from Delaware as a cosponsor of this constitutional amendment.

Mr. MANSFIELD. I would be delighted to have the Senator from Delaware join us.

Mr. WILLIAMS of Delaware. I would be pleased to join as a cosponsor.

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

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana for 15 minutes.

CAMBODIA AND SOUTHEAST ASIA

Mr. MANSFIELD. Mr. President, I see on the front page of the Washington Post a number of interesting headlines:

First. "Army Favors Pullout Delay of 6 Months." That, of course, refers to Vietnam and Southeast Asia, but to Vietnam primarily.

Second. "Cambodia May Seek U.S. Arms."

The New York Times contains a headline: "Cambodia Wants Check by U.N. on Red Intrusion."

Elsewhere, I have read that the Cambodians are going to ask for aid from "friendly countries." The friendly countries mentioned are Australia, New Zealand, France, and, I believe, Thailand, but not the United States—and let us hope that the United States will never be approached.

We should keep in mind that in 1966, as I recall, our aid to Cambodia was ended at the request of the then Chief of State, Prince Norodom Sihanouk, and has not been resumed since that time. Cambodia is one of the few countries in the world that I know of which has brought about a termination of American assistance, both military and economic. As I recall, even at that time our State Department was very much perturbed and disturbed that Cambodia and Sihanouk had the temerity to ask this country to stop giving aid to Cambodia.

I have just returned from 5 days in the State of Montana. I had the opportunity during that time to travel the eastern counties, along the high line, into the mountain west, and into the southern part of the State. It was a heartening experience for me, because it gave me an opportunity to find out what the people whom I have the honor and privilege to represent were thinking about.

They are thinking about inflation, which now stands at about 6.2 or 6.3 percent, and has over the past year.

They are thinking about unemployment, which stands at about 4.25 percent at the present time, and the curve seems to be up.

They are thinking about the high cost of mortgage money. They cannot afford to build homes, even if they have rather sizable incomes, because the rates they are asked to pay are entirely too high, out of reach; and if one undertook to obtain a loan to build a house today, it would not be a case merely of paying interest on principal; at present rates, it would be the payment of principal on principal on principal, if the period were for 25 or 30 years.

The people of Montana are also worried about the condition of the wheat rancher, who has been getting it in the neck for a good many years, not only so far as prices are concerned, but also as far as boxcars are concerned. They wonder what the policy of the administration will be. They wonder at the declining strength of the farm segment of the population and what can be done about it. There is a declining farm strength; the farm population today numbers between 6 and 8 percent of the total; and of the rest, from 75 to 80 percent live in the congested areas, where most of the Nation's problems are also centered.

The people are wondering about the farm organizations. There are six or seven, maybe eight, farm organizations, and no two of them have got together on more than a temporary basis

The people are also wondering about the recreational development of our State. They are worried about pollution of the air and water and the effect on flora and fauna, and on marine life.

They are worrying, too, about growth in population, not in Montana, but throughout the world.

They are worrying about what is going to happen next in Southeast Asia. They read the newspapers. They listen to the radio. They look at television.

They have sent their sons to war, and they have paid their share in the way of casualties. They see what is happening in Laos. They see what is happening in Cambodia. They wonder if we are going to become involved, and they wonder if the war is going to spread from Vietnam. They wonder if it is going to spread beyond Vietnam. They wonder if it is going to spread beyond Laos, and if it is going to take in Cambodia. They want no part of such an expansion of this war, which has cost this country well over $100 billion. In the form of casualties to date—and these figures are up to last Thursday—we have had 270,583 wounded in battle, 41,057 killed in combat, 7,691 killed in noncombat incidents, for a total of 319,331 Americans. And for what? For a war which was a mistake, for a war which is a continuing tragedy.

This war may well cover all of Indochina, so that the same area of military operations may again come into being as was involved at the time of the French withdrawal in 1954.

I think that the overthrow of Prince Norodom Sihanouk marked the end of an era in Southeast Asia. Sihanouk was able to maintain a united country and a reasonable stability which insured a degree of neutrality that was badgered by war from all sides. He had to operate on a trapeze, but he did the best he could. I think he did very well in keeping a holocaust from overtaking his country and his people. We gained indirectly by his effectiveness because it acted to limit the area of our military involvement.

Of course, we went into Cambodia from time to time, as did the Vietcong and the North Vietnamese. There were other stresses and strains connected with his neighbors, Thailand and South Vietnam, because there was enmity between the two or, I should say, among the three. During all that period, Cambodia was in a very difficult position. All during that period, conditions for an upheaval existed. How could Cambodia avoid being a sanctuary for the Vietcong and the North Vietnamese? What could a Cambodia with an army numbering 33,000—and even that number strained its economy—do against a force of Vietcong and Vietnamese, well equipped, numbering somewhere between 50,000 and 60,000?

Not much. Sihanouk realized it. I am afraid that the present rulers in Cambodia do not. He was aware of the fact that in Laos more bombs have been dropped, for example, than in either North Korea or North Vietnam. He was aware that, as a neutralist, he was in a most delicate position. He was aware of the common border and the troubles with all the countries surrounding Cambodia. He was always aware of the fact that in so far as Thailand was concerned, it was in effect a stationary aircraft carrier used for activities in various parts of Indochina at various times.

Present developments in Cambodia, Mr. President, are a cause for deep concern. Preserved for a decade and a half by Prince Sihanouk, the tranquillity of this small kingdom appears to be coming to an end in civil war. Cambodian independence, moreover, now lies in the path of a threatened extension of the Vietnamese war.

The course of events in Cambodia has been predictable since the military coup several weeks ago. It was not to be expected that Prince Sihanouk would accept the military seizure of power which was perpetrated during his absence. Barred from Cambodia by the coup government, the Prince has announced his intention, nevertheless, of returning. Pre-

dictably, he has sought aid, as usual, from any available source to that end.

Nor was it to be expected that Prince Sihanouk's dedicated followers in Cambodia—and his support is widespread, among the peasants, the Buddhists, and the young people and in the army and civil service—it was not to be expected that his followers would accept without quarrel the unseating of his leadership. Now that the first shock of the coup has worn off, the standard of revolt has been raised against the new government in the name of Sihanouk. North Vietnamese forces in Cambodia are reported to be giving support and aid to this movement.

As for the tens of thousands of hostile Vietnamese lodged along the border, the new Cambodian Government, predictably, does not have the military capacity to dislodge them, any more than Sihanouk had while he was in control. It has issued demands for an evacuation of these forces, but the demands have had no impact whatsoever. On the contrary, the coup has provided the North Vietnamese with a rationale for moving openly in Cambodia and for penetrating more deeply into the country.

Predictably, too, the first feelers for the extension of military aid have already been sent abroad by the new government in Cambodia. It is difficult to see to whom else these feelers might be directed, if not to us or to the South Vietnamese or to the Thais. Since those nations are already dependent on U.S. aid and would have to draw on us for any assistance which they might extend to Cambodia, there is no point in blinking the fact that it is to this Nation that the Cambodian aid appeal is addressed.

A request for assistance from the new Cambodian Government is plausible enough on the surface. That government gives indications of being hostile to forces which are hostile to us. To all appearances it is "friendly"—indeed, has it not just released a hijacked U.S. ship? It is military-based and presumably is willing to fight the Vietcong and North Vietnamese and to cut their supply routes. Would aid to that government not make our situation easier in Vietnam and save American lives?

These questions, Mr. President, at this late date, can best be answered by other questions. Have we not heard the same questions raised elsewhere in Asia since World War II? Have we not already concurred elsewhere in the plausibility of aid requests of this kind? Have we not extended assistance in Vietnam alone at a cost of more than $100 billion and over 319,000 U.S. casualties, including almost 50,000 dead? Where are we now in Vietnam? Is our situation easier? Where is the end of the road which began with the plausibility of military aid to Vietnam so many years ago?

It seems to me that while we are still free of the situation, we should confront the likelihood that assistance to Cambodia will be only the prelude to further U.S. military involvement. It would be my hope, therefore, that the President will resist these pressures—as he has up to this time, and I hope he will continue—which, in effect, will require him to alter the course of U.S. withdrawl which he has set. And again I refer to the headline in today's Washington Post—it involves a leak somewhere—"Army Favors Pull Out Delay of 6 Months." In my judgment, he has been following, wisely, the signposts which lead out of Southeast Asia. The signposts which now beckon from Cambodia point deeper into the morass. To pursue them, in my judgment, will be to spread the Vietnamese conflict throughout Indochina and very possibly throughout Southeast Asia. To pursue them will be to multiply U.S. costs and casualties and to forfeit a last chance for an orderly disengagement from this tragic and mistaken war.

So I repeat, Mr. President, the events in Cambodia are a cause for deep concern. The urgency in them, as I see it, is not to thrust into a new military involvement by way of aid. Rather, it is an urgency for diplomatic action. I would hope that there would be new diplomatic initiatives, before the tides of conflict swamp Cambodian independence and engulf us in the war's extension.

I would urge most respectfully, therefore, that the Secretary of State seek to bring together all the foreign ministers of the Geneva Pact powers, or any of them who will come, in a joint effort to reestablish conditions which will permit a return to neutrality in Cambodia. If we commit ourselves unilaterally through aid to the new government in Cambodia or if we immerse ourselves directly or through support of allies in military operations in that country, we can hardly bring plausible credentials to that purpose.

Mr. President, the crisis is in Indochina, but, in a sense, it is also here in this Capital. The Nation has been brought to a point of vital decision by the sudden developments in Cambodia. What is at stake, as I see it, is the President's policy of orderly withdrawal from Vietnam upon which so much else depends at home and abroad. That policy cannot be maintained, in my judgment, if we go down the road of aid ever deeper into Cambodia, as we have done in Vietnam and in Laos. The time to clamp down the lid on a further U.S. involvement in Southeast Asia is now.

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

Mr. MANSFIELD. I yield.

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

Mr. MANSFIELD. I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. AIKEN. Mr. President, I want to say that the majority leader of the Senate has just made the kind of speech which we can all approve, the sort of speech that can be very helpful to the President of the United States and to the Secretary of State.

The Senator from Montana has rightly pointed out that at present the principal issue which we might expect to find in the November election would be that of inflation and the lack of housing in the United States. In my own State, although income has gone up and wages have gone up, home building construction has gone down 28 percent last year, and interest rates are abominable; but the Senator from Montana is performing a greater service in pointing out to the country and to the President and the executive branch what could become a much greater issue—even a fatal issue—if the President does not resist the demands of those who insist that the war now be expanded to cover greater territory in Asia. That would certainly be disastrous to the United States.

I believe it was in May of 1967 that I spoke, advising President Johnson that unless there was a change of policy as to Asia and the Vietnam war he could not be expected to get reelected in 1968. I am not saying that to brag but merely to point out that the distinguished Senator from Montana is giving the same advice now to the administration of President Nixon.

Mr. President, I believe that President Nixon and Secretary of State Rogers do not want to expand the war into Laos, and certainly not into Cambodia. I feel that they are determined that they will not do so. I think they will show the resistance necessary to hold out against such persons as those who advised President Johnson to expand the war, such persons who will probably spend the rest of their lives trying to prove to the world that their advice would have been effective had President Johnson taken it to the extent they wanted him to. Well, he took it too much as it was.

I do not believe that President Nixon will fall into the same trap. I am sure that Secretary of State Rogers has every intention of keeping as far away as possible from Cambodian internal affairs, and even those in Laos, aside from what may be considered necessary to protect our own people.

(At this point Mr. HUGHES took the chair as Presiding Officer.)

Mr. COOPER. Mr. President, I join in support of the statement just made by the distinguished majority leader. His analysis of the situation in Cambodia, and the consequences which would result if we should become deeply involved are unassailable.

I, too, believe as the Senator from Vermont (Mr. AIKEN) has said that President Nixon does not want the United States to become involved in a further expansion of the Vietnam war in Cambodia or Laos. I hope very much that the counsel of the distinguished majority leader has just given will be followed. I have every expectation that it will be. I join the distinguished Senator from Vermont (Mr. AIKEN) in support of his statement.

As usual, we have heard a pithy statement from the able Senator from Vermont, giving us the benefit of his commonsense and judgment which we have learned to respect, and which he has never failed us.

I am sure that the proposal made with the majority leader for a constitutional amendment deserves the full consideration of the Senate.

Mr. MANSFIELD. Mr. President, if the Senator will allow me to make a reply, I should like to proceed by expressing my appreciation to the distingushed Senator

from Vermont (Mr. AIKEN) and the distinguished Senator from Kentucky (Mr. COOPER), for both of whom I have nothing but the highest regard—I might say, affection and respect as well.

I should like to quote from the remarks just made by the Senator from Vermont. I have quoted this before, because it is the theory behind the speech I just made, and behind the remarks I made last Friday on the same subject.

The Senator from Vermont said in his very thoughtful and worthwhile speech:

> We have only one President at a time and the manner in which he conducts the duties of his office determines to a great degree whether the people of the United States are secure or insecure—prosperous or poor—happy or sad.
>
> With this overwhelming belief in mind, I have to the best of my ability tried to help each to serve his country well—regardless of Party.
>
> Each President I have known has, to a great extent, been at the mercy of the times during which he served.
>
> Each has had to establish and maintain his credibility in the field of international politics, with varying degrees of success.
>
> And upon the success of the President in making the right decisions and in maintaining the respect of the world rested the prestige of our Nation and of you and me in the eyes of the world.

Mr. President, I intend to support any President regardless of party to the best of my ability, because I would far rather see the country benefited, the country secure, the welfare of the Nation placed first and ahead of the welfare or the success of any political party, or any individual within any political party.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. BYRD) is recognized for a period not to exceed 20 minutes.

NOMINATION OF G. HARROLD CARSWELL

Mr. BYRD of West Virginia. Mr. President, I speak in behalf of the nomination of Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court.

The opponents of this nomination are attempting to use as their chief argument the charge that Judge Carswell is undistinguished, and that he does not possess the legal credentials that an appointee to the High Court should have.

We have heard the word "mediocre" bandied about very carelessly in this debate. Some critics of Judge Carswell have said outright that he is a mediocre appointee. Others have taken a more circuitous route to say much the same thing.

The term "mediocre," Mr. President, applied to this nominee or to any nominee, or to any official of government elected or appointed, is a wholly relative term based on a subjective judgment.

By what standards is a judicial appointee or any other official mediocre? By whose arbitrary criteria is he judged?

Suppose for a moment that Judge Carswell's record were as liberal as his opponents contend that it is conservative. If it were, I suspect that—mediocre or not—he would be welcomed with open arms by many of those who now oppose him.

It is Judge Carswell's apparent conservatism, Mr. President, that probably bothers his critics more than their allegations of his mediocrity.

A review of the record made in the hearings establishes beyond question that Judge Carswell is well qualified for elevation to the Supreme Court.

During the course of this speech, I will undertake to compare the credentials and qualifications of Judge Carswell with those of every other sitting member of the Supreme Court at the time each was nominated.

Before I make this comparison, I think it is pertinent to note that the issue of Judge Carswell's legal competence and distinction was first significantly raised by certain segments of the press, especially the New York Times and the Washington Post. Each of these influential newspapers began to assert very shortly after the President submitted this nomination that Judge Carswell was undistinguished and mediocre. They have hammered consistently and hard on this issue and so have some Senators.

These newspapers and others have been lenient in their assessment of the qualifications of other nominees, depending on their judicial philosophy.

It is my view that one of the chief factors in determining whether a nominee has the necessary professional qualifications for nomination to the Supreme Court is whether or not he has had prior judicial experience.

Of course, there have been many appointees to the Supreme Court who have not had previous judicial experience but who have become outstanding and eminent jurists. So, it is not necessarily something that is required of an appointee in order for him to become a great judge. But I think that previous judicial experience is a positive factor to be considered in favor of any nominee.

Judge Carswell is eminently qualified in this regard, as he has served as U.S. district judge for the Northern District of Florida for more than 11 years, and has served as a judge of the Court of Appeals for the Fifth Circuit for almost 1 year. In addition, he was U.S. attorney for the Northern District of Florida prior to being appointed to the Federal bench for almost 5 years.

From the standpoint of prior judicial experience, as will be developed in this speech, Judge Carswell is better qualified than was any present member of the Supreme Court at the time of his appointment, except for Chief Justice Warren E. Burger.

I would assume that the New York Times and the Washington Post and other great newspapers share my view that prior judicial experience is an important factor in determining whether a nominee is qualified for appointment to the Supreme Court. In its edition of Sunday, June 30, 1968, the New York Times discussed the appointment of Justice Fortas and Judge Homer Thornberry to the Supreme Court which had been made the previous Wednesday, June 26, by President Johnson. I believe that my colleagues would find it very interesting to note what the New York Times had to say about the professional qualifications of these nominees. In referring to Justice Fortas and Judge Thornberry, the Times said:

> Both men have impressive credentials to qualify them for the Supreme Court.

In discussing the qualifications of Judge Thornberry, the Times said:

> Judge Thornberry, 59, has been on the bench since 1963 and has more judicial experience than any sitting member of the Supreme Court had at the time of his appointment except William J. Brennan Jr.

One of the writers for the Washington Post discussed Judge Thornberry's nomination in the issue of June 27, 1968, the day after the nomination was made:

> He has had more judicial experience than any sitting member of the Supreme Court at the time of his appointment except William J. Brennan Jr.

I am very pleased that the New York Times and the Washington Post agree with me that prior judicial experience bears great weight on the issue of legal qualifications and distinction.

Perhaps some clue can be gained as to why these newspapers assessed the legal qualifications of Judge Thornberry in such a manner by referring to a headline which appears on page 30 of the New York Times issue of June 27, 1968, which describes Justice Fortas and Judge Thornberry as "Liberal Nominees for Supreme Court Posts," and to the Washington Post article of June 27, above mentioned, which describes Judge Thornberry's record in the following manner:

> President Kennedy nominated Thornberry to the Federal district bench shortly before his death in 1963. President Johnson promoted him to the Fifth Circuit Court of Appeals in 1965. He has had more judicial experience than any sitting member of the Supreme Court at the time of his appointment except William J. Brennan Jr.
>
> A quick look at Thornberry's opinions on the Fifth Circuit Court—which has handled all the difficult racial cases from the Deep South—suggests a liberal stance on civil liberties and civil rights.

I do not intend any disrespect to Judge Homer Thornberry in making these remarks. I personally feel that he is a thoroughly competent and able judge of the Fifth Circuit Court of Appeals. He has endorsed the nomination of his colleague, Judge Carswell, to be an Associate Justice of the United States Supreme Court, for which I commend him.

I do feel, however, that the contrasting assessments made by these two great and influential newspapers of Judge Thornberry and Judge Carswell highlight the profound wisdom of the distinguished Republican leader in opening this debate on March 13, in stating:

> I think the "lack of distinction" argument is really a make-weight for those whose real ground of objection is that the nominee is not sufficiently in accord with their views. (S. 3729)

I now proceed to compare Judge Carswell's qualifications from the standpoints of education, legal experience, and judicial experience with those of the present members of the Supreme Court.

First, I start with our standard of comparison, which is the qualifications of

Judge Carswell himself. The record shows that he received his undergraduate education at Duke University, Durham, N.C., from which institution he received a B.A. degree in 1941.

Most of us would agree that Duke University is one of the outstanding institutions of higher learning in this Nation. The President of the United States received his law degree from Duke. There may be a few people in the academic and legal and political communities who think that this fact makes Duke mediocre, but I certainly do not share that opinion.

Judge Carswell attended the University of Georgia Law School at Athens, Ga., for 1 year, 1941–42, and at the conclusion of that school year he enlisted in the U.S. Navy to serve with distinction in World War II.

After the war, he completed his legal education at the Mercer University Law School, Macon, Ga., which awarded him an LL.B. degree in 1948.

In 1949 Judge Carswell moved to Tallahassee, Fla., and became an associate in the firm of Ausley, Collins, and Truett. His practice of law in that firm was varied, and he acquired the reputation of being an able and outstanding lawyer. Judge Carswell left the Collins law firm in 1951 and formed his own firm in Tallahassee, where he continued to actively engage in the practice of law.

Judge Carswell's reputation as a lawyer attracted such notice that in 1953, at the age of 33, he was nominated by President Eisenhower to be U.S. attorney for the Northern District of Florida. He served in that capacity in an able and conscientious fashion. No complaint has ever been publicly stated—or at least I have heard none—as to his treatment of any litigant or lawyer during his service as U.S. attorney. In this position, he handled a broad range of cases encompassing the entire area of Federal criminal jurisdiction.

He made such a fine record as U.S. attorney that President Eisenhower nominated him as U.S. district judge for the northern district of Florida in 1958, and he became a Federal district judge on April 18 of that year. Contrary to the assertions of a few people, he served with great ability and distinction as a trial judge in our Federal court system. The area of litigation handled by Judge Carswell encompassed the entire spectrum of Federal criminal law and Federal civil law.

He did such a good job as district judge and acquired such an outstanding reputation that President Nixon in 1969 appointed him to be judge of the U.S. Circuit Court of Appeals for the Fifth Circuit. The Senate again confirmed his nomination, and he became a circuit judge on June 27, 1969. For the third time, therefore, the U.S. Senate unanimously confirmed Mr. Carswell's nomination to a high position on or associated with the Federal judiciary.

So, in summary, we find that Judge Carswell has a very good educational background; he engaged in an active general practice of law for approximately 4 years; he served as U.S. district attorney—which required Senate confirmation—for almost 5 years; he was a U.S. district judge—which required Senate confirmation—for more than 11 years; and he has been a U.S. circuit judge—which required Senate confirmation—for almost a year.

These seem to me to be impressive credentials, and should settle the question as to whether Judge Carswell has the legal competence and training and experience which would qualify him for appointment to the Supreme Court.

Let us compare his qualifications with those possessed by each of the present members of the Supreme Court at the time of his nomination.

First, as to Mr. Justice Black, we find that he received his law degree from the University of Alabama in 1906. He began the practice of law in Birmingham in 1907 and served as police judge in that city for 18 months during the years 1910–11. He held the office of solicitor, which is prosecuting attorney in Alabama, during the years 1915–17. He engaged in the general practice of law in Birmingham for 8 years from 1919 to 1927. He was elected to the U.S. Senate in 1926 and served in the Senate from 1927 to the time of his appointment to the Supreme Court by President Roosevelt and his confirmation by the Senate on August 17, 1937.

Thus, we find that Justice Black, at the time of his nomination, had had prior judicial experience of 18 months as police judge in Birmingham; he had engaged in the private practice of law for approximately 16 years, and had served as State prosecuting attorney for about 2 years; he had also served in the Senate for 10 years.

Of course, each of us can judge and assess these facts according to our own best judgment, but it seems to me that Judge Carswell possesses legal qualifications comparable, if not superior, to those held by Justice Black at the time of his appointment.

Let us look at the Justice who is next senior in service, Mr. Justice Douglas. He received his undergraduate degree from Whitman College, Walla Walla, Wash., in 1920, and received his LL.B. degree from Columbia University Law School in 1925; he engaged in the private practice of law in New York City from 1925 to 1927, and was a member of the law faculty of Columbia University from 1925–28. He was on the Yale law faculty for 6 years from 1928–34 and was named by President Roosevelt to be a member of the Securities and Exchange Commission in 1936, and he served as Chairman of that Commission from 1937 to 1939. He was nominated by President Roosevelt to be an Associate Justice of the Supreme Court of the United States at the age of 40, and took his seat on the Court on April 17, 1939.

Justice Douglas had had no prior judicial experience. He had been engaged in the practice of law for less than 5 years, and had a background of approximately 9 years in the legal academic community.

There may well be a place on the Supreme Court for one with the legal qualifications and credentials of Justice Douglas, but how can one possibly unfavorably compare Judge Carswell's qualifications to those of Justice Douglas?

Next we come to Justice John M. Harlan. In my opinion, at the time of his nomination he possessed very high qualifications. He received his B.A. degree at Princeton University and advanced degress in jurisprudence from Oxford University, and his law degree from New York Law School. He was an associate and a member of the distinguished New York law firm of Root, Ballatine, Harlan, Bushley & Palmer, for over 20 years, and was appointed by President Eisenhower to the Second Circuit Court of Appeals in 1954, where he served for 1 year, and then was appointed by the President on March 17, 1955, to be an Associate Justice of the Supreme Court. During the time he was in private practice, he served in such capacities as special assistant attorney general of the State of New York and chief counsel to the New York State Crime Commission.

Realistically speaking, it must be considered that Justice Harlan's qualifications pertaining to his background in the private practice of law were extremely outstanding, and were superior to those possessed by Judge Carswell. On the other hand, in the area of prior judicial experience, Judge Carswell's qualifications would have to be rated above those of Justice Harlan.

In my opinion, from the standpoint of professional qualifications, Justice Harlan stands as a giant among the present members of the Supreme Court.

I think it is no accident that Justice Harlan also happens to be the leader of the strict constructionist forces on the Supreme Court. His outstanding background as a lawyer has taught him the true and correct function of a judge under our constitutional system.

We now come to Justice William J. Brennan, Jr. As I have noted, the New York Times and the Washington Post stated that the prior judicial experience of Justice Brennan was greater than that of any other member of the Supreme Court at the time of his appointment. Justice Brennan received his B.S. degree from the University of Pennsylvania and his LL.B. degree from Harvard. He engaged in the private practice of law in Newark, N.J., as an associate in the firm of Pitney, Hardin & Skinner for 6 years, and was a member of the firm for another 9 years. His work with the law firm was interrupted by 3 years of service in the U.S. Army in World War II.

Justice Brennan was appointed to the New Jersey Superior Court in 1949, and was appointed to the appellate division of that court in 1951. Thereafter, he was appointed in 1952 to be an associate justice of the Supreme Court of New Jersey, where he served for approximately 4 years until appointed by President Eisenhower to the Supreme Court in 1956.

Thus, at the time of his appointment, Justice Brennan had had 15 years' experience in the private practice of law and had served 7 years as a judge of the State courts of New Jersey. From the standpoint of prior judicial experience, Justice Brennan had had 7 years of serv-

ice in the State courts, while Judge Carswell has had almost 12 years of experience in the Federal courts.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes.

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

Mr. BYRD of West Virginia. Mr. President, Mr. Justice Potter Stewart received his undergraduate and law degrees from Yale. He engaged in the private practice of law in New York City for 3 years, which was interrupted by his service in the U.S. Navy during World War II. He then practiced in Cincinnati, Ohio, for 7 years, from 1947–54. At that time he was appointed by President Eisenhower to be a judge of the U.S. Court of Appeals for the Sixth Circuit. He served on that court for 4 years, until he was nominated by President Eisenhower in 1958 to be an Associate Justice of the Supreme Court.

Mr. Justice Stewart, at the time of his appointment to the Supreme Court, had had 4 years of prior judicial experience and 10 years in the private practice of law. This is almost the reverse of Judge Carswell's qualifications, in that Judge Carswell has had 4 years in the private practice of law and almost 12 years of prior judicial experience. In addition, Judge Carswell has served for 5 years as U.S. attorney.

I do not see how anyone can say that Judge Carswell's qualifications do not compare favorably with those of Mr. Justice Stewart.

As to the qualifications of Associate Justice Byron R. White, who would ever have contended at the time of his appointment that he would make the good Associate Justice that he is making in his service on the Court today?

To most Americans in March, 1962, when he was named by President Kennedy, "Whizzer" White was known only as a great football player. From 1935 through 1937 he had starred at the University of Colorado, leading his team in his final year of play to an undefeated season, and excelling all college backs in scoring and ground gaining.

He went on to play with the Pittsburgh Steelers and the Detroit Lions, led the National Football League in ground gaining twice as a professional player, and in 1954 was named to the National Football Hall of Fame.

He practiced law in Denver, organized the State of Colorado in support of the Kennedy campaign, became a deputy Attorney General to Robert Kennedy, and in March 1962 was appointed to the Supreme Court. A good and enviable record, yes. But background and qualification for the Nation's highest court? I wonder.

Many at the time thought not. Yet, Byron White, in my opinion and the opinion of many others, is serving with diligence and competence on the Supreme Court.

Let us now examine the background and qualifications of Justice Thurgood Marshall at the time of his appointment to the Supreme Court. He received his college education at Lincoln University and his law degree in 1933 from Howard University. Upon his graduation from law school he entered the private practice of law in Baltimore, and in 1934 became counsel for the Baltimore branch of the NAACP. In 1936, he joined that organization's national legal staff, and in 1938 was appointed its chief legal officer. He served from 1940 until 1961 as director-counsel of the NAACP legal defense and educational fund. On September 23, 1961, he was appointed by President Kennedy as a judge of the Second Circuit Court of Appeals, on which he served until nominated by President Johnson to be Solicitor General of the United States on July 13, 1965. President Johnson nominated him to be an Associate Justice of the Supreme Court on June 13, 1967.

Justice Marshall was very active in the private practice of law, but his practice was confined exclusively to the civil rights field and the representation of the NAACP and its affiliated organizations.

As a matter of fact, he was often referred to as "Mr. NAACP." He was engaged in the private practice of law for a very long time, 28 years, but it cannot be said that his practice was of a general nature. He then served as a judge of the second circuit for almost 4 years, and as Solicitor General for 2 years.

Last, we come to the most recent appointment, that of Chief Justice Warren Burger, named by President Nixon as Chief Justice on May 22, 1969.

Chief Justice Burger received his college education at the University of Minnesota and his law degree from St. Paul College of Law. He was a member of a St. Paul law firm for 22 years, from 1931 to 1953. At that time he was appointed by President Eisenhower as an Assistant Attorney General of the United States. He held that position until 1956, when he was appointed by the President to be a judge of the U.S. Court of Appeals for the District of Columbia Circuit. He was a judge of that court for more than 13 years until he was nominated by President Nixon to be Chief Justice of the United States.

The solid judicial experience which Chief Justice Burger brought to the Court, it should be noted, exceeds Judge Carswell's equally solid experience on the Federal bench by only about a year.

What a contrast these two eminently qualified men—with their judicial backgrounds—provide to former Chief Justice Earl Warren. When Governor Warren was nominated, his prior experience in government was almost wholly political. Yet, his nomination was confirmed, although he brought to the Court no judicial experience of any kind and little knowledge bearing on the complicated legal issues with which he was to be confronted.

The imperious manner in which he dispensed decisions, as from on high, indicated how little he understood or valued this country's vital and historical constitutional processes. It is my considered judgment, Mr. President, that many of the increasingly serious difficulties in which our country finds itself at this point arise directly from the unwise rulings of the Court during the years of Mr. Warren's tenure as Chief Justice.

The type of opposition to Judge Carswell that we are witnessing now—and which brought about the defeat of the nomination of Judge Clement Haynsworth—is not new. It has happened before many times, and subsequent events more often than not have shown how poorly taken such opposition has often been in the past. Conservatives as well as liberals have indulged in such opposition, and almost always the opponents of nominees to the Court have attacked them on the grounds that they were not fit to serve.

In the long history of the U.S. Supreme Court many men have been appointed—and have served with distinction—the first mention of whose names brought opposition and even ridicule.

One of the towering figures of the Court, Joseph Story, of Massachusetts, appointed by President James Madison in 1811, was such a man—bitterly opposed by the conservatives of that time.

He was an unknown in most of the young Nation, although he had served a term in Congress and had been speaker of the Massachusetts House of Representatives. He had held no judicial office, and the reasons for President Madison's appointment of him have never been learned. He was the youngest man ever appointed to the Court.

Jefferson made repeated expressions of personal antipathy to Story, and the Federalists reacted to his appointment with ridicule and condemnation.

But, as Charles Warren, the former U.S. Assistant Attorney General, writes in his book "The Supreme Court in United States History":

> As in so many other instances in the history of the United States when comparatively unknown men have been raised to positions of high authority, the nation was singularly fortunate in the event.
>
> In Story's case, as in so many other instances in the history of the court, there was shown the utter futility of the expectations, frequently entertained by politicians, that the judicial decisions of a judge would accord with his politics at the time of his appointment to the supreme bench.
>
> Time and time again it has been proved—and to the great honor of the profession—that no lawyer, whose character and legal ability would warrant his appointment to that lofty tribunal would stoop to smirch his own record by submitting his judgment to the political touchstone; and no president has dared to appoint to that court a lawyer whose character and ability could not meet the test.

One does not have to go back to the early history of the court, however, to find nominees who have served with distinction to themselves and with benefit to their country whose credentials were questioned at the outset and who were bitterly assailed while their nominations were under consideration.

The case of Associate Justice Louis D. Brandeis comes readily to mind. Again in this instance it was the conservatives who were after him. I alluded to the fight over the Brandeis nomination when I spoke in this Chamber in support of the

nomination of Judge Haynsworth, and much of what I said at that time is once again applicable in this debate over Judge Carswell.

I said then that the real reasons for the bitter fight half a century ago against the confirmation of Justice Brandeis were his social and economic ideas and the fact that he was a Jew, and that the real reason for the high pressure to defeat Judge Haynsworth were his judicial philosophy and the fact that he was a white, conservative southerner. The same may be said in considerable measure of the opposition to Judge Carswell.

Justice Brandeis was appointed to the Court in 1916 by President Wilson, and the fight over the nomination that ensued is generally regarded as one of the most celebrated senatorial confirmation contests in history.

In the study of the confirmation of appointments by the Senate made by Joseph P. Harris in his book, entitled, "The Advice and Consent of the Senate," the following comment concerning the Brandeis case appears on page 113, and I believe that it has validity in the present connection:

> The case illustrates that a person who has . . . taken a definite stand on controversial public issues, particularly if he has incurred the hostility of powerful groups of society, will face strong opposition. Such a person can be confirmed only by the greatest effort, whereas a middle-of-the-road individual who has never participated in economic and social struggles or offended powerful groups is usually confirmed without opposition.
>
> The opposition to Brandeis was due chiefly to the fact that his opponents regarded him as a dangerous radical and a crusader and hence unfit to serve on the Supreme Court, which they regarded as the bulwark of conservatism. . . .
>
> Their stated reasons for opposing him, however, were entirely different—that he was not trustworthy and had been guilty of unprofessional conduct. Their charges of unprofessional conduct did not stand up under the examination of the subcommittee, though at the end, the Senators who were opposed to Brandeis gave credence to practically all the charges. . . .
>
> In the cases investigated by the subcommittee, it was found that the conduct of Brandeis was not only ethical and correct but indeed indicated that he had extraordinarily high professional standards.

Mr. President, there are many more cases of ill-founded opposition to nominees to the Supreme Court that could be cited. But the point that I wish to emphasize is that Judge Carswell compares very favorably with the men who presenty sit on the Supreme Court, and, in my opinion, is superior to some.

If Judge Carswell were not as well qualified as he actually is—if he were indeed mediocre as critics have said—he would still be much to be preferred over William O. Douglas, who had no judicial experience when he was confirmed for the Court, and who has now written a book which encourages violence and revolution in America.

As John F. Bridge, writing in the National Observer on March 2, observed

> Those who are so upset about the intellectual qualifications of Judge Carswell ought to read the book Justice Douglas has just written, Points of Rebellion, in which, among many other wild assertions, this sitting Associate Justice says:
>
> "We must realize that today's establishment is the new George III. Whether it will continue to adhere to his tactics, we do not know. If it does, the redress honored in tradition, is also revolution."

As the National Observer writer noted, this is no black militant screaming. This is a member of the Nation's court of last resort.

One need not bother to condemn Justice Douglas; his own words condemn him. Consider this passage:

> . . . where grievances pile high and most of the elected spokesmen represent the Establishment, violence may be the only effective response.

The "Puritan ethic," the "highway lobby," the "industrial-military complex," all are targets for Mr. Justice Douglas. As an author, he sounds more like a spokesman for the SDS than a guardian of constitutional processes. In my judgment, he is a disgrace to the U.S. Supreme Court.

As I have already noted, Mr. Douglas' words ought to be of more than passing interest to the critics of Judge Carswell, for, to quote the reviewer of his book again:

> Mr. Douglas has a lot to say . . . about mediocrity in American life. At least mediocrity is one subject on which he conceivably could be an expert.

The confirmation of Judge Carswell's nomination, Mr. President, could help to restore a badly-needed balance to the Court on which Justice Douglas sits. In this regard, Mr. President, if Judge Carswell's nomination were to be rejected by the Senate, I should hope that impeachment proceedings would be immediately instituted in the other body, and I would like to see Senators who oppose the Carswell nomination have to show down on a trial of Mr. Douglas, who presently is a member of the U.S. Supreme Court and whose own words condemn him, not as one who is just mediocre, but as one who advocates violence and revolution in America.

I discern a definite pattern in the nominations President Nixon has made to the Supreme Court—a pattern of seeking out men who have had experience where it really counts, in the Federal judiciary itself.

Chief Justice Burger was eminently qualified in that respect, as was Judge Haynsworth and as is Judge Carswell. I commend President Nixon for seeking this quality in making his appointments to the Court. I believe that many people in America share my opinion on this matter.

There are other factors to be taken into consideration, but certainly prior judicial experience should be a major one. The survey of the qualifications of the present members of the Supreme Court I have made shows that President Nixon is seeking to restore a balance on the Court in more ways than one. We do need to have more Justices on the Court with great prior judicial experience, and Judge Carswell is certainly qualified in this regard.

As the distinguished chairman of the Judiciary Committee pointed out on the floor of the Senate on March 17, it is very strange that the Washington Post has taken the position all of President Nixon's nominations to the Supreme Court have been undistinguished. This, of course, includes Chief Justice Burger.

I think that the ideological bias underlying this opinion of the Washington Post gives us a clue to the motive of some who say that Judge Carswell is "mediocre" or "undistinguished."

The record and the facts completely negate such an assertion. The truth of the matter is, Mr. President, that seldom has so much been made out of so little. Weeks have been dragged out in the hope that with the passage of time a hostile press could encourage wavering Senators to join the opposition.

Judge Carswell is eminently qualified from the standpoint of professional background and qualifications. The prestigious Standing Committee on the Federal Judiciary of the American Bar Association has affirmed and reaffirmed that Judge Carswell is qualified. As the Honorable Lawrence E. Walsh, the chairman of the standing committee, wrote Chairman EASTLAND, the committee investigated Judge Carswell as to his integrity, judicial temperament and professional competence.

On the basis of this investigation, Judge Carswell was unanimously found to be qualified for appointment to the Supreme Court.

After the hearings had been concluded by the Judiciary Committee, and all of the charges against Judge Carswell had been aired, the standing committee reaffirmed its previous judgment that the nominee was qualified.

I hope and trust that no one will vote against this confirmation on the misguided belief that Judge Carswell does not possess the necessary legal qualifications.

I intend to vote, if a tabling motion is made, to table the motion to recommit.

If such a tabling motion is not made, I intend to vote against the motion to recommit. If that motion to recommit is not sustained, I intend, of course, to vote for the confirmation of the nomination of Judge Carswell.

I urge the Senate to consent to the nomination of G. Harrold Carswell to be an Associate Justice of the Supreme Court of the United States.

Mr. President, I yield the floor.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Justice for the Federal Prison System "Support of United States Prisoners," for the fiscal year 1970, had been reapportioned on a basis which in-

dicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON MODIFICATION OF A LOAN TO THE CORN BELT POWER COOPERATIVE OF HUMBOLDT, IOWA

A letter from the Acting Administrator, Rural Electrification Administration, Department of Agriculture, reporting, under the provisions of Senate Report No. 497, modication of a loan made to the Corn Belt Power Cooperative of Humboldt, Iowa, in the year 1964; to the Committee on Appropriations.

PROPOSED AMENDMENT OF TITLE 37, UNITED STATES CODE

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status (with an accompanying paper); to the Committee on Armed Services.

REPORT OF SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman, Securities and Exchange Commission, Washington, D.C., transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for July 1969–January 1970 (with an accompanying report); to the Committee on Banking and Currency.

PROPOSED LEGISLATION RELATING TO THE DISTRICT OF COLUMBIA

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to authorize the District of Columbia to issue obligations to finance District capital programs, to provide Federal funds for District of Columbia institutions of higher education, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the assistant to the Commissioner, government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to provide improvements in the administration of health services in the District of Columbia, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the assistant to the Commissioner, government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation to provide for improvements in the administration of the government of the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

A letter from the Assistant to the Commissioner, Government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation relating to the rental of space for the accommodation of District of Columbia agencies and activities, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

A letter from the Assistant to the Commissioner, Government of the District of Columbia, Washington, D.C., transmitting a draft of proposed legislation relating to crime in the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

REPORT ON SOCIO-ECONOMIC PROGRESS IN LATIN AMERICA

A letter from the President, Inter-American Development Bank, transmitting, pursuant to law, a report on Socio-Economic Progress in Latin America, for the year 1969 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements, Bureau of Engraving and Printing Fund, fiscal years 1968 and 1969, Department of the Treasury, dated March 26, 1970 (with an accompanying report); to the Committee on Government Operations.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 3655. A bill to amend the Internal Revenue Code of 1954 to allow a total of four personal exemptions for a taxpayer, and the spouse of a taxpayer, who has attained the age of 70; to the Committee on Finance.

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

By Mr. CRANSTON:

S. 3656. A bill to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans for mobile homes if used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guaranteed and direct loans made under such chapter, to remove the time limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or expiration, to eliminate the guaranteed and direct loan fee collected under such chapter, and for other purposes; to the Committee on Labor and Public Welfare, by unanimous consent, then referred to the Committee on Banking and Currency when reported.

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

By Mr. CRANSTON (for himself, Mr. YARBOROUGH, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON and Mr. HUGHES):

S. 3657. A bill to amend chapter 34 of title 38, United States Code, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist such veterans in meeting educational and living expenses during the first two months of school, and to establish a veterans' work-study program through cancellation of such advance payment repayment obligations under certain circumstances; to the Committee on Labor and Public Welfare.

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

By Mr. GORE:

S. 3658. A bill to amend title II of the Social Security Act so as to raise from $64 to $100 the minimum primary insurance amount thereunder; to the Committee on Finance.

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

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 13448. An Act to authorize the exchange, upon terms fully protecting the public interest, of the lands and buildings now constituting the United States Public Health Service Hospital at New Orleans, Louisiana, for lands upon which a new United States Public Health Service Hospital at New Orleans, Louisiana, may be located; and

H.R. 14289. An Act to permit El Paso and Hudspeth Counties, Texas, to be placed in the mountain standard time zone.

S. 3655—INTRODUCTION OF A BILL GIVING ADDITIONAL EXEMPTIONS TO TAXPAYERS WHO HAVE ATTAINED THE AGE OF 70

Mr. MANSFIELD. Mr. President, in the past several years I have been receiving a great deal of mail from our elder citizens who have legitimate complaints about the problems they face in attempting to exist on limited retirement incomes during an inflationary period. When the Congress passed the tax reform bill last year, I believe that more consideration should have been given to our elder citizens. I think it is generally recognized that, when a person reaches the age of 70, his earning power is somewhat limited but, at the same time, there is no comparable decrease in the cost of living. In fact, there are often unusual claims against their daily income.

It is for this reason that I ask the legislative counsel to prepare legislation which would give persons who have attained the age of 70 additional personal exemptions. I introduce a bill which would amend the Internal Revenue Code to allow a total of four personal exemptions for a taxpayer who has attained the age of 70.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred.

The bill (S. 3655) to amend the Internal Revenue Code of 1954 to allow a total of four personal exemptions for a taxpayer, and the spouse of a taxpayer, who has attained the age of 70, introduced by Mr. MANSFIELD, was received, read twice by its title, and referred to the Committee on Finance.

INTRODUCTION OF VETERANS LEGISLATION

REPORT OF PRESIDENT'S COMMITTEE ON THE VIETNAM VETERANS

Mr. CRANSTON. Mr. President, I note with great interest and a welcoming spirit the publication this past Saturday, March 28, of the Report of the President's Committee on the Vietnam Veteran. This report was released by the White House as it broke the news that the President had signed into law—on March 26—H.R. 11959, the Veterans' Education and Training Assistance Act of 1970, Public Law 91–219. As chairman of the Veterans' Affairs Subcommittee

and of the Senate conferees on this bill, I am most delighted that the President decided not to veto that bill as many had interpreted his October 21, 1969, statement to imply he might.

I also wish to express to the President's committee a "welcome on board" with the bipartisan congressional effort to provide new and special programs to attract and assist educationally disadvantaged and academically deficient veterans under the GI bill. Although administration support for these programs could surely have been of great assistance in the recent conference negotiations over them and would have expedited agreement, I am sure that all who worked so hard on these measures in both Houses are pleased to see the administration take an affirmative position, even so belatedly.

This interagency, Cabinet-level committee was appointed by the President on June 5, 1969, and charged with submitting its final report no later than October 15, 1969. Although almost 5½ months behind schedule, issuance of this report marks the first clear commitment by the executive branch to the importance of developing special programs to expand substantially GI bill participation by the most educationally and financially needy veterans. For this major shift of viewpoint I congratulate the Administrator of Veterans' Affairs, the chairman of the committee, and its members, and I extend my pledge of further cooperation toward these ends to him and those members—the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Postmaster General, the Director of the Office of Economic Opportunity, and the Chairman of the Civil Service Commission.

Mr. President, I commend the report to the attention of all Senators and others interested in Vietnam era GI bill participation. I ask unanimous consent, Mr. President, that the full report be printed in the RECORD at this point, and then I will comment briefly on its recommendations.

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

REPORT OF THE PRESIDENT'S COMMITTEE ON THE VIETNAM VETERAN

INTRODUCTION

Throughout our history the American people have recognized a special obligation to those who have served in our Armed Forces.

President Nixon, on June 5, 1969, created a Committee on the Vietnam Veteran to evaluate how well the Nation is meeting its debt to today's veterans.

Committee members include the Administrator of Veterans Affairs (Chairman), the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Postmaster General, the Director of the Office of Economic Opportunity and the Chairman of the Civil Service Commission.

Early in its deliberations, the Committee determined that readjustment programs should be emphasized—those programs which should be emphasized—those programs which provide education and training assistance to returning Vietnam veterans so they can obtain productive and challenging career opportunities in our domestic life.

The President has now signed H.R. 11959. This legislation provides increased educational benefits for disabled veterans, war orphans, and war widows, and additional assistance to those who need special help to prepare for and pursue further education and training.

The benefit allowance increases should both promote participation and insure completion of training for those veterans who might otherwise be forced to discontinue their training due to financial incapacity. But we must go beyond increasing GI bill benefits on an across-the-board basis. Other important innovations have been studied by this Committee and appropriate recommendations to accomplish them are contained in this report.

The Committee obtained basic information on the Vietnam-era veteran population from surveys sponsored by the Committee and from surveys already conducted by Federal agencies, including:

The Bureau of the Budget interagency survey of the disadvantaged veterans, October 1969.

Department of Defense data on enlisted reservists and project 100,000 trainees, October 1969.

Veterans Administration "Survey of expenses and income for veterans attending school under the GI Bill", July 1969.

The Committee also obtained the views and recommendations of private citizens. Requests for views were sent to national and local business, banking and industrial organizations, the National Governors Conference and the U.S. Conference of Mayors, labor unions, associations of educational institutions and educators, Members of Congress involved with veterans' legislation, and veterans service organizations.

THE VIETNAM-ERA VETERAN

Large-scale commitment of American forces to Southeast Asia began late in 1964. Since that time, 3.7 million men and women have left military service. The annual rate of separations has increased gradually from 531 thousand in calendar 1965 to 958 thousand in 1969. In 1970 and 1971, the annual rate will climb to an estimated one million. This report refers to this group of veterans as "Vietnam-era veterans".

These men and women show great potential. They are generally young with more than half falling in the age bracket 20–24. They are better educated than veterans of earlier wars. About 78 percent have completed high school at separation, compared with 63 percent of veterans of the Korean Conflict and 45 percent of World War II. The Vietnam-era veterans reflect the same racial proportions as the total American society. The economic potential of this group is high. Data available on veterans of earlier conflicts demonstrate their promise. Average earnings of post-Korean veterans are considerably higher than those of non-veterans in the same age groups. We are satisfied that the same general "economic advantage" will pertain to the Vietnam-era veteran.

VETERANS WITH PHYSICAL HANDICAPS

Significant numbers of returning veterans, however, enter the economy with severe handicaps. In 1970, over 120,000 Vietnam-era veterans are receiving VA compensation for service-connected disabilities.

In 1970, 25,000 of these disabled veterans are enrolled in VA's vocational rehabilitation program which provides for full cost of tuition, books, supplies, a substantial subsistence allowance augmented for dependents, in addition to their service-connected compensation. The VA hospital system accords them top priority for admission to care for their service-connected disabilities. In 1970, an estimated 64 thousand Vietnam-era veterans will receive VA hospital care. Because these men in many cases have difficulty qualifying for commercial insurance, they are eligible to convert the $10,000 Servicemen's Group Life Insurance to commercial coverage under a pooled risk arrangement and they can obtain an additional $10,000 coverage under VA's Service-disabled Insurance Program.

VETERANS WITH EDUCATIONAL AND SKILL DEFICIENCIES

Seven times more veterans than those who are disabled and entitled to compensation carry the invisible handicaps of inadequate or defective education and training. Measured by lack of a high school education, 16% of Vietnam-era veterans now being released from service are educationally disadvantaged. This is not, however, a full measure of those with educational deficiencies. Test results show that 30 percent of high school graduates in the Armed Forces scored as poorly or worse than the average score of those who had not completed high school.

Ironically, these factors are an important determinant in placing men in military occupations. Those who had not completed their high school education and those who perform poorly on the qualifications tests have less opportunity while in the service to acquire skills applicable to civilian jobs.

Upon discharge, the veteran with education deficiencies suffers a rate of unemployment significantly higher than that of his fellow veteran. A recent survey of veterans living in impoverished areas indicates that jobs are their main concern. The survey, based upon intensive interviews with more than 3,000 veterans, revealed 62% of those contacting Federal agencies wanted assistance in finding employment.

Statistics on the employment experience of educationally handicapped veterans bears out their need for concern. A recent survey reported unemployment rates of 5.8% for white veterans who had completed high school and 8.8% for those white veterans with less than a high school education. These rates compare with a 4.6% unemployment rate for all non-veterans in the comparable age range. The same survey reported unemployment rates of 9% for Negro veterans who had completed high school and 18.5% for Negro veterans with less than a high school education. For Negro non-veterans in the same age group, the unemployment rate was 5.9%.

The problems of many returning Vietnam veterans are demonstrated by these statistics. But they are, above all, human problems. The Vietnam veterans often return to civilian life very much the same as they entered active service, except that they are a bit older, jobless, and anxious. For many of them job prospects are worse than for non-veterans in the same age brackets.

Having assessed the problems of disabled veterans and veterans with educational and skill deficiencies, the Committee has determined that this report should concentrate on ways in which veterans readjustment benefits for education and training can be made available to all veterans on a basis of equal access.

As of February 1970, 1.06 million, or 27.8% of the 3.8 million eligible Vietnam-era veterans had used GI Bill education or training benefits. An additional 3.1 million veterans were eligible who had served in the period January 1955 and August 1964. Of these veterans, 1.7 million, or 24.6% have participated in GI Bill training. At present, approximately 70% of veterans in training are Vietnam-era veterans.

Available survey data show that participipation in GI Bill training is inverse to need. Nearly 50% of the veterans who already have college training at the time of discharge and therefore have the best prospects for immediate employment seek to upgrade their education under the GI Bill. On the

other hand, those who have serious education deficiencies show participation rates as low as 10%.

RECOMMENDATIONS

The Committee has developed three types of recommendations: (A) recommendations to improve the veteran's access to education; (B) recommendations to improve the veteran's access to jobs and job training; and (C) recommendations in related readjustment areas.

A. Recommendations to improve the veteran's access to education

Recommendation No. A-1

Encourage veterans to enter and follow through with a training program by providing an advance education assistance payment to help the veteran meet the initial costs of entering training.

The GI Bill provides monthly allowances for veterans enrolled in and attending approved programs of education. These payments do not begin, however, until after the veteran has enrolled, and completed each month of training. The effect of this after-the-fact method of payment can be to discourage program participation by the veteran who cannot afford the initial outlay required by most schools for prepayment of fees, tuition, books, and the necessary money for subsistence for himself and his family until the first payment is received. The intent of the program is thus jeopardized. Even for the financially more fortunate veteran, the prepayment of tuition and other costs constitutes a burden since the educational allowance is partial assistance rather than a full subsidy.

The proposal would authorize an advance payment to help the veteran enroll in school. This would be done on an individual application basis. The amount advanced can be gradually recouped over the whole period of enrollment.

Recommendation No. A-2

Establish an in-service program to assist servicemen to prepare for post-secondary training while on active duty. Eligibility criteria should be revised to permit participation following completion of six months active duty.

The U.S. Armed Forces Institute (USAFI) of the Department of Defense currently sponsors educational programs offering elementary, secondary, and college-level courses for servicemen. In 1969, 90,000 servicemen who had dropped out of high school took courses on an off-hours basis leading to a certificate of high school completion ("GED").

This program offers many opportunities for servicemen to upgrade their education at little cost. Its chief limitations regarding veterans with educational deficiencies are:

Lack of tuition support for non-careerists.

Lack of flexibility to get courses and remedial instruction in schools near the man's military base.

Under existing provisions of the GI Bill (38 U.S.C. 1652) men in the active military service can qualify for GI Bill payment of tuition and fees, provided they already have served at least two years. The proposal would bestow these benefits upon short-term draftees, provided they had served six months. For veterans with educational deficiencies, this benefit would provide without charge to their future GI Bill entitlement courses for high school completion or refresher or deficiency courses for admission to college or technical schools. The proposal would result in greatly increasing the options of each educationally handicapped veteran to enroll in courses of colleges and vocational schools of his home community or those near his military base. This would increase the possibility of local classroom instruction (where he now is limited to correspondence courses of college-run studies or to group study sponsored by his military base). In concert with recommendations A-4 and A-5, this proposal would provide a financial basis for enrolling educationally handicapped veterans in colleges which develop special remedial courses and offer full-time enrollment after discharge.

Recommendation No. A-3

The Office of Education and the Veterans Administration jointly work with the major organizations of universities, colleges and community colleges to develop the following types of assistance to educationally deficient servicemen and veterans desiring college enrollment:

Prior to discharge, provide clearing house services giving information on college programs for disadvantaged students and put men in contact with colleges of their choice;

After discharge, facilitate contact with VA-certified colleges by providing referrals of veterans with their consent;

Facilitate, in behalf of servicemen making commitments to particular colleges in advance of discharge, the packaging of scholarship-loan-GI Bill arrangements;

Arrangements for entry into college soon after discharge, avoiding lengthy waits for application processing and beginning of the next school term.

Testimony available to the Committee indicates widespread support of the academic community for building better bridges for returning veterans into college, particularly for veterans with educational deficiencies who need special help in the initial college years.

This testimony also indicates that a major problem is timely and effective communication between colleges and servicemen:

Colleges are willing to help recruit if there can be worked out with the Government a mutually satisfactory referral system which protects the serviceman's interests and is administratively feasible.

Colleges can include veterans in their packaging of scholarship-loan-work study arrangements if they have a commitment from the student sufficiently in advance of his enrollment.

Veterans coming out of service in mid-semester face long waits to be accepted and processed for the next school term. This waiting period can divert or discourage the educationally handicapped veteran who already may doubt his ability to qualify and succeed.

In 1970, as a part of the Hope for Education project, Michigan State University is operating a national clearing house between colleges and servicemen, financed by a Talent Search grant of the Department of Health, Education and Welfare. Participation in this type of program by men in Vietnam can meet a genuine need.

Recommendation No. A-4

The Office of Education and the Veterans Administration jointly assist the educational community in developing special programs for educationally handicapped veterans. In approving grants under the Special Services to Disadvantaged Persons program, the Commissioner of Education should give priority to institutions which indicate that their programs will include significant numbers of student veterans with educational handicaps.

Veterans with educational deficiencies need special help in making up the courses which are prerequisites to college and other training. The ability of the academic community to modify its curriculum and service is critically important to effective use of GI Bill benefits for veterans. A recent survey by the Twentieth Century Fund has shown that 59% of some 400 colleges and universities surveyed had already established or were planning special education programs for "high risk" students. These programs included such elements as special recruiting, extra financial aid, and special courses, special counseling, and reduced course load in the first year. Building upon this base, the Office of Education in HEW and the VA should develop a program of technical assistance to encourage schools to set up remedial, restorative and related programs to serve veterans with educational deficiencies.

The President has included in his 1971 budget $10 million in 1970 and $15 million in 1971 to finance a new program of Special Services for Disadvantaged students, authorized by the Higher Education Amendments of 1968. Under this program, students of deprived educational, cultural, or economic background or physically handicapped, can be given special services to initiate, continue, or resume their post-secondary education. An institution receiving a grant from the Office of Education under the program provides counselling, tutoring, summer programs, career guidance and placement, and other specialized services. In approving grants, the Commissioner of Education should give priority to institutions which indicate that their programs will include significant numbers of student veterans with educational handicaps.

Recommendation No. A-5

Authorize GI Bill payment for individual tutorial assistance when the school certifies this is necessary to overcome educational deficiencies.

The first year in post-secondary schooling is the most critical for the disadvantaged veteran. Colleges with experience in programs for disadvantaged students report attrition rates of 50% in the freshman year. The veteran with educational deficiencies must adjust his way of life to a competitive surrounding where other students have had a continuity as well as familiarity with the course material.

Situations will arise where the veteran will need some personal, specialized tutoring to comprehend and master the material and to progress at the same rate as the average student. By providing this support, the veteran can be helped to achieve his goal and be prevented from dropping out of school.

This proposal supplements any tutorial assistance provided under recommendation A-4 which is limited to grantee institutions under the Special Services to Disadvantaged Students program.

B. Recommendations to improve the veteran's access to jobs and job training

Recommendation No. B-1

The President issue an executive order authorizing a program of veterans readjustment appointments to positions in the Federal Civil Service.

The Federal Government as an employer must lead the way in meeting the Nation's obligations to returning veterans. Federal agencies must do more to facilitate employment and concurrently provide developmental opportunities appropriate to veteran's needs, potential, and aspirations.

Employment under a veterans readjustment appointment should be coupled with developmental activities tailored to the needs of the veteran and the agency in which he works.

A new system is needed which permits Federal agencies to appoint Vietnam era veterans to entry level positions up to GS-5 without regard to Civil Service lists, provided the veteran completes a program of education or training.

The Civil Service Commission should be authorized by executive order to prescribe regulations providing for the readjustment appointment system.

Recommendation No. B-2

Intensify recruiting activities at Military Separation Centers, Veterans Assistance Centers, and through community action agency programs.

Although personnel reductions are taking place in some agencies, normal turnover will continue to create many job vacancies. Eli-

gible veterans can and should be appointed to fill a high proportion of these vacancies under the veterans readjustment appointment program.

All Federal agencies should make their job vacancies known to Military Separation Centers, U.S. Veterans Assistance Centers, and community action agencies.

Recommendation No. B–3

The Secretaries of Labor and Health, Education, and Welfare, in cooperation with the Department of Defense, should use MDTA Skill Centers near major Defense separation bases to furnish educational or vocational training to servicemen prior to release from active duty.

At present, the Manpower Development and Training Act (MDTA), administered by the Departments of Labor and HEW, finances some sixty Skill Centers offering a wide variety of vocational training, together with counseling and job placement services. Several of the larger Skill Centers are located near major Defense separation centers in each quadrant of the United States.

While veterans presently are eligible for MDTA training after discharge, and before discharge in Project Transition, there has never been a concerted DoD/Labor/HEW effort to bring to educationally handicapped servicemen the diversity and specialized training resources of MDTA Skill Centers.

Growing out of the need for skill training centers for servicemen discussed in this Committee's interim report, the President already has included funds in the 1971 budget for expanding MDTA training of returning veterans. However, the following additional actions should be initiated.

MDTA contracting institutions should be encouraged to expand and diversify course offerings;

At least 10,000 additional training slots for veterans with educational deficiencies should be provided;

Defense should identify and where feasible route servicemen to the separation center nearest a Skill Center offering the vocational courses they desire. The system should attempt to assign servicemen to bases near their home to facilitate job placement. Where this is not possible, job placement will be accomplished by special arrangements among Skill Centers and offices of the U.S. Employment Service, using techniques found successful in other Federal manpower programs.

Recommendation No. B–4

The Department of Labor, in cooperation with the Department of Defense and other affected agencies, provide linkage of key facilities for veterans job assistance with the Labor Department's system of computerized job banks and thereby improve the matching of manpower needs with the skills of individual veterans who are seeking employment.

Servicemen now returning to civilian life have skills and abilities that may be in demand by both government and private industry. A critical problem is the time required to match the trade or skills of the returning servicemen with the jobs available from private and government employers. To the extent that this process of job placement can be accelerated, the veteran avoids a nonproductive, frustrating period of job search and needless drawn-down of unemployment compensation. The veteran with educational deficiencies is most likely to need assistance for job placement and to become discouraged by delays.

At present, the typical returning veteran in need of job-finding assistance returns to his place of residence prior to service. Each of the 2,100 local offices of the Federal-State Employment Service receives notice of his discharge and each includes staff ready to accord him the veterans preference for employment assistance and other services authorized by law. Each veteran's options, however, are limited by the amount and quality of job information available at the separation center and in his home community.

The Employment Service is establishing a network of computerized Job Banks to upgrade information on job availability by disseminating job information throughout each metropolitan area on a daily basis. In 1970, Job Banks will be activated in 56 cities, expanding to 81 cities by 1971.

The interim report of this Committee contained several recommendations for computerized job bank and job matching services for servicemen and veterans. Based on these recommendations and on a $20 million increase in the 1971 budget for Job Bank and job matching activities, the Departments of Labor and Defense, with any necessary assistance from the Veterans Administration, should take steps to include the larger military separation centers, Skill Centers, USVAC's, and other key veterans contact points into the Job Bank system, to the extent permitted by system capacity, locations, and other feasibility factors. In 1971, it is estimated that local Job Bank services could be extended to veterans contact points near almost all 81 metropolitan areas. In addition, selected larger military separation centers could be used as focal points for national Job Bank listings. In both cases, the Employment Service should provide interviewing and placement services at regular intervals. The proposal also contemplates that veteran job placement activities will take full advantage of automated job matching systems being tested in 14 States as these systems become operational. This proposal would have the effect of reinforcing improvements in veterans counselling and skill training in Recommendations Nos. B–3 and B–6.

Recommendation No. B–5

The Departments of Defense and Labor and the Veterans' Administration should:

(a) Conduct a survey to identify the major roadblocks to transferability of military skills to civilian jobs;

(b) Develop a program for more fully utilizing service acquired skills in related civilian occupations; including work with private groups to adopt new certification procedures which will take military training into consideration.

Many servicemen receive training and experience in military service which has potential value for civilian employment. These skills and talents often are not put to use because veterans cannot find related employment where they live. There is a lack of coordination between the military and the civilian economy as to the training these men receive, its pertinence to non-military employment, and its general acceptability. Military experience is often not recognized for credit towards obtaining a license or degree and therefore the veteran pursues employment in other fields. In areas where military experience is not fully accepted, refresher courses, credit for service experience, or revised standards could accommodate the entrance of the skilled veteran into the particular field.

We must tap this source of training to meet critical manpower shortages in the civilian economy. For instance, servicemen who served as "medics" in active service have a valuable knowledge and skill that should be tapped to meet the great need for medical technicians, aides, and related medical assistance jobs in civilian life.

At present, the Departments of Defense and Labor and VA have initiated a joint survey of the job experience of men returning to depressed areas. These agencies have additional studies underway or planned on military job transferability which should be expedited. In addition, the agencies should cooperate to identify the major road-blocks to job transferability and develop a program for promoting a greater degree of transfer of military job skills, particularly for veterans with educational deficiencies.

Recommendation No. B–6

The Departments of Defense and Labor and the Veterans Administration develop a cooperative program of civilian career counseling for servicemen with educational deficiencies, supported by DoD test data and other current relevant data on the client and job and training opportunities. This program should assure adequate coverage of overseas commands.

Within the Department of Defense, Project Transition provides civilian job counseling and training to servicemen in 290 bases of the Army, Navy, and Air Force in the continental United States. In the 18 months between program inception and June 30, 1969, 72,000 servicemen (about 5 percent of all separatees) were given training and 445,000 men received counseling. The program's strong points include the concept of enlisting private industry and government agencies to conduct on-the-job training and providing an opportunity for men in the last six months of service to prepare for civilian employment.

The Transition program needs to identify men with educational deficiencies earlier in their military careers, to give them special priority for selection, to sponsor counseling opportunities for those who spend their last months of service in overseas areas, and to improve the quality of counseling, including provision of current job data (see Recommendation B–4).

VA regularly contacts over 310 military installations and 184 military hospitals, including seven locations in Vietnam. The VA representative primarily aims to acquaint servicemen with their VA benefits, largely through mass briefings. In the third quarter of 1969, VA briefings were reaching servicemen at an annualized rate of 600,000. VA also conducts personal interviews, running at an annualized rate of 85,000 in military hospitals and 96,000 on military bases.

The Department of Labor outstations or makes available a representative of the Veterans Employment Service to each large military separation center for briefing and counseling on veteran employment rights and job opportunities.

At present, there is no system assuring VA and Labor interviews will successfully reach men with educational deficiencies, will be based upon current data on the client and job openings and available education and training programs, and will supplement military counseling efforts with a minimum of gaps and duplication. The VA's experience with quick deployment of trained counsellors to Vietnam indicates the feasibility and desirability of devising a plan whereby trained counselor teams can be readied on a standby basis for dispatch to any overseas area needing such services.

Recommendation No. B–7

The Veterans Administration utilize existing GI Bill authority to develop additional on-the-job training and cooperative education programs in areas which would serve a public need and/or provide vocational outlets for veterans for whom institutional training is not suitable. This effort should be conducted in such a manner as to take maximum advantage of other related Government programs.

The Department of Labor include returning disadvantaged veterans in the new Public Service Careers program.

VA assistance for on-the-job training is directed primarily at helping to train veterans for occupations requiring special skills.

Traditionally, such training has served to train veterans for jobs as bricklayers, carpenters, electricians, plumbers, machinists, mechanics, and repairmen. On-the-job training is a method that lends itself to preparing trainees for work in the "new technology" industries, such as automation and data processing, jet-age transportation, and the repair and servicing of household appliances and business machines and equipment.

With increasing demands for public services, a critical need has developed for specially trained personnel. Programs have already been instituted to meet the need of municipalities for additional police and firemen. Other public service occupation groups in short supply include recreational personnel, health and medical technologists, teaching assistants and sanitation workers. In line with the recommendations of the interim report for developing public service careers for veterans, VA should take steps to expand OJT opportunities in these fields. In addition, VA should develop with the assistance of the Civil Service Commission, HEW, and Labor, some public service intern programs involving use of GI Bill authority for cooperative education payments. In several areas, e.g., social work training under the Social Security Act, there is authority to pay training stipends which can augment GI Bill allowances to constitute attractive, feasible programs for educationally handicapped veterans. Another HEW program showing promise is the Career Opportunities Program authorized by the Education Professions Development Act (EPDA). The President's budget provides $25 million for this program in each of the years 1970 and 1971, in which 40% is targeted to accommodate 8,000 veteran trainees. The program aims to attract new talent into careers in education, with added opportunities for on-the-job training. The veterans component of this program is based upon favorable experience with a 1969 pilot program in which 200 Vietnam veteran trainees participated, most of them recruited from inner-city, low-income areas. Accordingly, it is important that VA work with the Department of Health, Education, and Welfare and State and local agencies in developing the new programs.

The Department of Labor's Public Service Career program, launched in 1970, is another Federal initiative which should be utilized for expanding opportunity for disadvantaged veterans. The 1971 budget contains $51 million for hiring and training 32,000 disadvantaged persons for regular positions in Federal, State, and local governments. Priority in this program should be given to veterans.

Recommendation No. B-8

The bar against the duplication of educational and training benefits be repealed.

Section 1781 of Title 38, U.S. Code, bars the payment of Federal educational assistance when it would constitute a duplication of benefits. Through the years certain federally supported programs were not subject to this bar and concurrent entitlement existed. More recently provisions enacted in Public Law 90-574 and 50-575 specifically exempted certain awards, loans and grants made to students from the non-duplication prohibition. Equivalent types of programs offered through some agencies continue to remain under the bar.

The most significant area affected by the existing bar is Manpower and Training Assistance (MDTA) programs. The lifting of the bar would entitle veteran trainees to an MDTA stipend averaging $200 per month (varies by State) in addition to the GI Bill allowance, bringing his total training income to almost $400 monthly—and more if he has dependents. This proposal likely will serve as a strong inducement for veterans to enter vocational training under MDTA sponsorship.

C. Recommendations in related readjustment areas

Recommendation No. C-1

Support minority entrepreneurship through a combination of Small Business Administration loans and cooperative GI Bill education.

Most Vietnam veterans do not have the financial capacity for starting or expanding a business of their own. The veteran requires knowledge, experience, money and business guidance to successfully operate a business.

There is need for small business, locally owned and operated in areas where a concentration of disadvantaged or minority group veterans may be found. Of those who now attempt such enterprises, many fail because of lack of business training.

Financial institutions require some training and expertise on the part of the borrower before lending money for business purposes, and consider this in determining the risk involved.

Cooperative training programs can provide the veteran with the necessary experience to carry on the business functions, the managerial, bookkeeping and other needs. Under the Small Business Administration program the veteran who agrees to take GI Bill training in a related field would be qualified for a loan up to $25,000 for the purpose of initiating or expanding a business venture. Additionally, the SBA can provide business counseling and technical advice in operating the business, and give priority to those veterans loans.

Recommendation No. C-2

VA loan guaranty underwriting of mobile home financing in order to promote an adequate supply of low cost housing for low and moderate income veterans.

Cost of single family home and mortgage financing have increased in recent years to the point that low and moderate income veterans are priced out of the housing market for all practical purposes. Some way must be found to enable these veterans to purchase suitable housing on terms that are within their payment ability.

The mobile home represents an enormous potential in meeting the housing needs of many veterans with low to moderate incomes. The increasingly higher construction cost of conventional homes is a principal factor in the sudden popularity of mobile homes. Manufacturers are able to produce these homes at relatively low price.

Existing provisions of the VA home loan guaranty law were designed to promote real estate mortgage loans to purchase conventional type housing and do not contemplate the purchase of mobile home structures on a chattel mortgage loan basis which is the customary type of loan made to individuals purchasing mobile homes. The 30 years, 100% real estate first mortgage GI loan vehicle is not a suitable mobile home financing vehicle.

To induce lenders to make loans available to veterans on liberal terms for the purchase of mobile homes, a special type of loan guaranty or insurance underwriting vehicle should be designed which will be attractive to lenders in terms of investment return and loss exposure. At the same time, it is essential that the Government's exposure be limited to the minimum required in order to insure an adequate supply of mobile home financing for veterans in the low and moderate income brackets.

Mr. CRANSTON. Mr. President, almost all the data contained in the Introduction to the report was contained in the Senate committee report on the recently enacted H.R. 11959 (S. Rept. No. 91-487) and my floor statement of March 23 on behalf of the Senate conferees on that bill, now Public Law 91-219. But the recognition by the executive branch of how disparate are the educational needs of certain categories of veterans as compared to the very low rate of GI bill participation is itself of great significance.

Regarding the report's specific recommendations:

RECOMMENDATION NO. A-1

This would be carried out by a bill I am introducing today, and which I described publicly on March 4 and have been working on for many months, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist them in meeting educational and living expenses during the first 2 months of school and to establish a veterans' work study program through cancellation of such advance payment repayment obligations under certain circumstances.

RECOMMENDATION NO. A-2

These proposals for inservice preparatory training, it seems to me, have already been fully authorized in the predischarge education program—PREP—now enacted in Public Law 91-219—new sections 1695-97.

RECOMMENDATION NO. A-3

I support these proposals for joint Veterans' Administration/Office of Education efforts and administrative coordination and clearinghouse activities for returning veterans. These actions apparently can be implemented within existing authority and no significant expenditures are apparently contemplated.

RECOMMENDATION NO. A-4

This proposal carries out substantially the crux of Commissioner of Education James Allen's June 24 testimony before our subcommittee regarding S. 2361, a bill introduced by Senator KENNEDY—which I cosponsored—to amend chapter 34 of title 38, United States Code, in order to provide special educational services to veterans. This bill was ultimately embodied in large part in provisions of title II of the Senate version of H.R. 11959 and now in Public Law 91-219, but the authorization of appropriations for special veterans' program grants to educational institutions—section 1693 in section 202(a)(3) of the October 23 Senate version—was dropped in conference at the insistence of the House conferees. I am delighted to learn that the administration intends to use its existing authority under the special services for disadvantaged students program set up by the Higher Education Amendments of 1968. These sorts of seed money grants should dovetail nicely with the new title II program of Public Law 91-219.

RECOMMENDATION NO. A-5

This provision for individual tutorial assistance is fully covered in the new program for payment of a special supplementary assistance allowance—new section 1692—in Public Law 91-219.

RECOMMENDATION NO. B-1

The President has already exercised his executive discretion in adopting this worthy recommendation by signing Executive Order No. 11521 on March 26.

I ask unanimous consent to have the Executive order printed in the RECORD.

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

EXECUTIVE ORDER 11521—AUTHORIZING VETERANS READJUSTMENT APPOINTMENTS FOR VETERANS OF THE VIETNAM ERA

Whereas this Nation has an obligation to assist veterans of the armed forces in readjusting to civilian life;

Whereas the Federal Government, as an employer, should reflect its recognition of this obligation in its personnel policies and practices;

Whereas veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers;

Whereas the Federal Government is continuously concerned with building an effective workforce, and veterans constitute a major recruiting source; and

Whereas the development of skills is most effectively achieved through a program combining employment with education or training:

Now, therefore, by virtue of the authority vested in me by the Constitution of the United States, by sections 3301 and 3302 of title 5, United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) Subject to paragraph (b) of this section, the head of an agency may make an excepted appointment, to be known as a "veterans readjustment appointment", to any position in the competitive service up to and including GS-5 or the equivalent thereof, of a veteran or disabled veteran as defined in section 2108(1), (2), of title 5, United States Code, who:

(1) served on active duty in the armed forces of the United States during the Vietnam era;

(2) at the time of his appointment has completed not more than fourteen years of education; and

(3) is found qualified to perform the duties of the position.

(b) Employment under paragraph (a) of this section is authorized only under a training or educational program developed by an agency in accordance with guidelines established by the Civil Service Commission.

(c) An employee given a veterans readjustment appointment under paragraph (a) of this section shall serve subject to:

(1) the satisfactory performance of assigned duties; and

(2) participation in the training or educational program under which he is appointed.

(d) An employee who does not satisfactorily meet the conditions set forth in paragraph (c) of this section shall be removed in accordance with appropriate procedures.

(e) An employee serving under a veterans readjustment appointment may be promoted, reassigned, or transferred.

(f) An employee who completes the training or educational program and who has satisfactorily completed two years of substantially continuous service under a veterans readjustment appointment shall be converted to career-conditional or career employment. An employee converted under this paragraph shall automatically acquire a competitive status.

(g) In selecting an applicant for appointment under this section, an agency shall not discriminate because of race, color, religion, sex, national origin, or political affiliation.

SEC. 2. (a) A person eligible for appointment under section 1 of this order may be appointed only within one year after his separation from the armed forces, or one year following his release from hospitalization or treatment immediately following his separation from the armed forces, or one year after involuntary separation without cause from (i) a veterans readjustment appointment or (ii) a transitional appointment, or one year after the effective date of this order if he is serving under a transitional appointment.

(b) The Civil Service Commission may determine the circumstances under which service under a transitional appointment may be deemed service under a veterans readjustment appointment for the purpose of paragraph (f) of section 1 of this order.

SEC. 3. Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person otherwise eligible for appointment under section 1 of this order.

SEC. 4. For the purpose of this order:

(a) "agency" means a military department as defined in section 102 of title 5, United States Code, an executive agency (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and those portions of the legislative and judicial branches of the Federal Government and of the government of the District of Columbia having positions in the competitive service; and

(b) "Vietnam era" means the period beginning August 5, 1964, and ending on such date thereafter as may be determined by Presidential proclamation or concurrent resolution of the Congress.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order.

SEC. 6. Executive Order No. 11397 of February 9, 1968, is revoked. Such revocation shall not affect the right of an employee to be converted to career-conditional or career employment if he meets the requirements of section 1(d) of Executive Order No. 11397 after the effective date of this order.

SEC. 7. This order is effective 14 days after its date.

RICHARD NIXON.

THE WHITE HOUSE, *March 26, 1970.*

RECOMMENDATION NO. B-2

Mr. CRANSTON. Mr. President, this proposal to intensify Federal agency recruiting of veterans was included as to job placement and vocational guidance in section 1698 in section 202(a)(3) in the Senate version of H.R. 11959 passed October 23, 1969. As to VA efforts to employ Vietnam veterans, section 241(c) in section 204(a) of the October 23 Senate version called for special efforts to hire returning veterans as Outreach workers in their local communities.

RECOMMENDATION NO. B-3

This proposal for Labor, Defense, and Health, Education, and Welfare Departments expanded cooperative skill centers constitutes a beefed-up version of the Department of Defense's transition program, described in the appendix to Senate Report No. 91-487. Provision of 10,000 additional MDTA training slots for veterans is most welcome and appropriate.

RECOMMENDATION NO. B-4

This reiterates the program outlined at our August 12 subcommittee hearing by Assistant Secretary of Labor for Manpower Arnold Weber and contained in general in the administration's comprehensive manpower bill, S. 2838, introduced on August 12, 1969.

RECOMMENDATION NO. B-5

Such a program for more effective utilization of military service-acquired skills in the civilian economy is badly needed. With respect to one of the major fields for such civilian employment—that of health care—I announced on March 4, and expanded on this in my floor statement upon introduction by Senator RALPH YARBOROUGH of S. 3586—a bill to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes—my intention to introduce shortly a bill to expand greatly the Veterans' Administration's mandate and capacity to educate, train, and employ in VA hospitals and clinics allied health professionals and especially physician's assistants and other new types of paramedical personnel, utilizing the skills of veterans with military health care experience wherever possible. As pointed out in Senate Report No. 91-487, however, many military skills may not be able to be made transferable, thus necessitating PREP program and transition program retraining.

RECOMMENDATION NO. B-6

This sort of interagency cooperation for career counseling of veterans as well as expansion of the transition program should be productive. Stress on military base counseling by the Veterans' Administration was laid in the new sections 1697 and 241 added to title 38, United States Code, by Public Law 91-219.

RECOMMENDATION NO. B-7

Again, with respect to the Veterans' Administration and public service careers, I plan the steps I discussed under recommendation No. B-5. The additional public service career funding for fiscal year 1971 with priority for veterans is commendable.

RECOMMENDATION NO. B-8

This repealer of the nonduplication of benefits bar was contained in section 213(1) of Public Law 91-219, after having been previously adopted separately by the House and Senate in May and October 1969, respectively.

RECOMMENDATION C-1

Given my doubts about the present effectiveness of the Small Business Administration, especially its so-called program of minority entrepreneurship, I am skeptical of the success of this recommendation, especially without any proposal for increases in funding. Also, I am unclear on the details of working out coordination between the SBA program and the GI bill training program.

RECOMMENDATION NO. C-2

On March 26 I announced my intention to introduce, in coordination with the chairman of the House Veterans' Affairs Committee, a bill to provide, among other expansions of the VA home loan program, for VA-guaranteed and direct loans for mobile home financing. Only an unexpectedly early adjournment prevented introduction of the bill that day, and I introduce it today.

As the above comments make clear, I am in basic agreement with the committee's recommendations, and as to most

of them either the Congress has already acted or I have proposed necessary legislation—generally authorizing programs broader than the report seems to recommend.

S. 3656—INTRODUCTION OF THE VETERANS HOUSING LOAN AMENDMENTS ACT OF 1970

Mr. CRANSTON. Mr. President, today I am delighted to introduce, for appropriate reference, in coordination with the distinguished chairman of the House Veterans' Affairs Committee who introduced a companion bill on March 26, 1970—H.R. 16710—a bill to amend chapter 37 of title 38, United States Code, to authorize guaranty and direct loans for mobile homes used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guarantee and direct loans made under such chapter, to remove the limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or exhaustion, to eliminate the guaranty and direct loan fee collected under such chapter, and for other purposes. I had intended to introduce this bill on March 26 but was prevented from doing so by an unexpectedly early adjournment.

Mr. President, jurisdiction over the subject matter of this bill has historically been split between the Labor and Public Welfare Committee, which has jurisdiction over the VA loan guarantee program, and the Banking and Currency Committee, which is responsible for the VA direct loan program. Mr. President, I ask unanimous consent that the bill I have just introduced be first referred to the Committee on Labor and Public Welfare and, if that committee completes action on the bill and reports it to the Senate, the reported bill be then immediately referred to the Committee on Banking and Currency. This procedure has been discussed with the staff director of the Banking and Currency Committee as well as the staff director of the Subcommittee on Housing and Urban Affairs, and they concur with this dual referral.

This bill, which would be known as the Veterans Housing Act Amendments of 1970, would make six improvements in the current VA guarantee and direct loan program.

First, the bill would extend the period during which World War II, Korean conflict and post-Korean conflict veterans may apply for VA guaranteed home loans. This provision would save from expiration of eligibility this coming July 25 approximately 2.1 million World War II veterans, approximately 223,000 of whom now reside in California. Entitlements of Korean conflict veterans under present law would expire on February 1, 1975, and this deadline would be eliminated by the bill.

Regarding post-Korean conflict veterans—those who served after January 31, 1955—under 38 U.S.C. section 1818, the duration of their entitlements are computed as follows: 10 years from the date of discharge or release from active duty plus an additional period of 1 year for each 3 months of active duty, with a maximum of 20 years' eligibility and a minimum of 10 years from March 3, 1966. So that a veteran discharged after January 31, 1955, with a full 2-year active duty tour would have an eligibility period of 18 years.

Post-Korean veterans discharged or released for service-connected disability are given a flat 20 years to apply. This bill would make both of these eligibility periods open-ended.

Second, the bill would restore entitlements of World War II and Korean conflict veterans whose entitlements have lapsed by virtue of exhaustion of their eligibility period after July 25, 1962, when the same eligibility formula now applicable to post-Korean veterans became applicable to World War II and Korean conflict veterans—with the same exception for those discharged or released with a service-connected disability. It is estimated that 8.2 million veterans have lost all or part of their guaranteed and direct loan eligibility during these last 8 years, of whom approximately 903,000 currently reside in California. Restoration of these lost entitlements was not included in H.R. 16710, the companion bill introduced in the House, but I believe it is generally consistent with the philosophy in the House bill and will be acceptable to its sponsor.

These first two provisions of the bill would aid substantially in revitalizing our badly depressed and demoralized home buying and construction industry. In this tight money market the VA loan eligibility period for many veterans has been eaten up or exhausted because they just have not been able to afford buying a home under prevailing interest conditions.

Third, the bill includes in both the guaranteed and direct loan programs for the first time loans to finance the purchase of mobile homes and land and improvements to land for such homes as long as the homes are to be used for permanent dwellings. These new provisions are modeled after amendments to the FHA program by the Housing and Urban Development Act of 1969, which, as a member of the Banking and Currency Committee and its Housing and Urban Affairs Subcommittee, I strongly supported. Under this new program the VA could guarantee up to $10,000 at the rate of 50 percent of the total loan value for a mobile home intended for use as a residence at a fixed location. Such guarantees could be increased by up to $3,000 for land to be used as the mobile homesite and by an additional reasonable amount to cover expenses necessary for appropriate preparation of such site, again up to 50 percent of the loan value for these purposes. Loans made under this provision would mature in no more than 15 years.

Unlike H.R. 16710, the companion bill introduced in the House, no downpayment would be able to be required as a condition for receiving a VA direct or guaranteed loan under this program.

Loans for low cost mobile housing are urgently needed in these days of tight money with decent homes priced out of the reach of lower- and middle-income families. Over this past weekend, the need for and desirability of such a program for veterans was recognized by release of the report of the President's Committee on the Vietnam Veteran. That report states in part:

RECOMMENDATION No. C-2

VA loan guaranty underwriting of mobile home financing in order to promote an adequate supply of low cost housing for low and moderate income veterans.

Cost of single family home and mortgage financing have increased in recent years to the point that low and moderate income veterans are priced out of the housing market for all practical purposes. Some way must be found to enable these veterans to purchase suitable housing on terms that are within their payment ability.

The mobile home represents an enormous potential in meeting the housing needs of many veterans with low to moderate incomes. The increasingly higher construction cost of conventional homes is a principal factor in the sudden popularity of mobile homes. Manufacturers are able to produce these homes at relatively low price.

Existing provisions of the VA home loan guaranty law were designed to promote real estate mortgage loans to purchase conventional type housing and do not contemplate the purchase of mobile home structures on a chattel mortgage loan basis which is the customary type of loan made to individuals purchasing mobile homes. The 30 year, 100% real estate first mortgage GI loan vehicle is not a suitable mobile home financing vehicle.

To induce lenders to make loans available to veterans on liberal terms for the purchase of mobile homes, a special type of loan guaranty or insurance underwriting vehicle should be designed which will be attractive to lenders in terms of investment return and loss exposure. At the same time, it is essential that the Government's exposure be limited to the minimum required in order to insure an adequate supply of mobile home financing for veterans in the low and moderate income brackets.

Fourth, the bill would eliminate the fee, presently set at the statutory maximum of one-half of 1 percent of the total loan amount, which post-Korean conflict veterans receiving guaranteed and direct loans are required to pay to the VA. Such moneys are accumulated in a revolving fund used to cover defaults and pay guaranty claims. According to the 1969 Annual Report of the Administrator of Veterans' Affairs, 91st Congress, second session—House Document No. 91-233:

For the third consecutive year, the number of defaults reported and guaranty claims paid declined substantially. Of the 3.5 million loans outstanding only 33,342 were in default, compared to 36,970 at the end of the previous year, and 43,561 at the end of fiscal year 1967. . . . The decrease in guaranty claims also resulted in a further decline in the number of properties acquired as the result of defaulted loans. At the end of the year VA owned fewer than 12,000 properties.

The revolving fund currently contains $458,049,000 available for these purposes. Although $163,232,000 has been paid out of the fund during fiscal 1970 through February 28, recoveries and property sales during the first half of this fiscal year have produced a net profit of $9,334,524. For example, in fiscal year 1969 a total of $282,955,000 and in fiscal

year 1968 $328,089,000 were paid out of the revolving fund, but total fiscal year receipts yielded a profit of $1,266,503 for fiscal 1969, down from a loss of $3,482,098 in fiscal 1968. At the end of fiscal year 1967, the accumulated loss for the prior 22 years of the program was $105,083,596, averaging a loss of about $5 million per year.

With respect to a similar revolving fund under the FHA program, I have received substantial expert advice from the California homebuilding community that fees being paid into that fund were no longer necessary to sustain it. In light of the above financial data, the same certainly apears to be true with respect to the VA loan guarantee revolving fund.

Fifth, the bill would entitle a veteran receiving a guaranteed or direct loan to VA payment of the first point of interest accruing on the loan principal for the first 5 years of the loan. The spreadout period proposed in the bill, rather than a one-half or full interest subsidy for 1 year, would defer maximum budgetary impact during the present period of repressed Federal spending. The companion House bill extends the subsidy for 3 years.

Finally, the sixth new loan provision in the bill would entitle a veteran recipient of a VA guaranteed or direct loan to payment by the Veterans' Administration of closing costs on the loan up to an amount equaling 1 percent of the loan amount. Under the original World War II program, a gratuity of 4 percent of the loan guarantee, limited to $4,000, was paid the veteran borrower—making the maximum gratuity $160. Assuming that generally VA guaranteed loans do not exceed $25,000, a closing cost payment of up to $250 under this bill would be comparable to the World War II program gratuity, given inflation over the last 25 years—during which the Consumer Price Index has increased 115 percent.

Mr. President, I believe that this bill provides urgently needed relief for our returning Vietnam veterans, as well as World War II and Korean conflict veterans, who have been most sorely pressed by escalating housing costs aggravated by a tight money market. I want to thank the distinguished chairman of the House Veterans' Affairs Committee for his cooperation with me in developing this important bill.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3656) to amend chapter 37 of title 38, United States Code, to authorize guaranteed and direct loans for mobile homes if used as permanent dwellings, to authorize the Administrator to pay certain closing costs for, and interest on, certain guaranteed and direct loans made under such chapter, to remove the time limitation on the use of entitlement to benefits under such chapter and to restore such entitlements which have lapsed prior to use or expiration, to eliminate the guaranteed and direct loan fee collected under such chapter, and for other purposes; introduced by Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, by unanimous consent, then referred to the Committee on Banking and Currency, when reported, and ordered to be printed in the RECORD, as follows:

S. 3656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Housing Loan Amendments Act of 1970".

SEC. 2. The last sentence of section 1802 (b) of title 38, United States Code, is amended to read as follows: "Entitlement restored under this subsection may be used by World War II veterans or Korean conflict veterans at any time."

SEC. 3. (a) Subsection (a) of section 1803 of title 38, United States Code, is amended to read as follows:

"(a)(1) Any loan to a World War II or Korean conflict veteran for any of the purposes, and not in conflict with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 percent of the loan if the loan is made for any of the purposes specified in section 1810 of this title, and not more than 50 percent of the loan if the loan is for any of the purposes specified in section 1810a, 1812, 1813, or 1814 of this title.

"(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Veterans' Housing Loan Amendments Act of 1970 is hereby restored."

(b) Subsection (b) of such section 1803 is amended by inserting immediately after "1810" the following: ", 1810a,".

SEC. 4. Subchapter II of chapter 37 of title 38, United States Code, is amended—

(1) by inserting immediately after section 1810 thereof the following new section:

"§ 1810a. Purchase of mobile homes

"(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for the purchase of a mobile home which will be owned and occupied by him as his residence and will be so used at a fixed location. A loan made under this section may also include the purchase of land suitable for use as a site on which the mobile home will be located and the expenses necessary for the appropriate preparation of such site, including but not limited to the installation of utility connections and sanitary facilities, and the construction of a suitable pad.

"(b) No loan may be guaranteed under this section unless—

"(1) the proceeds of such loan will be used to pay for the property purchased and the site preparations made;

"(2) the mobile home has not been previously sold at retail in commerce, and the mobile home or the site, or both, as the case may be, meet or exceed such minimum requirements for general acceptability and, in the case of the mobile home, such minimum requirements for construction, as shall be prescribed by the Administrator;

"(3) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price bear a proper relationship to the veteran's present and anticipated income and expenses;

"(4) the veteran is a satisfactory credit risk; and

"(5) the loan to be paid by the veteran for such property or the cost of site preparation does not exceed the reasonable value therefor as determined by the Administrator.

"(c)(1) The amount of guaranty entitlement available to a veteran under this section shall not be more than—

"(A) $10,000 in the case of a loan covering only the purchase of a mobile home, or

"(B) $13,000 in the case of a loan covering the purchase of a mobile home and a suitable site for the home, plus such an amount as is determined by the Administrator to be appropriated to cover the cost of necessary site preparation,

less such entitlement as may have been previously used under this section or other sections of this chapter.

"(2) The maturity of any loan made under this section shall not be more than 15 years."; and

(2) by inserting immediately after section 1818 the following new section:

"§ 1819. Special closing cost and interest payments by the Administrator

"(a) In the case of any loan guaranteed or made under this chapter after the effective date of this section, the Administrator—

"(1) shall, if the loan is guaranteed, pay on behalf of the veteran recipient of the loan to the lender (A) the closing costs for the loan, or (B) an amount to be applied toward such costs equal to 1 percent of the amount of the loan, whichever is smaller; and

"(2) may not, if the loan is made under section 1811 of this title, charge the veteran for (A) the closing costs for the loan, or (B) an amount equal to 1 percent of the face amount of the loan, whichever is smaller.

"(b) In the case of any loan guaranteed or made under this chapter after the effective date of this section, the Administrator shall—

"(1) if the loan is guaranteed, pay on behalf of the veteran recipient of the loan to the lender 1 percent of the interest which will accrue on the principal of the loan during the period of 60 consecutive months beginning with the month after the month in which the loan is closed; and

"(2) if the loan is made under section 1811 of this title, take such action as may be necessary to reduce the payment of interest by the veteran with respect to such loan during the period of 60 consecutive months beginning with the month after the month in which the loan is closed by an amount equal to 1 percent of the interest which would accrue on the principal of the loan during such period.

"(c) The Administrator shall by regulation establish such procedures as may be necessary and appropriate to carry out this section."

SEC. 5. Section 1811 of title 38, United States Code, is amended—

(1) by inserting immediately after "1810" in subsections (a) and (b) the following: "and 1810a";

(2) by inserting immediately after "1810(a)" in subsection (b) the following: ", or for the purpose listed in 1810a,";

(3) by inserting immediately after "1810" in subsections (c) and (g) the following: "or 1810a";

(4) by striking out "The" in subsection (d)(2) and inserting in lieu thereof "(A) Except for any loan made under this chapter for the purpose described in section 1810a of this title, the";

(5) by inserting immediately after subsection (d)(2) (as amended by clause (4) above) the following new paragraph:

"(B) The original principal amount of any loan made under this section for the purpose described in section 1810a of this title shall not exceed the amount specified in subsection (c)(1)(A) or (B) of such section, as appropriate."; and

(6) by striking out subsection (h) and relettering subsections "(i)" and "(j)" as "(h)" and "(i)", respectively.

SEC. 6. Section 1818 of title 38, United States Code, is amended by striking out sub-

sections (d) and (e) thereof, and by amending subsections (c) and (d) to read as follows:

"(c) Direct loans authorized by this section shall not be made after January 31, 1975, except pursuant to commitments issued by the Administrator on or before that date.

"(d) Any entitlement to the benefits of this section which had not expired as of the date of enactment of the Veterans' Housing Loan Amendments Act of 1970 and any entitlement to such benefits accruing after such date shall not expire until used."

S. 3657—INTRODUCTION OF THE VETERANS' EDUCATIONAL ASSISTANCE ALLOWANCE ADVANCE AND WORK-STUDY PROGRAM ACT OF 1970

Mr. CRANSTON. Mr. President, last Monday, March 23, the Senate approved the conference report on H.R. 11959, the Veterans' Education and Training Amendments Act of 1970. And on March 26, the President signed the bill into law—Public Law 91-219.

The scope of the new special programs for educationally disadvantaged and academically deprived veterans in that bill—outlined in my floor statement last week—are beginning to be clearly understood. And I ask unanimous consent, Mr. President, that at the conclusion of my remarks and all other insertions the following articles on the bill be printed in the RECORD: an excellent account by Gene Koretz in the March 21 issue of Business Week; syndicated columns of March 10 and 13 by William Stief of Scripps-Howard; and an article from the March 27 New York Times by David Rosenbaum.

I am today introducing for appropriate reference and with bipartisan support, a bill designed to make another important and long overdue, though less comprehensive, improvement in that program. This bill, which I described in a March 4 speech to the American Legion and which I have been working out for many months, would amend chapter 34 of title 38, United States Code, to authorize advance payments of educational assistance allowances to eligible veterans upon their application at the beginning of any school year to assist them in meeting education and living expenses during the first 2 months of school. It would also authorize a work-study program under which veterans who had received such advances could perform certain services for the VA to encourage and assist other veterans in taking better advantage of their GI bill entitlements.

These two features of the bill will be of special assistance in encouraging low-income veterans and educationally disadvantaged veterans to take advantage of some of the new special veterans programs in title II of the new Public Law 91-219. But they will also benefit most every collegiate veteran, especially those with families to support, by providing initial capital to cover prepayment of fees and tuition, costs of books and supplies, and living expenses for the veteran and any dependents.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately at the conclusion of my remarks and before other insertions.

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

Mr. CRANSTON. Mr. President, briefly, the present system of assisting veterans who are attending school operates as follows:

In order to establish eligibility for GI bill benefits under title 38, United States Code, a veteran must first submit an application together with proof of separation from the armed services—form DD-214—and, when dependencies are claimed, other supporting documents, to the Veterans' Administration. If these papers are in order, the VA mails the veteran a certificate of eligibility.

The veteran presents the certificate of eligibility to his college or university registrar, who verifies the veteran's actual enrollment and provides details regarding it, so certifies on the certificate of eligibility, and mails it to the VA. Upon receipt of that certification, the VA is then authorized to issue an educational assistance allowance payment to the eligible veteran, and an account for him is then established at the VA's computerized payment center in Hines, Ill. From this point, the check should reach him within 10 to 15 days.

There are two points at which the system may in many cases break down, causing financial and emotional hardship for the veteran. One is during the processing of enrollment certificates at colleges and universities, which occurs during the first month of school when the school administration has an unusually heavy registration workload anyway.

The second difficulty may occur when the Veterans' Administration receives these hundreds of thousands of enrollment certificates in the space of a few weeks. Armed only with an authorization for an increase in overtime, rather than any augmentation of staff, the VA must process these certificates and authorize the release of the first month's educational assistance allowance payment. Prior to this past fall, it was not at all uncommon for the first check to reach the collegiate veteran in mid- or late November, or even December.

In testimony last summer before the Veterans' Affairs Subcommittee, which I am privileged to chair, the VA announced the initiation of an accelerated payment procedure increasing from five to nine per month the number of check processing cycles at the Hines Data Processing Center. It was hoped that this procedure would approximately halve the timelag in getting checks out to veterans.

Unfortunately, the new system, helpful as it has been in expediting the issuance of checks by the computer, cannot rectify delays which arise before an authorization for payment can be relayed to the Hines Center. And under that system the earliest that the first check reaches the veteran is mid- or late October; and it may well not arrive until November. Even then, the first check generally covers only a partial month's payment, since the first college month is usually abbreviated. For veterans beginning a new school year, this is too little, too late.

On September 25, 1969, I asked a number of veterans service organizations to provide me with information on the timeliness of initial payments to veterans then registering for college courses. I also requested advice on possible measures that could be taken to expedite and simplify the process of making the initial payment. Both the VFW and the American Legion were kind enough to provide very helpful replies, and Mr. Ralph J. Rossignuolo, national director of programs for AMVETS, undertook an extensive survey of 34 national service officers and accredited representatives which has been extremely useful in my study of this entire situation. The AMVETS survey will be made a part of the hearing record on this bill. Mr. President, I ask unanimous consent that my letter to the three veterans organizations and their responses be printed in the RECORD at the conclusion of my remarks and after the text of the bill itself is set forth.

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

Mr. CRANSTON. Mr. President, the most common reasons for delay cited in the AMVETS survey involved tie-ups at either the college or in the VA regional office which processes the claims. In my experience, these delays range anywhere from 1 to 6 months or more beyond a normal 1-month processing time.

For example, in October of 1969 I received a letter from Charles F. Herndon, director of financial aids at the College of Marin in Kentfield, Calif., which indicated just how serious the delays have been for some veterans. Mr. Herndon's letter said in part:

> Each year the processing of enrollment certifications takes longer and longer so that the typical date for receiving the first benefit check for the academic year is late in November or early December.
>
> As I am sure you are aware, the period when a student most needs money for education is at the beginning of a term in order that he may firmly establish his school residence, purchase his books, supplies, etc.
>
> Many colleges are striving to acquire funds to assist in the education of the many disadvantaged young people in our society. The college cannot set aside large sums of money for temporary loans to veterans who will receive aid when it means it will not then be available for needy students.
>
> May we please request that you investigate the possibilities of improved service to the veterans receiving educational benefits from the G.I. Bill.

Mr. President, an example of an excessively long delay and an interesting suggestion resembling the approach contained in the bill I introduce today, were described in a letter I received in September 1969 from a veteran's wife in Oxnard, Calif.:

> During the Nixon administration, there has been discussion about the veterans not taking advantage of their benefits. *Time* Magazine went so far as to infer that the Vietnam veteran is apathetic about continuing his education.
>
> The red tape and time involved in obtaining veterans benefits is overwhelming. My husband applied for GI bill educational

benefits the first of April, 1969, shortly after commencing studies at University of California at Santa Barbara. This past week [September 1969] he received authorization from Veterans Administration to University of California at Santa Barbara to begin payments. It will now be another four to six weeks until payments begin—a total of five to six weeks of waiting. During this time he attended spring quarter and summer session. It was necessary for us to borrow $350.00 to meet educational expenses because of delays involved in receiving benefits. My husband had planned to attend a private institution but we could not meet that institution's tuition payments without having first received GI benefits.

If all states offered a lump sum payment to GI's returning to school, this would help bridge the gap until Veterans Administration benefits begin.

Most veterans cannot return to school without having first received benefits of the GI bill but they cannot get these benefits until after they return to school. In order for more veterans to take advantage of these benefits, modifications must be made to provide for more rapid service from the Veterans Administration.

These incidents are not restricted to California, where more Vietnam veterans reside—340,000, about 11 percent of those discharged—and go to school—about 15.3 percent over the life of the post Korean GI bill program. Many other Senators have told me of receiving similar complaints.

The bill I am introducing today is cosponsored by five members of the Veterans' Affairs Subcommittee—Mr. YARBOROUGH, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. MONDALE, and Mr. HUGHES—as well as by Senator WILLIAMS of New Jersey, Senator KENNEDY, Senator NELSON, and Senator EAGLETON. I am delighted to be joined in sponsoring this bill by the distinguished chairman of the full Labor and Public Welfare Committee, who is also the ranking majority member of the subcommittee, Senator YARBOROUGH, and by Senator SCHWEIKER, the ranking minority member of the subcommittee.

The bill would seek to overcome the delays I have just described in two ways. First, an advance payment of not more than $250 would be authorized for an eligible veteran applying for it in order to assist in meeting postsecondary education and living expenses during the first 2 months of a school year. The advance payment could be made up to 30 days before the intended date of registration, but would not be available to a veteran who intends to pursue a program of education on less than a half-time basis or a program exclusively by correspondence.

Second, in addition to, and as a part of, the advance payment program, this bill would establish a new special work-study program for veterans. Under it, any veteran who has received an advance payment would have the option of offering his services to the VA to assist in preparing and processing necessary applications and other documents either at educational institutions or in VA regional or other offices or in performing the outreach functions which, by virtue of Public Law 91-219, are now the responsibility of the VA—subchapter IV of chapter 3 of title 38, United States Code. In return for such work, as a WOC—without compensation—intermittent VA employee, the veteran would have his advance obligation partially or totally canceled at the rate of $2 for each hour of services performed.

The advance payment would be made to a veteran upon receipt of evidence of eligibility as defined in 38 U.S.C. 1652 (a)(1) (a discharge paper—form DD 214—showing that he served for at least 180 days of active duty and was discharged under conditions other than dishonorable or that he was discharged for a service-connected disability) and certification by the veteran of the basic prerequisites to eligibility under the GI bill. He would certify that he intends to enroll, and has been accepted for enrollment or has enrolled, in a specified educational institution to pursue a specified approved course of education during that school year; that he still has at least 6 months' entitlement to educational assistance allowance; and the number of semester hours or equivalent he intends to pursue. Unless the local office files contain conclusive evidence contradicting the facts so certified, the VA would not be authorized to examine into the veteran's actual GI bill eligibility.

Thus, an eligible veteran would be given the advance on the basis of his good faith in truthfully certifying the facts and intentions I have just outlined. There would be no time-consuming processing by the educational institutions, which, according to the AMVETS survey, are responsible for much of the delay in processing regular GI bill payments.

I recognize that this good faith certification procedure may be subject to some abuse, and that some payments may thus be made to ineligible recipients. But I am satisfied that any abuses would be small. If I am mistaken in that, the VA has a 95-percent record of collecting regular GI bill overpayments, and the program could always be modified later legislatively.

In order to further simplify the processing and issuance of the advance payments authorized by this bill, the amount of $250 would automatically be paid to any veteran certifying his intention to pursue a program of education on a full-time basis, assuming his papers were in order. The majority of veterans who are enrolled in full-time courses and who apply for the advance payment can be expected to need the full $250 to help meet initial school and living expenses, especially the 40 percent with at least one dependent.

Any amount advanced to a veteran under the bill would be repaid, insofar as practicable, by equal deductions from his regular monthly educational assistance allowance over the school year—generally 9 months—unless the veteran should qualify for cancellation of all or part of his obligation under the new work-study program in the bill. Should a veteran fail to qualify for a regular GI bill monthly allowance within 30 days, the advance payment would become due and would bear interest at an annual rate of 6 percent.

I have considered at least two modifications to the good faith certification procedures in the bill but rejected them as too dependent on action by educational institutions to serve the purpose of the advance system: getting the money to the veteran when he needs it. The alternatives I explored were: First, requiring that the school certify to the VA that the veteran has actually registered before the VA makes any advance; or second, requiring that the veteran present proof of acceptance by an approved educational institution—the latter would have required schools to issue a special document for other than newly-admitted students. Although I have initially determined against these formats, I remain open to new arguments and proposals for tightening and improving the mechanics of the advance payment program.

This program of advance payments at the beginning of a school year would provide a vital source of funds, at a time when none are now available under the GI bill and when the collegiate veteran's needs are probably the greatest, to meet the many expenses involved in beginning a school year, as well as such living expenses and initial charges as deposits for rent, heat or telephone. The VFW, in replying to my inquiry, suggested that, because it is so important for the veteran to have "a certain amount of capital to buy books, pay fees and tuition, and meet other expenses before he can actually become enrolled in school," consideration should be given to paying for the entire first semester, or as much as would be feasible, at the time of enrollment. I believe the advance payment system in the bill offers a feasible and truly beneficial response to this demonstrated need.

Enactment of this bill should thus help prevent a veteran from being placed in a precarious financial situation vis-a-vis his schooling or his personal life as a result of a delay, justified or not, in receipt of the first regular educational assistance allowance check.

Equally important, however, is the contribution I believe the work-study part of the bill would make to improving and expediting the regular processing and certifying of enrollment of veterans in order that educational assistance allowances may be received in timely fashion.

This is particularly critical for veterans with families and for the 27 percent of veterans who enroll in nonpublic schools. The recently enacted rate increase in Public Law 91-219 would provide $1,575 over a full 9-month period. Although this is sufficient to cover average tuition, room and board charges at a public institution, it is far less adequate in meeting the average costs at nonpublic institutions.

The proposed work-study program in the bill would enable full-time GI bill postsecondary trainees with a demonstrated financial need in geographic areas where such services are determined to be appropriate and desirable to increase their total school-year income by $250, while at the same time contributing to the improvement of the entire GI bill program through increased efficiency and speed in certificate and claims processing and through outreach work per-

formed by these student veterans. Students would be limited to an average over a semester of 15 hours per week of providing part-time services, and their educational institution would have to certify their ability to maintain good standing while performing such services.

The VA would be expected to establish equitable guidelines for determining financial need and need for the services and for selecting and using the services of veterans applying to "work off" their advances. Appropriate guidance for determining financial need should be available in the Office of Education's regulations for its work-study program under the Higher Education Act of 1965, as amended.

Veterans performing such services would be deemed intermittent employees of the Veterans' Administration, serving without compensation—WOC—for all purposes—such as under the Federal Employees' Compensation Act and the Federal Tort Claims Act—except that they would not be considered VA employees for purposes of Federal employment laws administered by the Civil Service Commission—such as those governing application and selection for Federal employment, retirement and other length-of-service Federal employment benefits, and Federal employment fringe benefits such as group health and life insurance programs. Also, funds retained under the advance cancellation provision would be exempt from taxation as a "payment of a benefit under any law administered by the Veterans' Administration," as provided in 38 U.S.C. 3101(a).

A prototype for this kind of program exists at the University of Illinois, where two falls ago the Illinois Federation of Veterans in College organized 20 or so veteran students to accomplish the college's GI bill certification on the same day the veteran registered. This past fall some funds for part-time stipends for this work were squeezed from the university, but future prospects for funding this kind of program are not encouraging. The results, however, are encouraging: all veterans who registered promptly received their first checks in October.

In an effort to deal with these GI bill allowance delays, the VA allows collegiate veterans to obtain early certification for the coming school year at the end of the previous year or during the summer when the veteran completes preregistration and so notifies the VA by filling out the appropriate forms. This procedure, which is permissible at only a small number of colleges, is designed to minimize the delay in issuing the first check at the beginning of the year for which the veteran has preregistered. An effort should be made to encourage those veterans who preregister to utilize this new procedure to the maximum extent.

Finally, I want to focus on one other very important aspect of the work-study program. Veterans who have received advance payments could also work them off by performing outreach services under the just-enacted subchapter IV of chapter 3 of title 38. I tend to agree with the VA that using GS-12's or GS-13's to "pound the pavement" in search of educationally disadvantaged veterans is highly questionable on a cost-effectiveness basis. But this provision would make it possible and very economical, at $2 per hour, for the VA to improve substantially its existing program of contact and outreach.

The present outreach program has not done the necessary job to reach the large numbers of high school dropouts and other educationally disadvantaged veterans who are separated from service each year. Whereas 23 percent of those separated during fiscal year 1969 were high school dropouts, only about 8 percent of that target population have been taking advantage of their education and training entitlements. I believe that, in many cases, this serious lack of participation by those who desperately need to take advantage of their benefits can be remedied through more effective dissemination of information and more personalized and intensive counseling of potential trainees about the great advantages of the benefits available to them.

As was stressed in section 241(c) of the outreach services program originally passed by the Senate on October 23, the most effective outreach worker is one with whom the potential trainee can identify most immediately and fully. Veterans who are themselves pursuing an education should fit this prescription perfectly.

A beginning is being made in instituting this concept in the east Los Angeles community, where I have been working closely with Congressman EDWARD ROYBAL in assisting the Los Angeles County Board of Supervisors to develop with the VA and the Department of Labor an intergovernmental crash program to establish a veterans service center in east Los Angeles. In response to my request, the VA will provide for this center at least two contact officers and one clerical worker, and the Department of Labor will make arrangements to add at least one employment counselor. Los Angeles County will also assign one clerical worker and a claims counselor to the center. Negotiations are just about concluded with the Office of Education and various colleges in the east Los Angeles area to obtain funding for 20 part-time community outreach workers—Mexican-American college students currently using the GI bill—who will operate out of the east Los Angeles center, which is expected to be open in April.

Another promising new outreach program for veterans has been set up at the Harrisburg Area Community College and Pennsylvania State University's Capitol Campus. A group of student veterans have organized a fraternity—Chi Gamma Iota—one of whose major activities has been to encourage other veterans to continue their education and to counsel them in such problem areas as filling out applications, choosing courses and a college major, availability of financial assistance, and general orientation to the academic environment. The group has asked other campus organizations to refer any veterans in their organizations, in their family or neighborhood, or among their friends to the veterans' fraternity.

Robert D. Ford, the program's director, whose January 28, 1970, letter to me is among the exhibits to be printed in the RECORD at the conclusion of my remarks, has described the group's primary job in terms which apply equally well to the outreach concept embodied in title II of Public Law 91-219:

> Many aspects of college life which seem elementary to other students are simply unknown to persons who did not have college interests in high school and who now lack the channels of communication to seek their answers.

A preliminary VA estimate of the administrative costs of the bill has not been forthcoming as of today, but such costs should not be appreciable. Nor is a firm estimate yet available of the cost of the advance payment cancellations under the work-study program, but it could be considerable depending on the need for the additional services and the degree of financial need required in order to qualify for the program.

It is expected that during fiscal year 1971 there will be about 500,000 full-time postsecondary level trainees under the GI bill. Although VA statistics show that approximately 70 percent of full-time GI bill postsecondary trainees hold full- or part-time employment during school, it is estimated that perhaps as many as 25 percent—many with more than one dependent, which status generally hinders a veteran's wife from having substantial earnings—will apply for work-study cancellation and be able to demonstrate a clear need for the extra $250. It also seems reasonable to estimate that for at least 20 percent of these needy applicants there will be no appropriate or desirable work, Thus, if 20 percent of the 500,000 full-time fiscal year 1971 postsecondary trainees should apply, be considered to be in need of GI bill augmentation, and be in areas where their services are appropriate and desirable, the cost of the work-study program would be approximately $25,000,000 during fiscal year 1971.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks, and following the text of the bill and my exchange of correspondence with the veterans service organizations, a number of letters which will serve as a representative sample of the letters I have received during the past year from veterans confronted with delayed educational payments. This nationwide problem has seriously hampered or even thwarted the efforts of many veterans to obtain education and training which, as we all know, is today so vital in our increasingly complex technological society.

Furthermore, we can no longer tolerate the exclusion of large numbers of disadvantaged young men and women from participation in a program of education uniquely qualified to assist them in making the difficult transition from military to civilian life and in maximizing their future opportunities.

I believe this bill, as a complement to the new programs in Public Law 91-219, represents an important step toward the correction of these inequities. And I am delighted to note in closing that the administration will apparently support the advance payment portion of this bill, for

recommendation No. A-1 in the report of the President's Committee on the Vietnam Veterans, belatedly issued on March 28, which I discussed earlier on the floor today, states:

Encourage veterans to enter and follow through with a training program by providing an advance education assistance payment to help the veteran meet the initial costs of entering training.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the bill and material submitted by the Senator will be printed in the RECORD.

The bill (S. 3657) to amend chapter 34 of title 38, United States Code, to authorize advance educational assistance allowance payments to eligible veterans at the beginning of any school year to assist such veterans in meeting educational and living expenses during the first 2 months of school, and to establish a veterans' work-study program through cancellation of such advance payment repayment obligations under certain circumstances; introduced by Mr. CRANSTON, for himself and other Senators, 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. 3657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Educational Assistance Allowance Advance and Work-Study Program Act of 1970".

SEC. 2. Chapter 34 of title 38, United States Code, is amended by adding at the end of subchapter IV a new section as follows:

"§ 1688. Advances to eligible veterans; work-study program

"(a) Notwithstanding the provisions of section 1681 of this title, and under such regulations as the Administrator shall prescribe, an eligible veteran shall, upon application therefor and subject to the provisions of this section, be paid an educational assistance allowance advance payment of not to exceed $250 immediately prior to or at the beginning of any school year to assist such veteran in meeting his education and living expenses during the first two months of such school year. An advance payment of $250 shall be paid to any eligible veteran who intends to pursue a course of education on a full-time basis as provided in section 1684 of this title, and the Administrator shall prescribe by regulation the amount to be paid to veterans intending to pursue courses of education on less than a full-time basis, but in no event shall an advance be paid to a veteran who intends to pursue a course of education on less than half-time basis or a program exclusively by correspondence. Any veteran making application for an advance under the provisions of this section shall receive a complete explanation of the repayment requirements of this section.

"(b) Any amount advanced to a veteran under this section shall be considered a loan and shall be repayable by the veteran over the period of his enrollment by deductions, in approximately equal amounts, being made from his monthly educational assistance allowance by the Administrator, or if the veteran fails to qualify for such allowance, the advance shall be repayable in such manner as shall be prescribed by the Administrator. Advances made under this section shall bear no interest if the veteran enrolls in an approved course of education and qualifies for an educational assistance allowance under this chapter, except that in any case in which the Administrator determines that a veteran has failed to enroll in and pursue an approved course of education within 30 days after an advance payment is made to him under this section, the amount so advanced shall (1) become due and payable on the first day of the next month following the month in which the Administrator makes such determination, and (2) from that date bear interest at the rate of 6 per centum per annum on the unpaid balance.

"(c) An advance payment shall be made under this section to any eligible veteran no more than 30 days prior to his expected date of enrollment if such veteran—

"(1) submits evidence to the Administrator showing such veteran to be an eligible veteran as defined in section 1652(a)(1) of this chapter.

"(2) certifies to the Administrator in writing (A) that he is enrolled in, or has applied for, been accepted by, and intends to enroll in a specified educational institution and is pursuing or plans to pursue a specified approved course of education during such school year at such educational institution, and (B) the expected date of enrollment if he has not yet enrolled in an educational institution,

"(3) certifies to the Administrator in writing whether the educational institution defines such course as a full-time course and the number of semester hours (or equivalent) or clock hours he intends to pursue, and

"(4) certifies to the Administrator in writing that he has at least 6 months' entitlement to educational assistance remaining under this chapter.

"(d) In determining whether any veteran is eligible for an advance payment under this section, the information submitted by such veteran pursuant to subsection (c) shall be conclusive evidence of his eligibility unless there is evidence in the file of the veteran in the processing office establishing that such veteran is ineligible for such advance payment.

"(e) In order to process applications for advance payments and regular educational assistance allowance payments under this subchapter as expeditiously as possible and otherwise to carry out the purposes of this chapter, the Administrator shall utilize, to the maximum extent practicable and where he determines such services to be appropriate and desirable, the services of any veteran who has received an advance under this section and who (1) is pursuing full-time training as determined under section 1684 of this title; (2) agrees to perform services, averaging not in excess of fifteen hours per week over a semester or other applicable term, in connection with the preparation and processing of necessary applications and other documents at educational institutions or regional offices of the Veterans' Administration, or services in connection with the outreach services program under subchapter IV of chapter 3 of this title, in return for a partial or total cancellation of his loan; (3) is in need of augmentation of his educational assistance allowance entitlement in order to pursue a program of education under this chapter, as determined in accordance with regulations which the Administration shall prescribe; and (4) is capable, as certified by the educational institution concerned, of maintaining good standing in such program while performing services under this subsection. The obligation of any veteran shall be cancelled at the rate of $2 for each hour of such services performed by the veteran.

"(f) As used in this section the term 'at the beginning of any school year' means the beginning of any quarter, semester, or other term on which an educational institution operates. While in the performance of such services, veterans shall be deemed to be intermittent employees of the United States serving without compensation; except that for purposes of laws administered by the Civil Service Commission such veterans shall not be deemed to be such employees."

SEC. 3. The table of sections at the beginning of chapter 34 is amended by adding after

"1687. Discontinuance of allowances."

the following:

"1688. Advances to eligible veterans; work-study program."

The material submitted by Mr. CRANSTON is as follows:

SEPTEMBER 16, 1969.

DEAR (VETERANS SERVICE ORGANIZATION): In testimony on June 24 before the Veterans Affairs Subcommittee, Mr. Arthur Farmer, then Chief Benefits Director of the Veterans' Administration, stated as follows regarding new procedures to expedite payment of educational assistance allowances to veterans enrolled in college:

"This summer we did make arrangements which we are convinced will make a substantial improvement. We now have an agreement with our folks at the computer at Hines, Illinois, that we will run a cycle on fixed dates, nine of them a month, whereas before they were running only five cycles a month.

"This, we are confident, will improve, so that he will actually get a half-month's check sometime in October. . . ."

This subject has been the subject of recent correspondence between me and the Administrator of Veterans Affairs, and a copy of the Administrator's September 9 letter to me is enclosed for your information. I would very much appreciate your advice regarding two questions:

(1) Beginning this October, are veterans enrolled in college receiving educational assistance allowance payments for their September participation under the G.I. Bill?

(2) What can be done to expedite and simplify the process of making the initial such payment?

I recognize that you will not be able to respond to the first question until sometime in November, but I am writing now with the hope that you will be able to devise an appropriate system of obtaining the necessary feedback on that question. Thank you for your continuing support and your cooperation in this matter.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, D.C., September 25, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: This is in response to your letter of September 16 respecting educational assistance allowance payments under the GI Bill, which has been read and noted with much interest.

Please find enclosed a copy of comments by the V.F.W. National Rehabilitation Service which was requested to respond to these two questions.

The V.F.W. is strongly in favor of paying the first check to a veteran under the GI Bill upon certification of his entitlement without waiting for a report. As soon as the VA gets this certification, a check should go forward for the first month.

The V.F.W. also supports the proposition that a veteran should be paid in a lump sum at the time of his enrollment for the first semester or as much of the first semester as would be feasible. As indicated in the attached memorandum, a lump sum payment

would be extremely helpful to the veteran who needs a certain amount of capital to buy books, pay fees and tuition, and meet other expenses before he can actually become enrolled in school.

We will respond further to your first question concerning GI allowance payments for September participation as soon as we have obtained such information.

Hoping this has satisfactorily responded to your question and with kind personal regards, I am

Sincerely yours,

FRANCIS W. STOVER,
Director, National Legislative Service.

INTER-OFFICE MEMORANDUM

This is in reference to Senator Cranston's letter of September 16, 1969. Concerning Question (1) there are a lot of factors involved, namely, if the veteran delivers the COE to the school promptly, the enrollment certification is sent by the school promptly to the proper Regional Office then the veteran would receive his check within the first week of October. However, in most of the universities the enrollment certifications are not forwarded to the VA in proper time to meet the October cycling at Hines. Last year, in this office alone, on every case we have checked on regarding a complaint of nonreceipt of educational assistance check, it was learned that the school although claiming to the veteran that they had promptly submitted the certification to the Regional Office did not submit the certification until after the first of October. The veterans who were attending school last year and intended to return to the same school this year were given a card in June to be returned to the VA Regional Office and the schools were issued by the VA a supply of enrollment certificates. Therefore, when the veteran enters the same school this year the school should immediately forward the enrollment certificate to the Regional Office and the veteran's check for September should be received the first week in October. On this procedure we will have to wait and see if it will work out properly.

On Question (2) I firmly believe that if Congress would enact legislation to permit the VA to pay a lump sum payment to the veteran at the time of enrollment, this would eliminate the problem involved as the majority of veterans have to meet an initial payment at the school for tuition, books, fees, etc., and I would safely say that 90% of them do not have the initial payment to meet his needs and even the partial payment that he would receive in October would still not be enough in order that he can adjust financially. In the cases I know of personally, the veterans are in debt until the first week in December and they are only able to get by with assistance from their working wives or parents. (We recommended this proposal to the President's Committee on the Vietnam Veteran August 1, 1969, Page 6.)

THE AMERICAN LEGION,
Washington, D.C. September 23, 1969.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Veterans' Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: In reply to question (1) of your letter of September 16, the Veterans Administration advised on September 5 that they were abandoning the present fixed date of the 10th of each month for recurring institution-of-higher-learning payments. Instead, all payments, retroactive and recurring, from any payment cycle will be released by Treasury as quickly as possible. The October check will include the amount due for September attendance.

With respect to question (2), the law requires that payment of educational assistance may not be made until a certificate of attendance is received from the veteran and from the educational institution, a certification, or endorsement on the veteran's certification, that he was enrolled in and pursuing a course of education.

Notwithstanding this legal stricture, I have asked my staff to review the problem. I will be in touch with you after they have given me their discussion and recommendation.

Sincerely,

E. H. GOLEMBIESKI,
Director, Rehabilitation Commission.

THE AMERICAN LEGION,
Washington, D.C., October 16, 1969.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: This has further reference to my letter of September 23, 1969, stating I would have my staff study Question (2) of your letter dated September 16, 1969 to ascertain what steps have or could be taken to expedite and simplify initial payments of educational assistance from the Veterans Administration.

Our study of this problem reveals that the Veterans Administration is continually amending their instructions relating to educational payments to assure that those entering training will receive their checks as promptly as possible. For an example, instructions were issued in 1967 to provide for advance processing of awards to in-residence college students upon receipt of an enrollment certification from the school prior to the beginning of the term, quarter or semester. To further expedite payments, these instructions were amended on September 4, 1969 to provide the educational award without pre-enrollment certification from the school. The VA regional offices will notify the school of the new procedural change and that the success of these procedures depends upon the school assuming the responsibility of furnishing the Veterans Administration immediately the names of any students who did not enter after pre-enrollment.

The Veterans Administration has also amended the veterans "Certificate of Eligibility" by placing the Enrollment Certification on the reverse side. This change was made to expedite enrollment procedures.

The payments to veterans re-enrolling into school has created problems equal to those found in the initial enrollment.

On September 24, 1969, the Veterans Administration revised their Fall re-enrollment procedures. Under this amendment, the Hines Data Processing Center will produce and furnish regional offices pinfeed computer generated enrollment certificates and award transaction forms for students in institutions of higher learning at the end of the months of June, July and August of each year. Prior to this amendment, the enrollment certifications and award transaction forms were only disseminated at the end of August of each year.

In addition, in order to facilitate and expedite processing re-enrollment awards and payments for the Spring term for those students who have not been certified by the school for the entire year beginning with the end of the month of November 1969 and each November thereafter, a set of re-enrollment forms will be produced and furnished to each regional office for all institutions of higher learning students whose entitlement will not be exhausted with a scheduled termination at the end of the Fall term.

We believe that these procedures will expedite educational assistance payments for both initial enrollments and re-enrollments.

In conclusion, we will maintain a surveillance on this problem to assure that educational payments provided under title 38, United States Code, are made without unnecessary delay.

Sincerely,

E. H. GOLEMBIESKI,
Director, Rehabilitation Commission.

AMVETS,
NATIONAL HEADQUARTERS,
Washington, D.C., October 17, 1969.

Senator ALAN CRANSTON,
Chairman, Subcommittee on Veterans Affairs, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR: I received your recent letter wherein you wanted me to answer the following two questions:

1. Beginning this October, are veterans enrolled in college receiving educational assistance allowance payments for their September participation under the G.I. Bill?

2. What can be done to expedite and simplify the process of making the initial such payment?

I have immediately sent a memorandum to our National Service Officers and Accredited Representatives asking them to forward answers to these questions. As soon as I receive these answers, I will forward them to you.

We genuinely appreciate your interest in this matter and we are constantly hopeful that this session of Congress will enact a legislation that will provide an increase in the subsistence allowance. Meanwhile, if I can be of some other service, feel free to contact me.

Sincerely yours,

RALPH J. ROSSIGNUOLO,
National Director of Programs.

(Full survey will be set forth in subsequent hearing record on the bill.)

REDWOOD CITY, CALIF.,
April 22, 1969.

DEAR SIR: I'm a veteran of four years of military, one of which was spent in Vietnam serving my country with the best of my ability. Presently I'm a student at Canada College in Redwood City.

So far I've done everything the government has asked of me, giving them no problem. They pulled me out of college to serve and I went, they take my money in income tax and I don't complain, the state wants their share and I give. They get everything they feel they have coming. It's now time for me to get what I feel I have coming. I want the money I have coming for going to school, and I haven't got it!

The problem has come about since January 1969, at that time I transferred from College of San Mateo (where I went half time at night) to Canada College (full time). On January 24 I applied for my transfer papers, it took them until March 14 to reissue my papers of eligibility. On March 15 Canada College sent out my verification of units which are 15 to the V.A. in San Francisco, it is now April 22 and I'm still looking for my first check.

I've tried many times to find out what the hold up is by calling them and it's a toll call each time, but all I get from them is a statement like "sorry we don't know what the problem is or call us back in a week or so". It's not as if I applied one day and expected my money the next! My God it's been almost four months, and I need this money to live on, it's my only income. My bills are building up and I can't pay my rent and good meals are coming few and far between.

It's hard enough supporting a family with the money, without it it's impossible.

I know you must be a very busy man, but if you could please find time to look into my problem and try to find some way of getting my money to me the fastest way possible I would surely appreciate it.

Respectfully yours,

MICHAEL POTRAKUS.

VETERANS' ADMINISTRATION,
San Francisco, Calif., May 16, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: We have your letter of May 2 concerning the claim of Michael G. Potrakus, 1433 Oxford Street, Apartment 7, Redwood City, California.

His enrollment certification covering his attendance for the spring semester was received March 14. Although an award was not approved until April 11, checks totaling $411.33 have been issued and should have been received by now. This payment covers the period February 3 through April 30.

The Honorable Paul N. McCloskey, Jr. has also expressed interest in this claim and has been furnished similar information.

We appreciate your expression of interest in Mr. Potrakus and regret any inconvenience our delay has caused him.

Sincerely yours,

GORDON R. ELLIOTT,
Manager.

HAYWARD, CALIF.,
March 19, 1969.

Mr. CRANSTON: Sir, I am writing you in the hope that you may be able to help me get my G.I. educational benefits. I have been attending college full time since January 2, 1969. I have filled out all of the forms and followed all of the prescribed directions and have yet to receive my check.

This same thing happened to me last year I attended full time from January until June, and didn't receive any money until July. Because of the delay I had to quit school and work until December. I have a wife and child and I cannot afford to live on the money my wife earns from working part time. I am 25 years old and cannot indefinitely go on working and saving for six months and then going to school.

I would appreciate any help you can give me in speeding up the payment of my benefits.

Thank you and peace.

ROBERT BUSCHINI.

PALO ALTO, CALIF.,
March 31, 1969.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: My son, recently returned (last September) from Vietnam, is planning to complete his education at Stanford. In order to do this it has become necessary that he matriculate at Foothills College for three quarters. He is currently attending classes there.

On admission (the first week in January) he applied for his GI educational benefits from the local office of the Veterans' Administration (File Identification Number 24287603, Alfred J. Coppel III). He has now completed one quarter and is beginning his second. As of this date, he has received exactly nothing from the VA, nor have we been able to determine the cause (if any) of the delay in benefits. Can you help us?

I tend to wonder what his situation would be if he were not able to live at home and rely on me for subsistence. GI educational benefits are meagre enough without encountering the ponderous delay of the VA's bureaucracy. To keep a boy who has served his country without the funds promised by the law is intolerable. As a constituent, I ask that you light a fire under the responsible chair-polishers.

I am sorry that after so many years my first communication should be a complaint. We met a number of times in the United World Federalist days in Los Altos, when we were all younger and more sanguine, as well as at Darwin Teilhet's house. We have followed your political fortunes with an air of some satisfaction, since my wife and I share many of your convictions. Liz, my wife, works at Stanford and sees Hildegarde occasionally. She is well, as you probably know.

Please do what you can about this VA business. I hope I am not presuming on an old acquaintanceship, but I can get no satisfaction from any other source, and you are, after all, our Senator.

With best wishes for your continued success.

Your sincerely,

ALFRED COPPEL.

VETERANS ADMINISTRATION,
San Francisco, Calif., April 10, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: We have your inquiry of April 3, 1969, concerning educational assistance payable to Mr. Alfred J. Coppel, III.

Benefits of $95 per month have been awarded to Mr. Coppel for the period January 2, 1969, to March 31, 1969, based upon three-quarter time school attendance, and $130 per month for the period March 31, 1969, to June 17, 1969, based upon full-time school attendance. If not already received, he may expect an adjustment check for the period January 2, 1969, through March 31, 1969, by the middle of April. Thereafter, monthly payments will be made.

Your expression of interest in behalf of Mr. Coppel is appreciated.

Sincerely yours,

GORDON R. ELLIOTT,
Manager.

ALAMEDA, CALIF.,
December 8, 1969.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I have been a resident of the State of California for 14 years. I served in the United States Navy from 1955 to 1958. Since being out of service I have held various jobs, but nothing to substantially take care of my family the way I would like to.

In the summer of 1968 I thought I would take advantage of the benefits offered to me by being a veteran. I enrolled in a private cosmetology school. After finishing this course I decided I would like to obtain a degree in this field. In September of 1969 I enrolled in Pasadena City College. As of this month I have now been in school three months and have not received any benefits.

The reason I am writing to you sir is because I have run out of sources to contact. I have called, written and gone down to the Veteran Administration Offices, but everyone seems to just pass the buck. I have contacted Councilmen, but no one seem to be able to give me the advice I need.

I am not the only person in this predicament. Most of the other veterans I have talked to at school are in the same shape as I. They, like me, are married men with families and responsibilities and cannot continue on like this. With going to school on a full time basis, I can only work part-time, thus I need my money very, very bad.

Any information or advice you can send me will be greatly appreciated.

Very truly yours,

HARVEY N. HUNTER.

MARCH 10, 1970.

DEAR SENATOR CRANSTON: I write you as a last resort. I was discharged from the Army under Honorable Conditions on 25 August 1969 from the First Armored Division at Fort Hood, Texas, in order to attend the University of California at Santa Cruz. I returned to California and subsequently applied for the G.I. Bill benefits in September of 1969.

I have yet to receive any money from the V.A., which to date has failed to pay me any of the more than $750 they owe me. My wife and I both have worked part-time during the school year and we are *both* attending U.C.S.C. Quite frankly, the Santa Cruz area is not inexpensive and we have finally run out of money. I had no money to pay my tuition (fees for the spring quarter of 1970, and therefore have obtained a Fee Deferment which is valid only until April first. My academic record at U.C.S.C. to date is excellent.

I contacted the Financial Aid Office at U.C.S.C. about my predicament, and they have contacted the V.A. in San Francisco (where my records are being "processed") on numerous occasions to no avail. * * *

The Financial Aid Office finally has recommended that I "write my congressman." I might also add that I have yet to receive a W-2 Form from the Army despite repeated correspondence.

My records are (apparently) located in San Francisco. I recognize an inevitable inefficiency of bureaucratic structure, but in my case knowledge does not feed my wife and me, nor does it educate us. I write you as a final recourse, Senator Cranston. Please help me. No one has been able to do/done so to date.

GRANT C. GENTRY.

SAN DIEGO, CALIF.,
December 7, 1969.

DEAR SENATOR CRANSTON: I am a disabled veteran with eighteen years of service prior to my injury. I was retired with fifty-percent disability pay December 1, 1968. My complaint is this, I have not received any school benefits and I have a family. And the long delay in receiving my check from the Veterans' Administration is causing a hardship in my home. I attend law school at night, here in San Diego, and attend City College in the day time. I carry 15 units there, and 9 at the Law School. I would appreciate it very much, sir, if you would inquire about the matter. I hope you are successful. I will not have any money for Xmas, unless you are. My name is Harris Strozier, Jr. File Number Identification is 24 505 345.

I am a registered Democrat and proud of it.

Thanking you, Sir.

HARRIS STROZIER, Jr.

COLLEGE OF MARIN,
October 29, 1969.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: I feel it a necessity to bring to your attention an extremely serious problem concerning the veterans attending this college and, I am sure, many other colleges.

Each year the processing of enrollment certifications take longer and longer so that the typical date for receiving the first benefit check for the academic year is late in November or early December.

As I am sure you are aware, the period when a student most needs money for education is at the beginning of a term in order that he may firmly establish his school residence, purchase his books, supplies, etc.

Many colleges are striving to acquire funds to assist in the education of the many disadvantaged young people in our society. The college cannot set aside large sums of money for temporary loans to veterans who will receive aid when it means it will not then be available for needy students.

May we please request that you investigate the possibilities of improved service to the veterans receiving educational benefits from the G. I. Bill.

This college stands ready to be of any assistance that we may be able to provide. This concern involves 538 veterans on this campus alone.

Sincerely,

CHAS. F. HERNDON,
Director of Financial Aids.

DUNCANNON, PA.,
January 28, 1970.

Senator ALLEN CRANSTON.
Chairman OLIN E. TEAGUE.

DEAR CHAIRMAN TEAGUE and SENATOR CRANSTON: I am currently in my senior year at the Capitol Campus, Pennsylvania State University. I am going to school on the G.I. Bill, and recognize the various reasons why many veterans do not take advantage of this program. Many persons have expressed the critical reason as the veterans feeling uncertain about their ability to go to college. There is, however, an even more critical reason which, combined with uncertainty, prevents many veterans from reaching the campus. This is the problem of *"HOW"*.

Many veterans are simply unaware of the basic procedures required to enter college. Accompanying this, they are unaware of all aspects of college life such as: types of courses available, study methods, and in general, just what will be required of them as a college student.

This unawareness has been repeatedly overlooked because of one main reason. The reason is that virtually everyone who is concerned with higher education is himself a product of higher education, either as a graduate or a current faculty member. These persons have been college oriented since high school days. They prepared to go on, were counseled in this respect, and finally entered the world of higher education. Because of this atmosphere, or "college orientation," persons who today are in a position to effect the enrollment of veterans are also, through no fault of their own, overlooking the critical reason for what appears to be a lack of interest in the G.I. Bill.

Many veterans indeed became veterans because of a poor economic background or simply a lack of interest in their own education. The maturity, discipline, and motivation which they gain in the service still leaves them in the dark as far as college is concerned. If anything, college has become even more unknown. In short, many veterans want to go to college if someone would only show them how.

For this reason, the veterans fraternities of Harrisburg Area Community College and the Capitol Campus, Pennsylvania State University, have initiated a program designed to recruit veterans into college. From discussions among ourselves, we have found that most of us had experienced the same problems when we were attempting to enter college.

I cannot over-emphasize the value of the human aspect of our approach. We are veterans talking to veterans. We speak the same language, and through this means we first describe our own experiences in college and generally try to reduce the fear of the unknown. We then describe different courses and methods of scheduling to fit jobs or other situations. We try to answer any questions about college and we even help to submit applications. We also have an unwritten code that once a veteran becomes a student, our best students in any particular course will tutor any G.I. who is having trouble in that particular course. In other words, when we counsel, we tell veterans, "If you go to school, we'll make sure you stay."

I feel that our methods would be highly successful nationwide with an adequate program. I am enclosing a few items about us with the hope that we may shed some light on the current problems connected with the G.I. Bill. As veterans who are now college students, we do know what others are up against and we hope to help them overcome these problems by using our experiences.

Concerning the current proposals, I have noticed that Senator Cranston's bill would provide finances for special, or developmental courses. This is most important particularly to our fellow veterans belonging to minority groups or from poor economic backgrounds. In many cases, these special courses are their only hope to be able to compete academically in the classroom with the younger students.

I would welcome the opportunity to expand on these and many other areas at your request, and hope that I have been of some assistance.

Respectfully yours,

ROBERT D. FORD.

[From Business Week, Mar. 21, 1970]

A NEW GI BILL FOR VIETNAM VETS

A new, broadened version of the GI Bill was headed toward Congressional passage this week as a House-Senate conference group came to agreement on its features—a 35% boost in basic benefit levels and a number of highly innovative provisions to attract educationally disadavantaged veterans to the groves of academe.

The measure grows out of concern over Vietnam veterans' half-hearted involvement in the government-sponsored educational program as compared with the enthusiastic participation of the education-hungry vets of past wars. Aided by the GI Bill, almost half of all World War II veterans enrolled in some sort of training program—including 450,000 future engineers, 360,000 future teachers, and countless aspiring doctors, lawyers, businessmen, salesmen, and mechanics. About 45% of Korean veterans also went back to school. By contrast, only about 23% of Vietnam's crop of ex-servicemen have made use of available educational benefits thus far.

BLACK AND DISADVANTAGED VETS HAVE SPURNED THE GI BILL OF RIGHTS

Particularly disturbing has been the failure of black and disadvantaged GIs to seize the educational opportunities offered them. With the unemployment rate rising, some government officials feel their frustrations and anger could dangerously swell the tide of urban unrest. The GI Bill is viewed as an ideal vehicle to bring them into the educational and economic mainstream.

Amendments. The new bill, a series of amendments to the "Cold War GI Bill of Rights" enacted in 1966, seeks to breach the financial barrier to participation in the benefits. The present monthly stipend of $130 for a single man covers only two-thirds of average college tuition costs—compared with the Korean and World War II bills which covered 98% of both tuition and living expenses. By raising payments 35% to $175 a month, the new measure will enable men attending public universities or community colleges to pay for virtually all of their tuition and living expenses out of their stipends.

The most innovative and far-reaching aspect to the measure is its attempt to breach the psychological barriers to college enrollment. Recognizing that many educationally disadvantaged GIs need both encouragement and considerable remedial work to succeed in college, it funds several programs to ease the transition to the lecture hall.

INNOVATIONS MAKE THE BILL MORE USEFUL TO DISADVANTAGED

The bill allows high school drop-outs to take college preparatory programs at junior colleges and regular universities instead of returning to night classes in high school, where they tend to lose interest and motivation. It provides GIs with extra funds to take special pre-discharge college orientation and remedial courses, which will be set up by colleges on military bases. It makes funds available for special tutoring and allows students to count some non-credit remedial courses toward the full-time course load requirement needed to qualify for benefits. Finally, the bill gives the Veterans Administration a mandate to set up special offices around the country to seek out and counsel new veterans.

A veto? Senator Alan Cranston (D-Calif.), a leading architect of the new measure, feels it will "go a long way toward boosting participation and getting drop-out veterans turned on educationally." The only hurdle remaining is the possibility of a White House veto due to the bill's high cost—estimated at $275-million annually. But in view of the pending Congressional elections, it seems likely that any veto would be overridden.

Meanwhile, state and private groups are already preparing to implement the bill's provisions. The American Assn. of Junior Colleges is developing a program for returning servicemen. In Pennsylvania, Governor Raymond Shafer has set up a committee to mobilize business and university support.

[From the Memphis Press-Scimitar, Mar. 10, 1970]

CONGRESS AGAIN TRIES TO UPDATE GI BILL FOR VIETNAM VETERANS

(By William Steif)

WASHINGTON.—House and Senate conferees were scheduled to meet late today to try again to resolve an impasse that since last fall has prevented Vietnam veterans who are going back to school on the GI bill from getting an increase in their monthly stipends.

But insiders were not optimistic about winning agreement to break a stalemate that has grown from a combination of Texas politics, congressional sloth and Nixon administration determination to hold down spending even where ex-GIs are involved.

As a result, the unmarried Vietnam veteran who now gets $130 a month to pay his college tuition, fees, book expenses and living costs probably will continue to get just that—nothing more—for the rest of this academic year.

By contrast, a bill passed by the Senate, 77–0, last Oct. 23 promised to raise the unmarried ex-GI's stipend to $190 a month, retroactive to Sept. 1, with proportionate increases permitted to veterans with dependents.

The Senate action came after House passage on Aug. 4 of a bill to increase the stipend to $165. So a compromise seemed assured. But:

The White House pressured Chairman Olin E. Teague, D-Texas, of the House Veterans' Affairs Committee to delay a compromise because it wanted the stipend increase held to 13 per cent to fight inflation. The conservative Teague, a much-decorated infantry veteran of World War II, was amenable.

Then, even though the House already had passed its own bill, Teague took the Senate bill to the House floor Dec. 18, stripped much of it away, and reduced the basic stipend to $170 a month with no retroactivity. Among provisions Teague had deleted through amendments were two specially favored by Chairman Ralph W. Yarborough, D-Texas, of the Senate Labor and Public Welfare Committee, where the Senate bill originated. One of these provisions would have authorized loans for private pilots' training program that critics consider outmoded.

When Sen. Alan Cranston, D-Calif., chairman of a Senate subcommittee under Yarborough's jurisdiction, sought a meeting to compromise Senate-House differences last December, Teague refused, delaying a compromise meeting until Congress reconvened in late January.

The first meeting finally took place Feb. 5. It was fruitless.

A second meeting was canceled in late February because Yarborough was ill. The liberal Yarborough takes great pride in being "author" of the GI bill; so does Teague.

At this point, a Texas Republican who is challenging Yarborough for his Senate seat this year got into the act. Rep. George H. W. Bush on Feb. 26 assailed Yarborough, Cranston and the other Senate conferees for want-

ing "to make political hay" on the proposed GI increases. "The veterans are the losers in all of this," Bush said.

That brought Cranston to his feet to defend Yarborough and to accuse Bush of making a "wholly unwarranted and counterproductive attack."

The White House position, reflected by Veterans Administration boss Donald E. Johnson, is that GI bill stipends should be increased no more than the cost of living rises.

Thus, spending in the current fiscal year for 1,325,000 veterans using the GI bill is budgeted at $891,700,000. For fiscal 1971, spending is budgeted at $990,400,000, with 147,000 more veterans expected to be in school. The Nixon budget says average cost per trainee both years will be $673.

But Cranston points out that the present stipend covers less than two-thirds of the present average cost of going to college, while the GI bill of World War II and the Korean War covered 98 per cent of the cost.

The House bill, raising the basic stipend to $170 a month, would raise the program's cost by $226,200,000 a year; the Senate bill, raising the stipend to $190, would raise the cost by $323,000,000.

[From the Rocky Mountain News, Denver, Colo., Mar 13, 1970]

PREPARING VETERANS FOR SCHOOLS

(By William Steif)

WASHINGTON.—A hidden issue has complicated the fight going on here since last summer over increasing the monthly stipend of Vietnam veterans going to school on the GI Bill.

The issue is whether or not the GI Bill should be used as an instrument of social change.

Sens. Ralph Yarborough, D-Tex., and Alan Cranston, D-Calif., the leading Senate sponsors of a measure to raise the stipends, are trying to needle the Veterans Administration (VA) into starting a program to prevent slum-raised GIs from returning to the slums. They want the VA to work with the Defense Department to prepare servicemen to return to school even before the GIs are discharged.

Cranston says about 230,000 servicemen who have not completed eighth grade leave the service each year. Only eight per cent of these men use benefits available to them to upgrade themselves at school.

After World War II 18 per cent of ex-GIs who hadn't completed eighth grade went back to school.

Most of the 230,000 are black, Spanish-speaking or Indian. They inevitably gravitate back to the ghetto life from which Uncle Sam drafted them.

The chairman of the House Veterans Affairs Committee, Rep. Olin E. Teague, D-Tex., and the committee's ranking Republican, Rep. Charles M. Teague, California (no relation), think the GI Bill shouldn't be used for social purposes.

Their philosophy is that the benefits are available as a right, but the Federal Government shouldn't be in the business reaching out to encourage—or discourage—exercise of that right.

VA Administrator Donald E. Johnson, who last June promised a report to Congress on this situation by Oct. 15, still hasn't produced his report, but the VA tends to lean toward the passive view of the two Teagues.

Cranston's view was expressed in a recent talk to American Legion officers here. He said failure to start the program he proposes in the Senate-passed bill would "waste the resources" of minority group men. He said the nation couldn't afford this waste.

New studies show the need for the program, he said. Of 109,000 Army veterans discharged in 1968, the studies "show that a veteran's likelihood of taking advantage of GI Bill benefits is determined almost entirely by his preservice educational achievement rather than by his aptitude," Cranston said.

"Three times more veterans with some prior college experience returned to school than those who hadn't gone to college. Yet both groups were found to be equally intelligent . . . men of average intelligence who complete high school are twice as likely to further their education as high school dropouts with the same aptitude. Participation rates . . . seem inverse to need."

Cranston's program would cost $4 million to $6 million to start, and would rise close to $50 million if it caught on. That is more than a couple of bucks, but it could be a lot cheaper than cops, courts and jails.

[From the New York Times, Mar. 27, 1970]

NIXON SEEKS TO SPUR SCHOOLING OF THE UNDEREDUCATED VETERAN

(By David E. Rosenbaum)

WASHINGTON, March 26.—President Nixon is expected to disclose in a few days a new [program to send] more poor, undereducated veterans back to school.

Administration sources also say that the President will somewhat reluctantly sign legislation that raises stipends under the G.I. Bill of Rights by 35 per cent and, for the first time, provides special assistance for veterans who require remedial training or tutoring.

The new Administration policy is outlined in a report of the Cabinet's Committee on Vietnam Veterans, which was delivered to the President this week.

At about the same time, Congress was completing action on the veterans legislation after more than a year of disagreement, in which Mr. Nixon hinted that he would veto the measure as inflationary.

The Administration still feels that the bill, which Congress cleared Monday, is too expensive. It wanted benefits to be raised, but only by about 15 per cent.

What worries Administration officials is that the bill will cost the Government $90-million additional in the current fiscal year and $275-million more than budget estimates in the fiscal year that begins July 1.

But there is little likelihood that the President would veto a measure that passed both the House and the Senate unanimously. Such a veto, Administration sources believe, would surely be overridden.

Furthermore, the President is said to be especially pleased that the legislation contains provisions to help returning servicemen who have poor educational backgrounds.

To keep expenditures down in the current fiscal year, the Administration may hold off until summer on its concentrated effort to get more veterans into school.

STUDY UPHOLDS EDUCATORS

The details of its plans then will not be available until the report of the veterans committee is released. But indications now are that the Veterans Administration and the Office of Education will then begin intensive recruiting of veterans into the program and put pressure on colleges to take them.

Repeated studies have shown that the G.I. Bill is not being used now at the same rate it was used by servicemen after World War II and the Korean War. About 25 per cent of the veterans released from the military in recent years have gone back to school, against 50 per cent after World War II and 42 per cent after Korea.

A further study, made by the Defense Department, documents what educators have long believed: That the better educated a veteran is when he goes into the service, the more likely he is to go back to school when he is discharged.

Of a sample of veterans who were high school dropouts, 13 percent had returned to school 10 months after they were discharged, the study showed. It also found that nearly 10 percent of these men without high school diplomas were unemployed 10 months after discharge.

Congressional leaders and Administration officials believe that the new legislation will alter these trends.

First of all, the legislation raises the monthly stipends to $175 from $130 for single veterans who are in school fulltime. There are similar 35 percent increases for married veterans and those with more than one dependent.

Perhaps just as significant are several provisions aimed to help the veteran with a limited education to go back to school.

Such veterans would be permitted to take a limited number of noncredit college courses, such as remedial reading, and still receive the stipend for going to school full-time.

A $50-a-month additional payment was made available to those who need special tutoring.

And a new program was created to pay for those who attend nearby community colleges while still in the service.

If these programs are to be successful, however, new initiatives by the Government and private sources will have to be developed to recruit poorly educated veterans into the programs and to persuade universities to seek out returning servicemen.

It is to these ends that the report of the Committee on Vietnam Veterans is expected to be directed.

OFFICIALS SIGN REPORT

There were nine months of interdepartmental negotiations before the report was finally finished this week and signed by Donald E. Johnson, Administrator of Veterans Affairs; James E. Johnson, chairman of the Civil Service Commission; Winton M. Blount, Postmaster General; Donald Rumsfeld, director of the Office of Economic Opportunity; Melvin R. Laird, Secretary of Defense; George P. Schultz, Secretary of Labor, and Robert H. Finch, Secretary of Health, Education and Welfare.

According to sources familiar with the negotiations, the Veterans Administration was at first reluctant to see the G.I. Bill used as a social force. Most of the officials directing the program have worked on it for many years, and for a time they took attacks on the program as personal criticism.

But the Veterans Administration had a major role in drafting the final version of the report. And officials in other, more socially conscious agencies see its endorsement as a milestone.

"They've finally turned the corner," one official said. "Now they're willing to go after—I mean really go after—the poor, black kid who dropped out of high school to go fight in Vietnam."

The task of the Office of Education, as described in the report, is to encourage colleges and universities to accept the veterans.

Mr. BYRD of West Virginia subsequently said: Mr. President, earlier today the able junior Senator from California introduced a bill to amend chapter 37 of title 38, United States Code, to authorize, guarantee, and direct loans for mobile homes used as permanent dwellings, to authorize the administrator to pay certain closing costs for and interest on certain guaranteed and direct loans made under such chapter, and so forth.

At the request of Mr. CRANSTON, I ask unanimous consent that the bill which he introduced earlier today be first referred to the Committee on Labor and Public Welfare, and if that committee completes action on the bill and reports

it to the Senate, the bill be then immediately referred to the Committee on Banking and Currency.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

S. 3658—INTRODUCTION OF A BILL RELATING TO SOCIAL JUSTICE AND SOCIAL SECURITY

Mr. GORE. Mr. President, the time has come for the Senate to take a truly significant step in achieving a new level of social justice for the elderly in this country. I am today introducing a bill that will increase the minimum social security benefits from the present level of $64 to a higher and more reasonable level of $100 for each single person, and $150 for each married couple.

Those of our people who rely on the minimum social security payments as their sole means of obtaining food, clothing, and shelter—the bare necessities of life—simply cannot do so on $64 a month. It is true that this minimum figure was increased from $55 to $64 with the 15-percent increase on social security benefits that Congress passed last December. I was pleased to cosponsor that effort, and I am even more pleased that this Friday, April 3, millions of social security recipients around the country will receive a larger check to reflect this congressional recognition of the need to alleviate the cruel burden of inflation that is falling so heavily on those living on fixed incomes.

Suitable civic rallies to celebrate this forward step on the path of social justice are being held at Jackson, Tenn., on April 4, and at Kingsport, Tenn., April 7, 1970.

But, Mr. President, this 15-percent increase represents only a modest beginning toward achieving that minimum level of subsistence which should be the birthright of all our elderly citizens. My proposal to increase the minimum social security benefit to $100 per month will constitute a much more significant step to insure that retired persons may be able to live in dignity, free of the haunting specter of financial disaster.

In this time of mounting inflation, a person whose sole income is $64 per month cannot pay for the skyrocketing prices of food. Food prices were up 0.6 percent in February, bringing the Consumer Price Index for food to a level of 131.5, up from 122.0 when this administration took office. Nor can he pay for badly needed services. According to the Department of Labor, the Consumer Price Index for all services is now 150.7, up from 139.0 in January 1969. And the Consumer Price Index is now at a level of 132.5, compared to a Consumer Price Index of 124.1 when President Nixon assumed office last January. To offset this skyrocketing inflation, the person living on his minimum social security payment has received an increase of $9 per month. How can anyone pay rent or make a small monthly payment on his modest home and still try to buy the food and clothing and pay for the services he so badly needs on such small sums?

Retired persons in Tennessee write to me to tell me that they are going to have to give up their homes because they can no longer afford to make the monthly payments out of their social security benefits. This is a cruel reward for those who have looked forward to their retirement years with so much hope. Mr. President, a nation founded on the principles of social justice cannot countenance such a situation.

We should not delay further in bringing minimum social security benefits to a level that will provide a base of financial security for our retired citizens.

Mr. President, the distinguished majority leader and the distinguished junior Senator from West Virginia offered an amendment to the tax reform bill last year which would have increased the minimum social security benefit to $100 per month. That amendment, however, coupled this increase with larger payroll taxes. I think payroll taxes are already high enough. That is why I voted against that amendment as a separate item. I supported it, of course, on passage as part of the total bill.

The proposal that I am offering today does not contain a payroll tax increase. The increased benefits are to be financed out of the general revenues of the Government.

I am strongly opposed to any further increase in social security taxes, whether through an increase in the rate or through increasing the wage base, as a means of financing an increase in the minimum monthly social security benefit.

The increase in social security taxes that would have been generated by the amendment proposed last year would have virtually eliminated the tax reduction that I and others fought so hard to obtain through an increase in the personal exemption. This tax increase would have fallen most heavily on the middle-income taxpayer who realized the primary benefit from my proposal to increase the personal exemption to $750. For example, a wage earner with a wife and two children making $12,000 per year received a tax reduction under my proposal of approximately $250 per year. Increasing the wage base to $12,000 in 1973 would increase this man's social security taxes by $237.30. This tax increase would have gone into effect just after the full benefits of the tax reduction package that I succeeded in obtaining had been fully implemented.

Mr. President, we should move the social security system away from total reliance on payroll taxes alone. The man earning a hundred thousand dollars a year pays no more into the social security tax system than does the man who is earning only $7,800 a year and trying to feed, clothe, house, and educate his children at the same time. My proposal will, for the first time, place at least a part of this system for social justice on a progressive tax system.

Current high interest rates are already driving small businessmen to the brink of bankruptcy, as they are being deprived of badly needed funds to finance the expansion that is required if they are to stay in business. The Senate Finance Committee has just approved an unemployment compensation bill that will require these same small businesses to pay an increased Federal unemployment tax. Small business cannot afford the kind of tax increase that would accompany an increase in the social security wage base.

Social security is not just the concern of business in this country; it is the business of everyone. And the person who receives all his income from dividends, capital gains, and other investment income derives just as much benefit from a sound and healthy social security system as does the wage earner and his employer. Minimum social security benefits provide a cushion and a floor in times of general economic slowdown which aids the investor as well as the businessman. Placing part of the burden of financing the social security system on all taxpayers will constitute an important recognition of this fact.

But some will argue that financing the increase in the minimum monthly benefits to $100 out of general revenues will constitute a departure from the insurance principle that has been the basis for financing the social security system. So it does and so it should. The benefits for many of those who rely on the minimum social security payments are not paid on the basis of an insurance principal. Many of these persons have not paid in amounts equal to the benefits they receive. This result can flow from any number of factors—employment during low wage periods in our economy, inability to work through disability, lack of education, lack of equal employment opportunity because of race or sex, and many other factors. But these factors do not, and should not, serve to deny these persons from that minimum level of financial dignity and security to which they are entitled.

My proposal to finance the increase of minimum social security benefits is a frank recognition of this fact, and, in my opinion, is long overdue. It will mark an open acceptance that providing minimum monthly benefits to our retired persons benefits all of us. And those of us who have benefited most richly from our free enterprise system should properly contribute the most to insure that the least fortunate in our society can be guaranteed a minimum subsistence during their retirement years.

Finally, there will be those who argue that our budgetary needs will not permit shifting part of the burden of financing social security benefits to the general revenues. Mr. President, this is a question of our national priorities. My proposal will require that our society address squarely the alternatives facing it. Is the alleged security sought through an ABM system more important than the security of our own people who have reached retirement years? Is the dignity of America achieved through stationing troops abroad more important than enabling our elderly to live out their final years in the dignity that financial independence can give them? Is a defense budget that eats up more than half of our general revenues more critical than permitting those in need to have a budget that will provide them with the minimum necessities of life?

Mr. President, the United States lags far behind other civilized and highly developed countries in Western Europe

in the level of social security benefits that are paid to our retired citizens. It is time to close the gap. My proposal to increase the minimum monthly payment to $100 for each single person and $150 for each married couple is a matter of first priority.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred.

The bill (S. 3658) to amend title II of the Social Security Act so as to raise from $64 to $100 the minimum primary insurance amount thereunder, introduced by Mr. GORE, was received, read twice by its title, and referred to the Committee on Finance.

ADDITIONAL COSPONSORS OF BILLS

S. 3623

Mr. GOLDWATER. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. BENNETT) be added as a cosponsor of the bill I introduced on behalf of myself and the senior Senator from ARIZONA (Mr. FANNIN), S. 3623, to amend title 39 of the United States Code to prevent insulting and profane use of the U.S. mail as a means to distribute unsolicited and unwanted sexually offensive advertisements.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

S. 3643

Mr. DOLE. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT) I ask unanimous consent that, at the next printing, the names of the Senators from Nebraska (Mr. HRUSKA and Mr. CURTIS), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from New York (Mr. JAVITS), and the Senator from Oregon (Mr. HATFIELD), be added as cosponsors of S. 3643, to provide for the issuance of a gold medal to the widow of the Reverend Dr. Martin Luther King, Jr., and the furnishing of duplicate medals in bronze to the Martin Luther King, Jr., Memorial Fund at Morehouse College and the Martin Luther King, Jr., Memorial Center at Atlanta, Ga.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

ADDITIONAL COSPONSOR OF A JOINT RESOLUTION

S.J. RES. 181

Mr. YOUNG of Ohio. Mr. President, for the distinguished junior Senator from Missouri (Mr. EAGLETON) presently presiding over the Senate, I ask unanimous consent that, at the next printing, the name of the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of Senate Joint Resolution 181, proposing an amendment to the Constitution to provide for the direct popular election, of the President and Vice President of the United States and for the determination of the result of such election.

The ACTING PRESIDENT pro tempore (Mr. EAGLETON). Without objection, it is so ordered.

NOMINATION OF JUDGE G. HARROLD CARSWELL TO THE SUPREME COURT

Mr. YOUNG of North Dakota. Mr. President, the time is long overdue for the Senate of the United States to vote up or down President Nixon's nomination of Judge G. Harrold Carswell, as Associate Justice of the Supreme Court of the United States. This nomination has been before the Senate for more than a month and there has been ample opportunity for everyone to study his qualifications in detail.

A motion to recommit would mean an unnecessary delay. A substantial majority of the circuit court judges with whom he served, have expressed strong support for his confirmation. This, together with the unanimous approval of the American Bar Association's Committee on Judicial Selection, Tenure, and Compensation, provides a strong and convincing argument, for confirmation by the U.S. Senate. These attorneys should be the best judges of his professional qualifications.

Judge Carswell's membership on the Supreme Court of the United States, would provide a better philosophic balance. He has established an enviable reputation of being able to write opinions that are short, concise, and understandable. The Supreme Court of the United States, in recent years, has an overbalance of Justices who may be considered by some, as intellectual giants, but whose opinions lack both judgment and clarity.

Judge Carswell may be no Abraham Lincoln, but Lincoln, too, was belittled and ridiculed for not being a great intellectual. Time has proven the great wisdom of his judgment. The writings and speeches of this man, who was not looked upon as an intellectual giant of his time, are among the most revered of any, in all the history of this Nation.

I shall vote against recommital and for the confirmation of the nomination of Judge Carswell.

Mr. CRANSTON. Mr. President, yesterday I made a statement concerning the nomination of G. Harrold Carswell to the Supreme Court. I discussed the support or the lack of support, or the nature of that support from civil rights attorneys who have practiced before Judge Carswell in Florida.

I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT OF SENATOR CRANSTON

On March 18, I publicly accused Judge G. Harrold Carswell of bias and hostility against civil rights attorneys who argued cases in his court, in violation of Canons 5, 10, and 34 of the Canons of Judicial Ethics.

I did so on the basis of:

1. An analysis of the record of hearings conducted by the Senate Judiciary Committee, and

2. Personal conversations I had with four civil rights attorneys who had appeared before Judge Carswell. They included John Lowenthall, law professor at Rutgers University; LeRoy D. Clark, an associate professor of law at New York University—both of whom had previously testified before the Committee—and Theodore Bowers, an attorney in Panama City, Florida, who had not testified.

Mr. Bowers accused Judge Carswell of being emotional, excitable and hostile on civil rights matters, of having criticized Supreme Court civil rights decisions from the bench, and of having verbally attacked U.S. attorneys appearing on civil rights matters, as well as private civil rights attorneys.

Professor Lowenthall accused Judge Carswell of overt and close-minded hostility, of pre-judging civil rights cases, and of having acted toward him in a threatening manner.

Professor Clark charged Judge Carswell with being extremely hostile, intemperate and intimidating—especially toward civil rights attorneys—and of deliberately confusing legal proceedings to throw civil rights attorneys off balance and muddy the record so as to make successful appeals difficult. He said the other civil rights lawyers in northern Florida, all of whom he knew, had voiced similar complaints against Judge Carswell.

The fourth civil rights attorney I had talked with also had not testified before the Committee. He too confirmed Judge Carswell's biased and hostile behavior. But he asked that his identity not be made public. I, of course, honored his request. But since my March 18 statement, this attorney has decided to come forward and has given me permission to make his identity known.

He is Earl M. Johnson, an attorney in Jacksonville, Florida. Mr. Johnson is a member of the Jacksonville City Council.

I and my staff have continued this line of investigation. We have tried to contact every civil rights attorney who had argued a case before Judge Carswell while he was a federal judge in the northern district of Florida. Over the past two weeks, we have spoken to ten attorneys, including the four I have already identified. The others are: Jerome Borstein, James Sinderlin, Tobias Simons, Maurice Rosen, Reece Marshall, and Sheila Rush Jones.

Every one of the 10 attorneys told us that Judge Carswell was unfair and biased, had pre-judged his clients' cases and had a statewide reputation for being anti-civil rights. Every one declared strong opposition to the confirmation of Judge Carswell.

In addition, one of these attorneys has furnished me with an affidavit swearing that "Judge Carswell was very discourteous to me, interrupting me with frivolous comments as I attempted to argue the motion. In general he treated me in a mocking, ridiculing way. Only after I began prefacing my remarks with such statements as 'Let the record reflect I am attempting to say etc.' did he cease to interrupt and allow me to complete my argument. I have never before or since received such disrespectful treatment from a federal judge."

The signer of this affidavit is Sheila Rush Jones. Mrs. Jones had appeared before Judge Carswell in January 1967, less than two years after she had been admitted to the bar. At the time, she was 26 years old.

Thus, so far as we have been able to determine, civil rights attorneys who practiced before Judge Carswell unanimously agree to his bias and hostility in civil rights matters and unanimously oppose his confirmation.

There has been only one apparent exception.

He is Charles F. Wilson. Mr. Wilson has been with the Equal Employment Opportunity Commission in Washington since last fall. He is Deputy Chief Conciliator.

On February 5, Mr. Wilson sent a letter to the Chairman of the Judiciary Committee stating that he had represented plaintiffs in civil rights cases before Judge Carswell from 1958–1963.

In that letter, Mr. Wilson said in part:

"As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court, there was not a single instance in which he was ever rude or discourteous to me, and I received fair and

courteous treatment from him on all such occasions. I represented the plaintiffs in three of the major school desegregation cases filed in his district. He invariably granted the plaintiffs favorable judgments in these cases, and the only disagreement I had with him in any of them was over the extent of the relief to be granted."

Supporters of Judge Carswell have given this letter great weight and credence.

In his March 17 speech on the Senate floor in which he announced his decision to support Judge Carswell, Senator Fanning, for example, said he had "relied to a great extent" on statements of "lawyers and judges who have known and worked with Judge Carswell over the years."

He said he was "particularly impressed" with the Wilson letter and urged every Senator to read it.

"It is true that some witnesses appeared before the Senate Judiciary Committee and testified that Judge Carswell was biased and prejudiced against civil rights litigants," Senator Fannin said. "However, none of these witnesses had nearly as much experience in dealing with Judge Carswell as Mr. Wilson."

Balancing the "impressive testimony" of Mr. Wilson's letter against those other allegations, Senator Fannin said, "it is not difficult for me to make my decision."

On March 19, in a colloquy with Senator Hart, and again on March 20, in colloquy with Senator Mondale, Senator Gurney repeatedly cited Wilson's letter in attempting to refute my charges of ethics violations and bias against Judge Carswell. He called Mr. Wilson's letter a "very persuasive" refutation of anti-civil rights charges against Judge Carswell and said the letter was "weighty evidence" of Judge Carswell's "senisitivity" in human rights matters.

"For the life of me," Senator Gurney said, "I cannot see how Senators, in the face of evidence like that [letter], can come here and say that Judge Carswell is insensitive, that he is not interested in human rights, that he does not like black people, that he does not give them a fair shake in his court."

And the majority of the Judiciary Committee itself relied heavily on the Wilson letter in an effort to refute charges against Judge Carswell of anti-civil rights bias.

In its Feb. 27 report recommending the Judge's confirmation, the majority singled out the Wilson's letter to answer allegations by other civil rights attorneys that Judge Carswell "had evidenced hostility toward them and toward their clients' claims."

"If Judge Carswell were discourteous to civil rights attorneys or biased against civil rights litigants," the majority report declared, "Mr. Wilson would certainly know of it."

The fact is, Mr. Wilson did know of Judge Carswell's discourtesy to civil rights attorneys. Mr. Wilson did know of Judge Carswell's bias against civil rights litigants. But Mr. Wilson withheld that information from the Committee.

I have received an affidavit from Theodore R. Bowers, a Panama City attorney, who took over a number of civil rights cases from Mr. Wilson when the latter was appointed legal counsel for the Technical Assistance Program of the State of Florida.

Mr. Bowers, one of the leading civil rights attorneys in the state, declares that on September 8, 1965, he and Wilson had "a long discussion" about the cases and about Judge Carswell, who was then presiding over them.

Mr. Bowers discloses that Mr. Wilson appeanor" in regard to school desegregation cases and swears that "Mr. Wilson described Judge Carswell as having segregationist views and tendencies and stated that Judge rised him of the Judge's "attitude and de- Carswell was antagonistic toward such cases."

Why, then, did Mr. Wilson send a letter to the Committee which he knew would be interpreted as an endorsement of Judge Carswell?

Mr. Vincent H. Cohen, an attorney in Washington, D.C., provides the answer. Mr. Cohen has given me an affidavit in which he swears that Mr. Wilson told him on Mar. 26 that his letter "was written at the request of the Department of Justice" and that "if he had not been contacted by the Department of Justice, he would have never sent his Feb. 5, 1970, letter to the Judiciary Committee.

Cohen further swears that Mr. Wilson informed him that he "does not now nor has he ever supported Judge Carswell's nomination", that "as a U.S. attorney and U.S. District Judge as well as in his private affairs, Judge Carswell has gone beyond the bounds of all propriety in taking part in discriminatory schemes and plans designed to thwart federal law," and that "Judge Carswell lacks the necessary intellectual and moral capacity to sit in judgment on the issues facing the court which are critical to the well being of American citizens, both black and white".

Besides being subjected to this pressure by the Justice Department, Mr. Wilson also acted out of loyalty to Judge Carswell.

In his affidavit, Mr. Bowers avows that Mr. Wilson confided that Judge Carswell had written "a magnificent recommendation" to help him get his new job with the Florida Technical Assistance Program.

After carefully reviewing all these facts:

1. I charge that [out of nearly a dozen civil rights attorneys who had appeared before Judge Carswell, the administration sought out the one attorney who was vulnerable to pressure—a government employee, beholden to Judge Carswell, who could be dismissed at Executive discretion.]

2. I charge that the administration used Mr. Wilson in a deliberate effort to mislead the Committee, the Senate and the American people.

3. I charge that the administration led Mr. Wilson to withhold from the Committee what he knew to be the full truth about Judge Carswell's unethical bias and hostility against civil rights attorneys and their clients.

4. I charge that this deception by the administration and Mr. Wilson materially contributed to Judge Carswell being approved by a majority of the Judiciary Committee.

I believe that President Nixon, himself, has been misled by his advisors as to Judge Carswell's qualifications and fitness for the Supreme Court. I call upon him to withdraw the nomination.

Short of that, I believe this additional evidence certainly provides new and conclusive reasons for recommitting the nomination to the Judiciary Committee.

Clearly, the full and accurate record of Judge Carswell's anti-civil rights bias, and his repeated violations of Canons 5, 10, and 34 of the Canons of Judicial Ethics, was not presented to the Committee before it sent Judge Carswell's nomination to the floor.

Mr. CRANSTON. Since I made my statement, a variety of statements have been made by those involved in this situation. The statements have been inconsistent and contradictory in a great many ways. They have also, I think, been quite revealing.

In this controversy over the letter sent to the Committee on Judiciary on February 5 by Charles Wilson, Deputy Conciliator for the Equal Employment Opportunity Commission, we must not lose sight of the main issue; that is, the qualifications and fitness of Judge Carswell to serve on the Supreme Court, particularly in light of evidence that he holds segregationist views, that he has been biased against civil rights cases, and that he has been involved in the discriminatory practices of private groups.

Mr. Wilson's letter was written to help offset this image, and it worked for a while.

Senate supporters of Judge Carswell, taking the letter on its face value, have relied heavily on it as evidence that he is not biased against or hostile to the black community, especially to civil rights attorneys and their clients.

Mr. Wilson's letter was widely interpreted as an implied endorsement of Judge Carswell's nomination by a black civil rights attorney.

On March 20, the Senator from Florida (Mr. GURNEY) placed in the RECORD a telegram from one Julian Bennett, which reads:

> First counsel for Negro plaintiffs was Charles F. Wilson, Pensacola, Florida, who I understand has filed a letter supporting Judge Carswell's nomination to Supreme Court.

There in the RECORD is a flat suggestion that the letter did amount to an endorsement of Carswell by Wilson. It is no accident that this letter has been interpreted as an endorsement. It was carefully written to give that impression. The letter was sent at the request of the Department of Justice. Mr. Wilson himself admits this. So does Mr. William H. Rehnquist, Assistant Attorney General for the Office of Legal Counsel.

More than that, the letter was actually written by Mr. Rehnquist acting as a top official of the Department of Justice. The letter was submitted to Mr. Wilson for his approval and signature.

I read from this morning's Philadelphia Inquirer:

> Wilson acknowledged he wrote the letter at the request of a Justice Department official.

I read from this morning's Baltimore Sun:

> Mr. Rehnquist asked him whether he would testify before the Judiciary Committee, prepare an affidavit, or write a letter. He chose to present his views by letter, Mr. Wilson said.

I read from this morning's New York Times:

> Mr. Rehnquist said that he had drafted the letter.

However, the letter was made to appear to be a personal, unsolicited letter from Mr. Wilson to the committee. Obviously, it was no such thing.

There is a world of difference between a letter spontaneously written, drafted by the writer himself of his own volition, and a letter requested and actually drafted by an important representative of Attorney General John Mitchell, the leading Presidential adviser charged with the responsibility of securing the confirmation of the nomination he recommended to the President.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may proceed for not more than 5 minutes.

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

Mr. CRANSTON. Mr. President, how, under these circumstances, can the Wilson letter be considered an unbiased and complete statement of fact, as Mr. Wilson intended it?

It cannot. Mr. Wilson himself now concedes that he did not intend his letter to be an endorsement of Judge Carswell.

Mr. Wilson told the press yesterday:

> My letter was a statement of fact. It was neither an endorsement nor a commendation.

I think Mr. Wilson should have said his letter was a statement of partial fact. Though given repeated opportunities by the press yesterday to endorse Judge Carswell, Mr. Wilson consistently refused to take a stand in support of the Judge's confirmation.

I read from this morning's New York Times again:

> Mr. Wilson replied that his letter had not been intended as an endorsement of Judge Carswell—as it has been characterized by some of the judge's supporters—and that he personally would have chosen a more liberal nominee.
>
> He added that he had "stated facts and not conclusions, limited to my own experience," and had not meant to say how other civil rights lawyers might have been treated by Judge Carswell. Mr. Wilson also said that he "didn't intend to say one way or another whether he [Judge Carswell] was biased."

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

Mr. CRANSTON. Let me close with these remarks.

Mr. Wilson is an intelligent man. He knew that a letter requested by the Justice Department and written by the Justice Department would be used to support Judge Carswell's nomination. He knew that his letter would be used to put on the Supreme Court a man whom he now admits he does not endorse. The question that Mr. Wilson must now explain is, What induced him to write such a misleading letter?

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

Mr. CRANSTON. I yield to the Senator from Kansas.

Mr. DOLE. As I recall last evening on television, Mr. Wilson indicated the pressure may be coming from the anti-Carswell forces and not from others. Does the Senator from California have any comment on that?

Mr. CRANSTON. It is for that reason that I did not speak, myself, or have any member of my staff talk to Mr. Wilson prior to the revelations I made yesterday. I suspected that he would then say that he had been pressed by a U.S. Senator. I did not want to give him that opportunity.

It seems to me that the administration singled out the one man who had appeared in Judge Carswell's court as a civil rights attorney who would be vulnerable to pressure, a man working for the Government now, and solicited this letter from that man, knowing it would be easier to get such a thing from him than from any other person who could give testimony.

Mr. DOLE. If the Senator will yield, I think he may do a disservice to Mr. Wilson. I understand he is a very well qualified attorney.

I have read his letter, which appears on pages 328 and 329 of the hearings. I read it as a statement of fact, as a statement indicating that he did receive courteous and fair treatment before Judge Carswell's court.

I might add that he was very active in integration activities in Tallahassee. He did practice before Judge Carswell's court many times. I assume that he has a right to make that statement, whether or not he is an employee of the Federal Government. I accept his word when he says he was not pressured by anybody in the administration; that he did make a statement and is going to stand by it. He deserves great credit for doing so, notwithstanding the indirect pressures being brought upon him.

Mr. CRANSTON. I would say the issue is, did this man write a letter that amounted to an endorsement of Judge Carswell as it has been interpreted by supporters of Judge Carswell? The fact is that he did not. He stated that it was not an endorsement; and the fact is that the main question in regard to the origin of the letter, then, is, why did he write a letter which he knew would be used to support a man whom he, himself, does not support for the Supreme Court?

Mr. DOLE. The letter speaks for itself. That is the best evidence, as the Senator from California knows. I would be happy to read the letter but we can read the letter in the RECORD. The New York Times can read the letter, though they failed to read Senator COOPER's statement of Saturday. It did not even appear in the first edition of their paper on Sunday. We can all make our own determination concerning opponents of Judge Carswell.

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

Mr. CRANSTON. I yield.

Mr. BROOKE. Is it the Senator's contention that the letter which the distinguished Senator from Kansas has referred to was not written by Mr. Wilson?

Mr. CRANSTON. Yes. It now develops that Wilson admits he did not write the letter; that Mr. Rehnquist, the Assistant Attorney General, states he did write the letter. He submitted it to Wilson, and Wilson made a minor change, according to the press accounts, and the letter was sent to the Senate. It is an administration letter, written by officials of the administration.

Mr. BROOKE. But the Senator states that the letter was signed by Mr. Wilson, though Mr. Wilson was not the author?

Mr. CRANSTON. Yes.

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

Mr. CRANSTON. I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I shall not object—is the Senate now in the period for the transaction of routine morning business, with statements therein limited to 3 minutes?

The PRESIDING OFFICER. As in legislative session.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

The PRESIDING OFFICER. Without objection, the Senator from California may proceed for 5 additional minutes.

Mr. CRANSTON. I yield to the Senator from Massachusetts.

Mr. BROOKE. I offer no judgment on this matter. I do not know Mr. Wilson, and I certainly have all respect for the distinguished Senator from California. I think the distinguished Senator from California has provided a great service to the Senate in this debate, particularly a great service insofar as the motion made by the distinguished Senator from Indiana is concerned. He raises the question as to whether the letter written by Mr. Wilson constitutes an endorsement of the candidate. As I understand it, he raises that question because he believes—and I think justly so—that several of our colleagues have relied upon this letter as an endorsement in making their decision as to whether they should vote for the confirmation of the nomination. Is that correct?

Mr. CRANSTON. That is correct.

Mr. BROOKE. So it seemed to me that this would be a perfect opportunity for the Judiciary Committee to conduct a hearing, at which time they could call Mr. Wilson before that committee, under oath, and question him as to the purpose for which the letter was written—whether pressures were brought to bear on him at the time he agreed to sign the letter, which was written by someone in the administration, as the Senator says, and whether in fact he does endorse this nominee for confirmation to the Supreme Court of the United States.

Does the Senator agree with this?

Mr. CRANSTON. I agree with that. I would add to that that the members of the committee, themselves, should reappraise their action, because the majority report cited the Wilson letter as one of the convincing elements of the case for Judge Carswell. The specific comment they make, after inserting the letter, is as follows:

> If Judge Carswell were discourteous to civil rights attorneys or biased against civil rights litigants, Mr. Wilson would certainly know of it.

The fact is that Mr. Wilson never has made any statement on that subject. He never has said that he did not know of bias being employed by Judge Carswell in his court against civil rights attorneys other than himself.

Mr. BROOKE. Mr. President, will the Senator yield further?

Mr. CRANSTON. I yield.

Mr. BROOKE. Does the Senator know whether Mr. Wilson was given an opportunity to appear personally before the Senate Judiciary Committee?

Mr. CRANSTON. No; he was given no opportunity, except that Mr. Rehnquist, of the Department of Justice, states that he offered him three alternatives; to write a letter or to appear before the committee were among those alternatives. I gather that it was decided that

it would not be wise for Mr. Wilson to appear before the committee, because under cross-examination by those who have doubts about Judge Carswell's qualifications, it would emerge that this man by no means was endorsing him, as the simple matter of a letter would enable them to imply he was endorsing Carswell.

Mr. BROOKE. The question has been raised about the best evidence. I ask this question of the distinguished Senator from California: Does he have any knowledge as to whether there was any impediment or any reason why Mr. Wilson did not—could not—appear before the Senate Judiciary Committee?

Mr. CRANSTON. I think the officials of the administration would not want him to appear, because it would become apparent under cross-examination that he was not a supporter of their cause within his heart.

It is also a fact that this man holds a position in Government and apparently is seeking promotion, a promotion which depends upon—or can depend upon—decisions made in the White House.

A further point is that I made affidavits available yesterday, and I have more, in which people swear that Mr. Wilson told them privately that he is opposed to Judge Carswell because he knows he is biased.

Mr. BROOKE. Well, with all due respect to the distinguished Senator from California, that is the Senator's opinion as to why he did not appear?

Mr. CRANSTON. That is right.

Mr. BROOKE. It would seem to me that a motion for recommittal should carry if, in effect, it would give an opportunity to the Judiciary Committee to go deeper into the several matters upon which doubt has been raised during the course of this rather lengthy debate on this confirmation. One was the question of credibility concerning the golf course incident where the committee would call in Mr. Horsky, for example, and question Mr. Horsky so that they could make some determination as to what the other facts are in that matter.

The Senator has raised another point which I think certainly would be a proper subject for inquiry by the Judiciary Committee; namely, did Mr. Wilson intend an endorsement by the letter which he sent to the Judiciary Committee? It would seem to me that this is the contribution the Senator from California has made because I am sure that many Senators feel there are matters which have not been thoroughly examined by the Judiciary Committee in its deliberations on the confirmation; is that not correct?

Mr. CRANSTON. That is correct. I thank the Senator for his comments on my efforts in this regard. Others have raised many other questions which remain unanswered beyond those cited by the Senator from Massachusetts. They all add up to a very strong, I believe, totally convincing case for recommittal of the nomination to the committee so that it can explore the unanswered questions which have arisen since they reported the nomination from that committee.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be allowed to proceed for not to exceed 10 minutes.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

FUNDAMENTAL QUESTIONS ON LOCKHEED'S FINANCIAL CONDITION REMAIN UNANSWERED

Mr. PROXMIRE. Mr. President, I would like to make an interim report on the information I have been able to gather so far concerning the request of the Lockheed Aircraft Corp. for $641 million to alleviate its financial difficulties on its military contracts.

On March 10, I formally requested the Comptroller General of the United States to investigate Lockheed's financial condition and its ability to continue performance of its military contracts. Because of the urgency of the situation, I asked that the report be completed within a very short time period, just 10 days. Not unexpectedly, the data that has been gathered is incomplete and raises additional questions. I have therefore asked the Comptroller General to continue gathering information in answer to my original request and to provide additional facts.

LACK OF FACTS

Regrettably, I must report that as of this date, no one in the Congress or in the Department of Defense has the facts on which to base an intelligent decision on the Lockheed request.

In effect, Lockheed is asking for payment of claims growing out of four military contracts, the C–5A cargo plane, the Cheyenne helicopter, the SRAM missile, and several shipbuilding projects.

In each case, the claim is disputed by the Government.

Normally a contractor continues in the performance of his contracts regardless of the claims that he may have filed against the Government, awaiting adjudication by the administrative process. In this case, however, Lockheed complains that the amounts in question are so great that it will not be able to continue performance unless it receives immediate payment. Another way of viewing Lockheed's position is to say that it has threatened to quit working on programs deemed by the Pentagon to be necessary to national security unless the Government pays up and pays up in a hurry.

QUESTIONS NEED ANSWERS

At this point, several fundamental questions need to be answered before any decision is made.

First. What is Lockheed's financial condition?

Second. How did Lockheed's financial problems develop? Are they the result of Pentagon mismanagement, or contractor inefficiency?

Third. Do similar financial difficulties exist with respect to other military contracts with Lockheed?

Fourth. To what extent is Lockheed's present difficulty the result of problems with its non-Government, commercial ventures?

Fifth. If the Government provides Lockheed with the funds it is requesting, is there any assurance that this contractor will not come back for more in the future?

I am shocked that none of these questions can be answered at the present time. On March 10, the New York Times, on the basis of Deputy Defense Secretary David Packard's testimony to the House Armed Services Committee, reported that the "Pentagon backs aid for Lockheed." I fail to see on what basis the Pentagon could have made its decision to support Lockheed's request, if indeed such a decision has been made. In fairness, it should be observed that spokesmen for the Department of Defense have stated that they are exploring all ways to resolve this problem.

EXPLORATIONS IN THE DARK

But I cannot help but wonder whether these explorations are being carried on in the dark. For example, I asked in my letter to the Comptroller General for a list of all Lockheed military, space, and related contracts, their dollar amounts, the funds authorized and appropriated so far, and the sums paid to Lockheed as reimbursement to date. To my surprise, we learned that no such list had yet been prepared in the Department of Defense. Of course, Lockheed complains about its financial plight on only four programs. But Lockheed has many military contracts. It is the biggest defense contractor we have. It would seem to me to be fundamental to any consideration of such a monumental request for funds—that is $641 million—for the Government to review all of its dealings with this contractor.

I am now assured that such a listing is being compiled by the Pentagon, and that it will be made available within the next few days.

By the way, it is interiguing to me that only four contracts have been selected for the basis of the extraordinary claim that is being made. It is true, of course, that huge cost overruns infect each of the four programs.

But other Lockheed contracts are similarly infected. There is a multibillion-dollar cost overrun on the Poseidon program. And there is a huge overrun on the deep submersible rescue vehicle. How have these programs affecetd Lockheed's financial capability?

There is also the S–3A aircraft contract, awarded only last year to the Lockheed Corp. This is a $3 billion program and, according to my information, it is already in trouble.

NO CASH FLOW STATEMENT

A more shocking example than the lack of information is the fact that the Pentagon does not have a cash flow statement of Lockheed's finances.

The cash flow statement is the most fundamental information necessary for an analysis of short-term cash needs. It is essential for any examination of short-

run financial movements, and has become a required tool for management, and a measuring stick for creditors.

No bank in its right mind would extend substantial credit to a corporation without seeing a cash flow statement. A typical cash flow statement would show monthly disbursements and receipts over a given period of time. Using such figures, the cash requirements throughout the time period can be ascertained.

WHAT ARE CASH REQUIREMENTS?

Two of the questions I directed to the Comptroller General concerned Lockheed's cash flow statement. One question asked for the cash requirements for all major Lockheed Aircraft programs over the next 2 years. Another question asked for the cash deficts and surpluses for all major Lockheed programs. The response to these questions was most disappointing. The Pentagon responded by supplying a copy of Lockheed's letter of March 2, 1970, to Secretary Packard, and copies of Secretary Packard's testimony before the House and Senate Armed Services Committees. According to Robert C. Moot, the Assistant Secretary of Defense:

> These attachments summarize Lockheed's cash deficits and cash requirements on Government programs with which the company has major problems.

I beg to differ with Secretary Moot, who should know better. Lockheed's letter and Packard's testimony, copies of which I already had, do not summarize Lockheed's cash deficits and cash requirements on Government programs with which the company has major problems. There is no way of constructing a cash flow statement from the paucity of information contained in those statements. Further, I requested information for all major Lockheed programs, not for only the four about which Lockheed is now complaining. I have pointed out that these amount to billions of dollars and some of them are in serious trouble. There is also no question about overruns in some of the others.

BOTH PENTAGON AND LOCKHEED INFORMATION INADEQUATE

The response for cash flow information from Lockheed is equally disappointing. In a letter from Keith Anderson, vice president of Government Contracts and Pricing, dated March 19, 1970, to the General Accounting Office, Lockheed claims that its earlier letter of March 2 outlined its "cash requirements on the major programs on which contractual procedures and disputes have created financial problems."

Again, I disagree. The Lockheed letter outlines its "cash requirements" only in the sense that it asks for an enormous amount of money which it claims it requires. It is a totally inadequate explanation of its condition, however, from the point of view of the Government's need to make a decision.

Lockheed also states in its letter of March 19 that it is developing additional information with respect to its cash position on its major military contracts, and that this information will be made available to the Defense Department in the near future.

I have now been assured that the Defense Department is putting together a cash flow statement on Lockheed, and that this information will be made available by April 8.

What is disturbing, though, is the fact that the Pentagon has gone for so long without this information that it ought to have.

Why did it not require a cash flow statement from Lockheed before now? Any bank would have.

Why should it take 2 weeks for the Pentagon to put together a cash flow statement? Is it possible that Lockheed has not itself prepared a cash flow statement? I could well understand how financial disaster could meet a firm too shortsighted to analyze its own short-term cash requirements. On the other hand, if Lockheed has a cash flow, why could the Pentagon simply not ask for it and not take 2 weeks to put it together?

In all of this, I detect an appalling lack of knowledge about Lockheed's financial condition on the part of the Department of Defense. It is inconceivable to me that a Government agency could have placed literally billions of dollars worth of military contracts with a corporation while knowing so little about the condition of that corporation and its ability to perform its contracts.

PUBLIC INTEREST NOT PROTECTED

I am not satisfied that the Department of Defense has acted responsibly in this matter or that the public interest, as opposed to Lockheed's corporate interest, is being given adequate consideration.

I have been informed that the administration is seriously considering submitting to the Congress within the next few days an amendment to the fiscal 1971 budget to make provision for the Lockheed claims. Such an action on the part of the administration could indicate that it has already made its decision to pay Lockheed's claims despite the current ignorance about Lockheed's finance and the reasons for Lockheed's condition.

I would hope that if a budget amendment is transmitted to the Congress, it would be accompanied with a detailed explanation of the administration's position and its analysis of the entire situation.

Presently there are many more questions than there are answers, and it would be a serious breach of the public trust if the decision were made before these questions were completely answered.

I ask unanimous consent to have printed in the RECORD the letter from Lockheed to the GAO dated March 19, 1970, and the letter from Secretary Moot to the GAO dated March 19, 1970, two articles from the Washington Post dated March 6 and March 7, an article from the New York Times dated March 10, and two articles from the Armed Forces Journal dated March 14 and March 21, 1970.

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

LOCKHEED AIRCRAFT CORP.,
Burbank, Calif., March 19, 1970.

Mr. JAMES H. HAMMOND,
Associate Director Defense Division,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. HAMMOND: In accordance with your oral request we have furnished you a list of Lockheed military, space, and related contracts and the funded face value of each. (As discussed, the general rule followed was to exclude contracts with backlog values less than $1 million.) Offices within the Government must be the source for information respecting funds authorized and appropriated, and we have suggested to you that the sums paid to date could best be obtained from the Department of Defense or other Government offices.

Further in accordance with such request we provide you the information below.

The amount expended through 1969 on the model L–500 which is potentially a commercial cargo aircraft derivative of the C–5A, is $10,776,888. Such expenditures commenced in 1966. There has been no decision to proceed with a model L–500 program. Activities on the L–500 to date have been directed mainly to studies and investigations of a commercial configuration and commercial cargo aircraft system, and have also included wind tunnel tests, a cargo loading simulator and flight station mock-up.

The amount expended on the L–1011 TriStar commercial jet transport is included in our Lockheed Annual Report which, upon completion of the printing of copies currently in process, will be publicly released and we will at that time deliver a copy to you. Meanwhile, we have provided to you a preliminary proof copy[1] of that Report but request that no public disclosure be made of information therein other than that which was disclosed in our press release March 5, 1970, issued prior to completion of audit.

Lockheed assets values were disclosed in the condensed financial statement included in our press release mentioned above.

You requested the total amount of Government-owned property held by Lockheed. The total amount of Government-owned facilities in possession of Lockheed as of 1969 year end, had an acquisition cost of $227,723,000.[2] The estimated net depreciated value is $58,599,000. Such facilities do not include certain other Government-owned property in Lockheed's possession. For example, the dollar amount of equipment furnished by the Government from time to time for incorporation in deliverable end items is not readily ascertainable or calculable. Similarly, property is continuingly being acquired under cost reimbursement contracts, the title thereto vesting in the Government.

Progress payments totals received by Lockheed from the Government were as follows:

Unliquidated balance at 1968 end	$1,167,553,147
Amount received in 1969	972,209,201
Amount liquidated in 1969	576,494,197
Unliquidated balance at 1969 end	1,563,268,151

You have also asked us for information regarding cash requirements for all major Lockheed programs over the next two years, including the L–1011, and information on cash deficits and surpluses for all major Lockheed programs, including the L–1011, on Lockheed premises and customer premises.

[1] On delivery of this letter the preliminary proof copy was returned to lockheed at its request.

[2] Gen. Stanwix-Hay says $212 million.

In our letter to Secretary Packard of March 2, which we understand has been made available to you, we outlined our cash requirements on the major programs on which contractual procedures and disputes have created financing problems. We are developing additional information with respect to our cash position on these and other major Department of Defense programs in response to a recent request from the Department of Defense. This information will be made available to the Department in the near future.

Concerning the L-1011 aircraft, as you can appreciate, information reflecting projections on any highly competitive commercial program is extremely sensitive. However, it may become necessary or desirable to furnish the Department of Defense certain information respecting the L-1011 program to show its possible relationship to the overall financial situation. In that event, it is our intention to advise the Department that the sensitivity of such information requires that we furnish it in confidence so that it will be within the exception provided for "trade secrets and commercial or financial information obtained from any person and privileged or confidential" under the Public Information Act of 1966 and also will be protected from disclosure under 18 USC 1905.

We have not studied the cash effect if the C-5A program were terminated at 58 aircraft. If such termination were to occur and the amounts now in dispute were amplified as a consequence, the C-5A cash problems would seem to be similarly amplified.

You also alluded to "possible solutions to the Lockheed crisis considered by the Department of Defense including bankruptcy, break-up of the Lockheed Corporation, and substitution of new tenants for the Government's Marietta, Georgia, and Sunnyvale, California, plants". Serious consideration of bankruptcy or break-up of the corporation as possible solutions defies both equity and common sense. Any such steps would seriously interfere with performance of these and other major programs and in effect would resolve contractual disputes against this corporation without the benefit of adjudication.

Substitution of tenants at the Marietta and Sunnyvale plants would be grossly impracticable if not impossible. For example, at Marietta while the total operation of the plant involves the use of Government-furnished facilities, a greater amount of contractor-furnished facilities is involved as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$173.4
Net book value	99.4
Government-furnished:	
Acquisition cost	93.6
Estimated depreciated value	19.0

The Lockheed-owned property includes such most essential facilities as the C-5 test center which was built on Lockheed-owned property with Lockheed funds at a cost of $12.7 million; and the machinery and other equipment included in the total facilities amounts above are as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$65.9
Net book value	33.7
Government-furnished:	
Acquisition cost	38.0
Estimated depreciated value	4.2

Substitution of tenants at Sunnyvale would appear to be equally impracticable and virtually impossible because of the close integration of Lockheed-furnished and Government-furnished facilities as follows:

[In millions]

Contractor-furnished:	
Acquisition cost	$187.7
Net book value	109.6
Government-furnished:	
Acquisition cost	70.6
Estimated depreciated value	26.1

It is our opinion that such vital programs as Polaris, Poseidon, C-5A and C-130 simply could not be carried forward without Lockheed property and equipment which would not be available to another tenant. While conceivably some Lockheed employees including some supervisory and middle management personnel could be obtained by a substitute tenant of the Government-owned property, it is highly unlikely that a sufficient total of such personnel could be obtained to permit continued and uninterrupted performance of these programs.

Should you wish further information respecting the impracticability of tenant substitution, we suggest that your representatives examine the properties at the Marietta and Sunnyvale plants.

Sincerely yours,

KEITH ANDERSON.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 19, 1970.

Mr. JAMES H. HAMMOND,
Associate Director, Defense Division,
General Accounting Office,
Washington, D.C.

DEAR MR. HAMMOND: At our meeting last Thursday, we agreed to assist with responses to questions posed by Senator Proxmire in his letter of 10 March 1970, to Mr. Staats, concerning the financial problems of the Lockheed Aircraft Corporation.

The attachments to this letter contain the answers that we are able to provide to questions numbered (4), (5), (9), and (10), in Senator Proxmire's letter. It is our understanding that you will obtain answers to questions numbered (2), (3), (8), and (11), from Lockheed directly or from your own sources.

In response to Question 1, a listing of Lockheed's contracts with the government is being compiled. There are, however, substantial difficulties in bringing this data together from different sources and in programming our computers for a print-out which is responsive to the request. Because of these difficulties, it appears that at least two weeks will be needed to compile this information. In the interim, our answer to Question 9 partially fulfills the requests in Question 1.

In response to Questions 6 and 7, we are attaching Mr. Haughton's letter of 2 March 1970 to Secretary Packard, along with copies of Secretary Packard's testimony before the Armed Services Committees. These attachments summarize Lockheed's cash deficits and cash requirements on government programs with which the Company has major problems.

We also submit the copies of Secretary Packard's testimony as our response to Question 12. In concluding both presentations, Secretary Packard addressed himself to the range of possible solutions. Our analysis of these solutions is still in an exploratory stage, and we are simply unable at this time to outline the details of each alternative approach to this problem.

Sincerely,

ROBERT C. MOOT,
Assistant Secretary of Defense.

[From the Washington (D.C.) Post, Mar. 6, 1970]

HARD-PRESSED LOCKHEED ASKS $655 MILLION IN PENTAGON AID

(By Bernard D. Nossiter)

Lockheed Aircraft Corp., the nation's premier defense contractor, has made an extraordinary appeal to the Pentagon for up to $655 million in "critical" assistance funds.

In a letter to David Packard, the Deputy Secretary of Defense, Lockheed Chairman Daniel J. Haughton blamed "the unprecedented dollar magnitude" of its disputes with all three military services for its plight. Unless the cash is forthcoming, Haughton warned, it will be "financially impossible" for the company to continue producing the controversial C-5A cargo plane and to fulfill three other contracts.

Lockheed contends that the government owes it more than $770 million, a sum that is in dispute. The company wants an advance on this amount while awaiting settlements of its disputes with the government.

The letter was sent on Monday.

Packard and other Defense officials, it was learned, met secretly on Wednesday with six leading bankers, presumably to seek help for the giant company. The results of the meeting could not be learned. However, the Pentagon's release of Haughton's letter yesterday is regarded by procurement experts as the start of a campaign to build support in Congress for the money.

The New York Stock Exchange suspended trading in Lockheed shares yesterday until the company could clarify its position. Last night, Haughton reported that the firm lost $32.6 million last year against profits of $44.5 million the year before. The price of Lockheed shares has fallen from a high of 50 in the past year to 16 on Wednesday.

Defense Secretary Melvin R. Laird reportedly told the House Armed Services Committee in a closed session that the company's plight is "very serious."

He told newsmen that "I understand full well the need and necessity for maintaining this industrial base" and said that the aid request would be reviewed not only by his department but also "the appropriate committees of Congress."

Procurement officials called Lockheed's plea unprecedented and could not recall anything to match its size. The biggest assistance package that experts could remember was the $55 million "provisional claim" given Todd Shipbuilding Corp. last year.

A federal law also provides for relief to companies deemed essential to national security. Between 1960 and 1968, 2,553 requests were approved under this provision and they totaled only $55 million. The Lockheed request is twelve times this amount and that granted Todd.

Lockheed led the list of arms contract winners last year with awards of $2.4 billion. It employs 97,000 workers, including 48,000 at two California locations and 31,000 in Marietta, Ga., where the C-5A is being built in a government-owned plant.

Pentagon specialists said it was unthinkable that the company could be allowed to go bankrupt. They pointed out that Lockheed is the only supplier of Polaris and Poseidon missiles for submarines, the nation's least vulnerable strategic deterrent.

Lockheed argues that its claims against the services total $770 million to $835 million and that it can't wait until these are settled. However the amount of help it seeks, $590 million to $655 million, is more than the stockholder's investment in the company, an amount put at $371 million in 1968.

Sen. William Proxmire (D-Wis.), who warned last fall that Lockheed had wasted funds on the C-5A, said yesterday that the company's plight demonstrated the mistake of concentrating defense contracts in a few firms.

The heart of Lockheed's problem is the big cargo plane. The company expected to sell 120 of them, making good its losses on the first 58 through a repricing formula covering the remainder. But when Congress became aware of the plane's mounting costs, it put so much pressure on the Pentagon that

the Air Force decided to buy only 81. Air Force Secretary Robert Seamans has estimated this cutback alone will cost Lockheed $500 to $600 million.

Although Congress has authorized only 81 planes, Lockheed contends the Air Force signed a binding contract for 120. To cover the losses while this dispute is settled, Haughton asked for $435 million to $500 million in relief.

So far, 11 planes have been delivered and 26 are in what the company calls "final stages of assembly."

The other disputes involve these programs:

Cheyenne Helicopter—The Army cut off this program last year on the ground that Lockheed had not lived up to the contract's performance requirements. Lockheed still has a research and development agreement to complete, however. The company is claiming it is owed $110 million and it wants $45 million now.

Destroyer Escorts and Amphibious Floating Docks—The company is claiming the Navy owes it $175 million, which represents all its losses on nine shipbuilding contracts in the past 11 years. It wants $85 million now.

Short Range Attack Missile—Lockheed is building the missile's rocket motor; claims it is owed $50 million and wants $25 million now.

On Capitol Hill, Rep. Otis Pike (D-N.Y.), a critic of procurement practices in the Armed Services Committee, urged a speedy resolution of the issues between Lockheed and the Pentagon. However, he said, "To go beyond that and just give the money is a kind of defense blackmail we just can't yield to."

Rep. William Moorhead (D-Pa.), who along with Proxmire made public the C-5A affair, warned the Pentagon against "bailing out" Lockheed with a sum "more than three times what we spent on water pollution last year" without first seeking congressional approval.

Lockheed sought immediate aid.

In his letter to Packard, Haughton concluded: "In the absence of prompt negotiated settlements there is a critical need for interim financing to avert impairment of continued performance. We urgently solicit the assistance of the Defense Department in providing such financing."

[From the Washington (D.C.) Post, Mar. 7, 1970]

LOCKHEED'S RESCUE PLEA CREATES DILEMMAS FOR PENTAGON, HILL

(By Bernard D. Nossiter)

Lockheed Aircraft's $665-million plea for help confronts the Pentagon and Congress with a series of interlocking and painful decisions.

As the company's embattled chairman, Daniel J. Haughton, has said, his appeal is rooted in a "recognition of the interdependence of the company and the Department of Defense."

In plainer language, Rep. George Mahon (D-Tex.), the powerful chairman of the House Appropriations Committee, put it this way:

"We have to have the aircraft" but "you don't want to throw good money after bad."

The dimensions of Lockheed's request are illuminated by the company's estimate of its stockholders' investment in the firm. For 1969, this equity amounted to $321 million, or half the aid the plane maker is seeking from the government.

MANAGEMENT BLAMED

Rep. Mahon bluntly blames the Lockheed's management for its plight. "They just didn't do a good job on the C-5A," he says. "They made a lot of mistakes." But then he adds, "To wash this thing out with just a few planes would be a vast loss."

The C-5A, the world's largest cargo plane, has been plagued by cost and performance problems.

ORDER REDUCED

There is also widespread recognition that the Pentagon, under former Defense Secretary Robert S. McNamara, is responsible in part for Lockheed's woes. The Air Force wrote a contract that virtually encouraged the company to run up its costs on the first 58 C-5A planes. Under a complex repricing formula called the "golden handshake," the company stood to recover all these costs, and then some, on the next 62 planes.

The new administration, however, decided that 81 of the high-priced planes were enough. That cutoff accounts for the biggest chunk of Lockheed's claim against the Pentagon.

But if the Air Force concludes, or is ordered to concede, that the company is correct in arguing that it has a binding contract for at least 115 planes, the Pentagon faces another awkward moment.

Congress has only authorized the Air Force to buy 81 planes. The Pentagon may have to explain how it could contract for more planes than the lawmakers allowed.

UNITED STATES COVERS BILLS

Lockheed Chairman Haughton's remark about "interdependence" hints at the peculiar character of big arms makers. Typically, they turn out planes, missiles and ships with plants and machines owned in some substantial measure by the government. At Marietta, Ga., where Lockheed builds the C-5A, the General Accounting Office estimates that $114 million, or 59 per cent, of the investment was made by the taxpayers. Lockheed contends that the government share is nearer 36 per cent, but in either case it is considerable.

Moreover, and again unlike conventional firms, defense contractors spend little of their own working capital on a project. They turn to the government for "progress payments" to cover their bills as they go along. The Pentagon is now considering labeling a relief fund for Lockheed an "accelerated progress payment."

In a sense, the major defense firms own little but their managerial skills and their claims to pools of engineering talent. It is just these assets that are being called into question at Lockheed.

SURVIVAL NECESSARY

The Pentagon is arguing that Lockheed can't go under, that the nation needs uninterrupted production of its C-5A's and Polaris and Poseidon missiles, that 97,000 workers can't be thrown into the streets.

But there is another view. Economic historians point out that almost every railroad has gone through the bankruptcy wringer and continued to operate until new, and perhaps more efficient, management could be found.

A. Ernest Fitzgerald, the former Air Force efficiency expert who began warning of Lockheed's troubles four years ago and ultimately lost his job because of his persistence, points to another alternative.

Yesterday he recalled a 1964 negotiation in which General Dynamics threatened to shut down a missile production line unless its demands were met. Fitzgerald made some informal soundings and discovered that Boeing and even Lockheed would have been delighted to take over the operation. The only persons affected by the change, he discovered, would be two dozen General Dynamics executives who would have been dismissed.

Indeed, Fitzgerald and other procurement specialists like Gordon Rule of the Navy argued that a wasteful industry might mend its ways if one or two major corporate names were allowed to disappear.

At the moment, however, nothing so drastic is in sight. When Deputy Defense Secretary David Packard meets on Capitol Hill next week with the two Armed Services and Appropriations Committees, he is expected to propose a carrot of money not a stick of transferred contracts, for his troubled Lockheed supplier.

[From the New York Times, Mar 10, 1970]

PENTAGON BACKS AID FOR LOCKHEED—PANEL TOLD OF ALTERNATIVES TO SOLVE FISCAL CRISIS

WASHINGTON, March 9.—The Defense Department suggested today that public financial support would be required to solve the funding difficulties of the Lockheed Aircraft Corporation.

In its first public response to a request for about $641-million from Lockheed, the nation's largest defense contractor, the Government suggested that either interim financing of a negotiated settlement over the disputed contract money were the only "attractive solutions to the problem."

The Pentagon's position was outlined by David Packard, the Deputy Defense Secretary, to the House Armed Services Committee in a 13-page statement that noted: "There is no question about the need to preserve this important capability, which Lockheed has provided over many years."

CRITICALLY IMPORTANT

Mr. Packard told the committee, which is usually favorably disposed to Pentagon requests, that Lockheed faced a "severe financial crisis" and that it was a contributor of programs that were critically important to national defense.

"We do not intend to make a hasty decision and are not now prepared to recommend what the final actions should be," Mr. Packard continued.

He suggested two courses of action: resolution by "established procedures," which would require a substantial amount of interim financing by the Government, and a negotiated settlement with the company.

The first alternative would use a law permitting revision of signed contracts in cases that would "facilitate the national defense." If this course of action were approved, the Government would presumably revise the four defense contracts at issue.

These agreements involve the C-5A jet transport, the AH-56A Cheyenne helicopter, a short range attack missile and a number of Navy ships, including five destroyer escorts.

Secretary of Defense Melvin R. Laird has said that the Pentagon and the contractor were about $1-billion apart in estimates of how much Government money is owed on these four programs.

In a letter dated March 2 and made public last Thursday, Daniel J. Haughton, chairman of the board, said that Lockheed could not continue to work on these programs because of "the unprecedented dollar magnitude of the differences to be resolved between Lockheed and the military services."

Most of the money is involved in the C-5A program. The dispute over this contract has gone before the Armed Services Board of Contract Appeals, an administrative agency whose judgments can be appealed to the Court of Claims.

The C-5A dispute centers on the difference between the contractor's original cost estimate and the final cost figure. In this case, the final cost estimate for 81 airplanes is $3.2-billion, compared with $1.9-billion in the 1965 contract.

Lockheed contends that it cannot wait until a final adjudication is made on this contract and on the others. It asked for "interim financing" in the meantime. This is apparently the first alternative mentioned today by Mr. Packard.

He said the second alternative, a negotiated settlement, "would require carefully worked out procedures to protect the public interest." He did not elaborate on this alternative.

"There are other possibilities," Mr. Packard added, "including reorganization of the company, merger possibilities and of course, bankruptcy proceedings."

But he contended that such possibilities "do not, at this time, appear to offer very attractive solutions to the problem, either from the standpoint of the Government or of the company."

Regardless of the alternatives selected, Mr. Packard said, "significant additional financing" will be needed to obtain the products that are now under contract. He added that this would probably require a Congressional appropriation.

The Deputy Secretary indicated that, while no decision had been reached, Lockheed had been asked to provide data that would support their short-term cash needs.

"This will enable us to assure interim funding is available for the company to continue their work on these contracts, pending a final solution to the problems," Mr. Packard said. "We will take every step necessary to assure that the Government's interest is protected during this interim period."

Asked by reporters whether this indicated that the Pentagon had already decided to extend at least some public assistance to Lockheed, Mr. Packard replied: "We are considering a lot of things, but we have made no final decision."

[From Armed Forces Journal, Mar. 14, 1970]

LOOK TO LOCKHEED FOR LEADERSHIP?

(By Joseph Volz)

The slogan on the company letterhead reads: "Look to Lockheed for Leadership." But last week Lockheed officials themselves were looking elsewhere—to DoD, which was asked to keep the company afloat with a $650-million progress payment on four problem programs.

Lockheed's biggest headache is the giant cargo carrier, C–5A. The Air Force—and Congress—lost enthusiasm for the plane. The buy was chopped from 5 R&D and 115 production planes to 81 aircraft after a huge cost overrun surfaced.

DoD and Lockheed are trying to resolve contract differences, but Lockheed Board Chairman D. J. Haughton said, in an unprecedented letter to Deputy Defense Secretary David Packard, that the company couldn't wait out four years of negotiations. In order to complete delivery of the 81 aircraft during 1971 and 1972, Lockheed must have an extra $435- to $500-million, Haughton said.

Other Lockheed problem children are: the Shipbuilding Contract (including DE 1052 and LPD), for which Lockheed wants an $85-million "interim financing" cure; Short Range Attack Missile (SRAM), $25-million; and the Cheyenne helicopter, $45-million.

Lockheed was the top company in defense industry in FY 69, with $2-billion received in contracts. It reported a $4.5-million profit in 1968 and, at one point in 1969, its stock was traded at $50 a share.

But when trading was temporarily halted last week, pending DoD's release of Haughton's letter, the stock was down to $15.87 a share, and the company announced a $32.6-million loss for 1969. Since 1965, Lockheed's stock has ranged from $73⅞ to about $14 per share. As of late 1969, there were 11.259-million shares outstanding. The total market value of these shares dropped from $575-million in late 1968 to $208-million by late 1969.

Although Haughton emphasized Lockheed's financial problems, the company also has been plagued by technology difficulties. The Cheyenne rotor problem became so acute, for example, it was a major factor in the Army decision last May to terminate a letter contract by default.

THE BREAKTHROUGH BROKE DOWN

Yet Haughton blamed a major share of the company's problems on the contracting formulas. Former Defense Secretary Robert McNamara once said the C–5A contract "represents a major breakthrough in contracting techniques," and former Asst. Air Force Secretary Robert Charles said as late as January 1969 that program was "outstanding."

Last week, Haughton had a different outlook: "We believe that hindsight of today shows us that the procurement procedure utilized for these programs (C–5A, Ships, SRAM, and Cheyenne) was imprudent and adverse to our respective interests." He called total package procurement (TPP) "virtually unworkable." TPP is an attempt to fix the final price tag when the intial contract is signed and *before* all R&D is finished.

Haughton also argued that "In absolute candor, we do not consider that Lockheed, even if it were capable of so doing, should be expected alone to sustain for an indefinite period the financial burden while awaiting the outcome of litigation resulting largely from drastic innovations in procurement procedures utilized by the military services."

The Lockheed chairman did not mention the "reverse incentive" formula (strongly criticized in Congress) which plays a major role in the company's C–5A fiscal troubles. Cost overruns on the 58-plane Run A of the C–5A were to be compensated on Run B. Critics charged Lockheed was, in effect, going to be rewarded, not penalized, for overrunning the Run A costs.

But the compensation for losses was not scheduled to begin until production of the 91st aircraft, and the Air Force cut back from a total Run A and Run B buy of 115 planes to only 81. One C–5A critic, A. Ernest Fitzgerald, who was fired by the Air Force after he testified in Congress about the C–5A's mushrooming costs, predicts the Air Force-Lockheed negotiations will eventually result in no loss for the company. Deputy Defense Secretary David Packard told the House Armed Services Committee on 9 March that, by current estimates, Lockheed would lose over $640-million on the 81-aircraft buy—if the Air Force's interpretation of the contract is supported by the Armed Services Board of Contract Appeals. But Lockheed says it cannot wait for a ruling. It needs an infusion of cash—now.

As of early March, Air Force progress payments on the C–5 program totaled $2.04-billion. But DoD estimates the 81-aircraft buy will now cost $3.164-billion, exclusive of spares and other support items. The Air Force contends that it would be obligated to pay Lockheed only $2.516-billion, although Packard admitted last week that the contract at issue has several "ambiguous provisions" and called it a "very inadequate instrument."

DOD FAVORABLE TO INTERIM FINANCING

Packard told the House and Senate Armed Services Committees early this week that he had asked Lockheed officials for "additional data which will support, by specific periods and programs," their short-term cash needs. "This will enable us," he said, "to assure interim financing is available for the company to continue their work on these contracts pending a final resolution to the problems." Packard said, however, that "every step" will be taken to protect the Government's interest. He told the House group that he was not prepared to "recommend what the final actions should be." He termed other possibilities such as "reorganization . . . merger and, of course, bankruptcy proceedings" as not very "attractive" solutions.

MISSING SENTENCE?

In testimony before the Senate Armed Services Committee on 10 March, Packard deleted from his prepared testimony to the House, on 9 March, a sentence on Lockheed's ship contracts. The sentence read: "The contractor cost estimates now appear unrealistic." He also failed to tell the Senate group that he wrote the Navy on 25 February threatening to cancel on 30 June Lockheed's most recent contract, for the S–3A.

THE LOCKHEED LETTER

Here is the text of the 2 March letter from Lockheed Board Chairman Daniel J. Haughton to Deputy SecDef David Packard. (At the bottom of the first page was printed the company slogan, "Look to Lockheed for Leadership."

"DEAR MR. SECRETARY: We have completed a review of the current status of a number of our major Department of Defense programs in connection with which our corporation has filed claims or has been compelled into contractual disputes with the military services. It has become abundantly clear to us that the unprecedented dollar magnitude of the differences to be resolved between Lockheed and the military services make it financially impossible for Lockheed to complete performance of these programs if we must await the outcome of litigation before receiving further financing from the Department of Defense. We consider it imperative that some alternate method of resolution of these differences be immediately and seriously pursued in order to avert impairment of the continued performance of programs essential to the national defense.

"We realize that the military services normally expect their contractors to continue performance, including financing, pending administrative review and resolution of any disputable matter. In the present instances, however, the cumulative impact of the disagreements on four programs create a critical financial problem which cannot be supported out of our current and projected assets and income. We have intensified our cost reduction efforts, have eliminated dividends to our stockholders, have reduced drastically our planned expenditures for fixed assets, and intend to reduce our overhead costs and cut discretionary outlays in all other possible areas. We also intend to continue pursuit of all possibilities of financing from the private sector. Despite these efforts, we must state that we cannot maintain uninterrupted performance on these programs without receiving significant financing assistance from the Department of Defense. Also, in absolute candor, we do not consider that Lockheed, even if it were capable of so doing, should be expected alone to sustain for an indefinite period the financial burden while awaiting the outcome of ligitation resulting largely from drastic innovations in procurement procedures utilized by the military services.

"However, if absolutely necessary the parties may be forced to have their major disagreements involved in these programs settled through litigation. Indeed our obligations to our stockholders will require us to take this course of action if the only settlement proposals which can be evolved would ruinously deplete our corporate resources. Moreover, it should be recognized that contractual disagreements of such enormous magnitude represent a breakdown in the procurement processes.

"Without disregarding our own deficiencies, the common ingredient in three of the four programs which cause our present difficulty, namely, the C–5A, the SRAM, and the AH–56, is the fact that under the Total Package Procurement procedure development was required to be undertaken under a fixed price type contract with concurrent production commitments with respect to price, schedule, and performance. Although it was assumed that state-of-the-art advances were not required in these programs, it is generally admitted that these assumptions were incorrect. Although industry generally, including our company, perhaps erred in competing for contracts under this system, the system itself and its use were the responsibility of the military departments.

"We believe that the hindsight of today shows us that the procurement procedure

utilized for these programs was imprudent and adverse to our respective interests. We did not contemplate, nor do we believe anyone in the Department of Defense ever contemplated, that these contracts could generate differences of opinion involving such vast monetary amounts as, for example, exist on the C-5A program. Nor did either party appreciate the major hazards involved in undertaking production on the Cheyenne program before technical problems on the development program had been solved. Considering that these problems were known to the Army at the time the letter contract for production was issued in January 1968, and that the parties subsequently had been unable to reach agreement on a definitive contract, the unprecedented action of terminating this letter contract under a fixed price default clause is difficult to understand.

"Despite the growing awareness that the total package method utilized in these programs is virtually unworkable, there seems to be little disposition to correct existing contracts on terms which most contractors can accept or to recognize that litigation is a seriously inadequate avenue. Even on the shipyard contracts where the total package concept was not involved, the fact the bulk of the shipbuilding industry has encountered grave trouble as indicated by the more than a billion dollars in contract claims suggests that the system, rather than solely individual deficiencies, was a major contributor to the problem.

"Apart from the disastrous potential for our own company and its effect on Department of Defense programs, litigation of these problems may well have grave consequences on the Department of Defense's ability to secure the industrial support which it traditionally has required, regardless of who ultimately wins. With this in mind, whatever steps may be taken to alleviate our immediate financial problems I wish to urge that the way be left open to negotiate settlements which are within the ability of the corporation to absorb.

"Although I know you are generally familiar with the aforementioned programs, I would like briefly to recapitulate the critical financial problems they cause and to urge interim financing actions which should be taken immediately to avoid impairment of continued performance.

"C-5A

"On January 19, 1970, our appeal from the Contracting Officer's decision concerning the C-5A contract dispute was docketed by the ASBCA and our complaint has been filed. All parties are cooperating toward the earliest possible resolution of these issues by the Board, but most optimistically it would appear this cannot be accomplished before late 1971.

"In addition, there is a distinct possibility that the decision of the Board may be appealed to the Court of Claims, and consequently a final decision may not be made until 1973 or 1974. The Air Force has indicated it will not provide funds for this contract which will exceed the estimated contract price as the Air Force interprets this contract. Under these conditions, the Air Force funding would at best be adequate only until near the end of this year. However, in order to complete the delivery of 81 aircraft and related items during 1971 and 1972 an additional $435 million to $500 million will be required to cover production expenditures. Lockheed cannot provide such funding and believes the Air Force should advance the necessary funds pending the outcome of the litigation. This could be accomplished by an amendment to the current contract which could contain appropriate safeguards for both parties with respect to preserving their rights in litigation.

"SHIPYARD CLAIMS

"At the present time, the Lockheed Shipbuilding and Construction Company has performed, or is performing, on 9 contracts for several classes of new ships. More than $175 million of contractual adjustment claims have been presented to the Navy to date. As of December 29, 1969, amounts expended by Lockheed on these claims exceed $100 million and are expected to continue at a rate of $3 to $4 million per month. These claims have been under consideration for many months with provisional payments of only $14 million made to date.

"We believe the solution to this problem lies in an immediate increase in provisional payments to an aggregate of $85 million. We understand the Department of the Navy plans to settle the majority of these claims during the last three months of 1970 which should permit the payment of the balance of the amounts due Lockheed Shipbuilding and Construction Company by the end of this year. Should there be any delay in the Navy's present schedule an additional amount of provisional payments would be required. Immediately increasing provisional payments to $85 million would substantially ease the financial burden at the Shipbuilding Company and permit continued work toward the completion of the DE 1052 and LPD class ships now in process. In addition, arrangements can be made which will not impair the rights of either Lockheed Shipbuilding and Construction Company or the Navy with respect to negotiation and final settlement of these claims.

"AH-56A, PHASE III

"On May 19, 1969, the Army Contracting Officer issued a final decision terminating this letter contract for default. Lockheed's appeal from this decision was made to the ASBCA on May 22, 1969, and both Lockheed and the Army are proceeding in accordance with the rules of the Board. It is unlikely that the Board will hear this case before midyear and that a final decision can be made before the first quarter of 1971. As of the end of 1969, total costs incurred by Lockheed (both prior and subsequent to the Contracting Officer's decision) amount to approximately $89 million. Prior to the Contracting Officer's decision the Army had made progress payments amounting to $53.8 million. We have reached an agreement with the Army under which these progress payments may be retained by us pending a decision by the ASBCA. However, during the early part of 1970, costs incurred may reach a total of some $110 million requiring a total cost participation by Lockheed of some $60 to $65 million which may be increased by the necessity of payment by Lockheed to subcontractors of additional amounts. We suggest that the Army increase the amount of progress payments to a minimum of 90% of the costs incurred, and continue such payments until resolution of this case by the Board of Contract Appeals or the Court of Claims. The same agreement under which Lockheed is currently retaining the $53.8 million or progress payments could apply to these additional provisional payments.

"SRAM

"The Lockheed Propulsion Company is the propulsion system subcontractor to the Boeing Company under its prime contract with the Air Force for DDT&E [sic] of the Short Range Attack Missile (AGM-69A). On December 29, 1969, Lockheed Propulsion Company and the Boeing Company presented a Contract Adjustment Claim to the Air Force under Contract AF33(657)-16584 in the amount of $50 million. At the present time, Lockheed Propulsion Company is continuing its performance of its subcontract and has incurred costs approximating $30 million in excess of the $16.9 million received to date. Continued performance during 1970 is expected to add more than $15 million. Negotiations of the issues involved in our claim are currently being sought jointly by Lockheed Propulsion Company and Boeing with the Air Force. It is possible that most of all of the issues will become the subject of an ASBCA case in the next few months. We believe that a provisional payment to Lockheed Propulsion Company of $25 million should be authorized under the Boeing prime contract pending final resolution of the issues. As is the case with the AH-56A and the C-5 programs, suitable arrangements protecting the rights of both parties could be arranged.

"In summary, in the absence of prompt negotiated settlements there is a critical need for interim financing to avert impairment of continued performance. We urgently solicit the assistance of the Department of Defense in providing such financing.

"Very truly yours,

"D. J. HAUGHTON,
"Chairman of the Board."

LOCKHEED'S BIGGEST PROBLEM

Lockheed is now complaining it cannot continue with the C-5A unless it receives an infusion of $435- to $500-million from DoD.

D. J. Haughton, Board Chairman, argues that "hindsight of today shows us that the procurement utilized . . . was imprudent."

"Hindsight" also reveals other factors about the C-5A, however, which Haughton did not mention in his letter to Deputy Defense Secretary David Packard last week.

Contractors bidding on the program, for example, were not given the detail criteria (weightings or "measures of merit in percentages") by which their proposals would be judged. Nor were the same weightings used throughout the source selection process.

Additionally, the findings of the principal group evaluating the relative merits of the competing contractors' proposals were overturned. A 23 September 1965 Air Force memorandum shows an evaluation board headed by two AF major generals and two brigadier generals unanimously recommended Boeing, not Lockheed, for the job. That recommendation, however, was overruled by a three-fourths majority vote when the Air Force Chief of Staff, the AFSC Commander, the Military Airlift Commander, and the Air Council cast their votes (Journal, 22 November).

A 1965 Air Force independent cost estimate put the C-5A program cost at $3.3-billion. By 1969, AF officials estimated the total cost of the program, without spares, at $4.348-billion (Journal, 26 April 1969).

In mid-1969, AF Secretary Robert Seamans said the C-5A program had suffered a $1.1-billion cost overrun (Journal, 2 August). A. Ernest Fitzgerald, AF cost expert, contended, however, that the figure was more like $2-billion.

Seamans also revealed comparative target prices submitted by Lockheed and its two competitors, Boeing and Douglas (now McDonnell-Douglas). The proposals were for Runs A and B (115 aircraft) plus RDT&E (five aircraft), without engines.

Lockheed was low bidder with a target price of $1.886-billion, compared to a $1.972-billion bid by Douglas and $2.216-billion by Boeing. Lockheed critics contend that the company bought in low at an unrealistic target price, hoping for additional funds later.

The Journal noted editorially on 25 January 1969: "One of the reasons the Air Force picked Lockheed as the C-5A contractor was that Lockheed's airplane was cheaper. The program has been an expensive way to save money. For what the overrun alone will cost, the Army could equip, train, and operate for five years a full airmobile division force of close to 40,000 men."

PACKARD TELLS NAVY HE MAY CANCEL S-3A, BUT FAILS TO MENTION IT TO CONGRESS

No mention of S-3A problems was made in Lockheed's 2 March letter to DoD, or in Packard's statement to Congress of 9 March on the company's "severe financial crisis." But reliable Pentagon sources tell The Journal that the $2.9 billion ASW program may soon become one more nightmare for Lockheed stockholders. Deputy Defense Secretary David Packard told the Navy on 25 February that unless S-3A costs were brought under control, the ASW program would be "subject to cancellation" on 30 June.

Testifying before Congress on 9 March, Packard referred to the S-3A only briefly as an example of Lockheed's contributions (along with the still-in-production P-3) "to this country's anti-submarine warfare capability." No hint was given of problems on the program, either in Packard's prepared testimony or in subsequent discussion with the House Armed Services Committee.

S-3A bears Packard imprimatur

Packard stressed that the present "Lockheed financial problem results from contracts which were executed before the present Administration took office." The S-3A, by contrast, is the first major weapon system to bear Packard's personal imprimatur: in previous Congressional testimony, DoD officials have cited the S-3A's milestone contracting technique as a key example of DoD's new way of doing business to avoid C-5A type of cost overruns.

Navy planning estimates originally cited a total S-3A program cost of $1,763.8-million. The latest Selected Acquisition Report (SAR) given to Congress shows a total program cost of $2891.1-million. According to one source, Packard's memo to the Navy was prompted by a revised SAR showing still higher costs.

The Navy's latest cost estimate shows roughly a $100 million increase in S-3A production costs. It also "confused the issue," The Journal was told, by showing the ceiling instead of the target cost for the R&D program. Previous SARs had referred only to the lower target cost figure.

The $100 million cost increase apparently results from a proposed stretch-out of S-3A production to meet FY 71 and FY 72 budget constraints.

In his 25 February memo, Packard directed the Navy to review the S-3A program at an exceptional, as opposed to normal, 19 March meeting of the Defense Systems Acquisition Review Council. The meeting since has been called off, however.

June 30 cancellation?

Packard told the Navy to determine areas in which S-3A "costs can be reduced" and in which "simplification can be achieved." He specifically told the Navy that unless it could demonstrate by 30 June that S-3A costs were being brought under control, the program would be "subject to cancellation on that date."

Navy sources confirmed that Packard explicitly mentioned that he would "consider" cancelling the S-3A contract. But these same sources told The Journal that "there is little or no basis for the concern expressed in [Packard's] letter." As one senior official put it, "We don't have any wild programs—our aircraft programs are on cost, on track. So far, everything seems to be okay." He said that Packard's memo, which he termed "very stern," resulted from a "misunderstanding" and that Packard had been "poorly informed" by subordinates in OSD on how to interpret the S-3A SAR report.

Packard gave no hint whatever of possible S-3A problems in his testimony before Congress on 9 March about Lockheed's current financial crisis. One Representative, The Journal was told, asked Packard bluntly if he would have okayed the S-3A award to Lockheed last summer if he had known then of the company's pending cash flow crisis. Packard "dodged the question," according to a Capitol Hill source, by replying that he did not then know of Lockheed's problems and that he had "not made any such conjecture." One senior Congressman told The Journal that Congress "would take a dim view" of any DoD proposal to "bail Lockheed out, if while asking for help on four Lockheed programs, DoD is hiding problems it suspects may exist on another."

The S-3A contract was awarded to Lockheed on 1 August (Journal, 9 August).

INDISCREET SENTENCE

Perhaps the most intriguing sentence in Lockheed Chairman D. J. Haughton's five-page letter to DoD is one about the troubled Cheyenne helicopter program that begins: "Considering these (technical) problems were known to the Army at the time the letter contract for production was issued in January 1968 . . ."

Army sources flatly deny any such contention. One very senior Army official told The Journal: "That sentence is an overdramatization—an indiscretion is about the only thing I could call it and still be polite."

Discussing Lockheed's problems before Congress last Monday, Deputy Defense Secretary David Packard also disputed the Lockheed claim. As he put it: "Evidently it was not apparent to the Army that there were significant developmental problems at the time the production option was exercised (January 1968) and Lockheed expressed confidence in its ability to meet the production schedule."

One Army official who apparently was unaware of any major Cheyenne technical problems at the time of contract award is Deputy Assistant Secretary of the Army (Research and Development) Charles L. Poor. In a Journal interview (14 December 68), 11 months after the contract was signed, Poor said flatly: "There are no red flags flying." He said the Army had had "some problems" with the chopper's transmission systems and rotor but emphasized "the transmission problems are behind us and the rotor is beginning to look good. . . . Present indications are there are no serious problems outstanding. It looks as if we will have almost a zero retrofit posture."

Haughton, in asking DoD for a $45-million progress payment on the program, argued that because the Army was aware of technical difficulties when the contract was signed, the "unprecedented action of terminating this letter contract under a fixed price default clause is difficult to understand." Haughton said that the AH-56 program might require "a total cost participation by Lockheed of some $60- to 65-million," pending settlement of its contractural dispute with the Army. The statement confirms an earlier Journal report (20 September 1969) citing an early September visit from Haughton to Army Secretary Stanley Resor in which estimates were made that an additional $20- to $70-million of R&D work would be needed for Lockheed to bring Cheyenne's performance up to contract specifications.

If the Army position prevails on Lockheed's obligations under the March 1966 developmental contract, and on Lockheed's liability on the defaulted January 1968 production contract, Lockheed will have spent in the range of $200-million more than it could receive under the two contracts. According to Packard, Lockheed already has incurred costs of about $72-million above the $96-million ceiling on the R&D contract. Haughton's estimates show that an additional $45-million will be needed to complete performance under a restructured developmental program.

Lockheed's original bid for R&D program was $77.5-million, against a Sikorsky bid of $13.7-million (Journal 22 November).

HOW FORBES RATES LOCKHEED

In a recent annual survey of American industry, *Forbes Magazine* rated Lockheed 132nd (out of 563 companies surveyed) in terms of 5-year return on equity, 427th in terms of return on equity for the latest 12-month period, 86th in five-year return on total capital (equity plus debt financing), 563rd in terms of 5-year annual sales growth, and 529th in terms of 5-year annual *growth in earnings per share*. Source: January 1, 1970 Forbes 22nd Annual Report on American Industry.

LOCKHEED SALES TO U.S. GOVERNMENT

Calendar year	Sales in billions		Percent of sales to Government
	Total	Government	
1960	1.332	1.105	83.0
1965	1.818	1.682	92.7
1966	2.084	1.909	91.6
1967	2.335	2.128	91.0
1968	2.217	1.969	88.0

LOCKHEED'S DOD PRIME CONTRACTS

Fiscal year	Rank	Dollar volume in billions	Percent of DOD total
1960	2	1.071	5.1
1961	3	1.175	5.2
1962	1	1.420	5.6
1963	1	1.517	5.9
1964	1	1.455	5.8
1965	1	1.715	7.1
1966	1	1.531	4.6
1967	3	1.807	4.7
1968	2	1.871	4.8
1969	1	2.040	5.5

DOD, CONGRESS DEBATE LOCKHEED PLIGHT—PACKARD CALLS FOR FINANCIAL BLOOD DONORS—WILL MAKE PERSONAL REVIEW AT LOCKHEED-BURBANK—LOCKHEED'S SINGAPORE VENTURE MAY HURT COPTER INDUSTRY—PROXMIRE AIMS GAO AT LOCKHEED

(By the Journal Staff)

DOD, Congress, and the press have not been idle during the past week since The Journal's first report (14 March) on Lockheed Aircraft Corporation's "critical financial problem." The company itself describes the problem as being of "enormous magnitude," with "disastrous potential" and "grave consequences" for four military weapons programs—C-5A, AH-56 Cheyenne, SRAM, and shipbuilding.

In response to Lockheed's unprecedented 2 March importunity for financial succor, Deputy SecDef David Packard has been meeting with big bankers (see box) to seek a means of financial resuscitation for the nation's number one defense prime contractor ($2.04-billion in 1969, 5.5% of DOD's total).

Prompted by a question from the press—and just as The Journal broke in its 14 March issue the news about possible trouble with a fifth Lockheed program, the S-3A—Deputy Assistant Secretary of Defense (Public Affairs) Jerry W. Friedheim admitted that the S-3A program has been the subject of correspondence and talks between Deputy Secretary Packard and the Navy.

Friedheim said Packard had gigged the Navy in a 25 February letter on a number of possible management discrepancies, including alleged cost increases in the S-3A program.

Friedheim quickly added, however, that the Packard letter had resulted from a misunderstanding. After further talks with Navy officials, Friedheim said, Packard issued another memo to the Navy on 11 March which in effect cancelled the 25 February blast.

Friedheim quoted excerpts from the 11 March memo which called for S-3A cost reduction through "sound management," said that "a full-scale review" of the program by the Defense Systems Acquisition Review Council (DSARC) would not now be necessary—The Journal reported 14 March that the exceptional meeting had been called off—

and that he, Packard, would visit Lockheed-Burbank in early April to conduct a personal review of the program.

The planned trip to California for a personal S-3A review, however, is considered by many observers almost as "unprecedented" as the whole Lockheed *contretemps* itself. As one observer was heard afterwards to ask: "If the S-3A program is, as Mr. Friedheim and the Navy say, 'satisfactory, on track, and continuing,' why should it be necessary for Mr. Packard to make a personal trip to the plant for a review?"

(One Navy official suggested to The Journal that both Packard actions—the initial 25 February stern letter and the promised personal review at Lockheed-Burbank—are "for the record." Inasmuch as the S-3A program is a Laird-Packard "baby" under the new "milestone contracting technique" Defense wants to be covered "whether the program is really in trouble or not," the Navy official said.)

BIG BUREAUCRACY

Asked for specifics about the apparent difficulty in communications between Packard's OSD analysts and Navy's Office of Program Appraisal which had prompted the stern 25 February memo, Friedheim could only reply: "Well, its an awfully big bureaucracy here in the Pentagon."

As if Lockheed's "sea of troubles" was not adversity enough, skeletons in other nooks and crannies of the conglomerate's corporate house began to appear. First to see the light of day was Lockheed's Singapore aircraft repair venture, uncovered by Col. R. D. Heinl, jr, USMC-Ret, military editor of the *Detroit News* (see Heinl article).

Lockheed, according to Heinl has paid the Singapore government some 10-million Straits Dollars (about $4-million U.S.) for the privilege of setting up an aircraft repair facility which will utilize RAF shops and airfields, due to be abandoned upon Britain's 1971 East-of-Suez withdrawal.

The shops, employing Singapore's abundance of cheap but skilled overseas Chinese labor, will rework Singapore Government aircraft. It was revealed by Heinl, however, that Lockheed will also repair the UH-1 series of Bell helicopters, a high-density item for all four U.S. Services and South Vietnamese forces in SVN. The machines are now being reworked at Bell facilities in Texas and Louisiana. Both U.S. full-employment objectives and balance of payments would seem to suffer under the Lockheed Singapore plan.

An additional question raised by the Heinl article relates to the source of the nearly $4-million—if Lockheed needs a $650-million transfusion how can it come up with $4-million for a foreign venture or, alternatively, is the $4-million part of the $650-million shortage?

(Heinl suggests that Lockheed may be acting in neutral Singapore more or less as a corporate "cover" for the Pentagon. And in all fairness it should be pointed out that Sikorsky and Boeing-Vertol helicopters used in Vietnam are repaired in Japan under programs similar to Lockheed's proposed Singapore plan.)

Meanwhile, back on Capitol Hill, the Congress was fulfilling its responsibilities. Senator William Proxmire (D-Wisc), on the day after Deputy Secretary Packard 9 March message to Congress on Lockheed, transmitted a coupe of messages of his own in his role as Chairman of the Subcommittee on Economy in Government of the Joint Economic Committee.

Proxmire's first *billet doux* was dropped on the desk of Elmer Staats, Comptroller General and head of GAO. It requested Staats "to immediately undertake an investigation of the financial condition of Lockheed and its ability to continue performance of its military contracts," and gave him 10 days to report. The bill of particulars amounted to 12 brutally pointed questions, three of which mentioned Lockheed's bid for the commercial air-bus market, the L-1011, which also is reputed to be in difficulty through lack of enough orders for production to reach the break-even point.

OLD THEMES, NEW WAYS

The second missive was to SecDef Melvin R. Laird, informing him of the GAO investigation and laying down guidelines on Congress' expectations from DoD in the matter. Proxmire established as his basic premise the requirement "that an application for funds of this magnitude ($641-million) be passed upon by the Legislative Branch." He then requested "that no administrative actions be taken to approve the Lockheed application"—for what the news release from Proxmire's office dubbed "bail-out money"—prior to the GAO report and its consideration by the Congress.

Proxmire revealed skepticism about Lockheed's plight in echoing the question, uppermost in many minds in both the military and financial worlds, "as to whether we are witnessing only a variation of one of the oldest military procurement themes: buy-in-now get-well-later.

"Is it possible," Proxmire asked, "that the contractor is attempting to develop a new way to pay for massive cost overruns?"

The General Accounting Office investigative report on the "financial condition" of "all of Lockheed's military, space, and related contracts" is due in the office of Senator Proxmire by Monday 23 March.

FINANCIAL BLOOD DONORS

As previously reported (Journal March 14) the Lockheed Aircraft Corporation entered, in a 2 March letter from Board Chairman Daniel J. Haughton to Deputy SecDef David Packard, an "urgent plea for a financial blood transfusion" to cure four ailing and cost-overrun military weapons programs.

In a statement to the House and Senate Armed Services Committees 9 March, Mr. Packard indicated that program contingency and budget funds—representing three-fourths of the $650-million interim financing rquested by Lockheed—are sufficient to see Lockheed through Calendar Year 1970 on the C-5A. The balance of the amount, as well as financing for CY 71, may be a different matter, however.

The Pentagon last week announced—just after The Journal broke the story on the fifth Lockheed program, the Navy's S-3A ASW aircraft, in financial trouble—that Secretary Packard has been meeting with a group of bankers to discuss Lockheed's "continuing severe financial situation."

Secretary Packard stressed several points at the meeting, DoD said:

Any action which may be taken to assure the continuing availability of required facilities for national defense needs will be based on the public interest.

DoD has established a special team of experts to pursue studies into all aspects of the complex situation involving the four financially ailing programs—C-5A, AH-56 Cheyenne, SRAM, and shipbuilding.

"Precipitate action should not be taken" but the matter "must continue to receive priority consideration."

In no case will any solutions to the major problem be implemented "without prior consultation and discussion with appropriate Congressional committees."

Among those at the meetings were:

David Packard, Deputy Secretary of Defense

Barry J. Shillito, Assistant Secretary of Defense (Installations and Logistics)

Robert C. Moot, Assistant Secretary of Defense (Comptroller)

Fred J. Leary, Jr., Senior Vice President, Bankers Trust Co.

John Breeden, Executive Vice President, Wells Fargo Bank

James P. Mitchell, Vice President, Chase Manhattan Bank

Dewitt Peterkin, Jr., Executive Vice President, Morgan Guaranty Trust Co.

Ronald G. Ross, Vice President, Bank of America

Robert C. Suhr, Senior Vice President, Continental Illinois National Bank and Trust Co.

LOCKHEED SINGAPORE DEAL

(By Col. R. D. Heinl, Jr.)

WASHINGTON, March 14.—Lockheed Aircraft Corporation, which has asked the U.S. taxpayers for an immediate $655-million financial transfusion to avert "ruinous consequences" to the company, has just put nearly $4-million to finance a Singapore aircraft overhaul venture which will drain U.S. dollars abroad and deprive the foundering U.S. helicopter industry of badly needed government business.

In deep financial trouble with what the company recently described to the Defense Department as a "disastrous potential" over four (and possibly five) foundering major defense programs, Lockheed has privately informed the Pentagon it has signed "a firm and binding contract" to establish Lockheed Air Service Corporation Singapore which will take over two former British RAF Stations. Besides putting up $10-million Straits Dollars (equal to $3.7-million U.S.), the company will pay the Singapore Government the substantial royalty of six cents U.S. for every hour of maintenance work performed.

Although the nominal purpose of the new company will be to maintain military and civil aircraft for Singapore on a six-year contract, Defense Department sources said one of its primary activities would be the overhaul of UH-1 "Iroquois" helicopters from the Southeast Asia theater of war.

The Bell UH-1, used by all Services, is one of the principal U.S. helicopters in Vietnam. Until now, major overhaul on the Iroquois has been performed in the United States by Bell and other concerns primarily located in Louisiana and Texas. The new Lockheed plant (using cheap Chinese labor) will deprive these companies of multimillion dollar repair business.

The U.S. helicopter industry has been recently described by the authoritative Armed Forces Journal as "in desperate flight." After Fiscal Year 1971, Kaman, Sikorsky and Hughes will have no funded defense production at all. Boeing and Bell (which will suffer by this venture) will have a small military production base, which will apparently be further undercut by the Singapore transaction.

Where Lockheed—which Senator William Proxmire's Joint Economic Subcommittee has characterized as facing possible bankruptcy, corporate breakup, or substitution of new contractors to complete its disastrous C-5A Air Force cargo plane contract—found the $4-million to fund its Singapore venture is regarded as something of a mystery by Pentagon and Congressional observers . . .

One speculation advanced here is that, conceivably, Lockheed may be acting as a conduit to set up a nominally private U.S. Military aircraft overhaul facility in neutral Singapore using the extensive Royal Air Force facilities at Seletar and Changri which would otherwise be abandoned as the British Socialist Government retreats from Southeast Asia. Under this theory, U.S. Government funds might, in some elaborate bookkeeping legerdemain, be channeled via Lockheed as a cover activity.

Such an explanation would solve the mystery of where Lockheed has found the money and why, in its precarious financial circumstances, it is launching out into a distant risk venture in Southeast Asia and paying Singapore in U.S. dollars for the privilege.

THE FEDERAL EMPLOYEES' STRIKE AGAINST THE GOVERNMENT

Mr. GOLDWATER. Mr. President, the time has come in the minds of most citizens of this country, and I hope in the minds of many Members of Congress, that we must give serious consideration and discussion to whether or not a Federal employee may strike against the people. I have always believed that the right to strike is really the only weapon that a worker has; but when a person goes to work for the Federal Government, he is in effect working for the people, and in my opinion, he should be denied the right to strike.

At the same time, the Congress should pay constant attention to the problems of the various jobs involved in working for the Government, and they should be always alert to the needs of the workers, both as to salary, retirement, and the other facets of employment that concern the worker.

Two hundred million Americans should not be made to wait for mail, or to circle airports in holding patterns, or to wait hour after hour for transportation to and from different cities of this country, or to and from loved ones with whom they might spend a few precious days of a vacation.

Title 5, section 7311 of the United States Code says in part:

> An individual may not accept or hold a position in the Government of the United States or the District of Columbia if he . . . participates in a strike, or asserts the right to strike, against the government of the United States or the government of the District of Columbia;

I wish to point out that I have been a pilot for over 40 years and have kept abreast with most of the problems of aviation and its associated industries.

I have had great sympathy for the dedicated professional air traffic controllers and expressed my feelings before this body on February 25, 1970, during the airport/airways user bill debate. I would like to read into the RECORD a portion of my remarks at this time:

> Mr. President, I would like to mention a fact that we have not talked about as yet. This is the continuing problem that our airway controllers face—not just the controllers who operate the control towers, but also the man who sits in the Washington center, the Albuquerque center, or wherever it may be, and is required to look at a very difficult radar screen most of the period of his 8-hour working day.
>
> Mr. President, any of us who have been acquainted with radar knows that this is a very, very difficult assignment. It is difficult on their eyes. And it is difficult mentally. It is an extreme responsibility to place on one man, the responsibility for a dozen or more aircraft in a heavily congested part of the airway system. This would include both those controllers in centers and those controllers in the tower.
>
> I am glad to see that in the pending legislation there is a recognition of this problem.
>
> I do not go along with those who feel that the controllers should be allowed in effect to join a union so that they could threaten the system with strikes or even to strike. I think we should be a head of them and provide all they are asking. We are long overdue on this. In that way, we could prevent another catastrophe from happening such as the sick-out we had before or a strike because the controllers justifiably think they should be getting something more than they get today.
>
> I cannot think of a job today that is more exacting or demanding on a man's physical ability than the jobs I am talking about.

The deliberate defiance by the controllers of their responsibility to the traveling public, to the Federal Government, and to the courts of our land is inexcusable. These controllers have refused to recognize that Congress is cognizant of their problems. The airways/airport bill was passed by both Houses of Congress last month and is now in conference committee.

Under subsection 2(b) of section 204 we provided a provision for improving air navigation facilities. It states:

> The Secretary is authorized within the limits established in appropriations acts to obligate for expenditure not less than $250,000 for each of the fiscal years 1970 through 1979.

Last year Congress authorized hiring 2,000 new controllers and the new legislation provides for additional controllers. The number of controllers will be increased in 1971 by 4,141; in 1972 we will add another 1,075 new controllers; in 1973 another 1,380 will be added and so on, with the result that between today and 1980 we will have provided funds to hire an additional 19,109 air traffic controllers.

The controllers that have refused to work have been so gullible as to be led by the "Pied Piper," F. Lee Bailey, who has only his own interest at heart. He has convinced 50 percent of the air traffic controllers to join his organization PATCO. He guaranteed these controllers that his competency as a criminal attorney enables him to protect them from any harm coming to them as the result of defying Federal law by walking off their jobs and then sweetened the pot by guaranteeing each controller shorter working hours, better equipment, and an increase in pay.

Mr. President, since the time I have prepared these remarks and the present time, I am glad to note that the head of the FAA has read the riot act to them and stated that they will be back to work at the end of the first shift or they will be fired and will be subject to rather heavy fines.

The controllers who have left their jobs have certainly lost my support. They are playing with the lives, safety, and well-being of all air travelers. This utter disregard for safety is inexcusable and cannot be tolerated. I have listened and read with disgust the TV, radio, and newspaper coverage of F. Lee Bailey and his attempt to justify his irresponsible actions.

He has organized the most militant group of controllers into striking for additional benefits, shorter working hours, improved equipment and more controllers. Yesterday, F. Lee Bailey finally indicated what his real goal is, the removal of air traffic controllers out of Government service into a quasi-public corporation such as the one proposed to operate the strife-torn postal service. Bailey would, as head of such a corporation, have all the dictorial powers he indicates he must have to improve the conditions of the controllers.

The selfishness of the controllers has resulted in tragic financial losses to our already depressed airline industry. Executives of one airline inform me that the first week of the controller slow down has resulted in a loss in excess of $2½ million. They were forced to cancel 740 hours of revenue flying and the additional holding over airports waiting to land have totaled in excess of 730 hours of additional flying time.

It is my hope that Congress will voice unanimous support of the administration's ultimatum that those controllers who abided by the law be rewarded and those controllers who defied the responsibility they accepted when they became controllers be suspended or dismissed.

If we add to the two crippling strikes, whether they be called sick-ins or what, the threatened strike of the Teamsters Union, this country can face total economic paralysis within the coming few weeks.

I think it is past time that the Congress conduct hearings to look into the problems involved relative to the complaints of the workers and to, at the same time, reassess the position of the Federal Government that it is illegal to strike against the Government, which in effect is striking against the people.

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BROOKE addressed the Chair.

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

Mr. BROOKE. I am happy to yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Massachusetts may be permitted to proceed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. BROOKE. I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

THE NOMINATION OF JUDGE CARSWELL

Mr. BROOKE. Mr. President, there are several ways in which the matter of G. Harrold Carswell can be disposed of: First, Mr. Carswell could withdraw his name from consideration; second, the Senate could vote on confirmation and vote favorably on that confirmation and thus confirm him; third, the President could withdraw Mr. Carswell's name, and that has been suggested by the very distinguished and able senior Senator from Oregon (Mr. HATFIELD).

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram which was addressed to the President by the Senator from Oregon (Mr. HATFIELD), and sent to the President on Thursday, March 26, 1970.

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

MARCH 26, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I shall vote yes on the motion to recommit the nomination of Judge Carswell to the Judiciary Committee and I am prepared at this point to vote the nomination up or down.

I write you as one of your early supporters for the Presidential nomination and as one who has remained publicly uncommitted on Judge Carswell. I write also as reflecting my own evaluation of the mood of the Senate and the thinking of many of my close colleagues.

You and I share the common goal of restoring the needed balance to the Supreme Court. We share a common concern about the need to restore confidence in our entire judicial process. I was a strong supporter of Chief Justice Warren Burger and would welcome the nomination of a man of his stature.

I stand ready to support a nominee from any geographical area of the country. Just as every section should be open for consideration for an appointment, so should any nominee represent the best in professional excellence and personal integrity. There are men within the Southern states who represent these composite traits and who do justice to the best and to the future of that region.

As I spoke very recently with my constituents and with many others from throughout the country, I have become more deeply concerned about the crisis of confidence that confronts our governmental process. In all such discussions I continually urge the full utilization of our constitutional and judicial process in seeking the orderly redress of grievances. Yet, the name of G. Harrold Carswell has become a symbol of the despair, distrust, and disillusionment that beguiles our admonitions to work peacefully within our democratic institutions.

You and I share the commitment to promote a national reconciliation between the polarized factions in our land. We can do no better than to give our words the ring of authenticity by granting to our institutions the assurance of complete credibility.

Therefore, I respectfully urge you to withdraw the nomination of G. Harrold Carswell.

Sincerely,

MARK O. HATFIELD.

Mr. BROOKE. Mr. President, then the nomination could be sent back to the Committee on the Judiciary for further hearings and further study and examination. Most of the debate which has taken place on the floor of the Senate has been addressed to confirmation. Proponents have argued for confirmation and the opponents, of course, have argued against confirmation. But we now have before the Senate a motion to recommit, and by unanimous consent the Senate has agreed to vote on that motion on April 6 at 1 p.m.

Mr. President, my purpose today is to suggest that in the waning days of this debate the opponents of Mr. Carswell and those who have questions in their minds address themselves mostly to reasons why the motion for recommittal should carry. Many persons have suggested both in the press and in conversation that the purpose of the motion to recommit is really to deny Mr. Carswell's confirmation. But I suggest there are many valid reasons for this motion to recommit, and that, in fact, the Senate would be doing Mr. Carswell a great service, doing the President a great service, doing the country a great service, and doing itself a great service by acting favorably upon the motion to recommit.

I will not go into all of the questions of doubt that have been raised, but certainly one was raised on the floor of the Senate today by the distinguished junior Senator from California relating to a letter which was sent by a Government employee to the Committee on the Judiciary stating, in effect, that he, as an attorney appearing before Judge Carswell, received fair and courteous treatment. The Senator from California has raised the issue as to why this letter was sent by Mr. Wilson. He has charged that Mr. Wilson was acting under pressures from the administration. He has further charged that Mr. Wilson's letter did not constitute an endorsement, but that, in fact, several Senators had used this letter as the basis for their decision to vote favorably upon confirmation. I do not propose to argue the truth or the falsity of these charges, for, in fact, I do not know, Mr. President, but they do raise a very serious question which I think should be resolved.

One of our distinguished Senators, the senior Senator from Arizona, said that his decision—and his decision was to vote favorably upon the nomination—was based primarily, if not entirely upon Mr. Wilson's letter which was certainly favorable to Mr. Carswell. This raises a question as to the weight of that letter, a question as to the reasons why the letter was sent. I think these questions can be resolved only by calling Mr. Wilson before the committee, placing him under oath, and asking him these questions instead of speculating upon them, as we have heard done.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I am pleased to yield to the Senator from Kansas.

Mr. DOLE. I wish to point out that the letter appears in the RECORD as part of the hearings on pages 328 and 329. I do not think anyone questions Mr. Wilson's honesty and integrity and see no reason to have further hearings. The letter is in the transcript of the hearings and it speaks for itself. The letter states that he is a civil service employee. Mr. Wilson states in the letter that he was treated courteously in the courts of Judge Carswell. It seems to me that just because someone says Judge Carswell is courteous does not mean we should start a new hearing.

I assume many hundreds of lawyers appeared before Judge Carswell, and under the thesis the Senator is pursuing, perhaps we should call all of these people before the Committee on the Judiciary, every one of them.

Mr. BROOKE. Will the Senator yield?

Mr. DOLE. The Senator from Massachusetts has the floor.

Mr. BROOKE. I wish to say to the Senator that I think a question of integrity has been raised.

Mr. DOLE. Not of Mr. Wilson.

Mr. BROOKE. Yes. I think the question of Mr Wilson's integrity has been raised. This is the sort of question I think could and should be resolved by the Committee on the Judiciary. I think that by raising the issue as to his motives, stating publicly and on the floor of the Senate that Mr. Wilson was not motivated by anything other than his desire to tell the truth to the committee, one does raise a question as to the man's integrity.

I think that, whether it is raised directly or indirectly, the effects are the same. Mr. Wilson is an employee of the Justice Department, and as such was appointed by the present administration. He has given testimony in the form of a letter to the Judiciary Committee. The distinguished Senator from California says that that letter was drafted by a member of the Justice Department in the present administration, and that it was signed, after some minor corrections, by Mr. Wilson.

If the facts are as the Senator from California states them, it certainly raises a doubt in my mind, and as the distinguished Senator from Kansas well knows, I try to be as fair and as objective as I can. As I say, I do not know the facts in this case. I do not know Mr. Wilson, I do not know whether he would be motivated by career considerations; whether he feels his job may have been in jeopardy had he not signed the letter. I do not know that.

I do not make any such charge. I do state that the best way to resolve the question is by letting the Judiciary Committee conduct hearings on this issue; let members of the committee ask Mr. Wilson questions. Let them sit, look into his eyes to judge whether he is telling the truth; whether he really believes Mr. Carswell is the man to sit on the Supreme Court of the United States; whether the statements he signed were, in fact, truth and fact. I think that question can best be resolved by giving him the opportunity to testify. I do not know of any impediment——

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

Mr. BROOKE. In just a moment I shall be pleased to yield.

I do not know why this man cannot appear before the committee, or why he did not appear before the committee. Apparently he is in good health. He is right here in Washington, D.C. He would not have had to travel very far to come before the Senate and testify before the committee.

I certainly do not want the Senator to feel that I am now suggesting that all the possible witnesses in the whole country be brought in to take the committee's time, but the committee, at least, had before it the letter of Mr. Wilson, on which several members said they based their judgment. From what I read in the RECORD, these Senators not only based their judgment on it, but said they were voting for the nomination because of the high endorsement made by Mr. Wilson.

Now, did he make an endorsement, or did he not?

Mr. DOLE. I do not know which Senators the Senator from Massachusetts is referring to. Several Senators have commented on this letter—I have, myself—as an indication that Judge Carswell was courteous to civil rights lawyers

appearing before his court. But the basic question raised is that every time somebody says Judge Carswell was a fair and a courteous man, we question his integrity. What about the others? Are they entitled to different treatment?

Mr. BROOKE. No; I think they should be called before the committee and given an opportunity to testify. Many testified that Judge Carswell was discourteous, that he was downright rude to them when they appeared before him in court. I do not know. I am not charging anyone with anything. All I am saying is that, under our system of law, when a man has some testimony to give to a committee, he ought to be given that opportunity to come before that committee, that he ought to take an oath, that he ought to testify, and be subjected to examination and cross-examination. I think there is nothing wrong with that.

The fact that a man is a Federal employee does not make him immune to this sort of procedure. In fact, there is a stronger case that he ought to be given an opportunity to come before the committee, particularly, as I said, as he is here in Washington and could readily testify. I suggest to the Senator that this is a wonderful way to give him that opportunity; namely, by sending this nomination back to the committee and inviting him back to testify.

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

Mr. BROOKE. I yield.

Mr. DOLE. I will comment generally on that. That is one way to defeat the nomination of Judge Carswell. If that is what the Senator from Massachusetts has in mind, that is one way to proceed. But I believe the President has a right to have the nomination voted up or down on the Senate floor. We have a right, under the Constitution, to advise and consent to nominations. We should have the courage to express ourselves; we should be willing to vote them up or down. I see no reason why we should resort to a stratagem or subterfuge of sending it back to committee, where it can die an unnatural death. Why not vote on the nomination on the Senate floor?

Mr. BROOKE. That is precisely why I raised this question on the Senate floor. I am glad the distinguished Senator from Kansas, in his customary and usual honest and forthright stance, has come out and said what many have been saying quietly—that the only purpose of the motion to recommit is to, in effect, kill the Carswell nomination. I am saying today that there are many reasons—very valid and compelling reasons—for recommitting this particular nomination.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. Certainly.

Mr. DOLE. Does the Senator know any Senator who is promoting the motion to recommit who might vote for Judge Carswell if there were further hearings?

Mr. BROOKE. I, frankly, have not asked any Senator that question.

Mr. DOLE. What about the Senator from Massachusetts?

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

Mr. BROOKE. Mr. President, I ask unanimous consent that I may be permitted to proceed for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Massachusetts may proceed for an additional 15 minutes.

Mr. BROOKE. Let me say to the distinguished Senator from Kansas that I have already stated very clearly my intent to vote against the nomination of G. Harrold Carswell. I have stated my reasons for such a decision, and a painful decision it was. And still is.

I have also stated that I hope that there will never be a time in my life when I cannot change my mind. I think a man who cannot change his mind should not serve in the U.S. Senate.

Mr. DOLE. Or on the Supreme Court.

Mr. BROOKE. Or on the Supreme Court. I quite agree with that. So I will not say I cannot change my mind. Perhaps some evidence will come before the Judiciary Committee, and ultimately the Senate, which would cause me to change my mind. There is that possibility. I do not rule out that possibility. I do not rule it out for my colleagues, either.

As I have said, there are many valid and compelling reasons for recommitting the nomination to the Senate Judiciary Committee, where I think it may be given a more thorough and exhaustive examination and inquiry than it had in the first instance.

Mr. DOLE. Mr. President, if the Senator will yield further, I think the nomination might be given a more quiet burial in the Judiciary Committee than on the floor. If we are being practical, as I think the Senator from Massachusetts is——

Mr. BROOKE. Is that a fair statement, that it will be given a quiet burial if it goes back to the Senate Judiciary Committee?

I have great faith that members of the Judiciary Committee will perform their duties, as they should; and that if there is new evidence to come before them, they will hear that evidence and judge it fairly. If there are witnesses who can shed light on some of these areas of darkness—and there are areas of darkness—I think the Judiciary and the country should be given an opportunity to hear, and judge, and ultimately decide about that testimony.

I would be less than candid if I did not say that I certainly recognize the possibility that the committee may not vote to return the nomination to the floor. But the committee certainly could also vote to report the nomination favorably a second time or it could report it adversely.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. BROOKE. I yield.

Mr. DOLE. I am merely discussing this nomination. I have no quarrel with the Senator from Massachusetts.

Mr. BROOKE. I think the Senator's comments have been helpful.

Mr. DOLE. I respect his position and trust he respects mine.

Mr. BROOKE. That is a proper assumption.

Mr. DOLE. I know how a motion to commit is used in the other body.

I would point out to the Senator from Massachusetts that this is a straight motion to recommit. There are no instructions to report the nomination back.

Mr. BROOKE. That is correct.

Mr. DOLE. I am advised by the Parliamentarian that it is too late to change that motion, to add instructions. The Senator from Indiana made the motion last Thursday. It was accepted and is a straight motion to send the nomination back to committee.

I would say, based on my experience in Congress, that what we are doing is, in effect, killing the nomination. I can visualize that there are Senators saying, "Send the nomination back to committee," who will say if they are successful, "The President should withdraw the nomination. Why should we continue hearings on it? The Senate has indicated it is not in favor of the nomination. There are 50-x votes for recommittal"—ad infinitum.

This might be a fair argument. I believe the President recognizes the practicality of it. My only point is—and I would hope that the Senator from Massachusetts might agree with me——

Mr. BROOKE. Is that not true at the present time? Could not the President withdraw the name now because of speculation that at this very moment at least 40 Senators are prepared to vote against confirmation?

Mr. DOLE. At least 40 other Senators might vote the other way.

Mr. BROOKE. Such widespread opposition, such widespread doubt would seem to me to be more than cause for a motion to recommit. Does the President have to withdraw a name merely because 51 Senators said the name should be recommitted?

Mr. DOLE. In a case where there is a yea-and-nay vote, and it is on a motion to recommit, I would hope the Senator from Massachusetts would favor a motion to table the motion to recommit. The Senator from Massachusetts and other Senators recognize that we have an obligation to vote the nomination up or down. We have had adequate hearings. Only a few votes were cast against the nomination in committee.

Mr. BROOKE. That is precisely what I am saying. We did not have adequate hearings, as is borne out by the many clouds, the many areas of doubt, that have been raised since the Committee on the Judiciary reported this nomination to the Senate.

Mr. DOLE. Did the Senator from Massachusetts raise those doubts when he made his speech against confirmation? Did he raise the question that there should be more hearings?

Mr. BROOKE. I made my speech relatively soon after the Committee on the Judiciary had reported the nomination, and the report had been completed. I studied the record as best I could, and based my decision upon the record and my own personal inquiries. But since that time many things have come to light which I, frankly, did not know of, and I think many other Senators did not know of.

Take the matter of Judge Tuttle. There

is certainly some question as to Judge Tuttle's endorsement or withdrawal of his endorsement, about how, in fact, the judge stands on this nomination. Things of that nature could be cleared up, once and for all, if the nomination goes back to the committee.

Questions were raised by the Senator from California (Mr. CRANSTON) yesterday and today about the letter of Mr. Wilson. Mr. Wilson's credibility and the credibility of Judge Carswell himself have been questioned. Those are important things to consider and I think the Judiciary Committee should consider them.

No one wants to have sitting on the Supreme Court a man whose credibility has been challenged, unless that issue has been resolved. I do not make such a charge. I do not say Judge Carswell did not tell the truth to the Committee on the Judiciary at the time I believe my distinguished colleague from Massachusetts (Mr. KENNEDY) was interrogating him as to whether he knew when he signed the incorporation papers that he was setting up a device to circumvent the law of the land as determined by the Supreme Court. But there is a question—a doubt—in my mind. I would like to know whether Judge Carswell was or was not telling the truth. I do not think the interrogation was exhaustive or complete.

I think that certain things which have happened since the hearings have raised doubts in my mind and have raised doubts in the minds of other Senators. I am looking for a means to resolve those doubts.

It seems to me that if I were in Judge Carswell's position and my name were before the Senate for confirmation, and if some doubt had been raised as to my credibility, and I were about to sit on the Supreme Court of the United States, I would want any and all doubts resolved promptly and decisively. I would want them resolved by the official body that should resolve them.

I do not think the Senate has all the facts before it at the present time. Nor has it an opportunity to get those facts. The Senate itself does not take testimony. The Committee on the Judiciary does. I think that a further hearing by that committee is the only way these doubts can be resolved.

Mr. DOLE. If the name of the Senator from Massachusetts were before the Senate, I would vote for its confirmation.

Mr. BROOKE. I am certainly honored. I thank the Senator from Kansas.

Mr. DOLE. Many statements have been made since the hearings were concluded. There was the telegram, released the past Sunday, by 11 of 15 active members of the fifth circuit, endorsing the nomination of Judge Carswell. Judge Wisdom was the only one who said he could not endorse Judge Carswell because of his record on civil rights. The others said they felt they should not because of the doctrine of the separation of powers.

Seventy-nine lawyers in Tallahassee, who have engaged in Federal practice before Judge Carswell endorse the Judge's experience and nomination.

So if we were to reopen the hearings on a day-by-day basis, the hearings would never end. When would we start, and when would we stop and say to the committee, "You have performed your task"?

If we want to kill the nomination, let us do so on the Senate floor next Monday, April 6—at 1 o'clock.

Mr. BROOKE. Would not the Senator agree that the whole question of the weight that should be given to the American Bar Association's endorsement is one that should be resolved? Certainly the American people have been led to believe that when the American Bar Association gave its approval to Mr. Carswell's nomination, the American Bar Association, the most distinguished and most prestigious legal body in the country, had conducted a rather extensive, if not exhaustive, investigation; and that, therefore, if they approved a nomination, their approval was one upon which the Senate, the President, and the Nation could rely.

But it would appear now that no such thing happened. The American Bar Association did not conduct an extensive examination into Mr. Carswell's qualifications. The American Bar Association merely gave him a rating of "qualified," whatever this means.

As I have said, I am a member of the American Bar Association, but I think it was certainly misrepresentation to the Senate, to the President, and to the Nation for that association to say that Judge Carswell was qualified, considering the minimum of investigation which the ABA's committee conducted.

I think the same thing applies to the Department of Justice. I think it is a shame, some would say a scandal, frankly, that the Justice Department did not know or did not report to the Committee on the Judiciary the statement which some television reporter discovered, by happenstance or through diligence—well, not by happenstance, but by diligence—that created some serious doubts in my mind and in the minds of other people across the Nation as to this nominee's fitness to serve on the Supreme Court.

Many of these things came out after the Judiciary Committee had made its report. If these were just more things that had already come before the Committee on the Judiciary, then, as the Senator from Kansas has wisely pointed out, we could not keep the record open for an indeterminate period. The hearings have to be ended at some time.

All I say now is that serious questions of doubt have been raised since the Senate began to consider this nominee. We can resolve those doubts and the way to do that is to vote favorably upon the motion to recommit and thereby give the Committee on the Judiciary an opportunity to conduct further hearings, which conceivably and hopefully could resolve those doubts.

Is that not a logical argument?

Mr. DOLE. That is a logical argument; I will agree to that. I would add—this is my notion again—that we have the right to have differing opinions. Surely many headlines have been written about the fact that 400 or so lawyers had signed petitions saying that Judge Carswell was not fit to sit on the Supreme Court.

If we review that—and that is a great number of lawyers—we find that of those 400 lawyers, only 126 are practicing attorneys; the other 300 odd are law professors. About 4,000 law professors teach in 145 law schools in America. We find the names of 126 practicing lawyers appeared in the advertisement published in certain newspapers.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. BROOKE. Mr. President, I ask unanimous consent that I may be permitted to proceed for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—I shall not object—there is other morning business; and I would hope that after this 15 minutes the Senator will not request additional time.

The PRESIDING OFFICER. Without objection, the Senator from Massachusetts may proceed for 15 additional minutes.

Mr. DOLE. There are 300,000 practicing attorneys in America. 143,500 of them are members of the American Bar Association. The ad carried the names of 126. My point is this: That is approximately .3 percent who oppose, at least publicly, the nomination of Judge Carswell. There may be others. But there has been so much notoriety and so much publicity given to 126 out of 300,000, and 334 law professors out of 4,500, why not call these people in if there are to be more hearings.

Mr. BROOKE. Does the Senator know whether a poll was taken of every lawyer in this country and every law professor in this country?

Mr. DOLE. In the State of Kansas we have approximately 3,000 practicing lawyers—and not a single Kansan's name appeared in the ad. Perhaps there are some Kansas lawyers who oppose Judge Carswell and I am certain there are.

The point is some seem to put great reliance on and give great credit to small numbers of people if they oppose Carswell, and it makes little difference how many are not opposed. We find one who is or five who are; then we should take this into consideration and weigh it very heavily, but should we forget about the 300,000 we have not heard from, the 3,000 in Kansas, or the approximately 1,480 members of the bar association in my State.

Mr. BROOKE. Does the Senator want to state that all 3,000 lawyers in Kansas agree that G. Harrold Carswell should sit on the Supreme Court?

Mr. DOLE. No. And they do not all agree that I should be in the Senate.

Mr. BROOKE. The Senator knows the realities of these things. I would presume that those names were solicited by some interested group from one side or the other.

Mr. DOLE. One side or the other.

Mr. BROOKE. They would get the

people they were interested in, and they would make out the best case they could. In the list of lawyers to which the Senator has referred are some of the most distinguished lawyers in the country who practice law, deans of law schools, members of faculties, who are merely stating that in their opinion G. Harrold Carswell should not sit on the Court.

The Senator has referred to 11 judges in the fifth circuit who said G. Harrold Carswell should sit on the Supreme Court, and he has also very fairly pointed out that Judge Wisdom was not one of them. I think we can point out now that Judge Tuttle also did not sign that telegram.

Mr. DOLE. But he is not an active circuit judge. I believe he is on call.

Mr. BROOKE. I am merely saying that these men disagree. So do other men disagree on this serious constitutional question. We have an almost evenly divided Senate at the present time. We had an equally close division on the nomination of Mr. Haynesworth, as the Senator will recall. I do not put too much weight on that. I certainly respect the rights of all these lawyers, law school deans, members of the faculties, members of the judiciary, and others to voice their opinion. But when we get to the question of how much weight should be given to a particular piece of evidence and how much weight should be given to a statement or a petition, that really becomes an individual matter. I think that is as it should be.

We have been having all sorts of discussion about this judge as a conservative. A speech was delivered on the floor of the Senate today the thrust of which was that if this man were a liberal, perhaps those opponents who are arguing most eloquently against him now would be arguing in favor of him. That distressed me when I heard it. I do not believe it to be true; let me say that. We are not here to decide whether a man is a Republican or a Democrat or whether he is a liberal or a conservative. The Senate's job is to decide whether this particular individual is qualified to sit on the Supreme Court of the United States. That is a very weighty and a very heavy responsibility. I think frivolous considerations should not be taken seriously by any of us, frankly.

It does not matter to me whether the man is from Florida or from Massachusetts. If he is not qualified to sit on the Supreme Court, he should not sit on the Supreme Court. It does not matter to me whether he is a Republican or a Democrat. Mr. Carswell happens to be a Republican; I happen to be a Republican. But if I do not think he is qualified to sit on the Supreme Court, I should vote against him.

I do not know where I fall on the philosophical spectrum. Whether some put me in all three camps—liberal, moderate, and conservative—does not matter to me. At any rate, if I am considered a liberal-moderate and he is a conservative that matters not to me. The issue is the question whether Judge Carswell is qualified to sit on the Supreme Court of the United States. This is what we are trying to determine, and I think this is what this debate is all about.

I am merely saying to the Senator from Kansas, at this time, that in my opinion there are sufficient questions which have not been resolved, there is sufficient doubt which should be resolved, in fairness to Mr. Carswell; in fairness to the President, who has made this nomination; in fairness to the American people, who have the right to expect only the best, and in fairness to the Senate, which has this very grave responsibility.

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

Mr. BROOKE. I yield.

Mr. DOLE. Who would the Senator call as additional witnesses? I will not trespass on the Senator's time further. I realize that I have interrupted too often.

Mr. BROOKE. I certainly would call—I have not gone over it in detail—Mr. Horsky, for one.

Mr. DOLE. He is a former adviser to President Johnson. I assume he might have a little leaning against a Republican nominee.

Mr. BROOKE. I just cannot presume that a Democrat is going to come before the Senate Judiciary Committee and, under oath, is going to give testimony which is not truthful, merely because he is a Democrat. I have to presume that he would be honest and forthright.

The Senator is a distinguished lawyer. He knows that there is a presumption of truthfulness, and we have to go on that presumption. I have traveled all my life on that presumption, and I have been very happy with it. I have never presumed a man to be wrong until he is proved wrong, and I think that is what this country stands for.

Mr. Horsky should be called. Then I think Mr. Wilson should be called before the committee. I will not repeat the reasons.

I think Mr. Carswell should come back before the committee because of the question of credibility which has been raised. I think very serious questions have been raised about his credibility.

I would call before the committee some of the incorporators of the golf course in Florida. I think they should come before the committee so that the committee might question them.

I think our judicial system is the best that has ever been devised by man. Although I know that under our system of laws at times we have to use affidavits, I think the best system is to have a man appear before a committee so that its members can look into his eyes and make a determination as to whether that man is telling you the truth or the untruth. You cannot always tell by this method; but, generally speaking, judges and juries have been very successful. They might convict the wrong man occasionally, or a convicted man might escape occasionally. But, generally speaking, our system of examination and cross examination, as I have said, is pretty reliable. I do not think we should change that system insofar as making a decision on the confirmation of a nominee for the Supreme Court of the United States.

So I just want to say to the Senator that I know he has some serious doubts as to the reason for a motion to recommit, and generally his doubts might be very valid. He has served in the House, and he has said that generally in the House a motion to recommit is a motion to kill. But I merely am trying to point out—and I hope I have—that sufficient questions have been raised since the Judiciary Committee reported this nomination that would justify recommittal of this particular nomination to the Judiciary Committee for the purpose of resolving those doubts.

I do not think I could make any stronger statement than to say that I think that in the end Mr. Carswell's interests will be better served if the Senate, in its wisdom, votes favorably upon the motion to recommit. I do not say this in any threatening manner at all. I do not mean by that that if it is not, he will be denied confirmation. I frankly really do not know that. But I think the Senator would agree that at this moment the Senate is so divided, there are some who still do not know how they will ultimately vote. The issue hangs in the balance. But we have the opportunity to resolve the doubts and I think the way to do that is by voting favorably upon the motion to recommit. I hope that the motion carries when it is voted upon on April 6.

I understand that the Senator intends to make a motion, prior to that vote, to table the motion. He invited my support of that motion to table but I will have to say that unless I hear more convincing arguments than I have heard so far, I would be disposed at this moment to vote against the motion to table and vote for the motion to recommit and hope that these questions can then be favorably resolved.

I thank the distinguished Senator from Kansas for joining this colloquy, which I hope will set the tone for the few remaining days of debate. I think that we have practically exhausted all the arguments on the evidence that we have before us, and fear that we soon may get into the area of speculation, charges, countercharges, innuendoes, guilt by association, and all of that murky area, which would make our decision even more difficult. I think that we can avoid that pitfall if we direct the few remaining days to intelligent and exhaustive debate on why we should or should not vote favorably on the motion to recommit.

Again I thank the distinguished Senator from Kansas.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, President Nixon has nominated Judge G. Harrold Carswell to be Associate Justice of the Supreme Court and the question before the Senate is, Should he be confirmed?

For the past several days I have carefully reviewed the testimony before the Senate Judiciary Committee and I have also followed the arguments presented in the Senate by those who would support and those who would oppose his con-

firmation. It appears that the principal arguments against his confirmation are confined to two basic points:

First, there are those who oppose his confirmation because they do not want a man of Judge Carswell's conservative background to be a member of the Supreme Court. These opponents criticize some of his earlier decisions as a judge on the basis that they were not as favorable to labor or the civil rights movement as they would like.

Second, others base their arguments on the premise that while Judge Carswell may be a man of integrity they do not think he is the best qualified man that the President could have found to fill this vacancy.

I first comment just on argument No. 1; namely, that Judge Carswell's conservative background would justify a vote against his confirmation.

As I have stated on earlier occasions, in my opinion agreement or disagreement with a man's political philosophy is not a valid basis for support or opposition to the confirmation of a Presidential appointment.

In fact, if this argument were to be accepted as the basis for a decision all conservatives would have voted for Judge Haynsworth and they would have opposed the confirmation of men such as Justice Goldberg, and many others who admittedly had liberal views. Yet men with liberal views were confirmed with scarcely any opposition by the Senate.

At the time of Justice Goldberg's appointment, I received many letters of protest on the basis that as a former representative of labor he would be prejudiced against management. I took the position then that, while Mr. Goldberg's views were more liberal than mine and that had it been my choice I would have selected a man with a more conservative background, this was the President's appointment and Mr. Goldberg was in my opinion a man of high integrity. I supported his confirmation.

Justice Goldberg proved to be an able member of our Court and no one has challenged his decisions as being biased. Justice Black had been a member of the Ku Klux Klan, yet he proved to be a liberal on the Court.

Under our constitution nominations to fill vacancies on the Supreme Court are made by the President and it is expected that in making this selection the President will nominate men whose social or political philosophy more nearly coincides with his own. Had Mr. Humphrey been elected President I am sure he would have named a liberal to fill this vacancy, and the country expects Mr. Nixon to name a man of more conservative background.

Therefore, in my opinion objection to or approval of Judge Carswell's conservative record is not a valid basis upon which to base our decision.

That brings us to the second question; namely, is Judge Carswell qualified for this position and does he represent the best possible choice the President could have found to fill this vacancy?

As to his qualifications, I point out that the Senate has on three occasions unanimously confirmed Judge Carswell, once as a U.S. attorney and twice as a member of the Federal court.

In 1953 Harrold Carswell was appointed and confirmed by the Senate as the U.S. attorney in the Jacksonville, Fla., area. He served in this position until 1958 at which time he was appointed and again unanimously confirmed by the Senate to be a Federal district judge in that same district. He served in that capacity until 1969. In June 1969—just last year—President Nixon recommended that Judge Carswell be elevated to the position as a member of the U.S. Court of Appeals for the Fifth Circuit.

At the time of this later appointment, in 1969, Judge Carswell had already served as a Federal Judge for over 10 years or between 1958 and 1969.

The Senate Judiciary Committee again considered both his qualifications and his record as a Federal Judge and in June 1969—less than one year ago—unanimously reported his nomination to the Senate and the Senate unanimously confirmed his appointment.

Significantly, while some may disagree with certain of his decisions, at no time has anyone presented any challenge to the honesty or integrity of this man.

I repeat three times Judge Carswell has been unanimously approved by the Senate Judiciary Committee and three times he has unanimously been confirmed by the U.S. Senate and at no time was any question raised as to his qualifications.

That brings us to the last argument, namely do we think that Judge Carswell is the very best qualified man that President Nixon could have found to fill this important position.

I will answer that question in exactly the same manner as if the question was, did I think that I or any of the other 99 Members of this body are the best qualified men that our States could have found to represent them in the U.S. Senate. Let's face it, no man is so great that it would be impossible to find a better man to replace him and I would hope that there is not a single Member of this Senate who is so egotistical that he would try to claim that he is the best man his State could have selected.

This is true of every other man in public or private office and I would suggest that Senators not push this argument too far, our constituents may get ideas.

One last point: an argument has been raised concerning a speech that Judge Carswell made about 20 years ago wherein he supported segregation.

Twenty years ago when Judge Carswell made that statement we had segregated schools, segregated restaurants, and segregated clubs in every State in the North as well as the South. Right here in Washington Members of Congress lived in, ate in, and were members of such segregated facilities.

On June 7, 1948, the Senate by a rollcall vote of 67 to 7 rejected an amendment which would have abolished segregation in our Armed Forces. Only two of the present Members of the Senate supported that amendment and as I recall no effort was made in the House to eliminate this discrimination in our Armed Forces. Who are we to point the finger at Judge Carswell for his views of 20–25 years ago?

Then too, Judge Carswell has been criticized because of a segregation clause in a deed. Senators know such clauses have been declared null and void years ago by our courts; therefore, they have no meaning. Besides half the property on the Atlantic seaboard carries such a historic clause. This includes much of the property right here in Washington and its surrounding areas.

In one area of my own State all property—including some property which I own carries such a clause that was initiated years ago by some former owner.

Only recently it was pointed out that one of the candidates for President on the Democratic ticket had owned property bearing such a clause.

Did this mean that he or the other property owners were segregationists? Certainly not. I doubt if many of them even knew such a clause was in their deed. I did not until 10 years later.

Then too, how many Senators have made speeches, cast votes, or done something during the past 25 years that we would rather have forgotten?

Mr. President, in the light of the Senate's own record on civil rights I suggest we be careful as to how we point a finger of criticism at Judge Carswell for his views of 25 years ago.

I respect all my colleagues who are members of the American Bar. Early in life my ambition had been to be a lawyer but let it be remembered that there is nothing in the Constitution which requires even a member of the Supreme Court to be a lawyer. Ability, integrity, and good commonsense are the essential ingredients for public offices and not the least of these is good commonsense.

Mr. President, in my opinion Judge Carswell's 17-year record as a public servant with 10 years service as a Federal judge fully justifies our support. He is a man of high integrity, well qualified to be a member of the Supreme Court and I shall vote for his confirmation.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GRIFFIN. Mr. President, I know that the Members of the Senate and the American people have waited with interest to hear the views of the distinguished Senator from Delaware on this nomination.

Of course, the Senator from Delaware is generally acknowledged to be, and often is referred to as, the "conscience of the Senate."

Naturally, I am pleased that his conclusions concerning the nomination of Judge Carswell coincide with mine; I am pleased that the distinguished Senator from Delaware supports the nomination.

Speaking of the qualifications of Judge Carswell, I dare say that there have been few Supreme Court nominees in this century who have had the training, qualifications, and experience on the bench that Judge Carswell would bring to the High Court. Having served as a district attorney, as a trial judge on the district court, and as a member of the circuit court of appeals, he is much bet-

ter qualified than most who have been nominated.

When one considers the number of nominees in the past with less experience and had less background who over the years developed into outstanding Supreme Court justices, it occurs to me that we have good reason to believe that this nominee is even more likely to develop into a great justice of the Supreme Court.

I wish to commend the distinguished senior Senator from Delaware for his very excellent statement—a statement which is bound to have an important effect upon the vote to confirm this nomination.

Mr. WILLIAMS of Delaware. Mr. President, I agree completely. I reviewed this matter very carefully.

In making this selection we are confirming a man to a very high and very important position. In my opinion, he is fully qualified. His record during the time he has been in public service as a district judge and later as a judge of the circuit court of appeals reflects to the credit.

I think Judge Carswell's record fully justifies the support of the Senate, and I welcome the chance to vote for his confirmation.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, first I commend the Senator from Delaware.

As the distinguished acting minority leader, the Senator from Michigan, has pointed out, many of us applaud the statement of the Senator from Delaware. The Senator from Delaware has a unique way of cutting through much of the morass and putting things in proper perspective by example and by illustration which is very helpful to this Senator.

I would say, as the Senator from Michigan has said, and as the Senator from West Virginia (Mr. BYRD) said earlier today, that Judge Carswell has more experience than all of the present occupants of the Supreme Court combined, having been a U.S. attorney, a Federal district judge, and a judge of the circuit court of appeals.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BYRD of West Virginia. That is true with the exception of Chief Justice Burger.

Mr. DOLE. The Senator is correct.

Mr. President, I fear that the merits of the Carswell nomination have recently been obscured by a swelling tide of misleading statements on the part of those who oppose confirmation. Whether this represents desperation tactics in the stretch drive, or whether it is the normal way opponents go about trying to influence public opinion, I do not say. I believe the U.S. Senate and the American public are entitled to fair play on this issue.

Let me take only the most recent example of these tactics. Yesterday the junior Senator from California called a press conference to make the charge that Charles F. Wilson, a black lawyer who had submitted a letter to the Judiciary Committee telling of fair treatment he had received at the hands of Judge Carswell, had been "pressured" into doing so. He further stated that the administration had used Mr. Wilson in a "deliberate effort to mislead" the Senate committee. He further stated, according to the Washington Post account of the matter this morning, that the "letter was widely cited by Senate supporters as showing a leading civil rights lawyer felt Carswell was fair."

As I said before and as I say again—and it appears on pages 328 and 329 of the hearings record—there is not one word of his statement that constitutes an endorsement. It states a fact, and that fact is that he was a black attorney, a civil rights attorney who had appeared many times before the court presided over by Judge Carswell. And he said, and I repeat, that he had never been treated discourteously, that the had been treated fairly every time and any time he appeared before that court.

Now, what are the facts of the matter? Mr. Wilson told the newsmen who swarmed around him after the junior Senator from California's press conference that, and here again I quote from the news account, that "he had 'absolutely not' been mistreated in court by Carswell and had 'absolutely not' been used by the administration."

He said that he had not been pressured or used by the administration in an effort to gain support for the nomination of Judge Harrold Carswell.

It also is a fact that Mr. Wilson holds a civil service position, from which he could not have been dismissed without good cause.

So the record is now straight. The charges are demonstrated to be false. But what of the tactics used? What of the tactic of making public statements indicating that a man has repudiated a position he has taken, without ever going to the man himself? What of the tactics of relying only on hearsay affidavits to support such a conclusion? What would some of our great advocates of civil liberties say if one of the Internal Security Committees of the Senate or of the House of Representatives formed its conclusions as to a witness' testimony on such a basis—on the basis of third-party affidavits.

Unfortunately, this is but one of several similar forays in which the opposition has recently engaged. On Friday, March 27—less than a week ago—the Baltimore Sun carried a leading article containing, among others, two statements which were totally without factual foundation.

First, it attributed to Clarence M. Mitchell, Jr., the National Association for the Advancement of Colored People representative in Baltimore, the report "that the FBI did an exceedingly thorough investigation into Judge Carswell's background and turned up, among other things, the 1948 white supremacy speech."

"However," he continued, "somewhere along the way it got dropped."

The Attorney General and the Director of the FBI categorically denied the truth of this statement later the same day, and the record on that has now been set straight.

Second, the Sun attributed to "a source in the Senate" that "according to 'unimpeachable information' he had received, Senator GEORGE MURPHY, Republican of California, who is facing a reelection campaign this fall, will vote to recommit the nomination in the face of minority group pressures being brought to bear at home."

That very evening, the senior Senator from California issued a flat denial of any intention on his part to vote to recommit the nomination, and reaffirmed his strong support for Judge Carswell.

And so the record is now straight on these two matters. But what of the tactics of the opponents in resorting to misstatements, distortions, and falsehoods such as this?

This does not by any means exhaust the list. The United Auto Workers news release of February 1970, for example, states that Dean Pollak of Yale Law School, an opponent of Judge Carswell, supported Judge Haynsworth. Dean Pollak did not support Judge Haynsworth. Such a statement is critically misleading, because it suggests that Dean Pollak is actually quite neutral in matters of liberalism versus conservatism, that he supported one conservative nominee of the President, but could not bring himself to support the second nominee. Actually, Dean Pollak, as vice president of the NAACP's lawyers defense fund, has been a leading activist and liberal in the field of civil rights. He is certainly entitled to his opinion as to whether or not Judge Carswell should be confirmed, but no one ought to suggest in opposing the nomination that Dean Pollak is neutral or unbiased on the ideological issue involved.

Let me carry my catalog of misleading information one additional step further. We have recently been treated to long lists of law school deans and law school professors who have opposed Judge Carswell. The Washington Post this morning devoted the latest in what must have been at least a dozen editorials attacking Judge Carswell to a list of law school deans, pro and con, and of law school faculty members.

Now, the question that comes to my mind, is whether or not these law school deans and professors are against Judge Carswell because they are teachers of the law, or whether they are against him because they are liberal Democrats. A liberal Democrat has every bit as much right as any other kind of Democrat, or any kind of Republican, to express his view about the nomination of Judge Carswell or about any other matter in the public forum. And a liberal Democratic newspaper, in its campaign to help defeat the nomination of a conservative, has every right to quote liberal Democrats. But is there not some departure from strict accuracy when law school deans and professors are treated by editorialists as if they were a neutral or relatively neutral class of participants in the debate? To be more specific, and

a good deal more blunt, how many of the law school deans and law school professors who have opposed Judge Carswell's confirmation voted for or supported in any way President Nixon in the 1968 election?

And while I am on the subject of the Washington Post's editorial of this morning, after observing that 79 lawyers in Tallahassee supported Judge Carswell, the editorial noted that "it is useful to note there are 284 lawyers in that city listed in a national directory." A national directory, no doubt, kept in the editorial office of the newspaper in question. But the important point here is that the Washington Post recognizes in this context that it is not just the number of signers, but the number of nonsigners out of the class as a whole that is important. Unfortunately, it has not chosen to recognize this fact in the case of a very similar petition circulated by law school professors and practicing lawyers opposing Judge Carswell's confirmation. Here, the news media headlined that 400-odd prominent attorneys and law professors opposed Judge Carswell's confirmation. They did not point out that of this 400-odd, only 126 were practicing lawyers, as opposed to law professors. Nor did they point out the number of nonsigners of this petition, the way they did with respect to the Tallahassee lawyers. Since the press did not do it, I am going to do it for them. On this petition, 334 law school professors signed in opposition to Judge Carswell. There are 4,062 professors who teach at the 145 law schools approved by the American Bar Association. This is useful to note.

There are 126 practicing lawyers, as opposed to law professors, who signed the petition. There are approximately 300,000 practicing lawyers in the United States, excluding law professors. This is useful to note.

Finally, there are 143,449 members of the American Bar Association as of December 31, 1969. If all 400-odd signers of this petition against Judge Carswell were members of the American Bar Association, that number would represent something like three-tenths of 1 percent of the membership of the American Bar Association. This is useful to note.

In my State of Kansas, there are 2,974 lawyers, and 1,480 members of the American Bar Association. Not a single practicing lawyer in Kansas signed this petition. This, too, is useful to note.

The senior Senator from Iowa, in his very able speech on the floor of the Senate March 20, made the following comment, and I quote:

> Not being a member of the Judiciary Committee and not having any personal knowledge of Judge Carswell, it seemed prudent for me to study the hearings record before reaching a final decision on this matter. To do otherwise would be to make a judgment on a most important matter without considering the evidence—to indulge in "trial by the press" and to thus shirk the duties of a Member of a separate, co-equal branch of our federal government in his exercise of the constitutional power of confirmation.

I fully endorse the comments of the senior Senator from Iowa with respect to the dangers of "trial by press." I deplore the misleading tactics of the opponents of this confirmation in these closing days of the debate. I reaffirm more strongly than ever my determination to vote against recommital of the nomination—I shall offer a motion to table the motion to recommit—and vote in favor of Judge Carswell's confirmation.

Mr. CURTIS. Mr. President, the Senate of the United States is on trial. For some months there has been a vacancy on the Supreme Court waiting to be filled.

President Nixon's nomination of G. Harrold Carswell is before the Senate. This nomination should have been confirmed a long time ago. Now there is a move underway which would avoid a vote for or against the confirmation of Judge Carswell. This is through a motion to recommit the nomination to the Committee on the Judiciary.

Mr. President, the people of the United States and the President of the United States are entitled to have the Carswell nomination voted upon. The motion to recommit it to the Judiciary Committee should be tabled and I shall vote for the tabling motion that will be offered by the distinguished Senator from Kansas (Senator DOLE).

Few nominees for the Supreme Court have possessed the fine qualifications of Judge Carswell. It was the late President Dwight D. Eisenhower who appointed him as U.S. Attorney. Judge Carswell's many years in that capacity gave him valuable courtroom experience. President Eisenhower, recognizing the high qualifications of the then U.S. Attorney Carswell, appointed him as U.S. District Judge. This gave him a decade or more of experience as a trial judge. It was logical that some months ago President Nixon should elevate this outstanding man to the U.S. Court of Appeals. Judge Carswell has been confirmed by the U.S. Senate three times prior hereto.

This fight against President Nixon's nomination of Judge Carswell to the Supreme Court is being carried on by an unholy alliance of rank partisans and militant pressure groups. Their arguments are phony and the facts are against them.

Mr. President, the people of the United States are entitled to have a balanced court made up of jurists who can act independently of all vested interests and pressure groups. The President of the United States is entitled to have his nominee voted upon and confirmed.

Mr. HUGHES. Mr. President, in considering a nominee to the Supreme Court, those of us who are not lawyers must inevitably give some special weight to the views of the legal profession. I have found it to be a particularly persuasive factor that Judge Carswell is widely opposed by his professional colleagues, including those who might have been expected to follow their custom of refraining from entering into this controversy if it were merely "political," as recently asserted by the Deputy Attorney General.

When law faculties and members of leading law firms throughout the Nation join in opposing a nominee, it is ridiculous to suggest that their position stems from either political or regional bias.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point a letter signed by 45 members of the well-known Washington law firm of Hogan and Hartson, and an editorial from the Washington Post of March 31, 1970.

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

MARCH 17, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: We, the undersigned are all lawyers practicing in the District of Columbia, and many of us have worked in the United States Government. We write in strong opposition to the appointment of Judge G. Harrold Carswell to the Supreme Court of the United States.

The hearings which were held with regard to his appointment, the attitudes and judicial temperament of Judge Carswell himself, the judicial posture which he has taken on significant issues, and the careful analysis of his fitness for the Supreme Court by respected members of the legal profession throughout the nation demonstrate beyond any question that Judge Carswell does not possess the requisite attitudes or abilities which warrant his being made a member of the highest court in the land.

Not only has he demonstrated callous disregard for, and open hostility to, the clear constitutional rights of Black Americans, but he has, in his capacity as a United States Attorney and United States District Judge, as well as in his private affairs, gone beyond the bounds of all propriety in taking part in discriminatory schemes and plans designed to thwart federal law. If, as he claims, he was not aware of any wrong-doing, then he betrays a shocking lack of awareness of the events around him, which alone should disqualify him from sitting on the Supreme Court of the United States.

Although callous disregard and indifference toward Black Americans is not the same as having been guilty of financial impropriety, it is clear that the Canons of Judicial Ethics require that a judge avoid even the "appearance" of impropriety, and that his personal behavior "not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach" (Canons of Judicial Ethics, No. 4). Clearly, it cannot be said that Judge Carswell has met this critical test.

Finally, at a time when Black Americans are finding it increasingly difficult to believe that the leadership of this country is concerned about their legitimate and constitutional rights, the appointment of a Justice of the Supreme Court whose past history is full of denial of those rights, both in his public and private life, would represent a most serious blow and one from which it may well be difficult to recover. Particularly when so many issues critical in the well-being of our citizens are awaiting judgment by the Supreme Court, this country cannot afford to have on that Court one who lacks the necessary intellectual and moral capacity to sit in judgment.

Because you and those Senators to whom we are sending copies of this letter are in a position to prevent this appointment, and thus, a tragic mistake, we urgently request that you heed the advice of the legal community, as well as other concerned Americans, and reject the appointment of Judge

G. Harrold Carswell to the Supreme Court of the United States.

Very truly yours,

James A. Hourihan, Edward A. McDermott, Jay E. Ricks, George W. Miller, William T. Plumb, Jr., Joe Chartoff, Harold Himmelman, Vincent Cohen, Peter F. Rousselot, Eric H. Smith, Stanley Marcuss, Robert H. Kapp, Seymour S. Mintz, Arthur J. Rothkopf, Timothy J. Bloomfield, Bob G. Odle, Raymond E. Vickery, Jr., Curtis E. von Kann, Kevin P. Charles.

Sherwin J. Markman, Jerome N. Sonosky, David B. Lytle, David A. Ludtke, Lee Loevinger, Stuart Philip Ross, Gerald E. Gilbert, Matthew P. Fink, Marvin J. Diamond, William A. Bradford, Jr., Douglas A. Nadeau, Richard S. Rodin, Sara-Ann Determan, C. Ronald Rubley, Alfred T. Spada.

David J. Hensler, Peter W. Tredick, Francis L. Casey, Jr., Alvin Ezrin, James J. Rosenhauer, Robert M. Jeffers, Alfred John Dougherty, Arnold C. Johnson, Austin S. Mittler, Richard B. Ruge, Robert K. Eifler.

JUDGE CARSWELL: KEEPING THE RECORD STRAIGHT

Things are beginning to happen so rapidly in the battle over confirmation of Judge Carswell that it is a little hard to keep them in perspective. The weekend began, for example, with Senator Cooper's announcement of support for the judge, and while we would not wish to pretend to anything but regret about this, the fact is, of course, that his decision was expected and largely discounted in advance, as will be a string of such announcements in the coming days, as both sides play for psychological advantage. Leaving this part of the struggle aside, there were these weekend developments which bear closer examination: 11 judges from the Fifth Circuit Court of Appeals signed a telegram endorsing Judge Carswell: 79 lawyers from Tallahassee, the judge's home, sent a similar endorsement; and Deputy Attorney General Kleindienst unloosed a broadside attack against assorted Carswell critics, expressing the belief that those who oppose him for political reason have run out of "misleading" and "deliberately untruthful" charges against him.

Well, on this last count we would certainly hope so, too. But we would also hope that those who support the judge would be a little more precise in what they say, and a little more to the point, which in the case of the Fifth Circuit judges and the Tallahassee lawyers and some of the complaints of Mr. Kleindienst have to do, at bottom, with what people in the legal profession think of Judge Carswell.

Turning to first things first, Judge Carswell's nomination did get a timely phychological lift from the telegram signed by those 11 judges—which only goes to show what trouble it is in. What would have been the outcry about any preceding nominee if it had become known publicly that any substantial number of his closest colleagues opposed confirmation? Remember that if Judge Carswell is not confirmed his colleagues, specifically including those who did not sign the telegram, must continue to sit on the bench with him. And there are four sitting judges as well as three retired judges who did not sign. Interestingly, only three of the eight judges who were active when that court underwent its most serious attacks between 1955 and 1965 are openly supporting this nomination. And none of the court's big four in those days (three of them, incidentally, appointed by President Eisenhower)—Tuttle, Rives, Wisdom and Brown—signed that telegram.

As to other matters, the Ripon Society did not, as Mr. Kleindienst said, first say Judge Carswell was reversed 54 percent of the time and then on further study change that to 40 percent. It reported originally that Judge Carswell was reversed in 58.8 percent of those cases in which appeals were taken from his printed opinions. No one that we know of has challenged that figure. The Ripon Society subsequently examined all the appeals from all Judge Carswell's decisions and reported the reversal rate was 40.2 percent, noting that the rate got worse the longer he was on the bench—25 percent for the first quarter of his appeals, 33 percent for the second, 48 percent for the third, and 53 percent for the fourth. Either Mr. Kleindienst misread the Ripon Society's statements or chose to ignore its careful distinction between written opinions (which judges usually file only in major cases) and all decisions.

It is true, as Mr. Kleindienst said, that the official voice of the American Bar Association is for confirmation. But we suspect that columnists Mankiewicz and Braden (see letter on this page) were more accurate than was Mr. Kleindienst when they suggested that a majority of that Association's members who have an opinion are against confirmation. At least, that's the feeling we get from reading the Congressional Record, which senators love to stuff with communications from home—and from reading our own mail. With less than a dozen exceptions, all the letters we have seen in the Record or received ourselves from lawyers supporting Judge Carswell come from his home state of Florida. As for the list of 79 Tallahassee lawyers, it is useful to note there are 284 lawyers in that city listed in a national directory.

Certainly one segment of opinion is heavily against Judge Carswell's confirmation; these are the people who teach law. We have collected the following tabulation of the universities which have law schools that have been heard from during this debate:

LAW SCHOOL DEANS

Against confirmation (22)

Boston College, Catholic, Chicago, Columbia, Connecticut, Georgetown, Harvard, Hofstra, Illinois, Indiana, Iowa, Kansas, New York U., Notre Dame, Pennsylvania, Puerto Rico, Rutgers, Stanford, UCLA, Valparaiso, Western Reserve, Yale.

For confirmation (2)

Florida, Florida State.

FIVE OR MORE FACULTY MEMBRERS

Against confirmation (31)

Arizona, Boston U., California (Berkeley), Catholic, Chicago, Columbia, Connecticut, Florida State, Georgetown, Harvard, Illinois, Indiana, Iowa, Kansas, Loyola (Los Angeles), Maine, New York U., New York U. (Buffalo), North Carolina, Notre Dame, Ohio State, Pennsylvania, Rutgers, Stanford, Syracuse, Toledo, Valparaiso, Virginia, Washington & Lee, Willamette, Yale.

For confirmation (0)

None.

It is impossible to dismiss this overwhelming vote of no confidence in Judge Carswell from the legal teaching profession; certainly it reduces to irrelevancies the complaints of Mr. Kleindienst about the calculations of the Ripon Society or the argument over who speaks for the American Bar Association—the members who are plainly split on the matter, or the ABA's 12-man Committee on the Judiciary which rated him "qualified." Still less is it any longer possible to argue from this listing that the opposition to Judge Carswell is narrowly sectional and confined to the northeastern corner of the country, as some of the judge's supporters have argued in the Senate debate. It is in every sense a national list—South as well as North, Midwest and Far West as well as East. And it is a devastating list. For it is made up of men and women who teach lawyers and who therefore care deeply about the quality of the law they must teach.

Mr. BROOKE. Mr. President, the debate thus far has shown that the Senators who oppose Judge Carswell do so because their study of his record has compelled the conclusion that he lacks the basic intellectual qualifications necessary for service on the High Court and that he is hostile to the precepts of the 14th amendment. The discussion has largely dealt wtih the totality of his record, which is, of course, of vital significance in setting the basic theme of the debate. But I believe a further insight can be achieved by examining in depth the judge's performance in a single proceeding. For this purpose I have analyzed Judge Carswell's handling of the case which was most thoroughly discussed in the Judiciary Committee, County of Gadsden against Wechsler. In my view, Judge Carswell's performance in the Wechsler case graphically illustrates his judicial deficiencies. At the outset, I shall summarize the significant aspects of this episode.

First: A fee was required to remove civil rights prosecutions cases to the Federal court despite a square holding by the fifth circuit that no such fee was to be charged. *Lefton* v. *City of Hattiesburg*, 333 F. 2d 280, 285, reprinted in the hearings 460, 465.

Second: Judge Carswell insisted that petitions for habeas corpus be filed on a special form designated by the court, although the rule which prescribed the form was adopted for an entirely different class of cases, so that form called for information which was entirely irrelevant since mere filing of the removal petition entitled the defendants to habeas corpus.

Third: Defendants' attorneys were directed to obtain the signatures of the defendants on the petition, which further delayed their relase, although it is universal practice that court papers are to be signed by attorneys rather than the parties whom they represent.

Fourth: Judge Carswell criticized the defense attorney because he was from out of the State, although no local lawyers were available to represent the civil rights workers. He did so despite the recent opinion of the court of appeals in Lefton which, in the clearest terms, instructed district judges in its circuit to permit out-of-State attorneys to represent civil rights workers who would otherwise be without counsel. See 333 F. 2d 285–286, hearings, 465–466.

Fifth: Judge Carswell refused to permit his marshal to serve the writ of habeas corpus and required defendants' attorney to do so themselves, although 28 U.S.C. 1446 provides that when the court issues its writ of habeas corpus "the marshal shall thereupon" take the defendants into custody and deliver a copy of the writ to the clerk of the State court.

Sixth: Judge Carswell permitted his marshal to notify State authorities of the order of remand by telephone, although 28 U.S.C. 1447(c) provides that such notice shall be given by mail. By this violation and that of 28 U.S.C. 1446(f) Judge Carswell enabled the State to rearrest the civil rights defendants immediately after their attorney served the writ.

Seventh: Judge Carswell remanded the case to the State court without affording the defendants a hearing on the question of the propriety of the removal. He did so, although that question was, at the very least, one of considerable complexity and although the only authority which Judge Carswell cited was not even remotely in point.

Finally, Judge Carswell denied a stay pending an appeal, although such an appeal was expressly granted by Congress, the question raised on the appeal was substantial, and there was no danger that the defendants would flee or commit any illegal acts.

Before discussing these matters in detail, it is appropriate to describe the context in which the Wechsler proceeding arose. A group of civil rights workers came to northern Florida, as they did to some other areas in the South, to engage in a voter registration campaign among Negroes. The activities of these civil rights workers were in the finest tradition of democracy for they recognized, as Congress recognized in the Voting Rights Act of 1965, that Negroes would remain second-class citizens as long as they were denied the franchise. For precisely that reason the white community and more particularly the incumbent Government officials who benefitted from the retention of the status quo and the denial of suffrage to the Negroes resisted these efforts. The atmosphere which greeted the civil rights workers was well described by Norman Knopf who at that time was a law student but who presently is an attorney in the Department of Justice and appeared before the Judiciary Committee pursuant to subpena:

The CORE volunteer workers, many of whom were from Florida itself, and some of whom came from the North, would assist black people in getting to the registration place to register so that they could vote in the Federal elections scheduled in November.

As I heard Mr. Rosenberger testify and as this committee has heard, the project met with a great deal of hostility by the white people of the area. There were assaults. There was a bombing. There was a shooting, and so on. There were frequent arrests.

Specifically with the arrests, this is where the Lawyers' Constitutional Defense Committee attorneys came in, and tried to defend project workers that were arrested or remove the cases." (Hearings 175.)

Mr. Rosenberger testified:

Hostility to us was patent throughout the area. The postman in Quincy would not deliver mail because the mailbox was mounted about 6 inches back from the line of mailboxes.

Senator TYDINGS. Who is "us"?

Mr. ROSENBERGER. Well, sir: volunteers working in voter registration, that is student volunteers, the lawyers and law clerks. All of us stayed in this house in Quincy. Now there were places where voter registration volunteers had put up posters and those posters were regularly torn down by a deputy sheriff.

There were restaurants, several, where I was refused when I tried to enter.

Voter registration workers were assaulted. Firebombs were placed under an automobile. Shots were fired through the window of a house where volunteers were staying. That was just to indicate what the general aura of hostility was in the area at that time." (Hearings 150.)

This characterization of community attitudes was confirmed by Mark Hulsey, Jr., a witness who appeared on behalf of Judge Carswell:

If this were not so serious, this charge of racism against Judge Carswell, it would almost be funny. By that I mean it is certainly ironic, because you know in Florida many people regard certain parts of the northern district of Florida as a little bit to the right of Louis the 14th, and I can tell this committee in all sincerity and honesty that Harrold Carswell has displayed unusual courage I think and faithfulness to the law that he serves in his civil rights rulings, in an altogether hostile climate. (Hearings 107.)

If the President of the Florida Bar Association regards occasionally procivil rights rulings by a Federal judge who is protected by life tenure and the full panoply of Federal power to be a display of unusual courage, what words are there to describe the fortitude of private individuals who came into this altogether hostile climate to help Negroes register to vote? I cannot believe that Judge Carswell was unaware of these community attitudes; indeed, for him not to have known it would display an insensitivity and unworldiness which would ill fit him to perform the functions of a justice of the Supreme Court of the United States. Moreover, he cannot have been unaware of the circumstances under which the Wechsler defendants had been arrested and tried in the State courts, for these were set forth in the papers before Judge Carswell. See hearings 178. The defendants were arrested for trespassing on private, nonposted ground, and without having the opportunity to leave after they were requested to do so:

Mr. ROSENBERGER. Yes, sir; that is correct. In the case of Wechsler, there were seven young people, seven volunteers, who had been arrested in Gadsden County. Three of them were adults and four were under the age of 17. I believe five of the seven were residents of Gadsden County and two were volunteers from elsewhere who had come as voter registration workers. They were arrested for trespassing on lands which were not posted, which were reached by a road leading from the public highway, which had no indication that it was a private road, not posted, not fenced, and they were arrested while they were talking to people about registering. They were arrested by sheriff's officers of Gadsden County, Fla.

The CHAIRMAN. Now someone swore out an affidavit against them in a justice of the peace court; is that correct?

Mr. ROSENBERGER. An affidavit was sworn after the time of the arrest; yes, sir.

The CHAIRMAN. After the time of the arrest?

Mr. ROSENBERGER. They were taken into custody on the road.

Senator TYDINGS. Go into a little more detail. Tell the chairman the whole story.

Mr. ROSENBERGER. All right, sir. These seven people were on this road. This was a place where tenant farmers lived on a larger farm. Actually on this farm there lived, I believe, the cousin of one of the people who had been arrested and she had frequently visited on this farm to visit her family.

Now the overseer of the farm came down the road and saw these people talking to tenant farmers. He came up to them. He told them that they were trespassing, that this was private property. They explained that they were there to talk to people about voting. He said they were trespassing. They said, All right, we'll leave. He said, No, I am having you arrested. And he told them to wait, which they did, and they were arrested there, for trespassing on unposted lands while talking to people about registering to vote.

The CHAIRMAN. What is the Florida statute on posting?

Mr. ROSENBERGER. The Florida statute, as I understand it, did not require posting.

The CHAIRMAN. So they were trespassing. You keep saying that the land was not posted.

Mr. ROSENBERGER. Yes, sir, but there was no way for them to know it was a trespass.

The CHAIRMAN. A man is presumed to know the law, is he not?

Mr. ROSENBERGER. He is presumed to know the law, sir, but he is not presumed to know the fact.

The CHAIRMAN. I know, but a lot of States in this country have got a statute that provides when you are on private property if you are told to get off and you do not do it you commit trespass.

Mr. ROSENBERGER. Yes, sir, if you are told to get off.

The CHAIRMAN. And that is what you tell me the Florida statute is.

Mr. ROSENBERGER. When told it was private property they said they would leave, and the man said, No, you are going to be arrested.

Senator TYDINGS. In other words he would not let them leave?

Mr. ROSENBERGER. He would not let them leave. Had he said get off, that would have been a different circumstance. He said, this is private property. They said, we will leave. He said, No you won't, you will be arrested.

The CHAIRMAN. They stayed there until when? They went to the justice of the peace court?

Mr. ROSENBERGER. No, sir, he did not go to court prior to their arrest. He had them arrested while there, while they were on the premises.

Because the civil rights workers felt that there was no chance for a fair trial in the State courts, they removed the prosecutions to the Federal court. (Hearings 175.) Thereupon the State court was advised that it had been ousted of jurisdiction, and the State court judge not only ignored the removal—in direct definance of Judge Carswell's jurisdiction—but tried and convicted the defendants without giving them the opportunity to be represented by counsel:

Senator TYDINGS. Now go back to the Wechsler case. What happened in the Wechsler case in the local court when the removal papers were filed?

Mr. KNOPF. Did you say local Federal court?

Senator TYDINGS. In the State court.

Mr. KNOPF. In the State court? I was present when Mr. Rosenberger served the papers on the judge, and the defendants were already in the courtroom, and the trial was just about to start when Mr. Rosenberger gave the papers and explained to the judge who appeared to be unfamiliar with removal proceedings exactly what had occurred and that the State court no longer had jurisdiction to try the case.

The judge indicated, as Mr. Rosenberger said, that he was going ahead. He didn't know anything about removal. He wasn't going to pay any attention to it and told him to sit down and get away from these people because he asked Mr. Rosenberger whether he was a member of the Florida Bar, and when he said "No," the judge said, "Well, then, get away from these defendants. You cannot represent them."

I believe sometime before Mr. Rosenberger was thrown out of the courtroom it was stated that there was no attorney present to represent these people, that they could not get an attorney and they would like a continuance at least to get an attorney to represent these persons, and at one point one of

the—when the trial had started the judge had asked the workers some questions. One of the workers turned around to look at Mr. Rosenberger who was sitting in the back, for some kind of advice, and at that point the judge threw Mr. Rosenberger out of the courtroom. He ordered him out and when he was slow in going somebody came along and helped him out.

Senator HRUSKA. Would the Senator yield? That is a reference, when you say the courtroom, that is the city court.

Mr. KNOPF. This is the local Gadsden County.

Senator HRUSKA. The local court?

Mr. KNOPF. That is correct.

Senator HRUSKA. You wouldn't want the impression to be gotten that Judge Carswell suffered any lawyer to be kicked out of his courtroom at any time?

Mr. KNOPF. Oh, no, I am referring to the Gadsden County Court; yes sir. (Hearings 176.)

It was immediately thereafter that the defendants' attorney prepared an application for habeas corpus and presented it to Judge Carswell, which the Judge refused to entertain until it was filed on a form purportedly prescribed by the rules of his court, on which he originally required the signatures of the defendants themselves, and which he granted with obvious reluctance, although it was absolutely mandated by statute.

I shall now discuss separately and in detail the ways in which the release of the civil rights workers from State custody was delayed and ultimately frustrated and the other means by which Judge Carswell demonstrated his dislike of the civil rights workers and his disregard of applicable law.

First. When Mr. Rosenberger, who was representing the Wechsler defendants at the beginning of this episode, filed a removal petition in Judge Carswell's court, he was required to pay a filing fee of either $5 or $15 for each of two removal petitions. See Hearings 165, 180. Such a fee had been exacted in Judge Carswell's court for the removal of other criminal prosecutions. This requirement was contrary to a decision which had been issued approximately 2 months previously by the United States Court of Appeals for the Fifth Circuit in *Lefton* v. *City of Hattiesburg*, 333 F. 2d 280, which is reprinted at pages 460–467 of the hearings. In Lefton the Court of Appeals squarely held:

Filing fees are not to be collected in connection with criminal removal petitions. Such fees are regulated by statute, and a comparison of the present statute with its predecessor shows that there is now no authority for the clerk to charge fees in such proceedings. (333 F. 2d at 285, Hearings at 465.)

The Wechsler defendants were thus denied the right of removal without fee which had been granted them by Congress and recently been declared by the appellate court to which Judge Carswell's court was subordinate. While the amount of money involved may appear to be insignificant to us, it was not to these defendants (hearings 156, 180), and even a petty harassment had symbolic significance under the circumstances. Whereas the Court of Appeals had made clear that the Federal courts should be freely open to defendants seeking protection of constitutional rights who were being jeopardized in State courts, an artificial and illegal barrier was imposed in Judge Carswell's court.

In the Judiciary Committee hearings Judge Carswell's supporters pointed out that the collection of the fee was the immediate responsibility of the clerk of the court rather than that of the judge. However, Judge Carswell did not assert either in his oral testimony or in the letter which he wrote to the Committee in response to opposition testimony that he was unaware of the practice followed by the clerk of his own court, of which he was the only judge. In any event, Judge Carswell bore statutory responsibility for the actions of his clerk, for the clerk and his deputies "shall exercise the powers and perform the duties assigned to them by the Court" 28 U.S.C. section 956. Indeed, the Court of Appeals in Lefton itself recognized it to be the duty of the judge to enforce the statutory right to remove criminal cases without prepayment of filing fees. That case, as the report shows, was a mandamus action against the district judge, and the court declined to issue the writ only on the assumption that the judge—not the clerk—would follow the law as there declared (333 F. 2d at 283–284, 286; hearings at 463–464, 466). Judge Carswells' obligation to instruct the clerk of his court with respect to his duties was particularly manifest where those duties were affected by a judicial decision, for such decisions come to the judge's attention, not the clerk's; the clerk said that he first learned of the Lefton decision when he received a new manual from the administrative office of the United States Courts in 1966 (hearings 198). The upshot is not that Judge Carswell is to be absolved of responsibility for requiring the Wechsler defendants to pay a filing fee; rather, it is that he is chargeable for the denial of the rights declared in Lefton to defendants generally for almost 2 years.

Second. The filing of the removal papers in Federal court automatically ousted the State court of jurisdiction Mr. Rosenberger testified that the following then transpired:

Mr. ROSENBERGER. Now the judge in Gadsden County was Judge Blackburn. I told him the cases had been removed. He said that he had the papers, but that he did not recognize this removal. He was going to proceed. I explained to him the provisions of the statute dealing with removal, that is that he no longer had any jurisdiction. He said he would proceed with the case.

I asked for a continuance. He said he would proceed with the case. I then left the front of the courtroom and seated myself in the spectators' section of the courtroom behind the rail. I sat down there. At that point Judge Blackburn told the sheriff, who was present in the court, to remove me from the court, and I was physically ejected from that courtroom by deputy sheriff Martin.

Senator TYDINGS. Was there any other attorney in there to defend those boys?

Mr. ROSENBERGER. No, sir. They went to trial without counsel, were convicted without counsel, and were sentenced without counsel. I drew an affidavit that covered what had happened, and the next day I left Florida to come back to New York, and I understand that later Mr. Lowenthal served a writ of habeas corpus in the northeastern district based on the facts as I have briefly outlined them here.

Senator TYDINGS. What happened to those four boys and three adults after the trial? Did they go to jail?

Mr. ROSENBERGER. Yes, sir. They were sentenced to jail immediately that morning. (Hearings 154).

The volunteer attorneys for the civil rights workers operated on shifts, and Mr. Lowenthal arrived at 2 o'clock the next morning to replace Mr. Rosenberger. In his words:

It was obvious that since my clients were now in jail, the first move was habeas corpus, so I prepared habeas corpus petitions at once.

It was evident to all those with experience in northern Florida that it was not safe for voter registration people to be in local jails. Moreover, the voter registration drive was stalled while the workers were in jail, and the local blacks were intimidated from registering. (Hearings 141).

Mr. Lowenthal and Mr. Knopf, a law student who was assisting him and who also testified, pursuant to subpena, drafted the habeas corpus petition. Judge Carswell would not entertain it as filed because it had not been prepared on the form prescribed by rule 15 of his local court rules. As Mr. Knopf explained:

In addition I remember typing out, I mean this stuff was done on an emergency basis, the habeas corpus, I remember staying up very late at night typing out a habeas corpus petition only to have it rejected the next day by the judge because we hadn't done it on the special forms his office provided for, and so we had to then go and make out special forms which really involved quite a lot more work. They had to be typed, information had to be gotten, and then when those special forms were filed the matter was before Judge Carswell. In addition I specifically——

Senator TYDINGS. Tell us about those forms. Were they pursuant to, did Judge Carswell say that they were required pursuant to rules of his court?

Mr. KNOPF. I don't really recall. I presume—I don't really recall. I just know he said he couldn't entertain it unless they were on the forms provided by his court. I do know that with regard to the rules of the court, since I was more or less responsible for getting the papers in proper order, and typing them up and so on, I was very sensitive to this. I had been rebuked by Judge Carswell for failing to follow rule 15, a local rule of his court, and I seem to recall on several occasions we had been criticized because our papers were not proper in that they failed to follow local rule 15. (Hearings 180.)

Thus, the prisoners were denied habeas corpus relief while counsel rewrote the application, and while they sought to obtain the signatures of the prisoners as required by the form. Judge Carswell's insistence on compliance with his own rule was contrary to law for two reasons: First, the statute does not authorize the court to delay or deny relief as the basis of a local rule of procedure; and, second, the rule itself was misconstrued because it prescribed for an entirely different class of cases and served no useful purpose for a habeas corpus application in a removal case.

First, the applicable provision of the Judicial Code commands:

If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of heabeas corpus * * * 28 U.S.C. § 1446(f).

This language appears to impose upon the district courts an absolute duty to issue the writ of habeas corpus when a prosecution has been removed and does not authorize the court to condition its exercise of that duty on the filing of a particular form or in any other manner. It will be noted that this provision of the Judicial Code serves an important function for the Federal Government. United States Code 28, section 1446(f) applies with respect to all removals of State prosecutions, an important class of which is described in 28 United States Code section 1442(a)(1):

Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

Plainly, the United States is vitally interested in the immediate release from State custody of United States officers who are being subjected to State prosecution for any acts committed as Federal officers. As the Supreme Court said in the leading case of *Tennessee* v. *Davis*, 100 U.S. 257, 263:

The Federal Government can act only through its officers and agents, and they must act within the States. If, when thus acting, and within the scope of their authority, those officers can be arrested and brought to trial in a State court, for an alleged offense against the law of the State, yet warranted by the Federal authority they possess, and if the general government is powerless to interfere at once for their protection—if their protection must be left to the action of the State court—the operations of the general government may at any time be arrested at the will of one of its members.

Similarly, 28 United States Code, section 1442(a)(4) gives a right of removal to "Any officer of either House of Congress, for any act in the discharge of his official duty under an order of such House." Obviously, if an officer of the Senate were to be arrested by a State officer in the course of the exercise of his duties, for example while serving subpena authorized by one of our committees, we would be extremely anxious that he obtain habeas corpus immediately to be released from State custody.

Second, even if Judge Carswell had been empowered to promulgate a rule prescribing a form on which an application for habeas corpus under 28 United States Code, section 1446(f), rule 15 of his court was not such a rule, for it had been designed solely for a different purpose. It is clear from the history of rule 15 that its objective was to facilitate the disposition by Federal courts of the growing number of applications by State prisoners, unrepresented by counsel, for release on the claim of an infirmity of their State or Federal convictions.

The language of Judge Carswell's rule is identical to that which had first been adopted by the U.S. District Court for the Northern District of Illinois, which is reprinted at 33 Federal Rules Decisions 391–393. Rule 15 of the Northern District of Florida, reprinted at pages 203–204 of the hearings, is identical except for the numbering and lettering of the paragraphs and, of course, the name of the court to whose clerk petitions should be addressed. Adoption of the Northern District of Illinois' rule had been recommended to all Federal district courts by the judicial conference pursuant to the Report of the Committee on Habeas Corpus of the Judicial Conference dated September 19, 1963, which is reprinted at 33 F.R.D. 367–408. That report makes clear that, as I have stated, the rule was addressed to applications made by prisoners in custody pursuant to a State or Federal court judgment attacking the validity of that judgment. The information which the prisoner was required to supply on the form was prescribed by the rule to enable the Federal court to determine whether a hearing was necessary on such application; particularly pertinent is the observation—33 F.R.D. 382–383—that it was amended in light of the new standards enunciated in 1963 by the Supreme Court in *Townsend* v. *Sain*, 372 U.S. 258; *Fay* v. *Noia*, 372 U.S. 391; and *Sanders* v. *United States*, 373 U.S. 1. The judicial conference report contains nothing which suggests that the rule was to govern applications for habeas corpus under 28 U.S.C. 1446(f). On the contrary, the information called for by the form which Judge Carswell required the Wechsler attorneys to submit is largely if not entirely irrelevant in such a proceeding, since the right to habeas corpus under 28 U.S.C. 1446(f) does not depend on facts which are to be ascertained at a hearing but instead attaches automatically when a State prosecution has been removed to Federal court. As Professor Moore explains:

The writ of habeas corpus here referred to [in § 1446(f)] is not the "great writ" habeas corpus ad subjiciendum to inquire into the legality of the detention of the petitioner and whose object is the liberation of those who may be imprisoned without sufficient cause. It is in substance the old writ of habeas corpus ad faciendum et recipiendum or writ of habeas corpus cum causa, whose purpose is to transfer custody of the defendant from the state court to the federal court, as a necessary adjunct to the removal of the state proceeding. In issuing the writ, as provided by subsection (f), the federal district court does not pass upon the merits of the case; the defendant's guilt or innocence is not involved; and upon a proper showing being made the federal court has no discretion and should issue the writ." (1 A Moore, Federal Practice, pp. 1310–1311, footnote 2 incorporated into text, other footnotes omitted.)

Judge Carswell either did not understand this distinction or, despite his understanding, insisted that civil rights workers seeking habeas corpus on removal comply with a rule and prepare a form designed and useful only for an entirely separate class of cases wherein a writ of a different nature is sought.

It may be worth noting that the attorneys for the civil rights workers who were confronted with Judge Carswell's erroneous interpretation of the rule were not in a position to question it because they never saw the rule. As Mr. Knopf testified in colloquy with Senator TYDINGS:

Senator TYDINGS. Tell us about those forms. Were they pursuant to did Judge Carswell say that they were required pursuant to rules of his court?

Mr. KNOPF. I don't really recall. I presume—I don't really recall I just know he said he couldn't entertain it unless they were on the forms provided by his court. I do know that with regard to the rules of the court, since I was more or less responsible for getting the papers in proper order, and typing them up and so on, I was very sensitive to this. I had been rebuked by Judge Carswell for failing to follow rule 15, a local rule of his court, and I seem to recall on several occasion we had been criticized because our papers were not proper in that they failed to follow local rule 15.

I had gone to the clerk's office and tried to get a copy of the local rules, but during the summer the clerk kept on informing me that they were out, they had all been given out and there were none available, he would try to get me a copy. I did not obtain a copy until very nearly the end of the summer when we were going back home, and at that time the copy that the clerk gave me showed that the local rules went from rule 1 through rule 14, there was no rule 15. (Hearings 180–181.)

The reason that Mr. Knopf was unable to find the rule became evident when a copy was produced by Mr. Waits, the present clerk, who testified as follows:

Sir, rule 15, this copy here, has been attached to the U.S. District Court, Northern District of Florida General Rules of Practice, *Bankruptcy* Rules of Practice, effective July 1, *1959*. This amendment has been attached to this copy of those rules, sir. (Hearings 205, emphasis added.)

In other words, rule 15 of the local rules was not attached to rules 1 through 14, but to another document, the Court's bankruptcy rules. Since the Judiciary Committee did not permit Judge Carswell to be recalled to respond to the testimony, the record does not show whether he was aware of this extraordinary situation. But it is entirely clear, and Judge Carswell has not denied, that he would not even entertain an application for habeas corpus which was not filed according to that rule. Yet, as we have seen, 28 U.S.C. 1446 can accomplish its purpose only if the district courts give prompt obedience to its unequivocal command that when a prosecution has been removed to the Federal court it "shall issue its writ of habeas corpus." Judge Carswell's assumption of power to impose elaborate procedural requirements before issuing the writ was entirely unwarranted.

Third. The forms which Judge Carswell prescribed called for the signature of the prisoners. So, as their counsel testified:

We had to drive way out to Quincy where the jail was, some 25 miles from Tallahassee, only to learn that the defendants were 25 miles further out on a road work gang. (Hearings 141).

This trip, of course, resulted in a further delay in the ultimate granting of habeas corpus. Insistence on the signature of the prisoners was unjustified not only because rule 15 did not properly apply in this instance, but because as a general proposition the signature of an attorney on a court paper is sufficient. This is an obvious element of our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent, see *Link* v. *Wabash Railroad Co.*, 370 U.S. 626, 634, is expressly provided for in rule 11 of the Federal Rules of Civil Procedure, and is

well known to every lawyer. Indeed, the fact that rule 15 called for the signature of the prisoner is itself strong evidence it was not intended to be applied in any case in which counsel appeared. For the great writ, habeas corpus ad subjiciendum, for which rule 15 was designed, is frequently applied for not by the prisoner himself but by someone else, since a person in custody will often be physically unable to make the application, and even his precise whereabouts may be unknown to those seeking his release. See, for example, *U.S. ex rel Toth* v. *Quarles*, 350 U.S. 11, 13 n. 3. This is recognized in 28 U.S.C. 2242:

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

The same practical considerations govern the different class of habeas corpus under 28 U.S.C. 1446(f). This can appropriately be illustrated by the example to which I referred previously, that of a Federal officer in State custody whose prosecution has been removed under 28 U.S.C. 1442(a)(1). Because removal is in the interests of the United States, the removal petition and the request for habeas corpus will often be made by the U.S. attorney. But the U.S. attorney may not know where the State is holding the Federal officer. If he is compelled, before habeas corpus issues, to locate the imprisoned official and obtain his signature, the State could, by spiriting the prisoner away, deny his liberty indefinitely. Thus, neither the removal statute nor 28 U.S.C. 1446(f) requires that the signature of the defendant appear on the papers.

In the committee the able Senator from Nebraska implied that Judge Carswell's ultimate waiver of the prisoners' signatures on the habeas corpus application demonstrated an absence of hostility to the civil rights workers—hearings 189. That suggestion, however, is unsound. Since the attorney's signature on formal court papers was sufficient, as I have shown, the original imposition of this unique and unjustifiable requirement, which delayed action on the habeas corpus application in Wechsler, is a surer clue to Judge Carswell's sympathies than its belated waiver.

Fourth. When counsel for the civil rights workers presented the application for habeas corpus in a form acceptable to Judge Carswell, a hearing was held in his chambers. Mr. Lowenthal described this incident as follows:

Mr. LOWENTHAL. I attended therefore in Judge Carswell's chambers a session in which I can only describe his attitude as being extremely hostile.

He expressed dislike at northern lawyers such as myself appearing in Florida, because we were not members of the Florida bar. I might add here that we could not find local lawyers willing to represent the voter registration people in Florida. It was either northern lawyers or no lawyers. * * * Judge Carswell indicated that he would try his best to deny the habeas corpus petitions, but I pointed out that he had no discretion in the matter, that the Gadsden County officials had clearly acted in derogation of Judge Carswell's own jurisdiction, since the removal to Judge Carswell's court was wholly proper. Judge Carswell agreed with that and granted the habeas corpus petitions, but at the same time on his own motion, because the Gadsden County officials were not there to ask for it, and without notice to the defendants, the habeas corpus petitioners, and without a hearing or any opportunity to present testimony or argument, he remanded the cases right back to the Gadsden County courts." (Hearings 141–142)

Mr. Knopf, who had assisted Mr. Lowenthal, testified:

Mr. KNOPF. It is relatively clear in my mind. I remember this. This was my first courtroom experience, really, out of law school, and I remember quite clearly Judge Carswell. He didn't talk to me directly. He addressed himself to the lawyer, of course, Mr. Lowenthal, who explained what the habeas corpus writ was about, and I can only say that there was extreme hostility between the judge and Mr. Lowenthal. Judge Carswell made clear, when he found out that he was a northern volunteer and that there were some northern volunteers down, that he did not approve of any of this voter registration going on and he was especially critical of Mr. Lowenthal in fact he lectured him for a long time in a high voice that made me start thinking I was glad I filed a bond for protection in case I got thrown in jail. I really thought we were all going to be held in contempt of court. It was a very long strict lecture about northern lawyers coming down and not members of the Florida Bar and meddling down here and arousing the local people against—rather just arousing the local people, and he in effect didn't want any part of this, and he made it quite clear that he was going to deny all relief that we requested. At that point, Mr. Lowenthal argued that the judge had no choice but to grant habeas as the statute made it mandatory.

Senator TYDINGS. Did the State send a representative?

Mr. KNOPF. No, sir. I personally had called the county prosecutor to inform him of the hearing to tell him when it would be held so that he could show up, and I remember his response roughly, his attitude, because it was an attitude that I met of numerous other prosecutors while working down there. Their attitude was they were not going to chase all the way over to Federal court to defend this case, that everything would blow over after the summer anyway, and they had much more important things to do in terms of criminal matters or private practice back in their home seat, and they were not going to show up and they didn't want anything to do with it in effect. So there was no one there from the county. There were just the civil rights attorneys plus the judge. So no one had argued against the granting of habeas corpus relief.

But I remember Mr. Lowenthal going on and on with the judge that he had to grant relief because the statute spoke in terms of "shall grant habeas corpus," not "may," and Judge Carswell said that there were very few areas of the law, I am not quoting, I mean this is my impression, it was something along like this, that there were few areas of the law that there wasn't some discretion left to the judge, and he was going to exercise that discretion against us and he would keep these people in jail.

Mr. Lowenthal argued strenuously that we feared for the safety of these people in jail, and that it was quite clear that these persons were convicted in violation of Federal law. They didn't even have an attorney. They were working on voter registration projects and things like that.

Senator TYDINGS. Did Judge Carswell have all of the facts before him?

Did Mr. Lowenthal give him all of the facts as related here by Mr. Rosenberger to this committee this morning?

Mr. KNOPF. Yes, he did, and they were also, most of them. I wouldn't swear to all of them exactly, were in the petition, because I drew up the petition, these facts were set forth either in the removal petition or in the habeas corpus petition, generally setting forth all these facts. There then went on a lengthy discussion between Mr. Lowenthal and the judge exactly as to what the law was, and the judge required some books to be brought out, the statute to be put before him and so on, and he eventually concluded that we were right, I mean Mr. Lowenthal was right, in that he had no choice. He had to grant habeas corpus, because the state court was without jurisdiction. So he then very reluctantly granted it. He said all right, we win, something like that, you know, all right, here it is.

He then said, however, I don't know exactly in what order, but I remember that he then said but he did have discretion with regard to removal, and he would remand the removal petition back to the state court, and Mr. Lowenthal argued that there had been no request from the county prosecutor, no one had showed up to ask for this remanding, and the judge said that he had the power to do it himself, and that he would do it without a request. So on his own motion he remanded.

They then got into a discussion about serving the habeas corpus. At first I was under the impression, and it appeared, the Marshal was there, that the Marshal was taking the habeas papers to serve them, but Judge Carswell announced that the Marshal would not serve the papers, that Mr. Lowenthal would have to drive out to the county jail himself, and serve these papers. (Hearings 177–178.)

There are two highly disturbing elements in this testimony: first that Judge Carswell demonstrated hostility to Mr. Lowenthal because he was a northern lawyer representing civil rights interests, and second, that he stated that he would try if at all possible to deny habeas corpus. Hostility to any attorney is injudicious behavior, as Judge Carswell indeed acknowledges (hearings 320) but in the contest of the Wechsler case it necessarily reflected opposition to the lawyer's cause, namely, the civil rights movement. Even in the absence of any judicial precedent such an attitude would reflect most unfavorably on Judge Carswell, particularly given the background of his 1948 speech; but the court of appeals in Lefton against City of Hattiesburg had instructed the district courts to be hospitable to out-of-State lawyers in civil rights cases. I shall not dwell at length on this point, however, because Judge Carswell has denied that he was ever discourteous to consel (hearings 320). I am sure that Senators will decide for themselves whether that denial is sufficient to dispose of this issue, or whether as I have concluded, that Judge Carswell's behavior in the Wechsler case failed to conform to the teachings of Lefton.

The second charge in the Lowenthal and Knopf testimony cannot, in any event, be dismissed. Judge Carswell's letter does not expressly deny that he had indicted a disposition to withhold habeas corpus relief, if possible. Nor can Judge Carswell's assertion that he has "consistently approached hearings with an open mind, to be convinced by counsel of the merits of the arguments" (hearings 320) be treated as a denial of this charge by implication.

That this was not his invariable prac-

tice is shown by the Wechsler case itself, because he remanded that case without hearing argument on the important and difficult question whether the removal was authorized by 28 U.S.C. 1443. As Dean Pollak put it:

One element which concerned me as I read his opinions was a repeated use of dispositive techniques which avoided hearings. (Hearings 240).

This criticism gains force from the numerous decisions of the court of appeals which reversed Judge Carswell because of his summary disposition of causes. See cases cited at hearings 240–41 and 290–91.

Fifth. Although Judge Carswell followed 28 U.S.C. 1446(f) to the extent that it mandated the issuance of the writ of habeas corpus, he did not comply with the next clause of that section:

* * * and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court.

It is not disputed that Judge Carswell deliberately refused to permit his marshal to serve the writ of habeas corpus on the State officials or to take the defendants into custody and, instead, required Mr. Lowenthal, the defendants' counsel, to serve the writ. (Hearings 144, 178, 199.) Judge Carswell cannot have been unaware of the statutory language since it was in the same section that Mr. Lowenthal had quoted to him as declaring the judge's duty to issue the writ. Indeed, Mr. Knopf testified that—

The judge required some books to be brought out, the statute to be put before him and so on, and he eventually concluded that * * * Mr. Lowenthal was right, in that he had no choice. (Hearings 178).

Whatever denials or excuses which Judge Carswell's supporters may make with regard to other aspects of the Wechsler case, they cannot explain away Judge Carswell's willful disregard of the unambiguous mandate of 28 U.S.C. 1446(f). Nor can they possibly reconcile his action with the strict constructionism which the President has stated that he seeks in a Justice of the Supreme Court, and with the duty of all judges to follow the law.

Sixth. When Mr. Lowenthal served the writ of habeas corpus the sheriff presented the prisoners, released them momentarily, and immediately rearrested them. He advised Mr. Lowenthal he had been notified by telephone that Judge Carswell had remanded the cases to the State court. The psychological impact of this on the prisoners can readily be imagined, particularly when it is remembered that they had already been placed on a road gang pursuant to a sentence on a conviction which was patently unconstitutional because they had been denied the right of counsel. Their rearrest was made possible by the fact that Judge Carswell had not permitted his marshal to serve the writ, for the marshal would have been required to bring the defendants into the custody of the Federal court. Another factor, moreover, was evasion of the procedure prescribed in 28 U.S.C. 1447(c):

A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon procede with such case.

In this case, the State court was advised of the remand by telephone call from the marshal. There is testimony in the hearings that the marshal acted on his own accord rather than on instructions of Judge Carswell in making the call. But the Judge neither denies knowledge of the marshal's action, nor disowns it; nor, of course, is there any evidence that the judge insisted, as was his duty, that 28 U.S.C. 1447(c) be followed. Moreover, the marshal who made the call would have been serving the writ of habeas corpus on the State court officers if Judge Carswell had acted in obedience to 28 U.S.C. 1446(f). It was only because of this double violation of the removal statute that the State officials were enabled to rearrest the civil rights workers immediately after the writ of habeas corpus was served.

Seventh. Judge Carswell remanded the case to the State court without affording the defendants a hearing on the propriety of the removal. It is true that 28 U.S.C. 1447 does authorize the District Court to remand a case—

If at any time before the final judgment it appears that the case was removed improvidently and without jurisdiction * * *

But Judge Carswell is subject to serious criticism for taking this action without affording the defendants any hearing on whether removal was improvident, that is to say, whether the Wechsler defendants qualified for removal. That raised difficult questions concerning the meaning of 28 U.S.C. 1443 (1) and (2) which they had invoked.

Judge Carswell's supporters claim that he was later vindicated by the construction of those provisions by the Supreme Court in *Rachel* v. *Georgia*, 384 U.S. 784, hearings 378, and *Greenwood*, 384 U.S. 808, hearings at 407. As Dean Pollak observed, it is "a very subtle problem" whether the Wechsler case was closer to Rachel—where the Supreme Court approved removal—or Peacock—where the Supreme Court held that removal was improper. But like Dean Pollak, I do not believe that the real issue is whether Judge Carswell correctly or incorrectly anticipated the ultimate resolution of that question by the Supreme Court. What is significant, and bears very heavily against his confirmation, is that Judge Carswell disabled himself from making any reasoned determination of this issue because he failed to hold any hearing on the merits. The opinions of both the majority and the minority of the Supreme Court in Rachel and Greenwood reveal that the interpretation of 28 U.S.C. 1443 (1) and (2) presented extremely close complex problems. This is further illustrated by the divergence of views both among and within the courts of appeals which passed on the questions before they were resolved by the Supreme Court and the depth of analysis of the opinions in those cases. Compare *New York* v. *Galamison*, 342 F. 2d 255 (C.A. 2) (2–1 decision), *City of Chester* v. *Anderson*, 347 F. 2d 823 (C.A. 3) (4–3 decision), *Baines* v. *Danville*, 357 F. 2d 756 (C.A. 4) (3–2 decision), all rejecting removal, with *Rachel* v. *Georgia*, 342 F. 336 (C.A. 5), upholding removal. They entailed consideration of the text and legislative history of several statutes which had been enacted in the Reconstruction period, as well as understanding of precedents of the Supreme Court.

Congress itself recognized that the scope of 28 U.S.C. 1443 was a difficult question which should be resolved by the Supreme Court and amended the removal statute to authorize appeals from remand orders of cases which like Wechsler were removed under that section. This history is set forth in the Rachel opinion, 384 U.S. 780, 787 n. 7, hearings 385 n. 7. See also Peacock, 384 U.S. 808 at 835, hearings at 434. In short, the only thing that could be said with assurance about the issues presented by the removal in Wechsler, at the time that they were before Judge Carswell, was that there were strong arguments to be made on either side. But Judge Carswell ruled without giving counsel the opportunity to present any of them.

Instead, Judge Carswell disposed of the case on the basis of the fifth circuit's brief opinion in Dresner against Tallahassee, a case which did not even arise under 28 U.S.C. 1443 and therefore could not possibly have any bearing on the propriety of removal under that statute. Since these opinions are reprinted in the hearings, I invite the Senators to compare the opinion of the court of appeals in Dresner—hearings 172—with those of the Supreme Court in Rachel—hearings 378—and Greenwood—hearings 407. I am confident that each Senator, whether or not he is a lawyer, will agree that the Dresner opinion gave no guidance to the proper disposition of the Wechsler case, as the attorneys for the Wechsler defendants could also have pointed out if Judge Carswell had held a hearing before issuing his remand order. Plainly, an indispensable qualification for a justice of the Supreme Court of the United States is a willingness to hear and consider the legal arguments of counsel.

Eighth. It may well be asked, at this point, why was Judge Carswell in such a hurry to remand the Wechsler case? The State's attorney had made no motion to that effect. Indeed, he had shown disinterest, if not disdain, for the proceedings in Judge Carswell's court, and declined an invitation to appear—hearings 141 and 177. The explanation seems to be that which appears from Mr. Knopf's description—which Judge Carswell did not refute—of the proceedings in chambers. After the judge was forced to acknowledge that 28 U.S.C. 1446(f) absolutely required him to grant habeas corpus—

He then said but he did have discretion with regard to removal, and he would remand the removal petition back to the state court, and Mr. Lowenthal argued that there had been no request from the county prosecutor, no one had showed up to ask for this remanding, and the judge said that he had the power to do it himself, and that he would do it without a request. So on his own motion he remanded." (Hearings 178)

This damaging interpretation is confirmed by Judge Carswell's final action in this proceeding, his denial of a stay pending an appeal from his order of remand.

Since the defendants had been rearrested, the purport of his order was to subject them to retrial in State court before the higher Federal courts could have determined the validity of the remand order. This tended to frustrate the provision of the 1964 Civil Rights Act which, as I have noted, amended the removal statute to allow appeals from orders of remand in cases like Wechsler. I particularly invite the attention of the senior Senator from Connecticut to this point, for he was one of the sponsors of this provision.

Judge Carswell expressed no reasons for his action and none of the usual grounds for the denial of a stay were present. One significant factor in determining whether such relief should be granted is the likelihood of the success of the appeal. If the recent congressional action in allowing an appeal on this narrow class of cases was insufficient to establish its substantiality, counsel could have presented additional reasons why the appeal might be successful. But Judge Carswell never permitted counsel to be heard on this issue. Another factor normally considered is whether the defendant may flee or create a danger to the community if released. There was no serious possibility that the civil rights workers who had voluntarily come to Florida to help Negroes register would abandon their efforts if they were released; it was, moreover, clear from the papers before Judge Carswell, including the spurious character of the charge that the State had brought against them, that the civil rights workers were not likely to engage in violence or to commit other crimes. Indeed, the only danger which these workers presented to the community was that they would interfere with its racist policies which, in the words of a pro-Carswell witness, were "a little bit to the right of Louis XIV"—hearings 107. Thus, Judge Carswell's denial of the stay was in direct contravention of the admonition of the Court of Appeals in Lefton:

> In civil rights cases, however, Congress has directed the federal courts to use that combination of federal law, common law, and state law as will be best "adopted to the object" of the civil rights laws. (333 F. 2d at 284, Hearings 464).

Judge Carswell having denied a stay pending appeal, the same relief was sought from a judge of the court of appeals. This was promptly granted. It is rare for a judge of the court of appeals to reverse the action of a district judge in granting or denying a stay pending appeal. By doing so in the Wechsler case, the court of appeals judge demonstrated his view, which I submit was entirely justified, that Judge Carswell's denial of the stay in Wechsler was a gross abuse of discretion.

In sum, the deficiencies in judicial performance, which a study of Judge Carswell's record has made clear to so many of us, are presented in sharp focus by the Wechsler case:

First, there is Judge Carswell's unwillingness to follow controlling authority—be it the precedent of a higher court, as the then-recent precedent of Lefton against City of Hattiesburg—or an unambiguous act of Congress—such as 28 U.S.C. 1446(f) of 28 U.S.C. 1447(d). Second, there is his misunderstanding or disregard of settled principles, such as the special nature of habeas corpus on removal, the right of parties to file court papers on the signature of their attorneys, and the standards governing stays pending appeal. Further, there is his refusal to accord to litigants in his court the fundamental requirement of due process of law, namely, the opportunity to be heard. This, perhaps, is Judge Carswell's most pervasive fault as a judge. It appears to represent a habit of thought which will be difficult if not impossible for him to shake at his present age. This alone would, in my view, disqualify him from appointment to the Supreme Court, even if he had justified the confidence that he has abandoned the even more pernicious habit of thought which his 1948 white supremacy speech reflects. Regrettably, however, the Wechsler case counts heavily against Judge Carswell on this great moral issue as well.

Mr. MURPHY. Mr. President, I wish to state that I am pleased that my distinguished colleague from Kansas has set the record straight on the matter of the report, printed, I believe, in the Baltimore Sun, that I had decided to vote to recommit the nomination of Judge Carswell. There is absolutely no truth whatever to that report. To my knowledge it has never been discussed. The report was without any foundation whatever. I intend to speak on this matter on Thursday.

LAOS

Mr. MURPHY. Mr. President, I rise today as a result of the renewed public concern over the presently confused situation in Laos, and I wish to express my amazement at the attempts of some alleged experts to further complicate an already overcomplicated situation, which began back in the middle 1950's and had its roots in a desire out of the Russian and Chinese Communists to subvert and capture the entire area formerly known as Indochina and particularly the Southeast Asian nation of Laos.

It has been suggested by some who must certainly know the facts that Laos might become the Vietnam of the 1970's. I do not share this point of view, nor do I understand the reasoning which suggests it. I have gone back into the records and find without question that Laos is and always has been an important part of the Vietnam of the 1960's and the continuing efforts of the Communists from Hanoi aided, advised, and supplied by the Communists from both China and Russia. It comes as no particular surprise to my colleagues, particularly those who have been considered experts in these matters for a number of years.

On March 23, 1961, President Kennedy told a press conference that the SEATO agreement made specific reference to aggression against Laos and to the commitments which the United States had assumed in that part of the world.

President Kennedy said:

> It is quite obvious that if the Communists were able to move in and dominate this country, it would endanger the security—and the peace of all of Southeast Asia. As a member of the United Nations and as a signatory of the SEATO Pact, and as a country which is concerned with the strength of the cause of freedom around the world, that quite obviously affects the security of the United States.

Almost precisely 9 years later, on March 6, 1970, President Nixon issued a major policy statement on the situation of Laos. I want to quote from that statement:

> I hope that a genuine quest for peace in Indo-China can now begin. For Laos, this will require the efforts of the Geneva Conference Co-Chairmen and the signatory countries. But most of all it will require realism and reasonableness from Hanoi. For it is the North Vietnamese, not we, who have escalated the fighting. Today there are 67,000 North Vietnamese troops in this small country. There are no American troops there. Hanoi is not threatened by Laos; it runs risks only when it moves its forces across borders.

The President concluded that the United States, as it has for all of history, stands ready to cooperate with other countries in every way in its diligent search for peace. He said this country desires nothing more in Laos than to see a return to the Geneva agreements and the withdrawal of North Vietnamese troops, leaving the Lao people to settle their own differences in a peaceful manner.

Mr. President, I commend the President of the United States for cutting through the confusion, some of it obviously contrived, and some of it coming through inattention. He has said clearly that the United States is resolutely seeking only peace.

Now I urge my colleagues in the Senate not to add to that confusion. Certainly, those of us in this body who have closely observed the continuing developments in Southeast Asia should not be surprised by recent events.

The war in Laos and the war in Vietnam are substantially elements of the same conflict. The troops bent on aggression in Laos are not the indigenous Communists, the Pathet Lao. They are playing a minor, almost insignificant role. The enemy in Laos is North Vietnam.

Let me recall for you today the words of Ho Chi Minh, the Viet Minh leader, in an interview published in the Belgian Communist paper, Red Flag, in July 1959:

> We are building socialism in Vietnam but we are building it in only one part of the country, while in the other part we still have to bring to a close the middle class democratic and anti-imperialistic revolution.

To do this—to import communism into South Vietnam, required the approval, tacit or enforced, of the adjoining nations—Laos and Cambodia—for supplying the troops needed to fight the war in the South.

In June and July of 1959, the Viet Minh and Pathet Lao attacked the northern provinces of Laos and pushed in the direction of the royal capital, Luang Prabang. The ostensible purpose of these attacks was to prevent a political alinement away from the left. These operations also had a secondary byproduct for the Communists of drawing everyone's attention, including a considerable part of the small Lao army, to the northwest of Laos. This made it easier for the Viet Minh and their Pathet Lao puppets to use the Ho Chi Minh Trail to South Vietnam. After the fighting stopped, the trail had been partially reactivated. This probably was the entire purpose of the operation.

They were expected to begin the revolution, and they were joined with enthusiasm by the people in South Vietnam, in their effort to bring about the overthrow of the government.

The uprising of the people that had been planned did not take place, and so that force was reinforced from the north. By 1960, the original Vietcong force in South Vietnam had been reinforced to a level of about 10,000, making possible the first battalion-size Vietcong night attack in February 1960 on a large South Vietnamese Army camp near Tay Minh, near the Cambodian-Lao border.

The Soviet Union fully supported these efforts. By mid-December of 1960 several IL-14 Soviet transport planes were beginning to stage through Communist China and Hanoi loaded with military supplies for the Viet Minh and Pathet Lao forces—this is 10 years ago—in the Plain of Jars, a region and a name which recurs in the fighting during the next 10 years.

The fight for control of Laos continued despite the official cease-fire of May 12, 1961. Ambassador Elbridge Durbrow, who served in South Vietnam from 1957 to 1961, says that the Communists pushed west toward Lao capitals after the cease-fire—and fully opened the Ho Chi Minh Trail, which had been only partially opened earlier by the original action.

Why do I trace this long and involved history of that troubled part of the world? Because, Mr. President, the fact is that the war in Vietnam and the war in Laos are one and the same war. Both are being primarily fought—not by citizens of the country under attack—but by North Vietnamese. Let us make this crystal clear once and for all: This is not a civil war. These regular soldiers, and that is what they are, are being supported and supplied by Red China and the Soviet Union.

Ambassador Durbrow has said that in 1954 Hanoi created in violation of the Indochina Geneva Accords its Lao equivalent of its puppet "Vietcong"—the Pathet Lao. Hanoi still controls, supports, and supplies that force—in addition to furnishing 67,000 North Vietnam troops to fight against the recognized government of Laos.

The Government of the United States has been furnishing military aid to the government of Laos for many years. For instance, just before President Kennedy's March 23, 1961, press conference we announced we were increasing our military aid, sending more technicians to train Lao troops and sending, in addition to the T-6 observation planes already given Laos, 16 helicopters to increase Lao troop mobility. A carrier task force from the 7th Fleet was alerted.

President Kennedy again expressed his concern in a speech to the United Nations on September 25, 1961. He warned that South Vietnam was under attack by forces infiltrated through Laos. Furthermore, on November 6, 1961, we publicly confirmed reports from Laos that Soviet transport planes were delivering military supplies to the southern Lao airbase of Tchepone which had been in Pathet Lao hands for months, after being captured by the Communist cadre.

What happened during this period of a shaky cease-fire in Laos and continued useless bickering at the Geneva Conference? Hanoi had diverted everyone's attention to north-central Laos long enough to reactivate fully the Ho Chi Minh Trail, build up its forces in eastern Laos, Cambodia, and South Vietnam sufficiently to open an all-out offensive to try to subjugate South Vietnam.

So, Mr. President, I repeat, it is all part of the same war. It is part of the same Communist plan, drawn in Moscow and in Red China, and activated through their puppets in Hanoi.

Of course, Hanoi no longer needed to press its military operations in Laos because the Communists expected to take over South Vietnam and cause Cambodia and Laos to fall into their hands without any major additional effort.

This did not happen—primarily because the United States came to the aid of the government of South Vietnam. As a result, the Communists still must maintain their principal infiltration route through Laos.

Ambassador Durbrow takes the view—and I share that view—that we must continue operations to block the flow of supplies along the Ho Chi Minh Trail and help the Souvanna Phouma government to preserve its own integrity.

I do not propose—and neither had our President—sending extensive ground troops to fight in Laos. But we must protect our own troops fighting in South Vietnam—and this means we must block the Ho Chi Minh Trail in Laos. We are doing so now with the use of our airpower.

We are dealing here with a nation that agreed to the 1962 Geneva accords—and then promptly began to violate them. We withdrew our 666 Americans while the North Vietnamese pulled out 40 men—and left over 6,000 troops in the country. That is the way they kept their word on the accords.

Mr. President, this has been called our secret war. As a member of the Committee on Armed Services who has listened to testimony about this subject, I have long been aware of developments in Laos. Any other interested Senator, or for that matter ordinary citizen, could do the same by simply reading his daily newspapers.

Certainly, the distinguished chairman of the Committee on Foreign Relations has been a participant in discussions of this subject on a continuing basis. So have others of our colleagues who now appear so alarmed at discovering what they refer to as this new situation.

President Nixon said in his March 6 policy statement on Laos that our Nation has no ground combat forces in Laos. He did confirm, however, what has been reported extensively in the press—that this Nation has used airpower to interdict the flow of North Vietnamese troops—let me emphasize that statement "to interdict the flow of North Vietnamese troops"—along the Ho Chi Minh Trail as it passes from China through Laos.

The purpose of this operation is not to simply protect the Royal Laotian Government; it is primarily aimed at assisting troops from the United States who are fighting in South Vietnam, battling against the North Vietnamese who have invaded a sovereign nation for the purpose of conquest.

Our President told us in his March 6 statement:

> Our goal in Laos has been and continues to be to reduce American involvement and not to increase it, to bring peace in accordance with the 1962 accords and not to prolong the war.

President Nixon also noted the limited nature of our current aid to Laos, which was requested by the recognized government of that country and is—in the President's words—"supportive and defensive."

President Nixon is simply continuing the purposes and operations of two previous administrations—to protect American lives in Vietnam and to preserve an important balance in Laos.

Mr. President, this is no secret war. We have no massive commitment, nor do we plan one. Those who criticize our President know this very well. I have reviewed here our efforts in Laos and the reasons for them. These facts are readily available. I had no difficulty finding them. Neither would anyone else.

Mr. President, I urge an end to attempts to confuse the people of the United States about our commitment in Vietnam—and the effort in Laos, which is a necessary adjunct.

We did not start this war; we are not the invaders—and no efforts by some uninformed, undisciplined, and misled "Peace Now" malcontents will change that fact. The facts of history are clear, to be understood by all who will take the trouble to read. The war was started, is financed, and is being continued by the Communists from the North.

President Nixon does not want to see this war continued, nor does this Senator, nor do I know any Member of this body who feels that way. I have had the privilege of knowing our President personally for many years. He is a peaceful man, not a man of war.

The time has come to dispel the contrived confusion in our Nation. We must let the world know who it is that stands in the way of peace in Vietnam, peace in Laos, and peace in Cambodia. It is not America. It is not the Nixon administration. It is not the American military forces in Vietnam.

The chief barrier to peace in Southeast Asia is the Communists in the North, who persist in an effort to enslave the people of that part of the world—by direct attack, by subversion, and by atrocity.

Those responsible for these problems in Asia are the same group who have been responsible for at least 90 percent of the problems throughout the world over the last 40 years. They are the imperialists in Moscow who would extend their influence and would attempt to gain control over the governments of all the peace-loving nations presently in Southeast Asia. They would attempt to organize the attack on the Middle East Asian nation of Israel. Their responsibility for the problem is the same.

So, Mr. President, I would say to those who are opposed to these problems, those who would like to see them brought to an end, who at long last would like to see peace brought to our troubled world, that they direct their attention and their remarks to the Governments of Moscow and Red China. I think they could start by using their influence to have these governments and their puppets in Hanoi give decent treatment to our prisoners of war.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an article published in the Chicago Tribune of March 12, the "Foreign Press" segment, entitled "Dilemma in Laos." I recommend it to my colleagues, because it sets out very clearly exactly what the situation is in Laos.

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

Mr. MURPHY. Mr. President, I should now like to refer to another subject. It has to do with the burning of a bank in Santa Barbara, Calif.

I ask unanimous consent to have printed at this point in the RECORD a statement entitled "Violence in America, One Company's Position," by the Bank of America, and an exhibit entitled "An Open Letter from the Revolutionary Movement to the Bank of America."

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

VIOLENCE IN AMERICA—ONE COMPANY'S POSITION

(Statement by Bank of America)

Isla Vista, California, population 11,250. The business district consists of a couple of gas stations, a few small shops, some real estate offices—and a bank. A large campus of the University of California is nearby. All in all, a normal American suburban community—perhaps very much like the one you live or work in. Normal, that is, until Wednesday, February 25, when violence shattered the peaceful calm of Isla Vista.

At about 8:30 p.m. on the night of February 25, rampaging demonstrators—students and non-students—protesting the "capitalist establishment" converged on the community's small business district.

Several protesters rolled a gasoline-soaked trash bin through a smashed front door in a Bank of America branch and set it ablaze. Other students extinguished the fire. But just before midnight, with the angry crowd in a frenzy, the branch was set ablaze again. While police and fire officials were held at bay by a rock-throwing mob, the bank was gutted by fire and totally destroyed. A police patrol car was overturned and burned. Numerous other fires were started. Windows were smashed and life and property threatened.

These events took place in a community called Isla Vista. They could have happened in your community. They can happen anywhere and with even more disastrous results.

Why did the eruption in Isla Vista take place?

Participants in the violence say it was a protest against the "capitalist establishment," "the war in Vietnam," "the Chicago trial," "student repression," "police brutality," and a list of other grievances against America in 1970. Some of these grievances are real, some are fanciful and others are false. But all deserve to be aired. To the degree that they are not aired, are not taken seriously, Americans break faith with their young.

But all Americans, young and old, liberal and conservative, lose by violence. Violence and destruction are the seeds of anarchy and tyranny—whether it be the tyranny of the extreme right or the extreme left.

We believe the time has come for Americans to unite in one cause: a rejection, total and complete, of violence as a means of political dissent.

All of us, young or old, liberal or conservative, have for too long been silent on the issue of violence. We have been afraid of labels or slogans that would brand us as either arch conservatives or traitors to a liberal cause. Such sloganeering does all of us a grave injustice.

Let us, as a nation, find once again our ability to distinguish between protest and revolt; between dissent and chaos; between demonstration and destruction; between non-violence and violence.

Let us cease to condemn those who disagree with us, but let us also be prompt and resolute in putting an end to violence in our land.

To this end we applaud the courageous response of many dedicated public officials. They deserve the cooperation of all citizens. They will have ours.

Every American has a right to walk the streets in safety. No polemic should be allowed to obscure this right. Your wife or husband, son or daughter ought to be safe in visiting a supermarket, a filling station or a bank—regardless of whether another may choose to reject that institution as an onerous symbol.

It is for these reasons that we plan to reopen our Isla Vista ranch on Monday, March 9. We realize that there is danger in this course of action. But we believe the greater danger to ourselves and to all of the people in this nation is to be intimidated by mob violence. We refuse to be so intimidated.

Is the branch worth this much? In monetary terms, the answer is no. It is not, and never has been particularly profitable. But it is there to serve the banking needs of the community and we refuse to be driven out of any community by a violent few.

Is this a bad business decision? Perhaps in a narrow sense it is. But we believe that at some time and in some place Americans must decide whether they intend to have their decisions, indeed their lives, ruled by a violent minority.

We are but one bank, but we have decided to take our stand in Isla Vista.

AN OPEN LETTER FROM THE REVOLUTIONARY MOVEMENT TO THE BANK OF AMERICA

We are deeply disturbed by the wanton acts of aggression perpetrated on the peoples of S.E. Asia engaged in revolutionary struggles. These military interventions are not childish pranks, peaceful demonstrations, nor even non-violent disruptions designed to give symbolic meaning to imperialism. Rather, they are criminal acts of violent proportions directed against the people's democratic struggle. They are fascist gestures of the kind that lead to further violence, bloodshed, and repression. Nor are they isolated instances but rather a continuation of the calculated violence that has been emanating from your banks and financial institutions in the name of the state under the directions of the corporate few.

You compare us in the American Revolutionary Movement to the "brown shirts" of Nazi Germany. Lest you forget, it was the brown shirts of Nazi Germany who came to power in order to repress the Revolutionary movement in pre-Nazi Germany. In whose interests then do you speak of "law and order?"

We accuse your bank, Chairman Lundborg and ex-chairman Peterson, in your plunder of "hungry new markets" and your affiliations with defense contractors like Litton & McDonnell-Douglas, in your magnanimous aid to the CIA through the Asia Foundation, of raping the "underdeveloped world."

We accuse you of continuing the racist hegemony of American Imperialism over Asia, South America, and Africa. We accuse your bank, Director Di Giorgio, of being the largest parasitic landlord in the state of California, owning properties larger in area than the whole state of Delaware, and yet you fight against the minimum wage demands of migrant farmworkers and lobby for the continuation of the "bracero program." Not only do you oppose labor in your control of agribusiness in California, but you have consistently opposed the demands of workers through generous support of anti-labor legislation.

Your retail food outlets distribute food of declining quality, artificially grown, and of little nutritional value. We accuse you of destroying the world's ecological balance through your mining concerns, your manufacturing interests, and your petroleum companies like Union Oil (or have you forgotten the beaches of Santa Barbara?)

In whose interests is law and order when one of your directors, Harry S. Baker, sits on the board of the largest police weapons manufacturer in the world, Bangor Punta?

This is for the people of the world to decide: what is the burning of a bank compared to the founding of a bank? In whose interest is law and order when tyranny prevails?

All power to the people!

Mr. MURPHY. The latter exhibit was in answer to the statement by the Bank of America. I have asked that this material be printed in the RECORD so that my colleagues and all others who are interested may have the opportunity to see and understand exactly what is taking place in this great Nation of ours.

I invite attention to the fact that on the cover of the latter exhibit, "America" is spelled with a "k," which should be indicative to those who have taken the trouble to study these matters over the years.

Mr. President, I sincerely hope that my statements will in some way clear up the so-called confusion about Laos. There is confusion. It is not a new war. It is not a secret war. The record is clear for all those who are interested in the complete historic background and the facts.

I yield the floor.

[From the London (England) Daily Telegraph, Mar. 12, 1970]

DILEMMA IN LAOS

North Viet Nam's present invasion of Laos is by far the most massive and the most successful of a whole series from the same

quarter since the international agreement of 1962 solemnly established the so-called neutrality of Laos.

It is evidently a reaction to the increasingly hard going in South Viet Nam, where President Nixon's policy of "Vietnamization" continues to make good progress. Hanoi's objective seems to be at least to out-flank South Viet Nam, but it might extend to the occupation of the whole or most of Laos.

No doubt another of Hanoi's main objectives is further to forment the political discord in America, from which its gains have been greater than any achieved on the battlefield. And, sure enough, Senators Mansfield and Fulbright and their many followers are critically scrutinizing every move by the 1,040 Americans involved in various noncombatant capacities. They apparently find no fault, however, with the 67,000 North Vietnamese regulars invading Laos in flagrant breach of the 1962 agreement, or with the 100,000 or so who pass thru Laos annually down the Ho Chi Minh trail to the war in South Viet Nam. Particular exception is taken to the activities of American pilots who bomb the trail or support loyal Laotian forces.

It is in fact with the American air force that the best prospect of stopping the invasion seems to rest, and Mr. Nixon plainly intends to use it fully. He has already promised not to send American troops into the ground fighting—a piece of military intelligence of which Hanoi will doubtless make good use. There is not much hope of relief from the Geneva conference powers, a meeting of whom will almost certainly be blocked by Russia—so that America will be left to stew. The results of "neutrality" in Laos are certainly a warning against any repetition in South Viet Nam. Thailand is wise to ask for increased American military aid and to accept the assistance of 2,000 Malaysian troops for anti-terrorist operations.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment, in legislative session, until 10 o'clock tomorrow morning.

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

REVISION OF UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, on Wednesday, March 25, 1970, the Senate agreed to a unanimous-consent request propounded by the majority leader dealing with the business of tomorrow, Wednesday, April 1, 1970. I ask unanimous consent that all elements of that previous unanimous-consent agreement remain as they were, except the following—and this has been cleared by all sides, and I make this request on behalf of the majority leader: that immediately following the disposition of the reading of the Journal on tomorrow, the senior Senator from Ohio (Mr. YOUNG) be recognized for 15 minutes; that he be followed by the Senator from Indiana (Mr. HARTKE) to be recognized for not to exceed 30 minutes; that following the remarks of the Senator from Indiana (Mr. HARTKE), there be a period for the transaction of routine morning business with statements limited therein to 3 minutes; that the period for the transaction of routine morning business not extend beyond 12 o'clock noon tomorrow; and that at that time the unfinished business, the conference report on H.R. 514, the Elementary and Secondary Education Amendments of 1969, be laid before the Senate and that further debate on that conference report be limited to 4 hours instead of 6 hours, as was requested by the majority leader in the original agreement.

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

Mr. BYRD of West Virginia. Therefore, Mr. President, the Senate will come in at 10 o'clock tomorrow morning. Debate on the conference report on H.R. 514 will begin at noon and will consume not to exceed 4 hours, rather than the 6 hours under the previous unanimous-consent agreement, and the Senate will vote at the same time as under the previous agreement on the Stennis motion to recommit—to wit, at 4 p.m. on tomorrow.

CONFERENCE REPORT ON H.R. 514—ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. DOLE. Mr. President, in the light of the fact that the Senate will be asked tomorrow to consider the conference report on H.R. 514, the Elementary and Secondary Education Amendments of 1969, I ask unanimous consent that a table prepared by the U.S. Office of Education, indicating how much each State could receive under the bill under appropriate programs, be printed in the RECORD.

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

H.R. 514, Conference Report—State allocation programs,[1] fiscal year 1971

Total	[2] $6,284,638,000
Alabama	179,008,647
Alaska	30,575,111
Arizona	53,199,083
Arkansas	104,616,477
California	493,139,473
Colorado	63,278,209
Connecticut	55,515,667
Delaware	14,676,710
Florida	169,043,533
Georgia	201,539,847
Hawaii	27,879,560
Idaho	20,483,408
Illinois	237,471,538
Indiana	96,726,085
Iowa	78,506,927
Kansas	62,169,136
Kentucky	147,332,890
Louisiana	178,414,009
Maine	25,755,985
Maryland	118,319,515
Massachusetts	115,616,049
Michigan	191,084,645
Minnesota	106,612,494
Mississippi	157,912,460
Missouri	125,628,266
Montana	25,378,576
Nebraska	42,414,039
Nevada	11,925,012
New Hampshire	13,940,998
New Jersey	148,549,738
New Mexico	55,808,088
New York	639,889,546
North Carolina	244,388,783
North Dakota	28,869,222
Ohio	201,433,782
Oklahoma	$94,760,379
Oregon	42,977,243
Pennsylvania	260,586,021
Rhode Island	24,242,599
South Carolina	151,332,840
South Dakota	31,828,422
Tennessee	169,120,222
Texas	380,815,191
Utah	31,507,083
Vermont	11,802,434
Virginia	187,663,749
Washington	76,085,682
West Virginia	78,103,080
Wisconsin	88,293,688
Wyoming	10,980,521
District of Columbia	32,092,450
Outlying areas	145,342,902

[1] Includes all parts of Titles I, II, III and V of ESEA, Title VI-B of ESEA (Handicapped) Adult Education, Vocational Disadvantaged, Vocational Work-Study, and Vocational Residential Facilities. Also includes an estimated distribution for P.L. 874, but excluding public housing and minor amendments for which current State figures are not available. All other programs are project grant proposals for which no meaningful State estimate is possible.

[2] May not add exactly because of rounding.

DWIGHT DAVID EISENHOWER

Mr. DOLE. Mr. President, 1 year ago today, Washington paid its final tributes to Dwight David Eisenhower. It seems remarkable that this great, good man has been gone from us a full year, for his memory remains fresh and warm in the hearts and minds of his countrymen.

An especially fond recollection of General Eisenhower appeared in the March 28, 1970, Washington Post. Written by Edward T. Folliard, who covered Ike during the war and in the White House, the article provides several glimpses which illustrates the qualities of character and personality for which he revered and respected Dwight Eisenhower.

Mr. President, 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:

SOME MEMORIES OF SOLDIER PRESIDENT IKE

(By Edward T. Folliard)

(NOTE.—The writer, now retired, was The Washington Post's war correspondent in Europe in 1944–45 and its White House reporter in the Eisenhower administration.)

Although he had spent 40 years in the Army, Dwight D. Eisenhower seemed to drop soldier talk from his vocabulary when he become President in 1953. He still had the air and authority of a five-star general; he just stopped talking like one. For a time, while he was President-elect and choosing his aides, he called Sherman Adams his "chief of staff"; we heard no more of that after he assumed the presidency.

Once in a while, at press conferences, President Eiesnhower might slip and use a word like "echelon," but most of the time he talked like a man who had never worn the uniform. Then, during his first term, came a delightful reversion; we heard him bark out words that went back to his West Point days.

The President flew down to Augusta, Ga., taking along an oil painting he had done from a photograph of Robert Tyre (Bobby) Jones, the great golfer of "grand slam" fame. The presentation ceromony was to take place near the first tee of the Augusta Golf Club. Reporters and photographers, along with

club members, were assembled, and Ike was about to hand Bobby Jones the portrait when he noticed that Mrs. Eisenhower was missing.

"Where's Mamie?" he asked.

When nobody answered, Ike shouted a request—no, a command—and his voice had a parade-ground ring to it.

"Somebody find Mamie," he roared, "and tell her to fall into this formation."

Somebody did find Mamie, and dutifully she "fell in."

I ran across this anecdote in going through some old notes the other day. There were some others, along with letters, and I thought they might be worthy of a reminiscence on the anniversary of Gen. Eisenhower's death on March 28, 1969.

I found some scribbling that recalled a party Ike gave at the White House for the reporters and photographers who had been covering him. This was just before he was to hand over the presidency to John F. Kennedy. Although he had once told us at a press conference that he was "a tough old guy," Ike this night was a wonderful host.

He was still surprised over the outcome of the 1960 election, and also puzzled. He said he just couldn't understand why the voters chose Senator Kennedy over Vice President Nixon. Andy Tully reminded him that he had recently talked to President-elect Kennedy to arrange for the transition. Was it true, Tully asked, that he and Kennedy had hit it off pretty well?

"Well," said Ike, "I don't know whether you could put it that way. But I could see that he was willing to learn."

Ike's farewell party for us took place at a time when Pennsylvania Avenue was lined with grandstands for the Kennedy inauguration. Washington was about to be taken over by the New Frontier.

"Mr. President," said James E. Warner of the New York Herald-Tribune, "I've been assigned to cover you on your trip to Gettysburg after the inauguration."

Ike was astonished.

"Why in the world would anybody want to cover an old ex-President?" he asked.

"That's my assignment, sir," said Warner.

"Well," said Ike, laughing and grasping Warner's hand, "welcome to the Old Frontier."

Along with other reporters who came to know him in World War II and in his White House days, I used to visit Ike at Gettysburg from time to time. One day the subject of Gen. Douglas MacArthur came up, and Ike made it clear that he thought it had been wrong for President Roosevelt to award the Medal of Honor to MacArthur in April, 1942. He didn't say it was wrong, but his eyes betrayed his displeasure—not with MacArthur but with FDR. He said there were reports that he himself was to be awarded the Medal of Honor when he was Supreme Commander in Europe and driving to victory in 1944–45. He said he told his chief of staff, Gen. Walter Bedell Smith, that he would refuse to accept that most coveted of medals if it were offered to him, and would suggest that it be given to some GI who had really performed a deed of gallantry beyond the call of duty.

I received two letters from Ike in 1967, the second of them in December of that year, from Indio, Calif. In this he commented on an article I had written for The Washington Post about the war in Vietnam, which a copy editor had headed "Don't Underrate GIs in Vietnam." Ike said:

"Sometimes I get baffled when reading so much criticism about American efforts on behalf of freedom in the world and find so little attention paid to the young GIs who are putting their lives on the line for all of us."

Ike was a prolific writer, and had a modest shelf of books to his credit. While he was in Walter Reed Hospital in August, 1967, suffering from a gastrointestinal ailment, I wrote and reminded him that St. Francis de Sales was the patron saint of writers. I said that in my prayers I would ask St. Francis to intercede for him. Ike, a Presbyterian who used to call me a "mackerel snatcher," was soon out of the hospital. From Gettysburg he wrote to say that he was inclined to believe that the saint's intercession had released him "from the clutches of the doctors," and added:

"I hope that St. Francis does no research on the matter because he will quickly find out that my qualifications are scarcely of the kind to excite his particular interest."

Toward the end of his life, the old General of the Army was talking very much like a soldier, even though he was back in the hospital with a heart ailment. The last time I heard him was in his televised address from Walter Reed to the Republican National Convention in August, 1968, when he warned against an American "retreat" in Vietnam.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS OF SENATORS AS IN LEGISLATIVE SESSION

AMBASSADOR TO SWEDEN

Mr. BOGGS. Mr. President, tomorrow Dr. Jerome H. Holland will take the oath as U.S. Ambassador to Sweden.

We in Delaware, and many others throughout this country, are extremely proud that Dr. Holland will be our representative abroad. He has served with great distinction in many areas, and we are most confident his tour in Sweden will bring great credit upon the United States.

The 125th General Assembly of the State of Delaware has recognized the importance of Dr. Holland's appointment and has adopted a resolution extending him its congratulations and best wishes.

Mr. President, I ask that the text of senate concurrent resolution No. 28 be printed in the RECORD.

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

SENATE CONCURRENT RESOLUTION No. 28

Expressing the best wishes of the 125th general assembly of the State of Delaware to Jerome H. Holland on his appointment and confirmation as United States Ambassador to Sweden

Whereas, it has been brought to the attention of the members of the 125th General Assembly of the State of Delaware that the United States Senate has confirmed President Richard M. Nixon's appointment of Dr. Jerome H. Holland as United States Ambassador to Sweden; and

Whereas, Doctor Holland first gained national acclaim as "Brud" Holland, All-American football player at Cornell University in 1939; and

Whereas, Doctor Holland received his doctorate in sociology from the University of Pennsylvania in 1950; and

Whereas, Doctor Holland served in a distinguished manner as President of Delaware State College, Dover, Delaware, from 1953 to 1960, during which time the school regained full accreditation; and

Whereas, Doctor Holland attained further academic honors as President of Hampton, Virginia, Institute, from 1960 to 1969; and

Whereas, Doctor Holland, in 1965, was inducted into the National Football Hall of Fame; and

Whereas, Doctor Holland has proven time and time again his genuine ability to lead and to make friends with men of all races and creeds; and

Whereas, Doctor Holland has thousands of friends and supporters in the State of Delaware, particularly U.S. Senator J. Caleb Boggs; and

Whereas, the members of the Senate of the 125th General Assembly are indeed anxious to convey their congratulations to Doctor Holland; and now therefore,

Be it resolved, by the Senate of the 125th General Assembly of the State of Delaware, the House of Representatives concurring, that the warmest of congratulations and good wishes of the General Assembly be extended to the "All-American" Ambassador to Sweden, Jerome H. "Brud" Holland; and

Be it further resolved, that a copy of this Resolution be entered upon the Journals of the Senate and House and copies forwarded to Doctor Holland and his family and to President Richard M. Nixon and to U.S. Senator J. Caleb Boggs, and to U.S. Senator John J. Williams.

WHITE HOUSE RESPONSE TO SENATOR McCLELLAN'S DECENTRALIZATION PLAN

Mr. McCLELLAN. Mr. President, in an address delivered on the Senate floor on March 3 of this year, I suggested that the administration explore the use of existing Federal programs in an effort to decentralize our overly concentrated population and industrial centers, and to encourage the growth and development of our rural areas—see the CONGRESSIONAL RECORD, page 5597.

The objective of such a national policy would be to ease the growing pressures on our large metropolitan centers—which generate so much of today's pollution and waste—and to develop the potential of our rural areas, thereby enabling us to better accommodate the 100 million more Americans expected within the next 30 years and provide them greater economic opportunities and a far more healthy environment.

Such a program would not only facilitate the decentralization of our industrial complex; create new centers of employment and population growth; stimulate the economy in rural America; and ease the pressure on compacted metropolitan areas; it would also facilitate efforts to restore and protect our environment.

In the course of my remarks, I suggested three ways that Federal activities could be used to combat pollution, decentralize industry and population, and to protect the environment.

First. The use of Federal grant-in-aid programs. These grant programs have skyrocketed from less than $1 billion—$0.09—in 1946, to an estimated $28 billion

for the fiscal year 1971. Of this latter amount $19 billion will be spent in standard metropolitan areas, and, while much of it will have to continue being so used, the opportunities for redistributing and channeling national growth through the use of grants-in-aid are practically unlimited.

Second. The use of Federal land holdings. It is estimated that the Federal Government owns one-third of all the land in the United States—more than 750 million acres. In furtherance of a national policy to decentralize our industrial base and reverse our population migration to the urban areas, I suggested that the possibility of using Federal land grants be explored. There is ample precedent for utilizing Federal property in this manner and, since the Government currently owns real property in each of the 50 States, it could be used to develop existing and new communities in rural areas, and used in urban areas for open spaces, park and recreational purposes.

Third. The use of Federal procurement contracts. In fiscal year 1969, the Government expended approximately $55 billion for the procurement of goods and services—$43 billion for defense purposes and the remainder, $12 billion, by the civilian branch of the Government.

I suggested that the administration explore the possibility of seeking a better balanced economy through the use of Federal procurement practices and policies. Certainly, I am not suggesting that we launch an antipoverty system of procurement, but it would seem worth determining if this device could be used to promote a more evenly distributed population growth.

Mr. President, these suggestions were made available to the White House and I was pleased to learn, by letter dated March 18, 1970, from Mr. William E. Timmons, Assistant to the President, that they are receiving active consideration within the administration. In order that the Senate may be fully informed on this matter, I ask unanimous consent that Mr. Timmons' letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, March 18, 1970.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLELLAN: Thank you for sending along your remarks on the environment. In reading through them, I was struck at how closely your thoughts paralleled those of the President. As you said, our task is not only to restore now what has been lost, but to insure that the future growth of our population and our economy does not bring new environmental problems as it has in the past.

As you know the President has signed into law S. 2701, establishing the Commission on Population Growth and the American future. The work of his commission should provide the groundwork for directing our population and industrial growth so that our present efforts to restore our environment are not overwhelmed.

In your remarks you suggested three ways that Federal activities could be used to direct future growth and to protect the environment. Federal grant-in-aid programs have a profound impact on internal migration and population concentration. So does location of Federal installations and location of facilities such as highways and airports which the Federal government influences. But in the past these activities have been conducted with only fitful attention to these consequences. A major effort is currently underway within the Administration to determine how these programs could best be used to consciously affect our distribution of population and industry. Since the subject is extremely complex, I cannot be sure exactly when we will be in a position to offer specific legislation. But you can be sure that we are investing a great deal of energy in this task, and hope to have proposals at the earliest possible date.

As you noted, the President's message of February 10 referred only to using Federal land holdings for providing more recreational areas. Insofar as I know, we have not given full consideration to using these assets to influence population distribution. But it seems to me an extremely worthwhile suggestion, and I am passing it on to the appropriate people in the Administration.

Certainly, the enormous leverage of federal procurement contracts could be put to use in seeking a more evenly distributed population and full compliance with environmental protection programs. You will be glad to know that an inter-agency task force has been at work on just this problem since before the first of the year, and that we expect to have some initial proposals ready within a month's time.

I hope that this information is useful, and that you will be in touch should you have any further questions or suggestions.

With best wishes,

Sincerely,

WILLIAM E. TIMMONS,
Assistant to the President.

PRESIDENT NIXON COMMENDED FOR DESEGREGATION STATEMENT

Mr. GRIFFIN. Mr. President, the Wall Street Journal recently commented on President Nixon's statement on school desegregation. The tone of the editorial is set by the first paragraph which describes the President's statement as "so sensible that it makes some of the criticisms sound rather ludicrous."

Mr. President, I ask unanimous consent that the article, appropriately entitled "Rule of Reason," be printed in the RECORD.

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

RULE OF REASON

The striking thing about the President's statement on desegreation is its tone—a profound concern for the problem coupled with a wholly realistic approach. So sensible is it, in fact, that it makes some of the criticisms sound raher ludricrous.

The chief objection of the critics is that Mr. Nixon did not demand instant school integration. But are they listening to what he said? He is not backing away from the goal of integration; indeed, he is providing considerable sums to assist court-ordered desegregation and improve education in racially impacted areas, North and South.

What Mr. Nixon does perceive is that in distinguishing between de jure and de facto segregation, the complexities involved in the latter are awesome and almost certainly not susceptible to a purely Governmental solution.

There is a Constitutional mandate, he notes, that dual school systems and other forms of de jure segregation be eliminated totally—and that is Administration policy as well. Within that requirement, however, is a degree of flexibility, a "rule of reason" permitting school boards to formulate desegregation plans that best suit the needs of their localities.

De facto segregation, stemming from housing patterns, is another matter altogether. The President holds it to be undesirable but observes that it is not generally considered to violate the Constitution. Even so, he seems to encourage local school officials to take reasonable steps, if they choose, to diminish racial separation.

Mr. Nixon is especially realistic in discussing the difficulties of doing away with de facto segregation: " 'Racial balance' has been discovered to be neither a static nor a finite condition; in many cases it has turned out to be only a way station on the road to resegregation."

That is, whites leave the public schools, and the public schools founder for lack of support. Moreover, when whites flee the public schools in search of predominantly white schools in the suburbs, the central city itself becomes racially isolated.

"These are not theoretical problems, but actual problems. They exist not just in the realm of law, but in the realm of human attitudes and human behavior. They are part of the real world, and we have to take account of them."

One of the practical problems in trying to abolish de facto segregation is that it entails a wasteful diversion of resources. Thus a state court recently ordered all but uniform racial balance in the Los Angeles schools, and it is expected that it will cost $40 million the first year to lease buses, hire drivers and pay operating expenses. How much better if the money were to be spent to improve education.

In a deeper sense, insistence on total integration derives from a misconception of the source of much of the trouble in the education of Negroes. As the Presidential statement remarks, it is not primarily a matter of race at all; rather, it is a question of economic class and environment. Quite simply, a child from a very poor home, where there are no books or magazines or newspapers or parental encouragement to learn—that child is all too likely to have difficulty in school whether he is black or white.

Finally, to demand total integration (as distinguished from ending de jure segregation) is to overburden the schools. In Mr. Nixon's words, the schools "have been expected not only to educate but also to accomplish a social transformation. Children in many instances have not been served, but used—in what all too often has proved a tragically futile effort to achieve in the schools the kind of multiracial society which the adult community has failed to achieve for itself."

We agree with the President that the call for equal educational opportunity is in the American tradition and that the opportunity unquestionably can be extended at the same time that the quality of the education is being upgraded. But the process preeminently requires wisdom, the kind of basic common sense the President's statement reflects.

WE ARE NOW WAGING SECOND INDO-CHINESE WAR

Mr. YOUNG of Ohio. Mr. President, this comes as no surprise to me. It is what one would expect from the Joint Chiefs of Staff and the leaders of the all powerful military-industrial complex. It is evident that they seek to move our Nation into a militarist state. Unfortunately, it appears that President Nixon is yielding subservience to the militarists in the same degree as did President Johnson.

Now headlined in the Washington

Post we read that General Westmoreland and other Army leaders favor a 6-month delay in U.S. troop withdrawals from Vietnam.

Pentagon officials, of course, claim that further withdrawal of ground forces from Vietnam at this time should be stopped so that our pacification program, so-called, and Vietnamization program may continue.

From 1961 to the present time, American military forces have been occupying Vietnam. There has been no Vietnamization, so-called, of South Vietnam. The militarists led by General Thieu and Air Marshal Ky in control of the Saigon Government represent but a small fraction of the Vietnamese. They have excluded Buddhists and neutralists, so-called, from their militarist government of Saigon. Theirs is a corrupt regime. South Vietnamese forces have no will to fight. Its leaders are continuing the suppression policies of the French colonialists. Eighty percent of the men and women of South Vietnam know that no land reform, not even a semblance of liberty has been offered them by the Thieu-Ky administration and its predecessors.

The Vietcong representing the National Liberation Front have an ideal. They are fighting for land reform and for national liberation. While in Vietnam in 1965 and 1968, I learned that 80 percent of the people living in the Mekong Delta, south of Saigon, supported the National Liberation Front. General Westmoreland and others of our Joint Chiefs of Staff by their actions prove that the Saigon regime is in power only by reason of the presence of the ground and air forces of the United States.

Mr. Nixon, as a candidate for the Presidency, stated repeatedly he had a secret plan to end our involvement in Vietnam. That is still his secret. The facts are this war is now expanding and the United States has now become involved in what should be termed the second Indo-Chinese war. The conflict has spread beyond South Vietnam now. Americans are fighting and dying in Laos and we have invaded Cambodia. Some Americans have been killed there and this conflict is even threatening to extend into Thailand.

The first Indo-Chinese war was waged by the French with the aid of John Foster Dulles and President Eisenhower. When the Japanese suddenly left Southeast Asia in the closing weeks of World War II, the French immediately landed hundreds of thousands of troops and sought to reestablish their cruel but lush Indo-Chinese empire. President Eisenhower instead of enforcing neutrality or coming to the aid of the Vietnamese people seeking national liberation aided the French with billions of dollars in war supplies. He was restrained by action of leading Senators in 1954 from committing our air power to relieve Dienbienphu. Those orders secured on advice of John Foster Dulles and his brother, then head of the CIA, were canceled at almost the last moment. Dienbienphu was overrun on May 7, 1954. More than 12,000 French Foreign Legionnaires were captured.

Following the surrender, the Geneva Agreement fixed a temporary demarcation line at the 17th parallel providing this was not a national boundary but merely a temporary demarcation line. An election was promised for 1956. President Eisenhower, in his memoirs, stated that Ho Chi Minh would have received 80 percent of the vote for President in both sections of Vietnam. Our puppet President Diem canceled the election. Then the civil war in Vietnam was renewed.

Now we Americans are continuing the aggression of the French. In fact, the conflict is now spreading into Laos. The neutrality of Laos was guaranteed in 1962 by the Geneva Conference which we approved. In 1965 when we were violating its neutrality our planes were disguised. Officers of our Army are assigned in Laos. From 1965 on, our warplanes bombing in Laos have no longer been disguised. We know that American airmen have been killed or are missing in action in Laos. We have read in newspaper accounts of our B-52's taking off with huge loads of bombs and hurling more than 50,000 tons of bombs a month in sorties that, on some occasions, according to eyewitnesses, have left the airfields at 1-minute intervals.

Also, the presence of troops from Thailand whose operation in Laos has been secured by Pentagon officials and paid for by American taxpayers via the CIA indicates our involvement on an increasing scale in the civil war being waged in Laos by the Pathet Lao against the troops of Prince Souvanna Phouma.

American presence in Cambodia is increasing day by day. The allegation has been made that our CIA was instrumental in causing the overthrow of Prince Norodom Sihanouk. Now the north Vietnamese troops are said to be increasing their force at the edge of Cambodia. This national insanity despite President Nixon's promise to reduce U.S. presence in Vietnam and Laos, has spread into an all-out war in Vietnam, Laos, and Cambodia. Now top Pentagon generals are urging that the President cancel his previously announced plans to withdraw additional combat troops this year.

Administration leaders should encourage the reconvening of the 1962 Geneva Conference to seek peace instead of expanding our war in Southeast Asia.

These are sad days for Americans who had hoped that President Nixon would bring at least 200,000 U.S. troops home this year from Southeast Asia. Instead we have every reason to fear that at least half a million Americans will be fighting and dying in Laos, Vietnam, and Cambodia at next Christmastime unless some sanity enters the White House.

We have learned very little from the past. The Chinese sage Confucius wrote:

> A man who makes a mistake and does not correct it makes another mistake.

A nation which makes a mistake and does not correct it likewise makes another mistake. We Americans are now involved in another civil war in Laos while still involved in a civil war in Vietnam.

PROJECT CITY STREETS

Mr. GOODELL. Mr. President, in keeping with the current focus on private sector involvement in urban problems, I would like to call attention to the work done by the Institute of International Education in developing a program for disadvantaged minorities—Project City Streets.

I am pleased to endorse this program which opens up opportunities for international study and travel to students and leaders from black, Puerto Rican, Mexican-American, and American Indian communities.

Project City Streets was developed as an international response to the domestic urban crisis. It endeavors to offer international experience and training to young people who are otherwise shortchanged in their quest for quality education and who, in the past, have been ignored by traditional exchange programs.

At a time when our country is exacerbated by ethnic conflict and widening polarization it is especially appropriate that our young people have the chance to learn about the diversity and similarities that mark our lives in the hope that it will then be easier for them to establish harmonious relations with their fellows. The Institute of International Education offers one way for dwellers of urban ghettos and rural poverty pockets to expand their understanding of the differences among ethnic groups and the origins of those differences—carefully preplanned observation and study programs abroad.

One of the projects offered, the community leaders program, gives minority group leaders the chance to examine vaious programs abroad. The participants undertake individually tailored projects whereby they can become acquainted with the work of organizations and community action groups in the host countries similar to the work with which they had been involved here. They also have the opportunity to meet leaders and members of local communities, observe life in these areas, and to become acquainted with the range of community efforts designed to promote the well-being of the local people. Upon their return, the participants are expected to be able to contribute more effectively to the progress and development of their own communities.

Through this part of the program, Roger Holguin, one of the founders and past presidents of the United Mexican American Student Association, traveled throughout Mexico meeting with various student and community leaders, government officials, and businessmen. He felt that his experience was essential to his own development as a leader and hopes to see the program expanded for others of his community. "Such an experience enables the young Mexican American leader to become aware of his culture, heritage, and language. He can thus become a whole man who is proud

to be a Mexican American and not ashamed, as so many are today."

As another aspect of this valuable program, Project City Streets broadens the exchange experience of foreign students, particularly potential leaders from developing countries, by taking them out of the classrooms and into the streets and corridors for practical exposure to urban problems. They work as teachers in ghetto remedial projects, as staff members of local antipoverty programs, and as aids in various government and private agencies.

One of the young leaders, a Venezuelan student of architecture, worked last summer for the South Platte Redevelopment Council in Denver. He comments on the experience in saying:

> I feel I have a great opportunity here; I can test all the ideas I have gotten in school. And, I can learn how city organizations operate.

Asked whether he could apply American methods to Venezuelan problems, he replied:

> Our country is underdeveloped. And, the problems will be different. But the training here will help me know how to attempt to solve them.

The program is a challenging opportunity, offering students practical on-the-job training in fields vital to the development of their homelands. These young leaders observe firsthand the programs working to provide better housing, education, jobs, and social welfare. Placed in the offices of Congressmen, Governors, mayors, and Government agencies, they can see the openness of our Government on all levels. They can witness the commitment of our leaders to the solving of urban problems. And they can know the depth of this Nation's desire to improve the quality of life for everyone.

Project City Streets is entirely supported by the private sector. Business, private clubs, individuals and foundations have all contributed to various aspects of the program. They are to be commended for their initiative, their dedication, and their determination to participate in the betterment of our society and the improvement of intercultural relations.

HITLER SCOURGE SHOULD BY ITSELF BE ENOUGH TO REQUIRE GENOCIDE RATIFICATION

Mr. PROXMIRE. Mr. President, the term "genocide" was defined by the United Nations as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such."

Concern with genocide has largely been a reaction to the brutal extermination of 6 million Jews and other groups during the 1930's and 1940's. Wholesale murder is not a pleasant thing to witness or even to hear about secondhand. The concentration camps, the terror of the SS guards, the forced labor, and the utter lack of humanity and human feeling were the very essence of the Nazi's attempts to perpetrate genocide.

The conscience of humanity was aroused, and revulsion toward these barbaric acts was worldwide. The culmination of the global reaction to these inhuman acts came in 1948, as the United Nations unanimously passed its Convention on the Punishment and Prevention of the Crime of Genocide. The United States played a vital role in fashioning this treaty.

Now, 22 years later, 75 nations have ratified the Genocide Convention. But the failure of the Senate to do so remains a significant obstacle to the international efforts to eradicate genocide.

Mr. President, the U.S. Senate must ratify the Genocide Convention. The memories and nightmares of these monstrous crimes against humanity as a whole, and the 6 million in particular, must weigh on our minds if we fail in our task.

Mr. President, I ask unanimous consent that an article by Colman McCarthy which appeared in the March 16 edition of the Washington Post be printed in the RECORD. Mr. McCarthy's column demonstrates why the threat of genocide is no less real today than it was a generation ago. His compelling article clearly illustrates why our concern with genocide must be equal to the dangers of the threat, and why the Senate must ratify the Genocide Convention.

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

THE SURVIVORS WHO HAD A STRONG "WHY"

(By Colman McCarthy)

A quiet and heroic anniversary will be marked in the next few months by a small group of quiet and heroic human beings—the handful of Jews who 25 years ago this spring walked, stumbled or crawled out of the German concentration camps. They are the returnees from hell who emerged from the most massive, planned and effective killing operation in the history of the world; men had been group-murdered before by hate, but never had the killing been the result of nationalized hate. The survivors come from places whose names, 25 years after, are still on the map and still in the nightmares: Auschwitz, Dachau, Maidanek, Buchenwald, Ravensbruck, Treblinka, Dora Mauthausen, Belsen, Hohnstein, Belzec, Sachsenhausen and nearly a thousand others. Commander Koch, who ran one of the more "efficient" extermination camps, and the husband of Ilse Koch, had a typical slogan: "There are no sick men in my camp. They are either well or dead."

In a brilliant book, "A Sign For Cain: An Exploration of Human Violence" (Macmillan, 1966), psychiatrist Fredric Wertham writes:

"We are apt to think of concentration camps as enclosures with a few buildings surrounded by barbed-wire fences and located in isolated places. In reality, there were barracks, many buildings, big industrial installations, factories, railway stations with regular railway services, ramps, roads, connections with nearby towns and villages, big warehouses for products from the corpses and the victims' belongings, installations for torture and killing, research institutes, distributions centers, gas ovens, crematory furnaces, human bone-milling plants, gardens for the officials and so on. All this in the aggregate covered large territories and involved wide communications. These ramifications alone show the absurdity of the claim and belief that the population knew nothing about them. Thousands of people in the camps and in the population had working contacts with them. These camps were going concerns."

Six million is the round number history has settled on for the dead. The survivors were no more than a few hundred thousand, if that. Many left the camps only to die pitiably a few days later, proof that torture is a terminal illness that no massive dose of freedom can cure. Some, like novelist Elie Wiesel who is beginning to be noticed, have become watchmen of the unspeakable, letting their published words serve as outposts of reminder. A few survivors have spent the years since 1945 in mental hospitals, wondering in their silence whether it is better to lose your life or lose your mind.

Many survivors came to America, taking up life again as shopkeepers, teachers, artists, perhaps merchants, like the tormented character in "The Pawnbroker." Occasionally, a death camp survivor is met or seen by chance. Not long ago, in a crowded New York subway, an old man clutched an overhead strap-hanger. Branded onto his wrist was a number, and the Jewish star. A group of early-on teenagers, sandwiched behind the old man, were much taken with what they called "that weird tatoo." They laughed and joked, asking each other what kind of cool swinger the old man really was.

Historians have had a field day examining the reasons behind Germany's siege of madness. They largely agree that the German people wanted relief from the social and economic misery following the defeat of World War I, and that Hitler, promising this relief, was a natural drawing card. He is seen as a demonic monster now, but in the early 1930s he gained power on a platform of very reasonable goals: a greater Germany, a state that would "promote the industry and livelihood of all citizens." Old age pensions were promised, as well as state education for gifted children, land reform, etc. The ominous suggestions of racism, a stifled press and suppression of left-wing dissent were often phrased in inoffensive language, with hardly anyone imagining they would be backed up by action anyway.

Once the death camps were established, a lucrative industry sprang up, with honorable corporations contracted to make the crematories, gas chambers, chemicals and so on, for the killing and disposing of bodies. These were the board-room murderers, far from the chimneys that carried aloft the smoke of human corpses or the big boilers where Jews were made into soap; but they were not far from the progress reports, charts and graphs sent to industrialists by Himmler and the SS. In fact, the use of Jews as slave labor conveniently furthered the double purpose of Hitler's politics and Germany's economy.

Because all this happened only a generation ago, many sociologists and journalists have easily gone back for the facts. "What happened to the firms who used slave labor?" asks Wertham. "Many of them, or their successors, are doing fine. Their shares are sound financially, even if not morally. Some of the prominent men and concerns involved in these sources of labor today hold more concentrated economic power than ever." Among the better known firms that used slave labor from the death camps are Volkswagen Works, Krupp, Siemens, Argus-Works, Continental Rubber and Bavarian Motor Works. Adds Wertham: "Some commercial undertakings involved in slave labor are now closely connected with American capital, so that this period merges into our own economic system."

One alumnus of the slave labor camps is Viktor E. Frankl, formerly No. 119104 of Auschwitz. Today, he is one of Europe's most respected psychiatrists, who like Freud and Adler before him, has formed his own

school of therapy. It is based on a central theme of existentialism: to survive the suffering of life, one must find meaning in the suffering. Frankl wrote a small classic, "Man's Search For Meaning" in which he described daily life in his concentration camp and said that often the men who survived were those who had a strong, unwavering reason to survive; "he who has a strong enough *why* can endure almost any kind of *how*."

Frankl's prison-formed psychiatry has not yet found a large following in America, even though millions are trapped in the prison of modern, suburban life. Childhood events and sexual repressions are still blamed by many analysts as the causes of mental illness, whereas, according to Frankl, the victim mainly suffers a lack of meaning. His emotions and soul are hungry for a person or purpose to which they can devote their energy and neutralize life's suffering.

Occasionally, Frankl practiced his therapy in the camp, usually to prevent suicide. "I remember two cases of would-be suicides," he writes. "Both men had the typical argument. They had nothing more to expect from life." Frankl worked with the men, eventually making them realize they had reasons to endure. For one, it was a child waiting in a safe country; the second, a scientist, had a book that needed to be written. Both postponed suicide because they seized a strong *why* and thus endured the *how* of Auschwitz.

The question arises: "Why drag out again the gore and cruelty of the concentration camps? They were just a fluke of history." The question would be unanswerable except for one fact: first, the Nazi madness was not a fluke of history. Mass killing is a part of nearly every "civilized" country's history: the Crusades, the Inquisition to name the ones carried in the history books; but also the 15 million murdered in the colonization of South America, the 1.5 million Armenians massacred by Turkey in 1915, the Amritsar massacre in India, the near-annihilation of the American Indians by the pioneers and the U.S. army, the Hereros in southwest Africa. The engines of genocide may have been idling since 1945, but it is foolish to think they are not fit and ready to run on a moment's notice.

Limiting the arms race—via the much-touted SALT talks—is an honorable goal. But even if by a miracle arms are controlled, the permanent problem of war, of which arms are merely a symptom, is not solved. The great powers still believe in weapons, not words, to settle arguments. Even nations like Egypt or Nigeria, thousands of whose people die of hunger yearly, spend major parts of their budgets on arms, the ultimate perversion.

One way of keeping governments from drifting into conditions that made death camps possible is to meditate on an idea philosopher Immanuel Kant wrote in an essay called Perpetual Peace. "On the day when war breaks out, the government should immediately and voluntarily relinquish its power, for it has demonstrated that it was not able to avert the very thing whose prevention was the whole sense of its office."

If such had happened since the time Kant wrote that sentence, in 1775, at least a few hundred million lives—not counting soldiers—would not have ended in spilled blood, crematoriums or gas chambers.

BENNETT URGES HEARINGS ON POW QUESTION

Mr. BENNETT. Mr. President, war remains an inhumane way to solve world problems. For decades man has attempted to outlaw war, but unfortunately, worldwide peace remains as elusive as ever. Man, however, will not give up and his efforts to find solutions to world conflict will continue.

It is unfortunate, therefore, that in those small areas where man has succeeded in bringing some semblance of humane treatment to war that certain countries choose to ignore it. In the Hague and Geneva conventions, the nations of the world have set down laws and procedures to be followed in the treatment for prisoners of war. This, generally, has been followed in world conflicts. I only wish it would be honored by Hanoi in the Vietnam war. It is with this in mind that I call upon the North Vietnamese Government to meet its responsibilities under the Geneva Convention to make known immediately the names of all American captives. Specifically, I call upon the Government in Hanoi to grant to American prisoners the kind of humane treatment which their men have generally received at the hands of the allies. Certainly, if the Communists and the allies cannot resolve their national problems, Hanoi should at least be willing to meet its responsibility under international law as far as captors as concerned.

Surely the anxiety and the heartbreak forced upon the families at home is ample justification for any government to disclose the fate and the status of men captured in combat. Is this too much to ask?

While I feel the President has done everything within his power, I call upon him and the State Department to pursue this matter relentlessly until Hanoi acts like a civilized government and meets its international responsibilities on this prisoner-of-war question.

Another approach which I think should be pursued is a full and intensive hearing by the Senate Foreign Relations Committee on this subject. That committee has not lost any opportunities to investigate the various aspects of American policy in Vietnam. I think it should now investigate the very serious problem of American POW's. The Foreign Relations Committee could provide a valuable public service by calling to the attention of American and world public opinion the failure of Hanoi in this regard.

A resolution is still pending before the committee signed by several Senators asking that these hearings be held, and I think it is time these responsibilities be met. We can do no less for the American families and for the men involved.

THE SITUATION IN LAMAR, S.C.

Mr. CURTIS. Mr. President, on behalf of the Senator from South Carolina (Mr. THURMOND), I ask unanimous consent to have printed in the RECORD a statement which he had prepared for delivery today, together with an insertion.

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

STATEMENT OF SENATOR THURMOND

Mr. President, the News and Press of Darlington, S.C., recently published an excellent editorial concerning the situation in Lamar, S.C., entitled "Dear Mrs. Dreitlein." This editorial has had a tremendous response in the Darlington area, and I believe it deserves the attention of a wider audience.

It explains poignantly and eloquently the feelings, the problems and the frustrations of the people in Darlington County in their recent difficulty. This editorial was written by Morrell Thomas, Jr., publisher of the News and Press.

DEAR MRS. DREITLEIN

MARCH 7, 1970.

Mr. MORRELL L. THOMAS, Jr.,
News and Press,
Darlington, S.C.

DEAR MR. THOMAS: I wish to express myself as a white person to the people of Darlington, through your newspaper.

This morning I was ashamed to be white, you made me that way. Many horrid things have happened to both whites and blacks in this country, but Darlington will always remain as the worst. When men, and I find it difficult to use that word, attack children, and arm themselves with ax handles, heavy chain links, screw drivers sharpened to a point and bricks I find it impossible to accept as a human, as a white, but mostly as an American.

You 200 "men", and everyone who wishes them well are trash of the lowest order! I have never said that to anyone before because I have never heard of anyone so low before.

MRS. JOSEPH DREITLEIN.

BOULDER, COLO.

DEAR MRS. DREITLEIN: Ordinarily we do not reply to letters such as yours, but we shall make an exception today.

I, along with several thousand other citizens of Darlington County, do attend church services fairly regularly, and in the past few weeks have heard several sermons devoted to the religious aspects of integration. Your letter therefore brings to mind advice from the Power which created us as we are: "Judge not, that ye be not judged" and "He that is without sin among you, let him cast the first stone". And also a secular quotation, by Spinoza: "I have made it my earnest concern not to laugh at, nor to deplore nor to detest, but to understand, the actions of human beings."

There are about 60,000 of us in Darlington County, not quite equally divided between Black and white. When the national television and radio networks described violence in Lamar, South Carolina, last Tuesday, I daresay ninety-five percent of us were appalled and ashamed.

But a closer look at what actually occurred in Lamar paints a different picture than that which has aroused your hatred. I was not in Lamar myself on Tuesday, but I have talked with responsible law enforcement officers who were. They tell me a crowd of 150 to 200 angry men and women surrounded three school busses which were delivering Black school children to the previously predominantly white Lamar schools. Officers were successful in permitting the first bus to pass. This aroused group, however, ripped loose the ignition wires of the other two busses and began hitting them with various objects, breaking windows and denting the exteriors.

During this time officers were assisting children from the bus and into the safety of the schools. Several children were injured slightly by fragments of broken glass, and as they walked onto the school grounds one child was struck by a flying object and knocked to the ground, again without serious injury.

No children were attacked by this mob. Officers say the disturbance could have been subdued at the outset, but probably at the

cost of several lives. Instead they chose to allow major damage to two state school busses. I think they chose wisely.

After they received this true account, Darlingtonians could be even more sympathetic with the Vice President's recent criticism of the national news media for their editorialized reporting. It is ironic that he himself fell victim to an early account and issued a statement almost as unfair as yours.

It may be easy for you from your lofty perch fifteen hundred miles away in Colorado to judge and condemn Darlington citizens. I do not know much about your state—perhaps no more than you know of mine—but I am aware of Colorado's history of violent warfare between the railroads and among sheep and cattle interests. I do know that bitter union battles were fought in your mines . . . battles which were reminiscent of your early days of Indian warfare. So you do have a mote in your own eye.

You cannot understand the feelings and the frustrations of these 200 people in Lamar, South Carolina, Mrs. Dreitlein, because you have not lived your life in the South. You know nothing of the shoddy treatment which has been accorded our area for years.

We Darlingtonians for years have been appalled by violence in other sections of our country. We watched Watts burn with horror. We were indignant at mob violence and—yes, death—in Maryland, Harlem, Chicago, Arkansas, Alabama, Mississippi, even in our nation's capital. These blots on the character of America make last week's incident at Lamar seem like child's play. No knowledgeable person could consider Darlington "the worst."

But indignant as we were over these evidences of racism elsewhere in our nation, I hope that no Darlingtonians wrote their fellow Americans a letter such as yours. The venom which flows through your pen is to me as detestable as the mob passion last week in Lamar.

Let me add parenthetically that in recent days following our instant integration I have talked with many parents of Black students. Without exception they have been as miserable over the forced changes as the white pupils. This gives hope to those of us who feel that ultimately the people of our great country will rise up and demand a sensible freedom of choice school plan, enforced uniformly and fairly throughout the fifty states.

In the meantime, we covet your fairness and an understanding of our difficult problem.

MORRELL THOMAS.

WELFARE REFORM AND INCOME MAINTENANCE

Mr. GOODELL. Mr. President, I would like to bring to the attention of my colleagues an address I made on Monday, March 30, before the National Conference of Christians and Jews on the subject of welfare reform.

In this speech, I outlined a major welfare bill which I will be introducing soon.

The bill will be based on the recommendations of the Heineman Commission which reported to the President last November.

It will establish a federally financed minimum welfare payment at the poverty line figure of just under $3,800 per year for a family of four.

It will create a true system of national income maintenance; provide universal coverage for all impoverished persons; and abandon the discredited inquisitorial concept of welfare.

Mr. President, I ask unanimous consent that the text of my speech be printed in the RECORD.

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

TOWARD A NATIONAL SYSTEM OF INCOME MAINTENANCE

Two millennia ago, when a sated middle class watched an impoverished underclass starve, the prophet Isaiah reminded the children of Israel:

Is it not to deal thy bread to the hungry,
And that thou bring the poor that are cast out to thy house?
When thou seest the naked, that thou cover him;
And that thou hide not thyself from thine own flesh?
Then shall thy light break forth as the morning . . . (Is. 58: 7, 8).

To his people grown indifferent in their material abundance, Isaiah warned:

The lofty looks of men shall be brought low,
And the haughtiness of men shall be bowed down," (Is. 2: 11).
For they would not care for their brothers.

We, too, have reached such an age.

It is an age of incredible affluence, and it is an age of hunger.

It is an age of proliferating PhD's, and an age of little children mistaking the picture of an elephant for the only animal they have been educated to know—the rat.

It is an age of mink coats for ladies and knitted coats for poodles on Park Avenue, and it is an age of rags for five-year-olds in Harlem and Appalachia, rags that prevent children from going to school for fear their garments will fall from their backs and leave them exposed to the cold of the elements and the derision of their classmates.

This decade, this year, this session of Congress is the time to decide whether we can in conscience allow children to wear rags in a land of riches.

This is the time to affirm in action, not recite in rhetoric, that it is indeed our sacred duty to be our brother's keeper.

This is the time to commit our nation, once and for all, to guaranteeing a minimum liveable income for every one of its impoverished citizens.

Our existing welfare system has failed us. It discriminates among the poor, aiding some and ignoring others in a wholly arbitrary fashion. It provides incentives only for idleness, dependence and family breakup. Designed to save money instead of saving people, it tragically ends by doing neither.

The present welfare structure leaves the amount of welfare benefits wholly to the discretion of the states and localities. This has created a crazy patchwork, in which benefit levels range from a high of $77 per month per child in Massachusetts to the shockingly low figure of $10 per month per child in Mississippi. Those states and localities that take their responsibilities seriously are penalized by high welfare costs and growing welfare rolls. Those states and localities that do not, are rewarded by low welfare costs and succeed in exporting their poor.

The principal existing Federal welfare program—known as Aid to Families with Dependent Children—is designed only to assist the unemployed mother who heads a family. It penalizes families that are intact. It ignores the working poor—those 8 million men, women and children who live in families headed by someone who works all year round, but does not earn a liveable income. These are the families that have accepted American middle-class values, that have tried to follow the vision of Horatio Alger, but have not received their just due.

President Nixon has proposed the most revolutionary reform of our failing welfare system since the New Deal. In place of further studies and further tinkering with an inadequate structure, he has sought fundamental change. His proposals constitute an historic first step towards a national system of income maintenance.

The President's plan will, for the first time, create a Federally-established and Federally-financed minimum welfare assistance level. It thus recognizes the essential principle that a destitute person should be entitled to a nationally prescribed minimum of assistance, no matter where he lives. And it recognizes that only the Federal government has the fiscal resources to carry the main burden of welfare aid—that states and localities simply lack the resources to provide for their poor.

The President's plan is designed to aid intact families and families of the working poor. It makes a family's need the criterion of assistance. Instead of penalizing those that work, it creates new work incentives.

These are far-reaching reforms. They are reforms of which the President can be justly proud.

I am convinced, however, that still more must be done if we are to create a welfare system that is workable and fair. Welfare reform must build upon the President's proposals; it must, however, go beyond them to create a true system of national income maintenance.

The Administration proposal sets the Federal minimum welfare payment at $1,600 per year for a family of four.

This is inadequate.

It is less than all but five of the poorest states are providing under the present, state-operated welfare system.

It is less than half of the amount the Social Security Administration defines as the "poverty level"—which is just under $3,800 per year for a family of four.

This $3,800 "poverty level" figure constitutes the barest minimum needed for subsistence. It is calculated on the basis of the Department of Agriculture's "economy food plan" which, according to the Department, is designed only for "temporary emergency use", and "is not a reasonable measure of the basic money needs for a good diet."

The respected Bureau of Labor Statistics has calculated a substantially higher poverty line figure—a little over $6,500 per year for a family of four. This is a more realistic estimate of the amount actually needed for subsistence.

I believe we can do no less than to set the Federal minimum welfare payment at the $3,800 poverty line. That is not a generous figure. It is barely an adequate one. By going below this amount, there is clear danger of consigning welfare families to malnutrition, inadequate clothing, slum housing—in short, to the most serious poverty and want.

The Administration plan covers only families with minor children. Childless couples and single individuals are excluded. Still more incongruous, a couple with a 17-year-old child would lose their benefits the day the child turns 18.

There is no justification for such discrimination among the poor. All persons below the poverty line should be eligible for assistance, regardless of their marital or family status.

The Administration continues the role of the states in administering the welfare system. This role has largely been one of serving as welfare policeman—of wasting time and money in demeaning field checks of the eligibility of each individual applicant.

It is time to move away from this inquisitorial concept of welfare.

The Federal government should assume the administration of the welfare system and operate it on the pattern of the Social Security system—with written applications,

automatic mailing of payments, and audits or spot checks for enforcement purposes. State welfare agencies should be relieved of their role as welfare policemen, and allowed to perform their proper function of counselling and assisting needy individuals.

The Administration bill requires all welfare recipients, save those specifically exempt, to accept "suitable" work whenever available, as determined by the Labor Department.

This is as impractical as it is offensive.

A similar work requirement has been in existence under the Work Incentive Program (WIN) of 1967, and it has been a spectacular failure. Of 600,000 welfare recipients that qualified under this program by last year, only 100,000 were referred for mandatory work or training—and only 30,000, or 5% actually found jobs or training programs.

In a time of rising unemployment, the prospects of success of a mandatory work requirement are still more remote. Laws cannot force people to take jobs, if jobs are not available.

A work requirement is demeaning. If job openings are perceived as being worthwhile in terms of the income and the personal satisfactions they provide, they will be filled voluntarily. If not, then we should be changing the nature of the openings available. Dead-end jobs inevitably result in high turnover, and no legal compulsion can change that fact.

Above all, a work requirement punishes children for the actions of their parents. It means that if the mother refuses to work, the child will receive no aid, will be brought up in the direst poverty, and will ultimately become incapable of working himself.

In January 1968, President Johnson appointed a distinguished President's Commission on Income Maintenance, under the chairmanship of Ben Heineman, President of Chicago's Northwest Industries. That Commission, with the aid of an outstanding staff, reported to President Nixon in November 1969. Its report was headlined in the *New York Times*, and hailed by virtually every academic expert in the field. Unfortunately, the report appeared after the Administration plan had already been made public. As a result, it was shelved by the Administration and never introduced in the Congress.

The plan proposed by the Heineman Commission seeks the Administration's objectives while meeting the shortcomings of the Administration bill.

The Heineman plan moves towards a minimum income maintenance standard based on the poverty level. It eliminates the categorical structure of the present system, and provides universal coverage of all impoverished persons. It Federalizes the welfare system and abandons the discredited inquisitorial concept of welfare. It provides a work incentive by allowing recipients to retain a part of their earned income, without imposing harsh and unrealistic work requirement.

The Heineman proposal also provides for an annual adjustment of Federal income maintenance levels, designed to reflect the changes in the cost of living. It eliminates the food stamp program—with its demeaning separate food lines at grocery stores—and substitutes the cash needed to buy food. It provides emergency relief for individuals struck by personal disasters and makes special provisions for those who earn seasonally eratic incomes. None of these features are found in the Administration bill.

With one substantial modification, I intend to propose in Congress, as a major alternative to the Administration proposal, the legislation proposed by the Heineman Commission. This is the carefully considered product of a panel which met for nearly two years with highly skilled staff assistance. It deserves the full consideration of Congress.

The Heineman Commission recommended that the Federal minimum welfare payment initially be set at $2,400 per year for a family of four. This is somewhat less than halfway between the Administration's clearly inadequate payment of $1,600 per year and the Social Security Administration's poverty line figure of just below $3,800 per year.

The $2,400 figure is an arbitrary one, arrived by the Commission in recognition of budgetary constraints. The Commission recommended that the Federal minimum payment be increased to the poverty level by 1975.

I will include in my bill a provision for an immediate maintenance level at the poverty line figure of just below $3,800. That is, as I have said before, the barest minimum needed for subsistence. By going below this figure, we are abandoning the poor to still more years of misery and desperation.

My bill will provide work incentives for all welfare recipients, until their incomes rise above the Bureau of Labor Statistics' subsistence figure of about $6,500 per year for a family of four. Welfare recipients earning below this amount will thus be able to retain a portion of their welfare benefits. The Heineman plan contains a similar work incentive, but with a somewhat higher maximum limit.

The total welfare cost under the bill I am proposing will be in the neighborhood of $30 billion a year, with the Federal government contribution amounting to about $25 billion. This compares with an estimated total cost of $17 billion a year for the Administration plan and $11 billion for the persent system.

The additional cost—$13 billion above the Administration plan—is admittedly substantial. No less an investment, however, will be adequate to solve the welfare problem.

One half of this additional cost can be met by extending the 5% surtax beyond its June 30 expiration date—a step which I have long urged.

The other half can be met from existing revenue sources. To assure the budget remains in balance, this would require a further reduction in Vietnam and other military spending. Such a reduction, however, is amply justified on its own merits as well as on the basis of proper national priorities.

On my return to Washington and the reconvening of the Senate after Easter recess, I will introduce this bill. I will fight to ensure that never again will Americans go hungry because their country has refused to treat them as its own. I hope that in this battle, I will have your support.

RETREAT FROM THE BATTLE TO SAVE THE GREAT LAKES

Mr. PROXMIRE. Mr. President, 2 weeks ago I wrote Secretary of the Interior Hickel asking him to reconsider the apparent decision of his Department to virtually dismantle the Federal Great Lakes Fishery Laboratory at Ann Arbor, Mich. It is my belief that this action is a drastic mistake, and could not possibly come at a worse time.

The Ann Arbor laboratory has been in the forefront in the fight to save the Great Lakes. Through its fishing surveys and comprehensive studies of overall environmental quality of the lakes, the laboratory has achieved national and worldwide recognition. The Ann Arbor laboratory has been responsible for calling to the attention of the public the rapid environmental deterioration of the Great Lakes in general and Lake Erie in particular. Its studies into the effect of industrial and municipal discharges and heat effluents from thermonuclear powerplants on the environment of the lakes and the fish population have been extremely valuable. The laboratory has also been responsible for warning of the alewife threat and working on means to eliminate it; for developing a selective chemical to control the sea lamprey; for calling attention to the pesticide threat and taking an active role in fighting it; and for the publication of over 400 technical papers relating to the environment and fish stocks of the Great Lakes.

Although the accomplishments of the Great Lakes Fishery Laboratory have been many, the fact remains that the battle is entering a critical stage. Now is not the time to run from the battle, now is not the time to cut back on the personnel who have been effectively waging this fight. The Ann Arbor laboratory and all its programs should remain. To eliminate many of the programs being administered by the Ann Arbor laboratory must be viewed for what it is—a retreat from the battle to save the Great Lakes.

Mr. President, I recently read an article in the Journal of the American Association for the Advancement of Science by Luther J. Carter that goes to the heart of this matter. I, therefore, ask unanimous consent that this article, entitled "Fisheries Research: Rejuggling of Priorities Is Assailed," be printed in the RECORD at this point.

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

FISHERIES RESEARCH: REJUGGLING OF PRIORITIES IS ASSAILED

According to some biologists and certain members of Congress, the Bureau of Commercial Fisheries (BCF), an agency of the U.S. Department of the Interior, is behaving as though it were deaf to all the talk by President Nixon about arresting environmental deterioration and using resources wisely. A major case cited in point is the bureau's plans, which are part of the President's fiscal 1971 budget, to reduce research activities at its Ann Arbor Biological Laboratory, an institution which has had a major part in identifying and combating problems threatening the Great Lakes.

And the bureau is closing altogether its biological laboratory at Milford, Connecticut, a shellfish research facility which has been doing pioneering work in acquaculture since 1940. The decision to close the Milford laboratory has brought an outcry from a number of fishery biologists who feel that top officials of the BCF are foolishly emphasizing fishing for diminishing stocks of wild fish in the open ocean. What BCF should be doing, these critics contend, is devoting increasing attention to aquaculture, or the production of fish and shellfish under controlled conditions.

The fund cutback at Ann Arbor, which will reduce the laboratory's research effort by nearly a third, is being justified largely as part of the administration's program to check inflation. But it also reflects the BFC's intention to give less emphasis to biological research in the Great Lakes. The Great Lakes Ranger have an important commercial [illegible], and BCF officials clearly would like [illegible] the Ann Arbor laboratory over to a [illegible] Interior agency, the Bureau of Sport

Fisheries and Wildlife (BSF&W). The possibility of such a transfer is now under consideration by the two bureaus and the Fish and Wildlife Service, of which they are a part.

Scientists at the laboratory fear that the transfer could be ruinous because the BCF will not, if it can be avoided, give up any of its own funds to the BSF&W; rather, this latter agency (which is having its own budgetary problems) would be left to seek new appropriations for the laboratory. Whatever the laboratory's ultimate fate, its prospects in the short run are plainly discouraging. According to Ernest D. Premetz, the BCF's deputy regional director for the Great Lakes, dismissal notices have gone out to 19 of the 82 people on the research staff and nine of those being dropped are professional biologists.

The Ann Arbor laboratory is the only major fishery research institution on the Great Lakes, and its scientists were the first to warn that Lake Erie was in desperate trouble from pollution. Also, this laboratory is credited with having developed methods for control of the lamprey, a predator which devastated the lake trout fishery in the upper Great Lakes during the 1940's and 1950's. And, at present, the laboratory is deeply engaged in research on questions such as the population dynamics of the alewife (a herring whose massive die-offs have been a major nuisance) and the effect of pesticides on the Great Lakes fishery.

TIES WITH UNIVERSITIES

Karl F. Lagler, professor of fisheries and zoology at the University of Michigan's School of Natural Resources, told *Science* that any setback to the laboratory's research will be keenly felt by the Great Lakes research programs at the University of Michigan and at other institutions. According to Lagler, the laboratory has long had close ties with universities in the Great Lakes area with respect to research and the training of graduate students.

U.S. Representative Marvin L. Esch of Ann Arbor is seeking to rally members of Congress from the Great Lakes area against any action impairing the laboratory's effectiveness. Esch, a Republican, notes that President Nixon recently visited pollution-control facilities in Chicago to dramatize his interest in environmental protection. "Surely this administration does not intend to drain the vitality of the country's only major freshwater research facility," he says.

William M. Terry, BCF's acting deputy director, replies that, while BCF does not question the importance of the Great Lakes as a national resource, its research program at Ann Arbor could not escape reductions. This year the agency has a budget of $52 million, of which far more is for research (over $20 million) than for any other activity; in the President's budget for next year, Terry points out, BCF has been cut to $45 million. A BCF budget document explains that $1.5 million of this $7 million reduction in agency funds will come from "low-priority biological research programs [including those at Ann Arbor and Milford] not critical to programs planned for major emphasis." The same document states that the agency will focus primarily on assessing stocks of fish and shellfish and developing better and cheaper methods to enable fishermen to locate and harvest them.

RALLYING OPPOSITION

The BCF's biological laboratory at Milford, on Long Island Sound, is scheduled to be closed in May, with a budgetary saving of $150,000 for next year resulting. Its staff, which includes six Ph.D.'s and seven other biologists, has been attempting to forestall the closing by rallying the support of scientists and others who know the laboratory. In a letter sent out last month, the staff pointed out that the laboratory, which only 3 years ago moved into a new $1.3-million building, is unique among fishery research facilities, having been designed specifically for aquacultural research.

Recently, a number of scientists have written members of Congress and various administration officials protesting the plans to close the laboratory. In one such letter, Myra Keen, president of the Western Society of Malacologists and professor of paleontology at Stanford, has observed: "Most fisheries' work is on a par with the hunter state of human cultural evolution—taking food where it is found. Aquaculture or mariculture corresponds to the agricultural stage of nomads who settled down to produce food and in the process began civilization. It is tragic that, just when we as a nation are realizing the need to increase food production from the sea, a facility that has pioneered in sound [aquacultural] methods should be . . . scuttled."

BCF officials have said that, except for the work in genetics (which they hope somehow to continue), the research at Milford should be taken over by industry and the coastal states. Commenting on this, Melbourne R. Carriker, director of the systematics-ecology program at the Marine Biological Laboratory at Woods Hole, told *Science* that, even if much of the laboratory's applied research should be left to others, the laboratory should not be closed but, rather, its program should shift to ecological investigations in which shellfish behavior, physiology, and genetics are studied in relation to environmental conditions. Carriker said that the laboratory could, for example, use its exceptional facilities for the spawning and rearing of mollusks in testing the effects of pollutants on the larval stages.

The BCF has had a program of aquacultural research at its biological laboratory at Oxford, Maryland, but this work too is being phased out. However, the Oxford laboratory, where work has been primarily in the field of shellfish diseases, has been spared a budget cut and is in no imminent danger of being closed; it is located in the district of Representative Rogers C. B. Morton, the Republican National Chairman. The Milford laboratory's lack of immunity to closing orders may perhaps be partly explained by the fact that his facility is situated in a district and state represented in the House and Senate by Democrats.

REVERSAL POSSIBLE

The decisions to close the Milford laboratory and to cut back research at Ann Arbor may well be reversed in Congress. Representative Robert N. Giamo (D-Conn.), whose district includes Milford, is a member of the House Appropriations Committee and has appealed for help to Representative Julia Butler Hansen (D-Wash.), the chairman of the Appropriations subcommittee handling the BCF budget. According to one of her aides, Mrs. Hansen, who represents part of the Puget Sound area, takes a keen interest in fishery problems and hopes to see the programs of the Milford and Ann Arbor laboratories continue.

If both of these laboratories should be dismantled, the skies will not fall. And one would not have trouble finding other equally worthy federal research activities that are in jeopardy for lack of funds. However, the case for providing the relatively modest funds necessary to continue the programs at Milford and Ann Arbor is a strong one, especially when the Nixon administration is requesting billions for highly debatable projects such as the supersonic transport and the antiballistic missile.

RIGOROUS NATIONAL AIR POLLUTION STANDARDS

Mr. GOODELL. Mr. President, it is imperative that we tighten up now the weaknesses in existing air pollution legislation. The Air Quality Act of 1967 and other clean air legislation do not provide adequate emission standards and air quality standards for imposition upon industrial and municipal polluters.

In testimony before the Air and Water Pollution Subcommittee of the Senate Public Works Committee, I recommended an agenda for Federal action in the field of air pollution. My proposals include:

Elimination of the inflexible regional structure upon which current air pollution legislation is based, and substitution of naitonal air quality standards;

Establishment of uniform national emission standards, to be incorporated into all State pollution control plans;

Transfer from the Federal Aviation Administration to the Department of Health, Education, and Welfare of the authority to set noise and air pollutant emission standards for aircraft;

Transfer from the Atomic Energy Commission to HEW of the authority to set safety and pollution standards in nuclear development;

Introduction of public hearings into the national standard-setting process and the enforcement process on air pollution;

Provision to HEW of the power to issue cease-and-desist orders to violators of national emission standards; and

Establishment of a number of means by which private parties, including conservation groups, may bring actions for injunctive relief against violators of the emission standards.

Mr. President, I respectfully request that my testimony be printed in the RECORD.

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

TESTIMONY BY SENATOR CHARLES E. GOODELL BEFORE THE SUBCOMMITTEE ON AIR AND WATER POLLUTION OF THE SENATE COMMITTEE ON PUBLIC WORKS, MARCH 26, 1970

Mr. Chairman, 19 centuries ago the philosopher Seneca, recognizing the problem of air pollution in urban areas as a threat to public health, complained of "the heavy air of Rome" caused by the "stink of the smoky chimneys" with their pestilent vapors and soot."

Man has, in nearly 2,000 years, changed little. Scientists have recently concluded, after a fruitless search of the remotest corners of this country, that the United States ran out of clean air six years ago when pollution from California finally reached Flagstaff, Arizona. It would seem that man has retrogressed beyond the nightmare of his ancestors.

I. THE UTILITY OF NATIONAL AIR QUALITY STANDARDS

Mr. Chairman, I have cosponsored th Administration's amendments to the Clear Air Act, S. 3466, and I endorse the emphasi, of that proposal—the national ambient air quality standards which are to be imposed by the Secretary of Health, Education and Welfare. I disagree, therefore, with the regionally-based structure of the Air Quality Act of 1967 and of S. 3546, Senator Muskie's proposed National Air Quality Standards Act of 1970.

There is a fundamental difference in philosophy between the nationally-based approach of the Administration bill and the regionally-based approach of the existing legislation and of S. 3546. The first report of the Secretary of Health, Education and Welfare on the Air Quality Act of 1967, made to this

Congress in June 1968, describes the present structure of air quality control regions, and argues that "Because air pollution is essentially a regional problem, the most effective way to attack it is on a regional basis."

I take issue with that approach. According to the Secretary's report, air quality control regions are to be set up not only upon the basis of geographic meteorological variances, but also in light of the location and quantity of pollution emissions, social and governmental factors, projected patterns of urban growth, and various political considerations. It is my belief that the latter factors should not be determinative in measuring the danger to human health from pollutants in the air.

No matter what the social and governmental factors, human beings in different parts of the country will be equally endangered by equal concentrations of any given pollutant under similar atmospheric conditions. That is why I believe that the Federal government ought to set maximum levels for each pollutant and enforce those levels nationally.

Regional standards would impose unequal production costs upon competitive firms in the same industry who happen, though they discharge exactly the same pollutants with exactly the same atmospheric effects, to be on different sides of a regional boundary. This is inequitable.

To account for regional atmospheric variations, it is not necessary to establish defined atmospheric areas within which different standards will be applied. Rather, the Department of Health, Education, and Welfare should, as part of the process of establishing national standards of maximal pollutant levels, calculate a discounting scale which will correct for atmospheric divergencies.

The advantage of a discounting procedure over the present regional structure lies in the elimination of unequal treatment of competitive industries presently on different sides of a regional boundary. Moreover, chronological changes in atmospheric conditions may be far more flexibly corrected by the application of a changed discount ratio than by the changing of regional boundaries.

As I support the national air quality standards, so also do I support the national emission standards suggested by Senator Muskie's Air Quality Improvement Act, S. 3229. As enforcement of national ambient air quality standards would be far easier and less delayed than enforcement of state and regionally-based standards, so also would enforcement of national emission standards be less cumbersome than that of any state-based plan. Consequently, I will introduce an amendment to the Administration's bill which will have the effect of imposing national emission standards. It will do so by mandating that each State or interstate agency shall include in its air quality implementation plan emission standards prescribed by the Secretary of Health, Education and Welfare. The standards would be applicable to emissions from all types of vehicles, vessels, aircraft, and engines.

II. THE PROTAGONISTS OF ENFORCEMENT

Enforcement of regulatory standards has too often been undermined because enforcement responsibility has been given to the wrong agency.

Federal noise abatement legislation enacted in 1968, for example, empowers the Federal Aviation Agency to set noise and sonic boom requirements as part of its authority to certify aircraft. The FAA is essentially an aviation development agency, with close ties to the aircraft industry, which is not likely to impose truly effective noise or air pollutant emission standards.

I will, therefore, introduce legislation which will transfer from the FAA to the Department of Health, Education and Welfare the authority to set noise and air pollutant emission standards for aircraft.

Similarly, placement of responsibility upon the Atomic Energy Commission for enforcement of radiation safety and particulate and gaseous emission standards appears to have been an error. The AEC, too, is an agency which shares the developmental goals of its associated industry, and those goals are in conflict with rigorous enforcement of emission standards.

I will, therefore, introduce legislation, similar to that proposed in the House by Congressmen Bingham and Dingell, which will transfer from the AEC to the Department of Health, Education and Welfare the responsibility for enforcement of safety and pollution standards in nuclear development.

III. THE PROCESS OF ENFORCEMENT

It is crucial that we focus not only upon the rigor of standards, not only upon the agency responsible for enforcement, but also upon maximizing the efficacy of the process of enforcement itself.

That is why I support the provisions in Mr. Muskie's National Air Quality Standards Act of 1970 that public hearings, at which any interested parties—including environmental protection groups—may speak, should become part of the enforcement process of emission standards. So too should public hearings be part of the standard-setting process of the Department of Health, Education, and Welfare. I will introduce amendments to that effect to the Administration bill.

In order that speedy enforcement may be achieved, it is imperative that the Air Pollution Control Administration have the power to issue cease and desist orders to emission standards violators, as provided in Senator Muskie's legislation.

We must reduce the built-in delays in present enforcement and standard-setting structures—which provide for endless conferences, hearings, and other enforcement delays of up to 5 years. Federal standards and cease and desist orders should, presuming public hearings and fact-finding before their issuance, become effective immediately upon their promulgation. Court appeals to stay the promulgation of standards or the enforcement of cease-and-desist orders should be allowed. The standards or orders should, however, remain in effect—as Senator Muskie's proposal provides—unless and until the court issues a stay order.

Moreover, interested private parties should be given, by legislation, the authority to go to court in order to seek enforcement of pollution standards.

The customary argument against private suits is that the lack of decisional standards will lead to a lack of uniformity in enforcement as courts in different jurisdictions adopt different tests of reasonability.

That argument is not applicable here, since the legislation which I support would establish national air quality standards and national emission standards, as well as providing for explicit state implementation plans. Courts could, thus, measure pollution levels in any particular area against fixed statistical standards publicized by the Department of Health, Education and Welfare. They could measure municipal and state efforts to implement standards against the explicit implementation plans which each state will have proposed and the Department will have approved.

Given the existence of explicit standards and implementation plans upon the basis of which courts will be able to make determinations, it would be beneficial to allow private intrested parties to (1) intervene as parties plaintiff in Federal and other governmental suits for equitable relief, such as injunction, to enforce emission standards, (2) file *amicus curiae* briefs in such suits and in governmental damage suits against polluters, and (3) have standing to seek equitable relief against any state, municipal, or interstate body which fails to act in accordance with its own implementation plan which had been approved by the Department of Health, Education and Welfare.

Federal legislation should provide that the full litigation costs—including particularly the costs of providing expert scientific testimony—of such private parties will, upon their winning any suit, be assumed by the unsuccessful defendants. That provision would remove what is probably the largest financial impediment to the litigative effectiveness of private conservation groups.

CONCLUSION

Studies and research, as in the field of solid waste disposal, must continue, but the time for studies and research alone is past. It is the responsibility of Congress to pass, now, effective legislation which will provide for the establishment of rigorous national standards and effective enforcement procedures.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

S. 3425—AMENDMENT OF THE WAGNER-O'DAY ACT—REFERRAL OF BILL

Mr. BYRD of West Virginia. Mr. President, S. 3425, a bill to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for the purposes, was referred to the Committee on Commerce through error. I, therefore, ask unanimous consent that the Committee on Commerce be discharged from consideration of this bill and that it be rereferred to the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered; and the bill will be rereferred to the Committee on Labor and Public Welfare, as requested.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate now proceed to the further consideration of the conference report on H.R. 514, to extend programs of assistance for elementary and secondary education, and for other purposes.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is on the adoption of the conference report on H.R. 514, to extend programs of assistance for elementary and secondary education, and for other purposes.

ADJOURNMENT UNTIL 10 O'CLOCK TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move under the previous order, that the Senate stand in adjournment, in legislative session, until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 4 o'clock and 6 minutes p.m.) the Senate adjourned, in legislative session, until 10 a.m. tomorrow.

NOMINATIONS

Executive nominations received by the Senate March 31, 1970:

U.S. DISTRICT JUDGE

James L. Oakes, of Vermont, to be U.S. district judge for the district of Vermont vice Ernest W. Gibson, deceased.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Assistant Directors of the National Science Foundation (new positions):

Edward C. Creutz, of California.
Lloyd G. Humphreys, of Illinois.
Louis Levin, of Maryland.
Thomas B. Owen, of Washington.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the Environmental Science Services Administration:

To be lieutenant commanders

Floyd S. Ito
Christopher C. Mathewson
Irving Menessa
William M. Noble
Roger H. Kerley
Charles H. McClure

To be lieutenants

Glenn H. Endrud
John H. Snooks
James P. Travers
Douglas F. Jones
Kenneth W. Sigley
Efrem R. Krisher
Gordon F. Tornberg
Glenn M. Garte
Melvyn C. Grunthal
Lawrence C. Hall
William D. Neff
V. Kenneth Leonard, Jr.
Douglas A. Danner
Thomas C. Howell III
David M. Chambers
Richard S. Young
Bruce W. Fisher
Ted G. Hetu
Michael Kawka
Michael J. Moorman
Philip D. Hitch
Clarence W. Tignor
John J. Lenart
Stephen E. Foster
Gregory R. Gillen
William R. Daniels
Lynn T. Gillman
Floyd Childress II
Charles N. Whitaker

To be lieutenants (junior grade)

James A. Buschur
Roland W. Garwood, Jr.
Tom Gryniewicz
Pressley L. Campbell
Gerald B. Mills
David J. Goehler
Abram Y. Bryson, Jr.

HOUSE OF REPRESENTATIVES—*Tuesday, March 31, 1970*

The House met at 12 o'clock noon.

Rev. Jack P. Lowndes, Memorial Baptist Church, Arlington, Va., offered the following prayer:

God is our refuge and strength, a very present help in trouble.—Psalm 46: 1.

Lord, we do believe. Help Thou our unbelief. Give us more faith to believe that the Lord of Hosts is with us, that Thou are indeed our refuge.

We acknowledge that Thou art the God of the future as well as the present. May Thy spirit be infused into the wisdom of our modern world giving us the higher wisdom we need. We wait upon Thee for Thou are the living God who alone knowest the secrets of time and space and the good things prepared for them that love Thee. May Thy spirit work upon this Nation and this world so that this will be a decade when our energies will be used for the betterment of all Thy family on earth, through Jesus Christ our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, March 26, 1970, was read and approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On March 19, 1970:

H.R. 14944. An act to authorize an adequate force for the protection of the Executive Mansion and foreign embassies, and for other purposes.

On March 25, 1970:

H.R. 1497. An act to permit the vessel *Marpole* to be documented for use in the coastwise trade.

On March 26, 1970:

H.R. 11959. An act to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters; to amend chapters 34, 35, and 36 of such title to make certain improvements in the educational programs for eligible veterans and dependents; and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1289. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes;

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes; and

S. 3072. An act to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes.

THE LATE HONORABLE LEONARD WOLF, FORMER MEMBER OF CONGRESS, SECOND DISTRICT OF IOWA

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, it is my very sad duty to announce to the House the passing of a former colleague of ours, the Honorable Leonard Wolf of the Second District of Iowa. I do this in consultation with and on behalf of the gentleman who represents the Second District of Iowa at the present time (Mr. CULVER). I also do this for many of his other friends in this body and in my own behalf, because Leonard Wolf was born in Mazomanie, Wis., in my district. He grew up there and tomorrow he will be interred there, at the untimely age of 44.

He, Mr. Speaker, loved this House. I say this, among other things, because only within a matter of the last few months he, in association with others of our former colleagues, was a leading figure in the formation of a group of former House Members.

Mr. Speaker, Leonard Wolf since he left this body at the end of the 86th Congress devoted himself, as he did while he served this body, to mankind. He served exclusively for 9 years in the fields of alleviating hunger and feeding starving people.

He served in Brazil, in the remote areas of Brazil, in the food-for-peace program. He served in connection with the food program for India and more recently as executive director in our own country for the Freedom From Hunger Foundation.

Mr. Speaker, it is not my purpose today to eulogize my late friend but, rather, to make the announcement of his passing.

I further announce to the House that on Saturday in this area there will be a memorial mass in his memory. The details and notice of this mass will be made public at a subsequent date.

Mr. Speaker, I wish to express my deep personal sorrow to his wife, Marilyn, his three children, and his family. I am sure many of my other colleagues join me.

Mr. Speaker, I will state to the House that the gentleman from Iowa (Mr. CULVER) next week will obtain a special order for the purpose of eulogizing our departed colleague.

ATTACKS ON JUDGE CARSWELL VICIOUS

(Mr. FUQUA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include pertinent material.)

Mr. FUQUA. Mr. Speaker, there is a vicious and coldly calculated effort to defeat the nomination of Judge G. Harrold Carswell to the Supreme Court. A distorted picture of a distinguished judicial record is being presented.

Some of his opponents will seemingly stop at nothing. They dwell on trivia and are totally unconcerned that they seek to destroy a man's record of service and integrity.

Take, for example, the bold announcement made by the senior Senator from Maryland that an associate municipal judge of Opa Locka opposed the nomination. Equally devastating was the announcement that one of the municipal judges in Miami is also opposed.

Now what does this prove? I suppose that there are thousands of municipal judges who are concerned with the laws of their communities and cities. They are not a part of the Federal judiciary; they are not even State judges.

The best source of information about the record of Judge Carswell is contained in the one place which his opponents seemingly never get around to mentioning. That is the testimony before the Senate Judiciary Committee.

His opponents have refrained from mentioning that from 1960–61 through 1966–67 Judge Carswell was assigned to sit as a visiting judge longer than any other district judge in the fifth circuit.

During all of this time, the chief judge of the fifth judicial circuit was Elbert Tuttle, a man of impeccable credentials.

It certainly is not the practice to single out "mediocre or insensitive" judges for these assignments.

Instead of two insignificant city officials, let us point out that Judge Carswell has the support of the entire Florida Supreme Court and the State district court of appeals.

Seventy-nine lawyers who have practiced before Judge Carswell have signed a letter attesting to his fairness, ability, and integrity.

In his service on the bench, Judge Carswell has always been noted as a man who ran his court fairly and firmly. His opinions were concise and to the point.

Certainly, there were reversals of his decisions on appeal. In a rapidly changing period of judicial interpretation, a fair appraisal would reveal that he had ruled on the basis of the law as it had been thus far interpreted. As the New York Times said in a story about the judge:

> In most of these cases, Judge Carswell would have had to move beyond clearly settled precedents to rule in favor of the civil rights position. When those precedents have existed, he has struck down segregation in crisp, forthright opinions.

The article also stated:

> Judge Carswell . . . has a virtually unblemished record as the type of "strict constructionist" that Mr. Nixon promised to appoint when he campaigned for the presidency.

Another statement in this article:

> Throughout these opinions runs a consistent tendency to view the law as a neutral device for settling disputes, and not as a force for either legal innovation or social change.

The senior Senator from Maryland should remind himself of the composite photo used against his father which purported to show this late distinguished Senator in conversation with a Communist leader.

As the Florida Times-Union of Jacksonville, Fla., pointed out:

> The campaign against Carswell is not of the same nature. But in its own way, it is just as vicious. A composite word picture is being drawn of him attempting to plant in the public mind that he is a mediocre judge on the one hand and a racist on the other. There is plenty of evidence that he is neither, but we hear little about it from the opposition.

I would ask fairminded Members of the Senate to read this editorial entitled "Keelhauling an Honorable Career."

I reiterate their statement that it is one thing to defeat the nomination, it is another to impugn an honorable career.

The article follows:

KEELHAULING AN HONORABLE CAREER

The "definitive" word has now come in on the confirmation of Judge G. Harrold Carswell to the U.S. Supreme Court.

It came from no less than the senior senator from Maryland, Joseph Tydings. He released the news to the press that an associate municipal judge of Opa Locka opposed the nomination.

This was coupled with the devastating news that one of the judges of the municipal court in Miami was also opposed. The clincher to this announcement seemed to lie in the portentous bit of background that both were former assistant U.S. attorneys.

No doubt, Senator Tydings and his staff are overworked in their round-the-clock vigil to see that justice is done—and presumably if justice is to be done, Judge Carswell is entitled to some miniscule portion of it—so perhaps they won't feel hurt if a gentle reminder is given of some of the support the judge has received.

"We are concerned," said Senators Tydings, Birch Bayh, Philip Hart, and Edward Kennedy, "that Judge Carswell's record indicates that he is insensitive to human rights and that he has allowed his insensitivity to invade the judicial process."

Lest anybody conclude that the aforementioned gentlemen are insensitive to Judge Carswell's right to a fair hearing and are allowing this insensitivity to invade the senatorial process, we would be so bold as to suggest that there is some testimony that tends to offset that of the distinguished associate municipal Judge of Opa Locka and perhaps Tydings et al. would wish to point this out.

The Fifth Circuit Court of Appeals is on the second tier of the federal judiciary, the level just below that of the U.S. Supreme Court.

Sen. Tydings himself mentioned some of its members as "eminent constitutional lawyers . . . who have demonstrated that they are judicious men, able to give any man a fair and impartial hearing." Two of those he mentioned are Judge Bryan Simpson and Judge Robert A. Ainsworth.

Both of these judges sent the Senate Judiciary Committee strong letters of support on behalf of Carswell's nomination as did their colleagues, Warren Jones, Homer Thornberry, David Dyer and Griffin Bell. And there are hosts of other judges who have sent in letters of support.

And if Judge Carswell is so "insensitive to human rights" (the liberal code phrase for "not far enough to the left to suit us") why has the Senate unanimously confirmed him three times—as U.S. attorney, district judge and appelate court judge?

Further, it seems passing strange that a judge so insensitive would have been assigned so often while a district court judge to sit as a visiting judge on the Fifth Circuit bench.

And, it seems most insensitive of Senator Tydings not to acknowledge this fact since our own source is the record of the testimony before the Senate Subcommittee on Improvements in Judicial Machinery on May 28 and 29, 1968. The chairman of that subcommittee is Senator Tydings of Maryland.

The statistics in the record show that from fiscal 1960–61 through fiscal 1966–67, during all of which time the Chief Judge of the Fifth Judicial Circuit was Elbert Tuttle, a man of impeccable liberal and civil rights credentials, who assigned Judge Carswell to sit as visiting judge longer than any other district judge in the Fifth Circuit.

He sat on three-judge panels—composed of two Fifth Circuit judges and himself—for 8½ weeks during those years. Two other judges sat for eight weeks during that period. None of the other 34 district judges assigned to that duty even approached this length of assignment on the appellate court.

Is it a practice to single out "mediocre" or "intensive" judges to help decide cases on a higher bench—and to do so consistently?

The answer to that question is "no" and Senator Tydings well knows that this is the answer.

The effect of the distorted and one-sided picture of Carswell being presented is to defame and vilify the man before the entire world and to do so unjustly.

Perhaps we can draw a parallel which will bring it closer to home to some senators—especially Senator Tydings.

Back in 1950, a composite photo was used in the campaign against Sen. Millard Tydings—father of the present senator—purporting to show the elder Tydings in friendly conversation with Communist Earl Browder. It was a part of a back-alley campaign that helped to defeat the elder Tydings.

The campaign against Carswell is not of the same nature. But in its own way, it is just as vicious.

A composite word picture is being drawn of him, attempting to plant in the public mind the idea that he is a mediocre judge on the one hand and a racist on the other.

There is plenty of evidence that he is neither but we hear little about it from the opposition.

It is one thing to defeat Carswell's nomination. It is another thing to impugn an honorable career.

Let the record show that there are many persons—some of them uniquely qualified to judge in this instance—who believe G. Harrold Carswell to be a decent, sensitive human being of outstanding integrity, a man who has devoted his entire life to public service, and a highly qualified judge.

In his column of March 24, Tallahassee Democrat, Editor Malcolm Johnson pointed out that the 467-page printed record of the Senate Judiciary Committee provides the most powerful refutation of the accusations of bigotry and mediocrity. It reveals exactly the opposite.

Yet, there are those who are so intent on destroying the reputation of

Judge Carswell that they will stop at nothing to gloss over the truth and attack by innuendo, half-truths and distortions.

The very men that his opponents praise as distinguished jurists are often those who have praised the record of Judge Carswell most highly.

Let me point out but two of them, who incidently have been mentioned by opponents of Judge Carswell as outstanding jurists:

Judge Bryan Simpson:

More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man: superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an openminded disposition to hear, consider and decide important matters without preconceptions, predilections or prejudices.

Judge Robert A. Ainsworth:

A person of the highest integrity, a capable and experienced judge, an excellent writer and scholar.

I would like to have included that very excellent column by Mr. Johnson:

CARSWELL PRAISE IS OVERLOOKED

Judge Harrold Carswell, it seems, is taking a worse beating from the news reports than he is in the official documents filed for and against his nomination to the U.S. Supreme Court.

The 467-page printed record on the Senate Judiciary committee hearing on his nomination, just received here, provides a powerful refutation of the accusations of bigotry and mediocrity which are being used against him.

Much of it has not heretofore been revealed to his hometown editor who probably has watched the daily reports as closely as anyone.

For example, we have been regaled this last week or so by the supposedly scornful fact that two members of the U.S. Fifth Circuit Court of Appeals have not endorsed his elevation from their bench to the Supreme Court.

Now, mind you, they have not opposed his appointment. They have only not endorsed him. (And retired Judge Tuttle, who praised him highly then withdrew his offer to testify in his behalf, to this day hasn't opposed him either.)

But have you heard, or have you read, what other members of the Fifth Circuit Court have said about him in official letters now a part of the printed record of the Senate?

Judge Homer Thornberry (who was nominated by President Johnson for this very Supreme Court seat, but it didn't become vacant by elevation or resignation of Justice Abe Fortas in time for a Democrat to get it) had this to say about Carswell:

". . . a man of impeccable character . . . his volume and quality of opinions is extremely high . . . has the compassion which is so important in a judge.

Judge Bryan Simpson, who has held up the civil rights lawyers as the kind of Southern judge President Nixon should have chosen, wrote to the Senate:

"More important even than the fine skill as a judicial craftsman possessed by Judge Carswell are his qualities as a man; superior intelligence, patience, a warm and generous interest in his fellow man of all races and creeds, judgment and an openminded disposition to hear, consider and decide important matter without preconceptions, predilections or prejudices."

Judge Griffin Bell, a former campaign worker for President Kennedy whose own name was mentioned for this vacancy: "Judge Carswell will take a standard of excellence to the Supreme Court . . .

Judge David W. Dwyer: ". . . great judicial talent and vigor."

Judge Robert A. Ainsworth: ". . . a person of the highest integrity, a capable and experienced judge, an excellent writer and scholar . . ."

Judge Warren Jones: ". . . eminently qualified in every way—personality, integrity, legal learning and judicial temperament."

Most of these statements have been in the record since January, not recently gathered to offset criticism.

There are similar testimonials from a couple of dozen other Florida state and federal district judges in the record, but our newspaper received a news report from Washington about only a partial list of them (without quotation) only after calling news services in Washington and citing pages in the Congressional Record where they could be found.

And on the matter of anti-racial views, the printed record of the committee contains numerous letters and telegrams disputing contentions of a few northern civil rights lawyers who said Judge Carswell was rude to them when they came to his court as volunteers, mostly with little or no legal experience.

Foremost among them is this letter from Charles F. Wilson of Pensacola:

"As a black lawyer frequently involved with representation of plaintiffs in civil rights cases in his court," he said, "there was not a single instance in which he was ever rude or discourteous to me, and I received fair and courteous treatment from him on all such occasions.

"I represented the plaintiffs in three of the major school desegregation cases filed in his district. He invariably granted the plaintiffs favorable judgments in these cases, and the only disagreement I had with him in any of them was over the extent of the relief to be granted."

Why such statements in the record have been overlooked by Washington news reporters while they are daily picking up any little crumb from the opposition is hard to explain to the public.

It could be that the organized forces opposing Judge Carswell are more alert to press agentry than the loose coalition in the Senate that is supporting him.

The press agent offers fresh news, while the record brings it stale to the attention of news gatherers upon whom there is great pressure to start every day off new with the abundance of news you know is going to develop that day.

That, really, could be a better explanation than the common assumption that our Washington reporters are just naturally more anxious to report something bad about a man—especially if he is a conservative—than something complimentary. But it isn't a very good explanation, at that.

Finally, Mr. Johnson makes even more telling points in his column of March 25, which was entitled, "Carswell's Best Witness."

Again we call attention to the transcript of Judge Carswell before the Senate Judiciary Committee. As honest reading of that testimony will reveal a man who is open and honest, who gave very careful and concise answers to those who questioned him.

There was no deliberate attempt to delude or deceive, and as a matter of fact, he drew high praise for his forthrightness in attempting to answer the multitude of questions propounded for him.

I particularly wanted to note that comments made by Mr. Johnson about two of the most vigorous opponents of Judge Carswell. Judge Carswell is certainly not being judged by the same standard that they would like to see applied to themselves.

Let me pull out of Mr. Johnson's column two paragraphs concerning two of Judge Carswell's most vigorous opponents:

That didn't deter such shouters of "mediocre" as Senator Birch Bayh, who incidentally, flunked the Indiana Bar examination the first time he took it—and he was no mere boy; he was Speaker of the Indiana State House of Representatives at the time. (Carswell) passed the Georgia Bar exam before he was graduated from law school; and he breezed through the first time on the Florida exam, which is one of the nation's toughest.)

Nor has it fazed the ruthless opposition of Senator Ted Kennedy, who was kicked out of Harvard for paying a scholar to take an exam for him, and who—of all people has the gall to question—of all things—Judge Carswell's discretion.

The truth of the matter is that Judge Carswell is a man of integrity, with a distinguished record of public service. He would be a credit to the Supreme Court and his opponents know this.

So much more the shame at these vicious and unprincipled attacks. It would be a sad day for common justice to a fellow man if these attacks were to succeed.

Again, I would like to express my personal recommendation of Judge Carswell. He would make an outstanding member of the Court and I am hopeful that the Members of the Senate will consider their decision in light of the real facts surrounding Judge Carswell's career. If they do, he would be confirmed easily.

The article referred to follows:

CARSWELL'S BEST WITNESS

The very best disproof of the absurd charges his critics are making against Judge Harrold Carswell is in the transcript of his answers to Senate Judiciary committee questions on his nomination to the Supreme Court.

The printed record of that examination, complete with the mischievous nit-picking of Senators Kennedy and Bayh, has just become available—and it counters every suggestion of mediocrity, bigotry and judicial impatience that has been raised against the judge.

Especially, the whole document reveals plainly that Carswell has a rare depth of judicial scholarship which belies the major complaint that has been used to turn the people, the press, and some Senators against him.

Much of the exchange between him and the Senators was on technical points of judicial philosophy, and the Judge more than held his own.

One of these exchanges was with Sen. Philip Hart of Michigan, who has opposed him from the outset. It involved the thin line between legislative and judicial lawmaking authority which is at the crux of the debate between the activism of the present court and the "strict constructionist" President Nixon seeks through appointment of Judge Carswell.

The judge had made it clear he doesn't

think the Supreme Court should sit as a "continuing constitutional convention" changing the law by interpretation; but, he told Hart, "there is a grain, almost inevitably, of law-making power in the judge."

"That is a good answer, Judge," Hart told him. "It is a very good answer. I think specifically I should thank you for having the knowledge that there is an answer."

The next day, in a similar discussion with Senator Scott of Pennsylvania (one of the more liberal Republicans) Judge Carswell gave a very terse rundown of the processes of reaching judicial decisions and ended by inquiring: "Am I responsive? I hope to be."

"Not only responsive," Scott replied, "but I thought your answer may have shocked some in the audience by establishing that a Southerner can also be a scholar. I was appreciative of that."

And Senator Griffin of Michigan, another Republican who leans to the liberal side, made a telling comment on Carswell's ability near the end of the hearing:

". . . I have had an opportunity to read a few, but not all, of your opinions as a judge. Frankly, I must register my disagreement with those who criticize your opinions by comparing them to a plumber's manual or by indicating concern because your opinions are concise and to the point.

"While some Senators may be unable to comprehend that wisdom and sound judgment can be expressed succinctly and briefly, I want to assure you that there are other Senators who think it can be done, and who admire greatly those who have the ability to do it.

"You have made an impressive appearance before the committee to those who, without looking at your record very carefully or listening to your answers, seek to dismiss your nomination by using such words as 'mediocrity'; all I can say is that so far as I have been able to determine, I believe the nation could use a lot more of your kind of 'mediocrity'; obviously that is intended as a high compliment."

Senator Griffin went on: "I believe you have demonstrated before this committee that you are a scholar of law; and that is demonstrated by your opinions, I say that even though I would not agree with each and every one of them."

That should, but didn't deter such shouters of "mediocre" as Senator Birch Bayh who, incidentally, flunked the Indiana bar examination the first time he took it—and he was no mere boy; he was Speaker of the Indiana State House of Representatives at the time. (Carswell passed the Georgia bar exam before he was graduated from law school; and he breezed through the first time on the Florida exam, which is one of the nation's toughest.)

Nor has it fazed the ruthless opposition of Sen. Ted Kennedy, who was kicked out of Harvard for paying a scholar to take an exam for him, and who—of all people has the gall to question—of all things—Judge Carswell's—"discretion."

WHEN THE LAW OF THE LAND IS NOT THE LAW—ANOTHER DOUBLE STANDARD

(Mr. RARICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RARICK. Mr. Speaker, the law of the land is no longer the law, when unenforced.

We of the South, who for years have suffered as a result of judicial fiat and political donnybrook, enforced inequality upon our people under a so-called doctrine of law of the land, now observe another double standard in the enforcement of our basic laws.

The Justice Department, so rabid in attacking what is termed defiance in the South and continuing the conquered province rule by force, can find no violations of the law of the land in strikes by Federal employees. In fact, we find bipartisan support, and news media apology for what is called work stoppage, crisis, everything but a strike threat. The attorney, and strike leaders, for one group of strikers has publicly stated that their strike is not a strike, for that would be illegal.

Parents of schoolchildren make no submission agreements to comply with illegal edicts of unelected bureaucrats. On the other hand, civil service employees voluntarily sign a no-strike pledge before being hired. Wage scales and living standards may indeed be problems but they can never provide an excuse for disloyalty.

Obviously, the law of the land cliche no longer includes the Constitution of the United States and laws of Congress but, rather, it is a mere continuation of the unwritten policy which best fits the political wishes of the party in power at that particular moment. This is but another double standard of Federal justice created in the name of political expediency.

There is no doctrine more dangerous than that the end justifies the means.

Who is chargeable? The violator or the tolerator—both of whom are under oath to preserve and defend the Constitution and laws of the United States, as enacted by the Congress.

I compliment the loyal Federal employees of my district and elsewhere who lived up to their oath of appointment by continuing faithful service to our people. These are the Federal employees worthy of our consideration.

On March 23—page 8588—I called to the attention of the House the pertinent statutes involved in strikes by Federal employees. The noted columnist, David Lawrence, has now told the American people of these laws and the danger of not enforcing them.

I include Mr. Lawrence's column, as follows:

THE LAW AND THE FEDERAL STRIKERS

(By David Lawrence)

Tens of thousands of employes of the U.S. Post Office Department and numerous federal workers engaged in air traffic control at the nation's airports have violated statutes forbidding strikes. Will their action in breaking the law be disregarded by the government?

The statute known as Title V, Section 7311 of the U.S. Code, says:

"An individual may not accept or hold a position in the government of the United States or the government of the District of Columbia if he . . . participates in a strike, or asserts the right to strike, against the government of the United States or the government of the District of Columbia; or

"Is a member of an organization of employes of the government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the government of the United States or the government of the District of Columbia."

The same U.S. Code declares that whoever violates this provision "shall be fined not more than $1,000 or imprisoned not more than one year and a day, or both."

The federal government has thus far not taken any action with respect to those employes who have joined a union which "asserts the right to strike against the government of the United States." Now, however, thousands of members have actually gone on strike, and the question is what means the government shall use to apply punishment in every case where the law has been violated.

It is quite possible, of course, that many workers will say that they were not aware that a law violation was involved. But each individual who accepts employment with the federal government is required to sign an affidavit that he or she will not violate the above-quoted statute, which includes a specific prohibition against participation in a strike.

Naturally, the employes of the Post Office Department have thought that, when so many were involved, there would be no penalty because it would be difficult to impose this on such a large group. To hold trials, for instance, for all who took part in the strike would mean absences that might disrupt the mail services again unless the government provided substitute employes. Dismissal of striking workers similarly would cause mail stoppages as well as discontent among employes.

The real question is whether the union leaders were correct in their assumption that the decision to carry on a strike could not be punished because it would be impracticable for the government to apply any penalties. But the record left by the case is not a satisfactory one from the standpoint of law and justice. For the government of the United States to allow law violations to be perpetrated by tens of thousands of citizens and to gloss over such transgressions is not a course that wins approval inside or outside the government.

It may be that prosecution of labor leaders will ensue. Inasmuch as relatively small fines are involved, such action would be received with less objection than if the members were corralled by the government for prosecution. Plainly, however, the government has not provided an effective means of forestalling strikes merely by passing a law threatening the loss of jobs or punishment by means of imprisonment or fines.

When the Department of Justice, which is the prosecuting arm of the government, completely ignores flagrant violations of one set of federal laws by a large number of citizens, will citizens generally feel an obligation to obey other statutes? Indifference to law has been growing throughout the nation, and if palpable violations are overlooked by the government itself, there will be a strong feeling that what laws are enforced is based on political expediency.

Many of the federal workers are conscious of their guilt in violating the statutes, and some of the leaders of the postal unions are asking that the final settlement of the strike include an amnesty provision immunizing from punishment all persons who have violated the law. If this is done, little respect will be given in the future to the existing law forbidding strikes by federal employes.

THE SOCIAL SECURITY TRUST FUND

(Mr. VANIK asked and was given permission to extend his remarks at this

point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, it has recently come to my attention that the Nixon administration is renewing its efforts to stretch out and delay the already enacted schedule of social security tax tables in order to reduce the size of the social security trust fund.

Frankly, I believe that it would be most unfortunate to raid the trust fund and reduce its capacity and purpose to provide income maintenance to the elderly retired who have made contributions over the years. The social security trust fund and its projected growth is not disproportionate to its task. There is great reason to justify its reinforcement.

The social security fund should never be allowed to fall into the inadequate levels of the unemployment compensation trust funds which would be exhausted by the demands of a 2-year, 6 percent unemployed rate of insured workers.

The fund is not only insufficient for a modest recession, but the benefit levels are completely out of date. The average weekly payment to an unemployed worker with a family of four in a State such as Ohio is $56.13 with a maximum of $1,459 per year. Compared to a family of four on welfare under President Nixon's family assistance plan, the welfare recipient receives $1,600 per year in cash; $864 per year in food stamps; and about $500 per year in medical and health benefits. The unemployed insured worker with a family of three dependents would receive annual benefits of $1,459 while the unemployed welfare recipient would receive about $2,964 for the support of himself and his dependents. Thus, it appears that the worker depending on unemployment compensation is committed to a poverty-level existence in a period of prolonged unemployment. Since the family of an unemployed worker has greater debt service, the burdens are intolerable.

The unemployment compensation benefits schedule is thoroughly unrelated to the inflationary impact of the past several years. They are completely out of date—out of touch with reality. The inadequacy of the unemployment compensation schedules relies heavily on reinforcement from public welfare.

Furthermore, the public trust funds are becoming the more consistent investors in the public debt. Since 1968 the public holdings of the Federal debt have decreased from $290 billion to $277 billion—a reduction of 4.4 percent. In the same period, the trust funds have increased their investment in the Federal debt from $79,140,000,000 to $105,503,000,000—an increase of 33.3 percent. Thus, of the 1971 Federal debt of $382.5 billion, $105,503,000,000—or 27.5 percent—will be held by the trust fund accounts.

The security trust funds are in effect an investment in America. To reduce the trust funds would be to reduce their capacity to meet their expected purpose. To reduce the trust funds would be to reduce their investment in the public debt thereby increasing reliance upon private investors. This would result in prolonging the high interest spiral which is defeating most of the major goals in America.

ADJOURNMENT TO THURSDAY, APRIL 2, 1970

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Thursday, April 2, 1970.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

DISTRICT OF COLUMBIA BUDGET—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-240)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

I am transmitting to the Congress the budget for the District of Columbia for the fiscal year beginning July 1, 1970.

This budget represents the programs and policies of the government of the District of Columbia for providing the municipal services and for the local needs of our Nation's Capital City. It also reflects the financial contributions of the Federal Government in providing resources to help finance the local budget.

Washington, D.C., is a great city of monumental beauty, national history, and governmental activity vital to the Nation's domestic and international affairs. Washington is also the center city of one of the Nation's fastest growing metropolitan areas and as such is the hub of business and commercial activity and the home of 828,000 residents. To protect and promote the interests of the residents, visitors, employees in both the public and private sectors, national and international leaders, requires critical attention to the needs of the Capital City and the urban problems it shares with the other cities of our country. It also requires that the best and most effective use be made of the local and Federal tax dollars which are used to finance the District's budget.

This budget, as approved by the Mayor and the City Council, proposes prudent and realistic programs and means of financing to move toward our goal to establish a quality environment for Washington and make it the kind of city we all look for and want as a Nation's Capital.

This budget recommends appropriations of $881 million for the fiscal year 1971 and includes $654 million for operating programs and debt service and $227 million for local public works projects. The estimates for operating expenses and debt service, which cover the basic ongoing programs and provide for the city's services, represent an increase of $86 million or 15% above the amount estimated for the current fiscal year.

SOURCES OF FINANCING

The proposed $881 million in budget authority for fiscal 1971 will require total local expenditures of $647 million for operating and debt service expenses and $227 million for capital outlays. The operating and debt service requirements are to be financed by $488 million of local taxes from existing sources; $21.5 million from a proposed increase in individual income tax rates as contained in Section 301 of H.R. 15151; $1.5 million from a proposed 1-cent increase in the gasoline tax; and $136 million in Federal funds which includes $4 million for water and sewer services provided for Federal agencies and $132 million for the annual Federal payment to defray the operating expenses of the City Government on the basis of a proposed formula which would set the Federal payment authorization at 30% of local District revenues.

The proposed 30% Federal payment authorization would provide for an equitable sharing by the Federal Government in meeting the needs of the District Government—including better law enforcement capability, strengthened crime prevention and control activities, health and welfare programs, and pay increases for District employees, including an increase for its teachers, policemen, and firemen which is now pending before the Congress.

These various local requirements make it imperative that the Congress promptly enact the proposed Federal payment and local income tax measures in order that they will become effective this fiscal year. If the Congress fails to take timely action on these financing proposals the city will lose an estimated $15 million in resources for fiscal year 1970 which are needed to fund programs both in the current year and in fiscal 1971.

NEW DIRECTIONS

As part of this administration's effort to shift priorities, turn toward new directions, and take stock of past practices—this budget for the District of Columbia proposes several changes in Federal financing and includes significant local initiatives.

Changes in Federal financing.—The budgets for the Federal and District government are based on several new changes in Federal financing which are designed to strengthen the local government and reflect a proper balance between Federal and District responsibility. In addition to the proposed 30 percent Federal payment formula the budget proposals for fiscal year 1971 would—

Shift the direct responsibility for the city's public works loan financing from the U.S. Treasury to the private investment community by authorizing the city to issue its own local bonds. This will place the District's capital outlay program on a basis similar to that of other cities and will permit immediate savings to the U.S. taxpayer who must otherwise shoulder the immediate burden of direct Federal borrowing. Offsets accruing to

the Federal budget are estimated at about $55 million for fiscal year 1971;

Provide direct Federal capital contributions, estimated at $20 million for 1971, for the permanent facilities for Federal City College and Washington Technical Institute;

Shift the responsibility from the District to the Federal Government for financing the operating expenses of the National Zoological Park which is a part of the Smithsonian Institution's national museum complex. This proposal reflects the Federal and metropolitan character of the National Zoo for which the District alone has been bearing the burden of its operating expenses. The $3 million estimated for fiscal year 1971 has been included in Federal budget totals thus providing equivalent relief to the city government;

Reallocate parkland between the Federal and District Governments. Those local parks serving primarily the local community which do not have national historical or monumental significance are to be transferred directly to the District. This will eliminate the need for the city to continue to make reimbursements to the National Park Service which will assume full financial responsibility for the parks remaining under its jurisdiction. This measure represents a shift of about $7 million from the District to the Federal budget.

Freeze the level of reimbursements by the city to Saint Elizabeths Hospital pending a determination of future arrangements for an appropriate relationship between the Federal and District Governments concerning the financing and administration of the Hospital.

Local initiatives.—The most signficant local initiatives proposed in the District's budget are directed to establishing a Capital City with safe streets and a quality environment.

Safe streets.—This budget provides for strengthened law-enforcement capability, improved administration of justice, and augmented action measures to reverse the City's crime rate. The 1971 budget estimates include $130.5 million for operating expenses of police courts and corrections. This amount represents an increase of $46 million—or 55%—over the level for 1969 and would provide—

Increased street patrols by an actual police strength of 5,100 policemen on the force compared to an actual strength of 3,589 men as of June 30, 1969;

Increased police mobility and effectiveness through additional scout cars, patrol scooters, and communications equipment as well as more civilians to support police operations and relieve policemen from civilian duties;

An augmented program of narcotics treatment and control, including centralized local responsibility under a new narcotics treatment agency;

A roving leader corps of 282 to work with delinquent prone and other youth, compared to a staff of only 37 for fiscal 1969;

A reserve of $4 million to provide for costs of additional judges and other expenses related to reorganization of the court system of the District of Columbia upon enactment of S. 2601;

Strengthened court support services through expansion of public defender services, the D.C. Bail Agency, and juvenile probation services;

Construction of police stations—to support consolidation of 14 police precincts into 6 police districts, and planning and construction of a new jail and a new courthouse; and

An allowance for pending police pay raises which would increase starting salaries for new recruits from $8,000 to $8,500.

Quality environment.—New and increased efforts to improve the environment of the Nation's Capital include—

$40 million for waste treatment facilities to reduce pollution in the Potomac River;

Development of additional facilities for recreation activity including a campsite in Scotland, Maryland, to provide about 3,000 inner city youth with summer camping opportunities, and construction of swimming pools and other recreation projects in Anacostia; and

Balanced transportation.—The budget continues the efforts to provide a balanced transportation system for the District. In particular, the long-awaited rail rapid transit system for the entire metropolitan region takes a major stride forward with the $34.2 million for the city's share of the rail rapid transit program. Contracts for over 16 miles of subway within the District will be let during the fiscal year, giving tangible evidence of a program which is truly designed to unify the central city with the surrounding suburban communities. Increased employment, reduced air pollution, and reduced congestion are some of the benefits residents and visitors in the area can look forward to as this dynamic project moves ahead. Other elements in the city's transportation program include $12 million for the District local matching share for previously authorized highway construction and funding of local street improvement projects.

Better education.—Improved education is not only a national goal, but one which must be carried out at the local levels. This budget takes important steps in improving educational opportunity for one of the city's most precious resources—its youth.

For the first time in the District's history per pupil expenditures will be over $1,000.

In order to encourage students to stay in school, a dramatic new system-wide career development program will be initiated. The resources of private industry colleges, and government will be marshalled in a cooperative effort to insure that students remain in school and are able to realize their full potential in choosing and working toward their employment goals.

Over 12,000 students will be able to continue their education at the District's institutions of higher learning.

A new means of financing the permanent facilities of Washington Technical Institute and the Federal City College is anticipated as part of a master plan for higher education to be developed by the affected institutions. The plan will provide the basis for the coordinated long-range growth and development of higher education in the District.

For the first time, the Board of Education is provided with appropriate staff assistance. The $100 thousand requested in the budget will help to increase the Board's ability to analyze the complex educational problems of a large city school system and increase the Board's ability to respond to community desires and interests.

This is only a summary, of course, of the most significant budget initiatives. A further indication of the directions for fiscal 1971 is contained in the Mayor's transmittal letter. These recommendations have been carefully sifted and weighed, first by the Mayor and his departments and agencies within the executive branch of the District Government, then by the public and community organizations, and finally by the City Council. The result of this thorough examination of programs and priorities is a sound and prudent budget based on a minimum of new revenue measures. I again urge the Congress to take early action on the pending local income tax and Federal payment authorization proposals.

None of our aspirations for our Capital City can be achieved, including augmented police protection, improved system of courts and offender rehabilitation, reduced pollution and congestion, and better education—unless the District is given the resources to do the job. At the same time, however, money alone can not achieve the objectives the city officials have set for themselves. I am proud, as is the Congress, of the dedicated and judicious manner in which the recently reorganized Government of the District of Columbia has proceeded forward with the tasks it faces. In fulfilling the expectations of the Reorganization Plan of 1967, the Mayor is continuing to further improve and streamline the internal organization of the City Government. Most noticeable among these efforts is the establishment of a new Department of Economic Development, an Office of Budget and Executive Management, a new Department of Human Resources, an Office of Community Services, and most recently—an Office of Youth Opportunity Services to strengthen the coordination of the city's various youth activities, including planning responsibility for juvenile deliquency prevention and control programs.

None of the tasks with which the City is faced can be completed tomorrow. Significant progress can be made with strong leadership, adequate resources, and sound programs to achieve a viable urban environment. I ask the Congress to continue its support for the Capital City through its budget and financing proposals. I recommend approval of the District of Columbia Budget for fiscal 1971.

RICHARD NIXON.

MARCH 31, 1970

UNITED STATES-JAPAN COOPERATIVE MEDICAL SCIENCE PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91-289)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

The United States-Japan Cooperative Medical Science Program was undertaken in 1965 following a meeting between the Prime Minister of Japan and the President of the United States. This joint research effort in the medical sciences focuses upon diseases which are widespread in Asian nations: cholera, tuberculosis, leprosy, viral diseases, parasitic diseases, and malnutrition. Its efforts are significant not only for the peoples of Asia, however, but for all people—wherever they may live.

The Cooperative Medical Science Program is only now beginning to reach maturity. Yet it has already made substantial progress—progress which is highlighted in the report of the Program which I am today submitting to the Congress.

This joint undertaking is an important contribution to world peace as well as to world health. By providing a way in which men of different nations can work together for their mutual benefit, this Program does much to foster international respect and understanding.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

1969 REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

For all of our arts institutions, these are times of increasing financial concern. The Fiscal Year 1969 Report of the National Endowment for the Arts, which I am transmitting herewith, notes that "the services offered by arts institutions, and the costs which they incurred, continued to expand at a faster rate than earned income and contributions. Therefore as the year continued, these institutions were confronted by mounting financial pressures."

The sums appropriated by the Congress for the Endowment during this period were at the levels established in prior years. Its programs, though limited in size, were of benefit to all of the fifty States and the five special jurisdictions, and in some instances were the means by which fine institutions in the performing arts were enabled to survive.

It was in response to the growing financial problem that on December 10, 1969, I sent to the Congress a special message on the Arts and the Humanities. I noted then that "need and opportunity combine . . . to present the Federal government with an obligation to help broaden the base of our cultural legacy . . ." Accordingly, I asked the Congress to extend the legislation creating the National Foundation on the Arts and the Humanities, and to provide appropriations for the National Foundation in Fiscal 1971 in an amount "virtually double the current year's level."

In urging the Congress to approve a $20 million program for the National Endowment for the Arts, and an equal amount for the National Endowment for the Humanities, I maintained that few investments we could make would give us so great a return in terms of human satisfaction and spiritual fulfillment. More than ever now, I hold to that view.

RICHARD NIXON.

THE WHITE HOUSE, *March 31, 1970.*

CITIZENS COMMITTEE FOR POSTAL REFORM

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. GROSS) is recognized for 30 minutes.

Mr. GROSS. Mr. Speaker, in previous statements I have referred to the activities of the high-flying, well-financed lobbying outfit known as the Citizens Committee for Postal Reform.

It was formed early in 1969 to muster financial and public support for conversion of the Post Office Department into a corporation. Although described as a "citizens" committee, the bulk of the committee's financial support has come from big corporations—particularly publishing houses.

Initially, the organization supported H.R. 11750, the corporation bill sponsored by the gentleman from Arizona (Mr. UDALL) with the blessings of the Postmaster General.

When the frantic lobbying by the citizens committee for this bill failed, it switched its support to a so-called compromise postal reform and pay package. Although it was readily apparent that support for this proposal was practically nil in Congress, the citizens committee came out with a special nationwide mailing in an attempt to promote it.

Again failing to generate support, the citizens committee has now jumped on the bandwagon in support of still another compromise postal reform and pay bill which was rammed through the House Post Office and Civil Service Committee on the morning of March 12—without a word of debate or a single amendment—as a complete substitute for the language contained in H.R. 4, the bill which the House committee had under consideration for months.

I will have more to say about this alleged "compromise" at a later date and in minority views which I plan to file.

For the present, I call attention to the irresponsible and misleading statements made by the citizens committee in half-page advertisements which appeared in Washington and probably other newspapers last week. In bold type the citizens committee proclaimed:

The Post Office strike need never have happened.

The ad goes on to imply that if only the Post Office Department had been converted into a corporation, the illegal strike of postal workers would not have occurred. The truth is that one of the underlying causes of the strike was the action by the House Post Office and Civil Service Committee in approving the establishment of a postal authority or corporation as insisted upon by Postmaster General Blount.

To combine, as the committee did, postal reform with postal pay adjustment, was an open invitation to trouble and it came immediately following action of the House committee. Top postal officials, and the so-called citizens committee, ought to have been aware of the impending catastrophe but their obsession for a postal corporation was greater than their concern for the general welfare.

Moreover, the wheeling and dealing that has been a part of the promotion of corporation legislation has only added to the suspicion and skepticism.

If anyone was so naive as to believe that a postal corporation was the only solution to postal service problems, the recent strike should remove that belief permanently. The simple truth is that enactment of legislation establishing a postal corporation will encourage strikes by employees on a nationwide basis.

Under a postal corporation the profit motive will be substituted for the public interest. The President and Congress would be almost completely removed from any responsibility for the conduct of the postal service.

In its newspaper advertisement of last week, the so-called citizens committee also trots out the old, time-worn argument that the Chicago mail breakdown in 1966 offers proof of the need for conversion of the Post Office Department to a corporation. The committee has constantly used this breakdown as its No. 1 horror story in attempting to sell the corporation concept.

What the committee fails to tell the public is the reason for the breakdown—that it was the direct result of the refusal of the Post Office Department to permit the use of overtime, although postal management in Chicago had accurately predicted what could happen.

And let it be remembered that the Postmaster General in 1966, when the breakdown in Chicago took place, was one Lawrence F. O'Brien. The newspaper ad of last week lists this same Lawrence F. O'Brien as still serving in the capacity of national cochairman of the Citizens Committee for Postal Reform even though he recently was elected chairman of the Democrat National Committee.

As a Republican, I would be the last to suggest that Mr. O'Brien should devote full time to his duties as national

Democrat chairman. On the other hand, it is not inappropriate to question the propriety of a Democrat party leader continuing to serve as cochairman of a supposedly nonpartisan "citizens" committee, a committee which, incidentally, has a huge slush fund at its disposal.

DRUG ABUSE

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, drug misuse and abuse are increasing at an alarming rate in America. Early in 1969 the U.S. Department of Health, Education, and Welfare issued a statement warning that drug abuse had reached almost epidemic proportions. Once a problem of the ghetto, this plague now strikes all segments of society, regardless of age, racial, social, and economic background. Particularly susceptible, however, are the young people of this Nation.

The figures associated with drug abuse among the young paint a frightening word picture.

In the FBI's annual crime report issued in August 1969, the Bureau of Narcotics and Dangerous Drugs revealed that since 1960 the number of arrests for drug violations for persons under 18 years of age was up 1,800 percent. This compares with 235 percent for persons over 18 years. In 1968, three of every four arrests for drug abuse were of persons under the age of 25.

The number of casualties from drug abuse is alarming. New York City has an estimated 100,000 heroin users who spend $850 million a year on that drug and many times that number who take other dangerous drugs. In the past 3 years New York has spent $250 million on drug problems and has increased the number of beds available for the medical treatment of drug dependent persons from 375 to 5,000. Heroin caused 730 deaths in New York in 1968 and an estimated 900 more in 1969. In a 3-month period in 1969, 71 teenagers died from overdoses of drugs.

The New York Times reported that, in New York City, marihuana can be found in virtually all secondary schools. Of 30 students leaders in the city's schools, more than half said they smoked marihuana occasionally, and the remainder said they had friends who did. Students there estimated that at the average high school in the city, marihuana use ranged from 30 to 80 percent of the student bodies. Estimates of nationwide experimentation with marihuana among teenagers ranges from 2 to 10 million.

Across the Nation reports of drug abuse are similar. In a Los Angeles suburb, police found 13-year-olds shooting methedrine under their tongues. Hospital care for 4,967 San Francisco teenage drug users in 1967 cost the city $3.75 million, and drug use has increased since that time.

According to a newspaper report in January 1969, about one-sixth of the high school students in San Mateo County, Calif., had used "speed"—amphetamines—and more than one-third of them had tried hallucinogens or barbiturates. In San Mateo County juvenile arrests for dangerous drugs jumped 1,448 percent in 8 years and 324 percent in 6 months. Drug arrests in California's larger counties more than doubled during a 6-month period.

Even more alarming is the fact that experimenting with drugs is not limited to teenagers. One member of the New York State Narcotic Control Commission reported that his agency had made arrests of 7-year-old children and even had a 9-year-old heroin addict. Slum residents in New York say that some 8-year-olds are experimenting with heroin bought in the school yards.

According to Dr. Richard Blum, a San Francisco sociologist and former consultant to the President's Commission on Crime, many California fifth graders have already been exposed to marihuana and LSD.

He says:

> In the last eight years we have watched the age level of drug users in California drop from adults to elementary school children. We can't go much lower.

He adds:

> And generally what happens in California happens elsewhere sooner or later.

In some parts of my home State of Maryland, drug use has reached almost epidemic proportions. There is evidence of children in the second grade experimenting with drugs.

With the doubling of arrests for drug violations last year, many suburban and rural communities throughout the Nation are finding out that drug abuse can happen here. And subsequently individuals and communities are waking up to the problem and taking action to confront this plague. Even so, the task ahead is awesome.

One university psychiatrist, testifying before the House of Representative's Select Subcommittee on Crime, expressed concern that it may already be too late for many of our young people. He then made this frightening comment:

> This generation of drug users might just as well be written off because it costs $25,000 to keep an addict off a drug for a single year.

And the director of community development for a halfway house project in Chicago said that only about 35 percent of the "graduates" of this rehabilitative project stay off drugs permanently. He contends, as do I, that the real answer lies in educating youngsters against drugs before they are "hooked."

This is not to say that we can forget those already dependent on drugs. We cannot afford to write off this generation. And if only 35 percent of our drug users can be rehabilitated, that 35 percent is well worth saving. Every effort must be made to help those who are "hooked" to kick the habit and find meaningful, rewarding lives. At the same time, however, it is of prime importance that we concentrate our future efforts toward our youth before they begin experimenting with drugs. It is imperative that they have a full understanding of what it means to become an addict, to see what these drugs will do to the body and mind—to realize that, if abused, drugs "turn on you" rather than "turn you on."

Furthermore, we must inform our youth about those slave-masters who sell narcotics. There is no word in the lexicon repugnant enough to describe those who lure others into drug use for profit and destroy without pity. This criminal element is busily recruiting its clientele, primarily from our youth. While this drug crisis worsens, we hear all sorts of excuses for inaction and complaints of the difficulty we have in bridging the gap between generations. Turned away from parental communication and authority, the young frequently seek guidance elsewhere. Somehow this criminal element seems to have little trouble communicating across the generation gap.

How tragic to think what it forbodes for the future of this country if the criminal mind is capable of rapport and communications with our young, and the responsible segments of our society are not.

Somehow we must open the channels of communication—particularly in the area of drug abuse. We must point out the consequences and dangers of taking drugs without medical supervision. We must emphasize that all drugs, no matter what category, often lead not only to permanent physical damage, but also to psychological damage if abused and misused. In other words, a constant user ceases to be a productive member of society as he withdraws into this nether world, a slave to his addiction, a human vegetable. The life which could have been well spent in a conscious appreciation of reality is wasted. The talents remain unused, undeveloped. The mind is reduced to impotence. This is especially tragic for young people who stand on the threshold of life, facing the challenges, opportunities, and wholesome pleasures which a vibrant existence makes possible. What a calamity if a transitory puff of a weed or an experimental drop of acid snuffed out forever the rewards and joys and accomplishments of a bright young person. What a loss for the individual and for society.

For this reason, enlightened educational efforts aimed at all strata of society are needed at once. We must prevent a further rise in drug use and pave the way for a society free of this plague. To do so we must inoculate potential users with sophisticated and factual information and education rather than misinformation and veiled threats on the effects of drugs.

Young people themselves can and must play a key role in this war on drug abuse. However, we cannot succeed with this war until we enlist the active assistance of every citizen. Parents, counselors, administrators, teachers, nurses, social workers, law enforcement officers, civic and community leaders, and any others who have occasion to work with the young must arm themselves with the facts on drugs.

Mr. Speaker, as a Member of Congress

concerned and deeply disturbed about crime in general and narcotics in particular, I urge my colleagues to dedicate themselves to solve this grave problem. At the same time, however, I urge that all Americans take prompt action to prevent us from becoming a nation of "hopheads."

The future can be a nightmare or the fulfillment of a wonderful dream. It is largely in our hands to make the choice. Let us, therefore, go forth, armed with information, to wage a war against drug abuse to insure that this dream is not an impossible one for our youth.

SOVIETS MUST PERMIT JEWISH CITIZENS TO EMIGRATE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. FARBSTEIN) is recognized for 20 minutes.

Mr. FARBSTEIN. Mr. Speaker, on November 17, 1969, the Israel Knesset requested that legislative bodies all around the world "employ the full weight of their influence in assisting" Soviet Jews to emigrate to Israel. In this unprecedented move the Knesset acknowledged that the policy of persuasion and negotiation had failed and that the Soviet Union continued to refuse permission to emigrate to a large portion of its Jewish population.

This deplorable situation was spotlighted on November 10, 1969, when Israel submitted to the United Nations a document signed by 18 Jews living in the Soviet Republic of Georgia. The document accused Soviet authorities of preventing them from leaving the Soviet Union. The Government of Israel requested the Secretary General of the United Nations to use his "good offices" to help the 18 families and "to alleviate the situation of Soviet Jewry in general." This marked the first time that Israel had brought the question of Soviet Jews into the United Nations.

I, too, have not raised this question in the belief that the Soviet Government was in the process of easing up on the treatment of her Jewish subjects. I was fearful that such action on my part could prejudice this relaxation. I was also concerned that the Soviet Government might react by adopting a more restrictive attitude toward her Jewish citizens. In short, I feared that the repression and prosecution of the Jews would become more determined and widespread. Nevertheless, the Soviet Government has adopted a restrictive policy, refusing to permit Jewish families to emigrate and continues to deny religious freedom to her Jewish population.

I can no longer refrain from speaking out.

For over 50 years, Soviet Jews have been deprived of virtually every institutional opportunity to perpetuate their culture, religion, and communal life, despite legal and constitutional guarantees of such rights. There is no public instruction in Yiddish, even though, according to Soviet law, such language classes must be held wherever 10 or more parents demand it. The Jewish state theater, which performed in Yiddish, was closed in 1949 and only an amateur Yiddish theater was permitted to open a few years ago.

Few books are printed in the Soviet Union. Prayer books are in scarce supply. Soviet Jews are not permitted to have any sort of national or provincial organization, secular or religious, which other recognized sects have had. Each synagogue struggles along on its own. Even so, the number of synagogues is being quietly reduced. Rabbinical training is not permitted, and there is a shortage of rabbis. Religious articles and foods are difficult, if not impossible, to obtain.

In the Soviet Union, Jews are treated as a nationality, and they must list their nationality in their identity documents as Jewish. Unlike other national groups, however, their distinctive language, activities, and community institutions have been increasingly restricted. I do not understand why the Soviet Union considers the Jew as a nationality instead of a religion, as are other sects. But it is discrimination.

To date, the Soviet Government has not made any significant concessions which would enable Jewish life to flourish in the Soviet Union or even to restore education, cultural and religious institutions that existed before 1948. The Soviet Jew remains a third-class citizen without even the right to emigrate.

There is an increasing amount of evidence available to indicate that the Soviet Jew has had enough. More and more Jews are asking to leave Russia and settle in Israel. Because all exit permits have to be dealt with by the Oddelyl Viv I Registnatoyi—OVIR—the special police bureau which grants visas, there are no exact figures to indicate just how many Jews have applied for emigration. However, according to a reliable source, about 100,000 have by now filed for exit visas. All want to go to Israel and some of the applicants declare openly that they wish to renounce their Soviet citizenship. This is a new development. Until recently only the most courageous would dare to show such a defiant attitude.

When living under a totalitarian regime which denies the human and civil rights to over 3 million of its population such actions must be commended. As in the case of the 18 families who petitioned the United Nations, these people have braved the possibilities of retaliation and reprisal in order to focus worldwide attention on the plight of the Jew in the Soviet Union.

We must help these unfortunate people. We must do what we can to impress upon the Soviet Union that they have nothing to fear if they allow the pitifully small number of Jews still living in the Soviet Union to emigrate.

Perhaps the reason why the Soviet Government will not issue exit visas is concern over the reaction of the Arab world. If this is the case, as I believe it is, it is not worthy of a great nation. The Soviet Union must be convinced that it is better politics to do the right thing, the human thing, than to appease the desires of a group of nations who have sworn to destroy Israel. They must be convinced that the world will hold them accountable for their refusal to either grant religious freedom to the Jews or to permit them to emigrate.

Mr. Speaker, my resolution is designed to help focus world attention on the plight of the Soviet Jew. It is my hope that it will act as a catalyst insofar as world opinion is concerned; that it will direct world attention to the oppressive and discriminatory manner in which the Soviet Union treats her Jewish population. It would express the sense of the Congress that the President instruct the permanent U.S. representative to the United Nations to place the plea of the 18 Jewish families on the agenda of the General Assembly. My resolution would also request the President to do what he deems advisable to urge the Soviet Union to restore full religious freedom to the Jews in the Soviet Union, and above all, to convince them to change their emigration policies.

Mr. Speaker, in the cause of freedom and humanity throughout the world, I would hope that the Congress would adopt my resolution.

ALASKA NATIVE LAND CLAIMS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. POLLOCK) is recognized for 5 minutes.

Mr. POLLOCK. Mr. Speaker, I am today inserting in the CONGRESSIONAL RECORD a comprehensive treatise which I have written on the Alaska native land claims question. As many of you know, the Eskimos, Indians, and Aleuts of Alaska have laid claim to large areas of the State. These native claims are derived from "Indian title"—the right to lands continuously used and occupied over many generations.

In order to understand the various arguments which have been adduced to justify or deny settlement of the land claims, one must be acquainted with the evolution of the concept of Indian title and with the historical and legal background of the Alaska native claims. Therefore, my treatise begins with a relatively brief chronology of the relevant constitutional, treaty, statutory, and judicial aspects of the land claims question. In subsequent sections, I have presented the arguments for and against a liberal land claims settlement, and have analyzed the measures presently pending before the House and Senate to forever extinguish the aboriginal land claims of Alaska's native people. Finally, I have made some suggestions and counterproposals of my own for the consideration of the Congress and the citizens of Alaska. My suggestions deal with such facets of the land claims as land allocation, monetary compensation, revenue sharing, participation by the State of Alaska, administration of the settlement moneys, and other matters which must be considered in connection with any land claims settlement. I am hopeful that my conclusions and recommendations will be of assistance to the House and Senate Interior Committees in bringing the Alaska

claims question to a prompt and satisfactory conclusion.

Mr. Speaker, not since the pursuit and achievement of statehood has the Congress dealt with an issue of such immediate and vital importance to the citizens of Alaska. Until the land claims are settled, the social and economic progress of Alaska will continue to be seriously impeded. As a result of the present unresolved land claims situation, the native one-fifth of the Alaskan population remains without title or security on those lands that they and their ancestors have occupied and used for untold generations. Devoid of land ownership and the monetary security that it often brings, many are poor and in need. Moreover, the current land claims situation also has profound implications for the State of Alaska. Because of the imposition of a "super land freeze," the State is halted in the land selection program which was authorized in the Alaska Statehood Act. A third regrettable result of the current situation is that for the first time in the history of my State, the people of Alaska have divided along racial lines. As time passes, the opposing positions of native and nonnative have tended to polarize further, thus making resolution of the land claims question even more complex. So that the people of Alaska can put this divisive issue behind them, I respectfully request you, my distinguished colleagues, to give your careful consideration to the treatise that I have prepared, for it will hopefully provide you with a comprehensive understanding of the various facets of the land claims question.

The treatise follows:

SPECIAL REPORT: THE ALASKA NATIVE LAND CLAIMS

I. INTRODUCTION

At this juncture in history, Alaskans have come face to face with a most difficult matter of substantial importance, which demands the immediate attention of the United States Congress and the earliest possible resolution—settlement of the Alaska aboriginal Native land claims. After more than a hundred years of relative inaction, the United States Congress is at last seriously considering this long-standing and complex question. Not since the pursuit and achievement of statehood has the Congress dealt with an issue of such immediate and vital importance to the citizens of Alaska.

Until the land claims are settled, the social and economic progress of Alaska will continue to be seriously impeded. As a result of the present unresolved land claims situation, the Native one-fifth of the Alaskan population remain without title or security on those lands that they and their ancestors have occupied and used for untold generations. Devoid of land ownership and the monetary security that it often brings, many are poor and in need.

The current land claims situation also has profound implications for the State of Alaska. Because of the "super land freeze" imposed by the previous Secretary of the Interior Stewart Udall, and retained by the present Secretary Walter J. Hickel, the State of Alaska is halted in its land selection program authorized in the statehood enabling legislation.

Because of the deep misunderstandings which have arisen in connection with the land claims, no issue in the history of the State has ever so divided the people of Alaska. Regrettably, with the passage of time, the opposing positions of Native and non-Native have tended to polarize, thus making resolution of the land claims question even more complex. The purpose of this Special Report on the Alaska Native Land Claims is to present some of the historical, treaty, constitutional, statutory, moral, and economic reasons for a land claims settlement, and to propose a solution which hopefully will be of some assistance in bringing the claims issue to a satisfactory conclusion.

II. THE HISTORICAL AND LEGAL BACKGROUND OF THE NATIVE LAND CLAIMS

In order to understand the various arguments adduced to justify or deny settlement of the land claims, one must be acquainted with the historical and legal background of the claims. A relatively brief chronology follows of the relevant constitutional, treaty, statutory, and judicial facets which deal with the concept of "Indian title"—the right to lands continuously used and occupied.

1. The "Treaty of Cession" (1867)—The United States purchased all of the right, title, and interest of Imperial Russia in Alaska. The terms of the treaty drew a distinction between the white inhabitants and "civilized tribes" (those aboriginal inhabitants who traded with the Russians and adopted the Russian Orthodox religion) on the one hand, and the "uncivilized tribes" on the other. Only the former were granted "all the rights, advantages, and immunities of citizens of the United States."

2. The Organic Act of 1884—This legislation was the first explicit Congressional policy pronouncement with respect to Alaska's Native people. Section 8 of the Act stipulates that Alaska's Natives should "not be disturbed in the possession of lands actually in their use of occupancy or now claimed by them." However, the precise terms under which actual title could be acquired were reserved for future legislation.

3. The homestead laws of the United States were made applicable to Alaska under the Homestead Act of May 13, 1898. However, because Alaska's Natives were not granted citizenship until the Citizenship Act of 1924, they were excluded from the benefits to be derived from the Homestead Act and other legislation relating to the acquisition of title to land. While the Act preserved suitable tracts of land along navigable waterways for the landing of Native canoes and other craft, this legislation did not otherwise protect the land holdings or water rights of Alaska's Native people. Section 7 of the Act specifically excluded Indian reservations from the homestead laws.

The legal position of Alaska's Natives prior to 1924 is summarized on page 434 of the Federal Field Committee report, *Alaska Natives and the Land*:

"Physically they comprised the major part of Alaska's population. Officially, they were invisible."

4. Notwithstanding the provisions of Paragraph 3 above, the Congressional Appropriation Act for Fiscal Year 1900 explicitly protected the Native possession of lands in Alaska:

"The Indians . . . shall not be disturbed in the possession of any lands now actually in their use or occupation . . ."

5. *U.S. vs. Berrigan* 2 Alaska 442 (1905) This case held that the vacant, unoccupied, and unappropriated lands in Alaska at the date of cession became a part of the public domain of the United States. The importance of this case is the determination of the Court that the U.S. Congress alone had the power to dispose of lands reserved by it for the use and occupancy of Alaska's Native people.

6. *U.S. vs. Alcea Band of Tillamoos* 329 US 40 (1946): Although it did not deal with the land claims of the Natives of Alaska, this United States Supreme Court case is very helpful in understanding the concept of "Indian title." In defining this concept, the Court said that the title to lands occupied by Indians vested in the federal government by virtue of discovery. However, the Indians obtained the right of occupancy because of their original possession. The Court recognized the right of the sovereign to extinguish Indian occupancy, but held also that taking away original "Indian title" without compensation does not satisfy the "high standards of fair dealing" required of the United States. The right to fair compensation arises from the fact that the Indians have more than a "merely moral claim." Elaborating on the concept of "Indian title," the Court said that the constitutional power of Congress over Indian affairs (Article 1, Section 8 of the United States Constitution) does not enable the federal government to give tribal lands to others or to appropriate them for its own purposes without assuming an obligation to render just compensation. However, once the right of occupancy is extinguished, the land becomes "free and clear."

In another portion of the decision, the Court recognized that the determination of "Indian title" is usually a political question, presenting non-justiciable issues. But, if Congress chooses to do so, it can through legislation confer jurisdiction on the Courts to adjudicate specific cases involving claims arising out of "Indian title."

7. In both the Alaska State Constitution (Section XII) and the Alaska Statehood Act (Section IV), Alaska disclaimed "all right and title to any lands or other property not granted or confirmed to the State . . . and to any lands or other property (including fishing rights), the right or title to which may be held by any . . . Natives, or held by the U.S. in trust for said Natives."

8. *Tee-Hit-Ton vs. U.S.* 348 U.S. 272 (1955)—In this celebrated case, the U.S. Supreme Court further elaborated on the concept of "Indian title." The Court said that "Indian title" is not a property right, but amounts to a right of occupancy which the sovereign grants and protects against intrusion by third parties." Reversing a trend which was discernible in many earlier cases and which reappeared in subsequent decisions, the Court concluded that the "right of occupancy may be terminated and such land fully disposed of by the sovereign itself without any legally enforceable obligation to compensate the Indians." The Court's decision was based in large measure on the finding that the tribe had perfected a proprietary interest in the lands under ajudication before Imperial Russia conveyed the lands to the United States.

9. In the case of *Kake Village vs. Egan* 369 U.S. 60 (1961), the U.S. Supreme Court said that by means of the disclaimer by the State and its people of any right or title to any property held by or for the Natives, which is contained in Section 4 of the Statehood Act, the Congress sought to preserve the status quo with respect to aboriginal and possessory Indian claims, so that statehood would neither extinguish the claims nor recognize them as compensable. The Court observed that the Congressional architects of the statehood legislation intended that the State be left free to choose Indian "property", but that such a taking would leave unimpaired the right of the Natives to sue the United States (not the State) for compensation at a later date.

10. Notwithstanding the Tee-Hit-Ton case, the Court of Claims held in *Tlingit and Haida Indians vs. U.S.* 177 F. Supp. 452 (1959) that the Tlingit and Haida Indians had established use and occupancy, i.e., "Indian title" to certain lands and waters in Southeastern Alaska. The Court said that "the use and occupancy title . . . was not extinguished by the Treaty of 1867 between the U.S. and Russia, nor were any rights held by the Indians arising out of their occupan-

cy and use extinguished by the Treaty." The Court stated that the Treaty "was not intended to have any effect on the rights of the Indians of Alaska, and it was left to the U.S. to decide how it was going to deal with the Native Indian population of the newly acquired territory."

11. The Alaska "Land Freeze"—In December of 1966, then Secretary of the Interior Stewart Udall imposed on informal "land freeze" on all federal land transactions in Alaska including State selection of 103 million acres of land granted by the federal government in the Statehood Act. Under the terms of the land freeze, the Interior Department was ordered not to transfer any additional lands to the State or to any private entryman until the U.S. Congress resolved the Native land claims issue. Following announcement of the freeze, a number of bills were introduced in Congress to settle the Native land claims. None of these bills was reported out of Committee during the 90th Congress. Consequently, on January 17, 1969, Secretary Udall converted the informal land freeze into Public Land Order No. 4582. As a result of this administrative decision, all vacant, unappropriated, and unreserved public lands in Alaska were withdrawn from appropriation and disposition under any Public Land Law.

At his confirmation hearings Secretary-designate Walter J. Hickel agreed not to modify PLO No. 4582 without first obtaining approval from both the U.S. House and Senate Committees on Interior and Insular Affairs. By the terms of PLO 4582, the land freeze will expire on December 31, 1970.

12. *The State of Alaska* vs. *Hickel* Ninth Circuit (December 19, 1969).

In this case, the Court of Appeals for the Ninth Circuit reversed the summary judgment of the Federal District Court of the District of Alaska. The State had argued successfully in the lower court that aboriginal title derived from Native use and occupancy could not affect the status of lands in Alaska as "vacant, unappropriated, and unreserved." In remanding to the lower court for further hearing of the case on its merits, the Circuit Court added:

"In view of the pendency in Congress of proposed legislation which, if enacted, would probably resolve all or most of the issues . . . the district court may, in the exercise of its discretion, hold the trial in abeyance for a reasonable period of time."

III. THE ARGUMENTS PRO AND CON

Using some of the same statutes, treaty provisions and judicial decisions, advocates and adversaries have come to diametrically opposite conclusions on the land claims issue. Accordingly, it would perhaps be useful to a fuller understanding of the entire issue to here briefly summarize some of the more important arguments adduced by proponents and opponents of a meaningful claims settlement.

A. Arguments in support of the native claims

Those who support the Native claims contend that Imperial Russia did not own Alaska, that its traders and agents only barely touched and briefly occupied peripheral and isolated coastal areas of the great land, had never seen nor subjugated most of the aboriginal inhabitants, and were in fact, as the Russian America Company, directed by the Russian government not to spread their rule from the coast where trapping and hunting were taking place, nor, to make any effort to conquer the tribes inhabiting the coasts. It is further advocated that the historical international law of right to possession, title, and sovereignty by conquest did not pertain so far as Alaska and its people were concerned, that the simple planting of a national flag on the soil by a foreign intruder and exploiter would not secure the land of Alaska for that nation or any nation at no cost to it, and, accordingly, that the United States really bought stolen property from Russia.

The spokesmen for the Natives assert that since the land of Alaska has never been wrested from the Indians, Eskimos, and Aleuts by any act of hostility or conquest by either Imperial Russia or the United States, nor taken by a legislative act or judicial determination of abandonment on the part of the Natives, the land continues to belong to them by reason of aboriginal and historic use and occupancy. Further, it is pointed out that Alaska was sold to the United States by the Russian government without consultation with the Indian, Eskimo or Aleut inhabitants, and no time since then has there even been any agreement by aboriginal Natives to extinguish their ownership in the lands of Alaska.

The Native leadership and their counsel point out that in treaties, legislation and numerous judicial decisions there is explicit and implicit government recognition of an existing and continuing right in the lands the Natives have historically used and occupied, known as "Indian Title," and that it has legal basis sufficient to cast cloud on any and all land conveyances regardless of who the parties are, and whether or not the federal government imposes a land freeze.

The Native further asserts that resolution of the land claims issue should not be based in sympathy nor in recognition of the massive needs for bettering his way of life. He wants the matter resolved upon the dignified basis of extinguishment of a governmentally-recognized legal and moral right to use, occupancy, and ownership of lands of Alaska derived by aboriginal claim. The emerging educated and capable young Native leadership contends that the Alaskan Native does not wish to continue in the role where he is considered an incompetent government ward or second class citizen whose affairs must be forever subjected to the scrutiny and approval of a benevolent and paternal governmental trustee; nor does he wish to exist in ignominious indignity as a perpetual recipient of a degrading welfare system. He is acutely aware that only a tiny fraction of the privately held land in Alaska is owned by the first inhabitants and that, with the historic inability of the Native to acquire and hold title to land, relatively little benefit has accrued to him of the economic development and enormous potential of Alaska, the Native feels there must be a significant change in the law to firmly recognize and clarify his status as to land ownership.

With reference to the preference right on land selections, the Native feels that the aboriginal right substantially predates the right of the State of Alaska to select 103 million acres of land under the statehood enabling legislation.

B. Arguments Against a Liberal Land Claims Settlement

Many who oppose the Native view contend that the Native is entitled to no more nor less than any other Alaskan. It is contended that the Native today enjoys the dual benefits of being an Alaskan and American citizen on the one hand, and, on the other hand, of being at the same time in a privileged and select special status group who are beneficiaries of a governmental trustee relationship.

It is the feeling of many that a substantial number of non-Natives have been in Alaska for generation, and, therefore, have as much right to the use, occupancy, and ownership of the land as the Natives have. Some opponents further argue that since the Natives have received untold millions in special benefits over the years for education, health, housing and welfare, they do not deserve any further compensation at this time, that any compensable claims that they might once have had have been satisfied through past largess. Others assert that if any settlement be made, whether based on political expediency or on sound legal or moral principles, the compensation be offset by an amount equal to all the many millions of dollars previously appropriated by the federal and state governments since 1867.

Other non-Natives postulate that if the Natives are successful in claiming millions of acres of land, their ownership will interfere with the efforts of the State to accelerate its economic development for the benefit of all Alaskans. A corollary of this argument is that by providing additional special benefits to the Natives, the Congress and perhaps the State would further segregate Natives from non-Natives, a conception which is abhorent to all Alaskans at a time when emphasis should be on desegregation and acculturation into a single Alaskan society.

A number of non-Natives maintain with substantial vehemence that if the Natives lay claim to million of acres of land and demand millions of dollars of compensation for lands which they now use and occupy as they always have, it is totally unwarranted, and their efforts at obstructing progress in a fully integrated society should not be honored or dignified by recognition or compensation in any manner.

The most aggressive and dogmatic opponents castigate the attorneys for the Natives charging them with chicanery, overreaching opportunism and greed, and lay blame for the whole bothersome issue at their feet.

To the contention of the Natives that they enjoy a preference right over the State of Alaska on land selections since their aboriginal right or "Indian title" substantially predates statehood, the more-informed opponents respond and counter with the assertion that since Congress in the Organic Act of 1884 reserved for itself future legislative prerogatives as to the terms under which Natives of Alaska might acquire title to lands, Congress was aware of its power of determination at the time the Statehood Act was enacted, and nevertheless, with intent to create a preference, gave to the State a subsequent but preferable and preemptive right of selection paramount to all other claims or entries. This position, they contend, is buttressed by the legislative history of the Alaska statehood enabling legislation, and point to the refusal of the Interior and Insular Affairs Committee of the U.S. House of Representatives to exclude or exempt Native property from State selection in the legislation on the ground that this would virtually destroy Alaska's right to select lands (the U.S. Supreme Court took cognizance of this legislative history and intent in *Kake Village vs. Egan*, 369 US 60 (1961)).

These advocates of the non-Native position point to the Supreme Court decision which holds that "Indian title" can be extinguished by the federal government without legal obligations to provide any compensation (*Tee-Hit-Ton vs. U.S.*, 348 US 272 (1955)). To the argument that the State of Alaska and its people had a compact with the federal government in the Statehood Act and ratified the new state constitution, both of which had provisions that they forever disclaim all right or title to any property held by or for the Natives, the opposing spokesmen declare (a) that, short of a few reservations authorized by special legislation, Alaska is not held by nor for the Natives; (b) that the Supreme Court has already recognized that, notwithstanding the disclaimers by the State and its people in the Statehood Act and state constitution, it was the understanding and intention of Congress that the state be free to select any otherwise vacant, unreserved, and unappropriated public lands in Alaska, regardless of claims of "Indian title"; and further (c) that if any compensation were later due the Natives as a result of

any judgment arising out of such State selection, it would be an obligation of the federal government and not the State of Alaska (*Kake Village vs. Egan*, 369 US 60 (1961)).

IV. LAND CLAIMS LEGISLATION CURRENTLY PENDING BEFORE THE UNITED STATES CONGRESS

Notwithstanding the great diversity of opinion as to how the Native land claims issue should be resolved, it is clear (a) that most Alaskans feel that the land claims issue must be resolved as soon as possible, (b) that the Alaska Native is entitled to something, if for no other reason than simply to extinguish the cloud of "Indian title" and to have relief from the land freeze, and (c) that the difficult burden of decision devolves upon the Congress if this divisive issue and its concomitant dislocations are to be put behind us this year or any time in the immediate future. The matter of Native interest in land in Alaska has gone unresolved for more than a century, and it is no wonder that prior Congresses have seen fit to defer coming to grips with this complicated matter that defies easy resolution.

Several bills have been introduced during this Ninety-First Congress to settle the Native land claims, and all are still pending, of course. In addition to these legislative proposals, other interested parties such as the State of Alaska and the Alaska State Chamber of Commerce have made their positions known to the Congress and to the people of Alaska. Following is a brief summary of the pertinent provisions or positions of each. There are fundamental differences in land allocation, monetary compensation, revenue sharing, and subsistence rights.

SUMMARY OF PERTINENT PROVISIONS OF SEVERAL LEGISLATIVE PROPOSALS TO RESOLVE THE NATIVE LAND CLAIMS

	Land	Money	Revenue sharing	Subsistence land	Other significant features
1. Federal Field Committee: H.R. 10193 (House). S. 1830 (Senate).	5,000,000 acres (1 townsite per village).	$100,000,000	10 percent of revenues derived from public lands in Alaska for 10 years, plus 10 percent of revenues from disposition of minerals taken from the Continental Shelf (for 10 years).	No grants of subsistence land. Reliance for protection is placed in State management.	A. Land grants to individuals for remote homesites presently occupied, plus areas for reindeer husbandry. B. Only competitive bidding on mineral leases, with part of proceeds to Native.
2. Department of the Interior: H.R. 13142. Amendments to S. 1830.	10,000,000 acres (2 townsites per village).	$500,000,000 over a 20-year period.	No revenue sharing or overriding royalty.	No provision for subsistence protection beyond the 2-townsite allocation.	A. Monetary settlement to be administered by a statewide Alaska Native Development Corp. B. With a few notable exceptions, this bill follows H.R. 10193.
3. Alaska Federation of Natives. H.R. 14212. S. 3041.	40,000,000 acres (including surface and mineral rights).	$500, 000, 000 over a 9-year period.	A perpetual 2 percent of the gross value of leaseable minerals held in Federal ownership at time of Statehood.	Subsistence is protected by 100-year right to go upon the public lands.	A. Establishes village, regional, and statewide corps. to manage funds. B. All mineral rights are to be conveyed to regional corp. C. Homesites, campsites, and reindeer tracts are conveyed to individuals.
4. Position of State of Alaska.	Approximately 10,000,000 acres of land which would provide for present village needs plus anticipated expansion over next century (maximum of 2 townsites, but only 1 townsite in S.E.).	$500,000,000 paid by Federal Government over a 20-year period.	No overriding royalty or other revenue sharing.	No special hunting, fishing, rights. Protection should emanate from State laws and regulations.	A. No special tax privileges on either the income from 500,000,000 or the land settlement. B. Land settlement should not include State selected, tentatively selected, or patented lands. C. Settlement may include lands in Federal reserves (subject to Federal approval).
5. Position of Alaska State Chamber of Commerce.	Title to lands presently in use and occupancy, plus sufficient land for expansion.	"Equitable and just" monetary settlement, paid entirely by the Federal Government.	No overriding royalty or sharing of state revenues.	No lands to be set aside or special privileges granted for hunting, fishing, et cetera.	No special tax privileges on income from money or lands included in the settlement.
6. Stevens-Gravel tentative Senate compromise.	Grant of village sites and land around them for reasonable expansion.	$500,000,000 by Federal Government in 10 annual installments of $50,000,000.	For 10 years or until $500,000,000 is realized: A. 2 percent of the revenue from State selected land for 10 years. B. 2 percent of Federal revenue from Federal land for 20 years. C. 2 percent of Federal revenue from Continental Shelf of Alaska for 30 years.	Up to 40,000,000 acres; Use by permit; Subject to higher and better use doctrine.	A. Phasing out of the BIA within 5 years. B. Some native contribution to support of state educational system. C. Alaska Native Development Corporation administers the $500,000,000.

The elements of most of the proposals are readily understandable, although there is a wide divergence of opinion as to the desirability of inclusion of each. However, because of this complexity and significance, the 2% overriding royalty feature of H.R. 14212 (and its counterpart in the Senate, S. 3041) deserves special consideration.

Originally, the Federal Field Committee for Development Planning in Alaska proposed a 10% royalty on revenues derived from federal and state lands in Alaska for a ten-year period. The AFN bill would convert the 10% royalty into a perpetual 2% royalty, not on revenues derived from the lands, but rather on the gross value of all leaseable minerals taken from all lands which were in federal ownership at the time of Statehood. This includes all State selections of course.

It is important to understand that 2% of the gross value derived from leaseable minerals really means 2% of the total 100% value of the minerals, not 2% of the 12½% or ⅛ royalty interest retained, from which the federal and State governments normally derive their revenues. The 2% of the gross value is actually equivalent to 16% of the federal and State share. Since, pursuant to Section 28(a) of the Statehood Act, Alaska receives 90% of the revenues from the federal lands in Alaska, and the federal government retains 10% of such revenues for deposit into the general treasury, the 2% overriding royalty provision of the AFN proposal would have an especially detrimental impact on State revenues. The net effect would be that of the 16% of the royalty interest going to the Natives, the State would have to contribute 14.4% and the federal government would contribute only 1.6%.

Thus, instead of receiving 90% of the revenues from federal lands as it now does, the State would receive 75.6%, the federal government would receive 8.4% and the Natives would receive 16%.

At the present time, the various land claims measures are pending before the House and Senate Committees on Interior and Insular Affairs. Both of these Committees are diligently searching for a satisfactory solution to the complex problems posed by the land claims. Although the proposals made by the State of Alaska, the Chamber of Commerce, and Senators Stevens and Gravel have not been incorporated into new or existing legislation, these recommendations are also being carefully considered, and a modified compromise version will surely emerge.

V. SUGGESTIONS AND COUNTERPROPOSALS FOR CONSIDERATION

A. Frame of reference

Some of the factors, guiding principles, and considerations which lend to a sensible compromise solution for this complex controversy are summarized below.

1. As previously stated, it seems clear that the burden of ultimate resolution should rest with the U.S. Congress if we are to put this divisive issue behind us in the near future. A judicial resolution would be costly, time-consuming and otherwise extremely unsatisfactory. Because judicial determinations would most likely take place on a tract by tract basis, the State land selection process would be seriously impeded. As a result, Alaska's economic development likely would be retarded for many years, and it is possible that the State and its people would incur large litigation costs by being compelled to participate in multitudinous individual suits. Also, it is unlikely that a judicial resolution would fully and finally extinguish "Indian title", so the resolution might well not be final.

Moreover, the Natives would also suffer from a judicial solution. There would be difficulty proving an actual taking of lands presently used and occupied by the Natives.

Historically, court judgments have resulted in inadequate money judgments, with no provisions being made for conveyance or issuance of title. Almost always, many aspects of the total problem are left unresolved.

2. In my view, the creation of Native reservations in Alaska where they do not now exist would be extremely undesirable. This is paternalistic segregation, certainly at a wrong time in history. Whatever may be the historic validity of the reservation concept in the "Lower 48" or continental United States, reservations in Alaska can only serve to withdraw the Natives from the mainstream of our society. The initial purpose of the few reservations which still exist in Alaska was not to confine the Natives, as was done elsewhere in the United States, but to protect them from exploitation (See *Metlakatla Indian Community, Annette Islands Reserve vs. Egan* 369 US 45 (1961)), or to preserve hunting and fishing areas for those who only knew how to subsist and survive off the land. The legislation under consideration can meet these diminishing needs by other means. However, the creation of any new reservations would indeed be unfortunate and should be avoided.

3. The land claims solution which is ultimately adopted should protect the rich cultural heritage of Alaska's Indians, Eskimos, and Aleuts. Yet, the claims settlement must be designed to afford the Natives the opportunity to become assimilated into general society of Alaskans. Certainly assimilation can take place without destroying the cultural heritage of our Native people, and the cultures and traditions of both our Native and non-Native citizens will be greatly enriched.

4. The land claims settlement should not create a massive Native superstructure which would exist within but in potential conflict with the general government of the State of Alaska; therefore, the creation of a separate and segregated, powerful Native "government" within a government is not necessary, and would be harmful. For this reason, I advocate the establishment of perhaps twelve regional corporations, each of which would have a single delegate or representative on a statewide coordinating assembly or board, with the settlement monies and land going to the regional corporations, and without the legislation sanctioning creation of a statewide corporation. To insure that benefits sift down to the "grass roots" or local level, it would seem desirable to insure that each Native community had a director on the board of the regional corporation in the area where the community is located. With local representation at the regional level, and regional representation at the state level, the views and desires of the individual Native would be best reflected.

5. One of the primary objectives of any solution must be the economic enhancement of the Native community, not because of sympathy or because of need, but for sound and logical geopolitical and geoeconomic reasons. From the legal point of view, any settlement would be in consideration of the extinguishment of "Indian title" in all of Alaska's land and adjacent waters for now and forever more.

6. All of us must recognize that the $900 million in North Slope oil lease bonus payments which the State of Alaska received last September will have a substantial impact on the final resolution of the land claims question. Congress no longer conceives of Alaska as a "poor stepchild." Of course, Alaska still has massive unemployment, a pitifully inadequate "pioneer" highway system, a tragically inept communications network, a crying need for airports and airport and port facilities, et cetera, et cetera, and yet, to be perfectly candid, this "new wealth" has immeasurably complicated an already complex situation. Paradoxically, the $900 million, which is so essential to the social and economic development of Alaska, may have a detrimental impact on certain aspects of the final claims settlement.

7. One of the most baffling and complex questions concerning the land claims settlement is whether the State or the Natives should have preference with respect to the selection of land. The legal aspects of this matter have been discussed earlier; however, there are other considerations. Alaska is an immense land mass. Roughly one-fifth the size of the rest of the United States, the State contains approximately 375 million acres of land (586,400 square miles). Nevertheless, the amount of usable land is severely limited. Only one-third or approximately 125 million acres of the total land mass of Alaska can be used for extended human habitation. This includes all of the land located below the one-thousand-foot elevation, the point customarily used in Alaska to delineate areas hospitable to the establishment of city and village life, farming, fishing, and other normal human habitation. Viewed from another prospective, Alaska's land mass includes about 10 million acres of inland waters, 85 million acres of federal withdrawals for wildlife refuges, forest areas, parks, and monuments, defense establishments, et cetera, 32.6 million acres of glaciers and icefields, and half a million acres within the periphery of or under the jurisdiction of incorporated communities. Of the usable land in Alaska, the State has already patented 5.8 million acres, obtained tentative approval on an additional 7.9 million acres, and has been granted selection rights on another 26 million acres. Thus, in propounding a satisfactory solution to the land claims issue, one must deal with an amount of land significantly less than the total area comprising the land mass of the State of even the total amount of usable land in Alaska.

Recognizing this situation, the Native community has challenged the selection rights which the State has already acquired. The State itself is caught between the Native challenge and the fact that much of the prime land in Alaska already belongs to the federal government. A solution is later proposed which, hopefully, will contribute to the resolution of the selection issue.

8. In recent weeks, the Secretary of the Interior has requested broad authority to modify the "super land freeze" instituted by former Secretary Udall. Although the present freeze has created serious difficulties for many Alaskans, it has generated continuing great pressure, militating toward an early resolution of the land claims issue. This pressure will likely dissipate if broad modification authority is granted by the Congress before imposition of the freeze. Aside from the need for early resolution of the land claims issue, unquestionably everyone would be delighted with the earliest possible lifting of the land freeze. It is distasteful, uncomfortable and a governmental harrassment which we have endured for some time; yet, the objective for which it was levied has not been accomplished. Passage of a meaningful bill at the earliest possible date will bring about an immediate and fully lifting of the land freeze.

B. The Pollock proposal

1. The Allocation of Land

a. Every person on the Native roll living at the date of enactment of the land claims legislation would be entitled to the personal, individual, private ownership of a small piece of land, perhaps one acre. This land would be held in fee simple absolute title by the Native, not by the village or regional corporation or other entity.

In villages where the houses are built close together, a homeowner should be allowed to select a new site within or outside the village boundaries. In this way, every Native would be assured of his full individual land allotment. However, individual selections should not be allowed to conflict with community needs. To make certain that conflicts do not occur, each village should be permitted to reserve enough vacant land to satisfy both village needs and individual land requirements. Perhaps a five-year time limit should be set on the selection of individual lots. During this period, any alienation of individually owned Native land would be subject to the approval of a Statewide Native Commission. Natives living beyond the boundaries of a Native community should likewise be entitled to select comparable acreage on vacant, unreserved, and unappropriated federal land.

b. Each Native village and community should be entitled to select lands within the boundaries of the community to provide central sewer and water facilities, power generation facilities, community hall and multipurpose area, cemetery space, waterfront and airport facilities, access roads, and churches. Additional lands should be allocated to each village for reasonable expansion. Perhaps the total allotment to each village under this subsection should not exceed three times the present village area, without regard to acreage. This community allotment would not include land needed for wood gathering, fishing, berry picking or for investment purposes, but would be limited to lands needed for general community requirements. As in the case of acreage allotted to individual Natives, land allotments for community purposes would be held in absolute fee title, both as to the surface and mineral estates. However, the title should contain a reverter clause or condition subsequent in the event the area is ever abandoned by reason of the village, settlement or community moving elsewhere.

Native villages located within national forests, game reserves or other federal reserves, or in state land selections should nevertheless be permitted to obtain sufficient lands for community needs and reasonable expansion. However, except as may be specifically authorized in the legislation, neither villages nor individual Natives should be allowed to select lands within national forests, military reservations, national monuments, nor should individual Natives be allowed to select lands within reserves, national parks, or encompassing historical sites.

c. Land areas should also be made available within reasonable proximity to the Native communities for subsistence hunting and fishing, wood gathering, berry picking, the grazing of reindeer, and other surface uses. The ownership of this land would remain in the United States government, but the subsistence needs of Natives and non-Natives alike would be protected as long as subsistence hunting and fishing continued to be important to the livelihood of the people involved. Accordingly, subsistence areas should be established and be given a preferential status over sport fishing and hunting, homesteading, timber harvesting, and similar uses. These areas would be in lieu of reservations. To insure their adequate protection and preservation, the legislation should stipulate that subsistence lands could not be converted to any "higher and better use" without a public hearing held after reasonable notice. In such a hearing, the burden of proof would rest with the individual, corporation, or governmental entity seeking a "higher and better use."

d. A reasonable amount of land should also be allocated to the regional corporations purely for investment purposes, including both the surface and mineral estates in fee, individual land selections, community selections and subsistence area selections should be given precedence over State land selections, it appears equitable and just that the

State should have a preference in selection over a significant portion of the land to be selected by the regional corporations for purely investment purposes. However, if the States were to be permitted to select all its authorized 103 million acres of federal lands before any Native selections were accomplished, it is obvious that virtually all of the valuable land would be chosen by the State. Therefore, a selection preference system must be devised, perhaps as follows.

1. Recognizing that the revenues derived from State-owned lands will be used for the benefit of all Alaskans, it would seem the State should be permitted to selection up to 68.7 million acres or two-thirds of the 103 million acres allocated to it under the Statehood Act before any Native investment selection is made by the regional corporations. The time for the initial State selections should be limited to perhaps eighteen months from the date of enactment of the land claims legislation so that the Natives can commence their land investment program as soon as possible. Since the State has already patented or selected 39.7 million acres to the present time, only 29 million of the initial acreage allotment remains to be selected before the Native regional corporations commence selections.

2. Once the State has completed its initial selection rights of up to 68.7 million acres, each of the twelve Native regional corporations should be permitted within two years to select 300,000 acres within its boundaries for its own corporate purposes. This will involve a total additional selection of 3.6 million acres.

3. Next, the statewide board of advisors or delegates from the regional corporations should then be allowed within an additional two years to select an additional 300,000 acres of available remaining vacant, unreserved and unappropriated public land from anywhere in the state for each regional corporation. This would likewise involve a total additional selection of 3.6 million acres.

4. Thereafter, following the initial Native selections, the State would then again exercise its selection rights within eighteen months on up to 34.3 million acres or the remaining one-third of the acreage to which it is entitled under the Statehood Act.

5. Next, again each regional corporation would be permitted within two years to select an additional 300,000 acres within its boundaries for its own corporate purposes. This would again involve an additional total selection of 3.6 million acres.

6. Finally, the statewide board of advisors or delegates would be permitted to select another 300,000 acres of available land for each of the regional corporations from anywhere in the state, thus utilizing another total additional selection of 3.6 million acres.

The selection process which I have just described would permit Alaska's Natives to claim 14,400,000 acres of land for investment purposes. This amount would be in addition to the individual allotments, the community allotments, and the substantial subsistence acreage previously discussed.

By permitting the statewide board composed of delegates from each of the twelve regional corporations to select one-half of the total 14,400,000 acres of investment land for the regional corporations, the Natives would be able to acquire ownership of large blocks of land in those areas of the State where the investment potential is greatest, or where large amounts of land are necessary to make certain uses feasible, i.e., reindeer herding. Also, the selection method outlined above would help to facilitate a relatively equal distribution of wealth between the richer and poorer regional areas.

2. The Taxation of Lands Privately Owned by Natives

Ultimately lands privately owned by Natives should be subject to the same laws regarding taxation and alienation as are now applicable to lands owned by non-Native Alaskans. However, before equal treatment can become practicable, individual Natives must acquire more knowledge and sophistication about property laws and taxation. Therefore, indoctrination can be accomplished through a program of gradual increased tax liability on personally owned real property. As an example, an individual Native could be required to pay only 10% of any property tax assessed during the first year following his acquisition of property pursuant to the land claims legislation.

In other words, there would be a 90% moratorium on real property taxes in the first year. During the second year, the moratorium would be applicable to 80% of the assessed property taxes, thus, requiring a 20% payment. The third year, the moratorium would be reduced to 60%, then to 40% in the fourth year, and 20% in the fifth year. Thereafter, Natives would be required to pay the same property taxes as non-Natives. If an individual Native conveyed his land anytime during the five-year moratorium period, the moratorium would automatically terminate and the land would be subject to full taxation by the successor in interest, whether he or she was a Native or not.

3. Money Grant as Part of Consideration To Extinguish Claim

The Department of the Interior and the Bureau of the Budget have previously approved a grant of $500 million for the Alaska Natives as part of the settlement, as consideration for the full, permanent extinguishment of all past, present, and future aboriginal claims, i.e., for the abolishment of all claims of whatever nature based upon "Indian title." The $500 million should be authorized by the Congress and the money appropriated according to the following formula. $11.5 million for the first year for each of the twelve regional corporations ($138 million), and thereafter, $5 million per year for each of the twelve regional corporations ($60 million annually) for six additional years (or a total of $360 million after the first year). The remaining $2 million could be placed at the disposal of the statewide board of regional delegates for coordinated efforts in welfare or investment objectives and for administrative expenses.

Anyone who understands the federal budget, fiscal and expenditure process knows that the Congress customarily authorizes funds in one piece of legislation and appropriates in another. Therefore, there is a danger that this Congress might well authorize the full amount according to the legislative formula, but that future Congresses may be reluctant to appropriate the authorized annual allocations. This hazard can be alleviated by a full understanding by the Congress of the good faith commitment and implied contract by the United States in exchange for the extinguishment of a previously recognized and honored "Indian title" held by the Alaska Natives. Of course, this presupposes that the Administration will likewise continue to honor the commitment by annually including the authorized dollars in the budget.

4. Revenue-Sharing

Unquestionably, the most controversial aspect of the entire Native land claims issue is the provision in the AFN proposal calling for 2% of the gross value of all leaseable minerals produced from any lands in federal ownership from the time of statehood as additional consideration for the extinguishment of all aboriginal land claims. This was the proverbial "straw that broke the camel's back", as far as the non-Native community was concerned. Until this revenue-sharing provision was introduced, there was much general support and only passive resistance to the enactment of the land claims legislation. Its introduction began the polarization of advocates and adversaries.

Yet, there is perhaps a middle ground that both sides can tolerate, so that the revenue-sharing concept need not be fully accepted nor fully rejected. Later in this treatise the possibility of State participation is discussed more fully with reference to monetary contributions derived from oil revenues to finance State public works projects in remote areas, such as water and sewer systems, power generation facilities, access roads, schools, refrigeration and storage facilities, and the like. This would be in lieu of a further state contribution of any percentage of the value of leaseable minerals. However, legislation could provide that the federal government contribute 20% of its share of revenues derived from the continental shelf of Alaska for a period of twenty years or until the amount of $500 million of such revenues is sooner contributed.

5. Administration of the Land and Moneys

To the extent possible, each of the twelve regional corporations would be approximately equal in size and population and would encompass a recognizable geographical area. As indicated above, the investment land and the money would be channeled into the regional corporations. Such an allocation of grant funds would result in each of the twelve corporations receiving approximately $41.5 million. Not less than approximately half of this amount, or $21,000,000, should be placed in the regional investment fund. The remaining money might be channeled into a regional welfare fund. The welfare fund would be used for scholarship funding, perhaps community utilities, housing, and for similar endeavors which are not generally recognized economic responsibilities of the state, and possibly even a limited per capita distribution of cash from the investment fund could be used to finance business and other economic ventures for the region.

Each regional corporation would be authorized to issue shares of stock to the Natives enrolled in that region. Each share would represent an individual Native's participation in the financial aspect of the land claim settlement. When it would be financially sound to do so, distributions to the shareholders could be made out of earned surplus. However, it may be desirable that the stock in the regional corporations be inalienable for a period of five or ten years. By that time, the welfare fund would likely be exhausted, and the regional corporation could then assume the status of any other investment venture. At that point in time, the corporation shares could be made public and be traded on the open market to anyone who wished to purchase them because of their sound investment potential.

6. Functions of the Statewide Board of Regional Delegates

The statewide board of regional delegates, alluded to earlier, would have a dual coordinating function. First, it would administer the statewide selection of the second category of acreage for each regional corporation, as previously indicated, and would distribute miscellaneous surplus income to the twelve regional corporations. Second, the statewide board might provide administrative services, legal counseling, and financial and other technical services as may be requested by the regional corporations. The statewide board should be authorized to assess a reasonable service fee to cover costs incurred in connection with these functions, with requirement for annual audit, the results of which should be made available to the regional corporations.

7. State Participation in the Land Claims Settlement

If the resolution of the land claims is to be accomplished by legislation, Congress must determine, among myriad things, whether it will attempt to compel the State of Alaska to participate in the final settlement. Many Alaskans argue with considerable

conviction that there is no valid Native land claim against the State, but only against the federal government. These people point out that no state has ever been compelled to participate financially with the federal government in the settlement of an aboriginal land claim. From this, they conclude that Alaska cannot be forced to share in the federal obligation involved in the land claims unless every other state is also required to participate. Adherents to the non-participation view further contend that the State cannot constitutionally appropriate funds on a racially oriented basis for only one segment of the population.

From a judicial point of view, it would appear that the State could not be forced to participate in the land claims settlement. Nevertheless, the Governor and the Legislature must still make a considered collective determination whether there are moral, economic, or political reasons which would justify a meaningful state contribution. Certainly State participation in the land claims settlement is not a new idea. The Alaska Legislature enacted Chapter 177 in the 1968 session providing $50 million out of revenues derived from lands in Alaska, but conditioned upon passage of federal land claims legislation in the Congress of that year, which did not occur.

Some members of the House and Senate Interior and Insular Affairs Committees feel strongly that the State should participate in some manner. If, in fact, the members of these Committees do have such an opinion, there can be little doubt that State participation would help substantially to insure the enactment of relevant legislation during the present session of Congress.

Should the State determine to participate, its monetary contribution could be derived from oil revenues without otherwise utilizing available state funds. Such a contribution might also be allocated equally to each of the twelve regional corporations, or the state could decide instead to appropriate funds to finance State projects in remote areas. Such funds might be used in areas heavily populated by Natives to construct water and sewer systems, power generation facilities, access roads, community building, schools, and refrigeration storage facilities, as an example. In the wisdom of the Legislature, the contribution of the State could be made contingent upon Congressional action to resolve the land claims situation.

8. Native Enrollment

Historically, one-fourth blood has been used to determine whether or not a particular individual qualifies as a Native for the purpose of receiving benefits under federal land claims legislation. In Alaska, such a criterion would impose a considerable hardship on hundreds of our citizens, for many Natives in Alaska, such as the Aleuts, have been closely associated with non-Natives for over two hundred years. It would seem that the one-fourth blood criterion should be expanded to include any person of lesser Native blood who is actually living as a Native and is considered to be such by the community or regional corporation. Because the qualification decision will often be a difficult one, and because an adverse determination would create severe hardship, an aggrieved applicant should have the right of appeal and ultimate judicial review.

9. Administrative and Judicial Review

In order to resolve disputes concerning blood quantum, to compile a list of Natives who qualify for land claims participation, to settle disputes arising out of land selections, and to process the appeal of any other matter relating to land claims legislation, a five-member Alaska Native Claims Commission should be established for limited duration. This Commission would be appointed by the President of the United States and would have initial administrative jurisdiction over all disputes arising out of the claims settlement. Three members of the Commission should be Alaskan Natives, the fourth would be recommended by the Governor of Alaska and approved by the State Legislature in joint session assembled, and the fifth would be a member-at-large chosen by the President. No more than two of the Native members nor more than three members of the total Commission should be from the same political party. Recognizing that many public entities created for a temporary purpose often manage to achieve a permanent status in contravention to original legislation intent, the life of the Commission should be limited to perhaps five years. The Commission members would be federal employees in an annual salary range approximating $25,000, perhaps with an additional $25,000 for the Commission chairman. The Commission should be authorized necessary staff and allowances. If a further extension of time for the life of the Commission proves necessary and is authorized by the Congress, the compensation of Commission members could then be placed on a per diem basis instead of continuing on an annual salary.

10. Competitive Versus Noncompetitive Mineral Leasing

The legislative proposals which represent the positions of the Federal Field Committee, the Department of the Interior, and the Alaska Federation of Natives all contain provisions that would prohibit the future granting of non-competitive leases on certain minerals, including oil, located in public lands in Alaska. This prohibition should be eliminated from the bills under consideration for two reasons. First, the subject of competitive leasing is not germane to a land claims settlement, and, thus, it is inappropriate in the legislation. Second, there should be a provision in the law for some balance between the awarding of competitive and non-competitive leases. Otherwise, the small mineral developer with little capital will be prohibited from competing in the exploration and development. This opportunity should not be a privilege reserved to large and wealthy petroleum and mining concerns. Alaska has many small and struggling mining firms which rely on non-competitive leases, because they cannot afford to compete on the open market with the very large companies. Also, many individual Alaskans invest in non-competitive oil leases on the geographical fringes of discovery areas and in regions of exploration and often financially assist small concerns in their exploratory ventures. This is healthy involvement of the interested citizen. The continuation of the present system of laws and regulations regarding mineral leasing would insure the prosperity of both the large and small producers.

11. Homesteading and Other Entries versus Native Land Claims

Any homestead or other legal entry made on public lands prior to December of 1966 (when the informal land freeze was inaugurated), should be honored pursuant to existing law, without regard to the Native land claims. Any entry on public lands after that time should be presumed to be with knowledge of the land freeze and the claims of Alaska's Natives.

12. The Bureau of Indian Affairs and the Public Health Service

The benevolent and protective Bureau of Indian Affairs could be phased out of Alaska within a reasonable period of time. Most of the functions now performed by the BIA could be assumed by the State, including the administration of federal educational funds for the Natives of Alaska under the applicable federally administered programs.

In addition, Public Health Service hospitals in remote areas of Alaska, now available only to Natives, should also be made available to non-Native patients when other medical facilities are not readily available. Those Natives and non-Natives who can afford to pay for medical care should do so, but the indigents of all races should be treated on a cost-free basis. Both the BIA and PHS services and facilities in Alaska and elsewhere in the nation are government bureaucracies which foster segregation needlessly at the taxpayer's expense.

VI. CONCLUSION

It must be abundantly clear that we are dealing with an exceedingly complex problem, and a solution totally acceptable to all will not be possible. Thus, it is of utmost importance that every Alaskan citizen, Native and non-Native alike, provide the Alaskan Congressional delegation with trust, understanding, and confidence that the best possible end result will emerge for all. Every possible alternative will be explored and maximum effort will continue to be exerted to achieve a satisfactory balance between the opposing extremes. Hopefully, this treatise will contribute to a satisfactory resolution by bringing about a more comprehensive understanding of the Native land claims issue.

I am convinced that a "political" solution is preferable to a piecemeal of any other judicial determination. Yet, if a legislative solution is not achieved during the present session of Congress, the federal legislature will likely enact enabling legislation to permit the Native community to seek judicial redress from the United States government. Because of the profoundly deleterious impact which the time-consuming judicial alternative would have on the Natives and on the entire State, everything possible must be done to bring about a satisfactory legislative solution.

Recognizing the present wide divergence of opinion as to a proper solution, and the polarization of opposing views, perhaps the ultimate criterion of whether the Congress has handled the matter wisely will be the extent to which all interested parties are equally unhappy. Hopefully, in the near future the matter will be put to rest, and this explosive issue which has divided Alaskans will be but a cloudy moment in the otherwise radiant history of a determined and happy people who are privileged to live in a dynamic, emerging young state.

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. GROSS, for 30 minutes, today.

Mr. POLLOCK, for 5 minutes, today, to revise and extend his remarks and to include extraneous matter.

(The following Members (at the request of Mr. ANDERSON of Illinois) and to revise and extend their remarks and include extraneous matter:)

Mr. HOGAN, for 1 hour, today.

(The following Members (at the request of Mr. FUQUA) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. FARBSTEIN, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BOLAND in two instances and to include extraneous matter.

Mr. BURKE of Massachusetts and to include extraneous matter.

Mr. GROSS in two instances and to include extraneous material.

(The following Members (at the request of Mr. ANDERSON of Illinois) and to include extraneous material:)

Mr. LANGEN.
Mr. CHAMBERLAIN.
Mr. STANTON.
Mr. LUKENS.
Mr. MCCLOSKEY in three instances.
Mr. FINDLEY in two instances.
Mr. AYRES.
Mr. SCHWENGEL.
Mr. BUTTON.
Mr. GERALD R. FORD.
Mr. ANDERSON of Illinois.
Mr. HOGAN.
Mr. BYRNES of Wisconsin.

(The following Members (at the request of Mr. FUQUA) and to revise and extend their remarks:)

Mr. FRASER in two instances.
Mr. FARBSTEIN in two instances.
Mr. WILLIAM D. FORD in two instances.
Mr. DIGGS in seven instances.
Mr. MONAGAN in four instances.
Mr. ICHORD in two instances.
Mr. MAHON.
Mr. MINISH.
Mr. RARICK in four instances.
Mr. FUQUA.
Mr. MATSUNAGA.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1289. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes; to the Committee on the District of Columbia.

S. 3072. An act to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILLS SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13448. An act to authorize the exchange, upon terms fully protecting the public interest, of the lands and buildings now constituting the United States Public Health Service Hospital at New Orleans, Louisiana for lands upon which a new United States Public Health Service Hospital at New Orleans, Louisiana may be located; and

H.R. 14289. An act to permit El Paso and Hudspeth Counties, Texas, to be placed in the mountain standard time zone.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on March 27, 1970, present to the President, for his approval, a bill of the House of the following title:

H.R. 4148. An act to amend the Federal Water Pollution Control Act, as amended, and for other purposes.

ADJOURNMENT

Mr. FUQUA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Thursday, April 2, 1970, at 12 o'clock noon.

COMMUNICATION FROM NASA

The following communication to the Speaker from the Administrator of the National Aeronautics and Space Administration:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., March 25, 1970.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: This is a report to the Congress pursuant to Section 4 of the Act of August 28, 1958 (72 Stat. 972), submitted to the Speaker of the House of Representatives pursuant to Rule XL of that House.

During Calendar Year 1969, the National Aeronautics and Space Administration utilized the authority of the above-cited statute as follows:

1. Extraordinary contractual adjustments authorized by the NASA Contract Adjustment Board:

a. Under date of June 10, 1969, the Board authorized the adjustment of a contract for a man-carrying motion generator with Genisco Technology Corporation. The relief granted clarified the intent of an earlier Board decision so as to enable Genisco to obtain consideration on the merits of other claims for equitable adjustment or contractual relief to which it may be entitled. The amount of relief which might be obtained under such claims is not yet ascertainable.

b. Under date of June 10, 1969, the Board authorized the adjustment of a contract for the Saturn S-1B stage for a C-1 launch vehicle with Chrysler Corporation. Relief was granted on the basis of mutual mistake of a material fact, so as to authorize Chrysler to be paid a flight performance incentive fee for a successful space mission. The maximum relief that could be authorized would be $79,400, but it is subject to determination by the contracting officer.

c. Under date of December 18, 1969, the Board authorized the adjustment of a contract for system management for the Scout launch vehicle with LTV Aerospace Corporation. Relief was granted by amending the contract so that LTV could submit its case to an Award Evaluation Board which would decide if LTV is entitled to restoration of all or part of a penalty which had been assessed because vehicle performance requirements specified in the contract had not been fully met, although the mission involved had been adjudged to be successful. The maximum amount which could be granted is $375,000.

2. Actions under Project Stabilization Agreement applicable to construction work at Cape Kennedy, Florida.

Under date of September 26, 1962, the Administrator of NASA made a determination pursuant to the Act of August 28, 1958 (Public Law 85-804), that from and after September 26, 1962, all contracts, or amendments, or modifications thereof, for the performance of construction work at the Patrick Air Force Base, Cape Kennedy, and the John F. Kennedy Space Center, should include a clause requiring contractors and all subcontractors thereunder to abide by money provisions of a Project Stabilization Agreement, to the extent such money provisions are determined by the Government to be reasonable. The Project Stabilization Agreement referred to is an agreement negotiated by and between the Patrick Air Force Base Contractor's Association and other local and national association of contractors, and the Brevard Building and Construction Trades Council of the Building and Construction Trades Department, AFL-CIO. The purpose of this agreement is to promote stability, efficiency, and economy of performance of contracts involving construction work at Patrick Air Force Base and the Cape Kennedy complex. The agreement was originally negotiated in 1962, and amendments were re-negotiated again on April 1, 1964, and April 1, 1967. On June 23, 1969, the unions and employers association agreed to extend the Project Stabilization Agreement without amendments for a two-year period ending March 31, 1971.

Pursuant to this determination, during 1969, one amendment to be an existing contract and two new contracts for construction were awarded for a total of $6,729,073 which included the clause making the money provisions of the above Project Stabilization Agreement applicable.

3. Action under Project Stabilization Agreement applicable to construction work at the Mississippi Test Facility.

Under date of June 22, 1967, the Deputy Administrator of NASA made a determination similar to that described in Paragraph 1 above with respect to contracts and subcontracts for construction work at the Mississippi Test Facility, in implementation of a revised Project Stabilization Agreement dated July 1, 1966, which had been negotiated for that area. (The original Agreement expired on June 30, 1966.) During 1969, there were no amendments to existing contracts. One new construction contract for an amount of $90,000 was awarded in 1969 at the Mississippi Test Facility which made applicable the clause which included the money provisions of the revised Project Stabilization Agreement.

On October 3, 1969, the Administrator of NASA cancelled the determination under Public Law 85-804 dated June 22, 1967, providing for the inclusion of a clause in all construction contracts and subcontracts which required contractors and subcontractors to abide by the money provisions of the Mississippi Test Facility Project Stabilization Agreement. Future construction contracts executed at Mississippi Test Facility will continue to contain a clause providing coverage under the Davis-Bacon Act and the required minimum rate schedule furnished by the Department of Labor.

Sincerely,

T. O. PAINE,
Administrator.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1837. A communication from the President of the United States, transmitting proposed supplemental appropriations and other provisions for the District of Columbia for the fiscal year 1970 (H. Doc. No. 91-288); to the Committee on Appropriations and ordered to be printed.

1838. A letter from the Chief Justice of the United States, transmitting proposed amendments to the Federal Rules of Appellate Procedure which have been adopted by the Supreme Court pursuant to 28 U.S.C. 2072 and 2075 and 18 U.S.C. 3771-3772, together with a report of the Judicial Conference of the United States pursuant to 28 U.S.C. 331 (H. Doc. No. 91-290); to the Committee on the Judiciary and ordered to be printed.

1839. A letter from the Chief Justice of the United States, transmitting proposed amendments to the Rules of Civil Procedure for the U.S. district courts which have been adopted by the Supreme Court pursuant to 28 U.S.C. 2072, together with a report of the Judicial Conference of the United States pursuant to 28 U.S.C. 331 (H. Doc. No. 91-291); to the Committee on the Judiciary and ordered to be printed.

1840. A letter from the Secretary of Agriculture, a report on the agricultural conservation program for the fiscal year ending June 30, 1969, pursuant to the provisions of 50 Stat. 329; to the Committee on Agriculture.

1841. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Justice for the Federal prison system for the fiscal year 1970 has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665); to the Committee on Appropriations.

1842. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting the report on Department of Defense procurement from small and other business firms for July 1969-January 1970, pursuant to the provisions of section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

1843. A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting a draft of proposed legislation to authorize the District of Columbia to issue obligations to finance District capital programs, to provide Federal funds for District of Columbia institutions of higher education, and for other purposes; to the Committee on the District of Columbia.

1844. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to provide for improvements in the administration of the Government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

1845. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation to provide improvements in the administration of health services in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

1846. A letter from the Assistant to the Commissioner, District of Columbia, transmitting a draft of proposed legislation relating to crime in the District of Columbia; to the Committee on the District of Columbia.

1847. A letter from the Assistant Secretary for Economic Affairs, Department of State, transmitting the 22d report on the Mutual Defense Assistance Control Act of 1951 (Battle Act); to the Committee on Foreign Affairs.

1848. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Bureau of Engraving and Printing Fund for fiscal years 1968 and 1969, pursuant to the provisions of 31 U.S.C. 181; to the Committee on Government Operations.

1849. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on extraordinary contractual actions in which the National Aeronautics and Space Administration utilized the authority granted, pursuant to the provisions of 72 Stat. 972; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted March 28, 1970*]

Mr. PATMAN: Committee on Banking and Currency. H.R. 15073. A bill to amend the Federal Deposit Insurance Act to require insured banks to maintain certain records, to require that certain transactions in U.S. currency be reported to the Department of the Treasury, and for other purposes; with amendments (Rept. No. 91-975). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 16724. A bill to require local consultation in Federal construction projects; to the Committee on Public Works.

By Mr. WILLIAM D. FORD (for himself, Mr. HAWKINS, Mr. DENT, Mr. BURTON of California, Mrs. MINK, and Mr. ERLENBORN):

H.R. 16725. A bill to amend the Department of Defense Appropriation Act, 1970, to permit the expenditure of funds for the education of children of deceased servicemen overseas; to the Committee on Appropriations.

By Mr. FUQUA:

H.R. 16726. A bill authorizing the Secretary of the Army to make a survey of Black Creek, Clay County, Fla.; to the Committee on Public Works.

By Mrs. HECKLER of Massachusetts (for herself, Mr. MILLER of Ohio, and Mr. COHELAN):

H.R. 16727. A bill to provide for the issuance of a gold medal to the widow of the Reverend Dr. Martin Luther King, Jr., and the furnishing of duplicate medals in bronze to the Martin Luther King, Jr., Memorial Fund at Morehouse College and the Martin Luther King, Jr., Memorial Center at Atlanta, Ga.; to the Committee on Banking and Currency.

By Mr. HELSTOSKI (for himself and Mr. BIAGGI):

H.R. 16728. A bill to reclassify certain positions in the postal field service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MONAGAN:

H.R. 16729. A bill to amend the Internal Revenue Code of 1954 by imposing a tax on the transfer of explosives to persons who may lawfully possess them and to prohibit possession of explosives by certain persons; to the Committee on Ways and Means.

By Mr. OTTINGER:

H.R. 16730. A bill to authorize the U.S. Commissioner of Education to make grants to or contracts with public educational and social service agencies for the conduct of special educational programs and activities concerning the use of drugs; to the Committee on Education and Labor.

By Mr. RIVERS:

H.R. 16731. A bill to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

H.R. 16732. A bill to amend title 37, United States Code, to provide that enlisted members of a uniformed service who accept appointments as officers shall not receive less than the pay and allowances to which they were previously entitled by virtue of their enlisted status; to the Committee on Armed Services.

By Mr. FARBSTEIN:

H. Con. Res. 563. Concurrent resolution condemning Soviet treatment of its Jewish population; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H. Con. Res. 564. Concurrent resolution expressing the sense of the Congress in opposition to the high interest rate policy; to the Committee on Banking and Currency.

By Mr. RARICK:

H. Con. Res. 565. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of denial of the right to self-determination, and other human rights, including genocide, in Soviet-occupied Byelorussia on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ICHORD introduced a bill (H.R. 16733) for the relief of Dr. Teresita Guerrero Boylon, which was referred to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII,

345. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to a proposed constitutional amendment abolishing the electoral college and providing for the election of the President and Vice President by popular vote, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

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

426. By the SPEAKER: Petition of Henry Stoner, York, Pa., relative to enacting pending legislation on various matters; to the Committee on the Judiciary.

427. Also, petition of the legislature of the county of Erie, Buffalo, N.Y., relative to enactment of the bill, H.R. 13982, entitled "Revenue Sharing Act of 1969"; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

STATEMENT TO THE PEOPLE OF VIRGINIA

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to insert as extension of remarks a statement by me to the people of Virginia on March 17, 1970.

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

STATEMENT BY U.S. SENATOR HARRY F. BYRD, JR., MARCH 17, 1970

My dear fellow-Virginians: I would like to think out loud with those whom I have the high honor—and the great responsibility—to represent in the Senate of the United States.

I love Virginia. I love every area of Virginia—every mountain, every valley, every seashore. And I love her people.

Our people are, I feel, forward looking, responsible and moderate. We realize, too, that those of us representing the public must be attuned to the 1970's. We realize that times and conditions change—but that fundamental principles do not.

As you know, I have spent most of my adult life serving the people of Virginia to the best of my capabilities. For 18 years I served in the Senate of Virginia. I am now in my fifth year in the Senate of the United States.

During the past four sessions of the Congress, I have cast more than 1,000 recorded votes. My votes, my speeches, my views are a matter of record. This is available to all.

I cannot change that record. I would not change it if I could. I realize that no one will agree with every vote, but in each of them I have voted my convictions.

I have fought for the programs of the President—Democrat or Republican—when I thought he was right. I have fought against the programs of the President—Democrat or Republican—when I thought he was wrong.

I have acted independently of party lines. But I feel I have acted in the best interests of Virginia and of our nation. I have maintained that independence because I believe Virginians are independent, free-thinking people.

My term as United States Senator expires next January. This coming November, Virginians will vote to determine whom they wish to represent them in the United States Senate for the following six years.

I have given considerable thought as to how I can best submit my record to the voters of Virginia for their approval or disapproval.

The problems which face our nation are immense—both at home and abroad. The war. Inflation. Civil Unrest. Crime. Pollution of air and water. Unrestrained government spending. Heavy taxation.

There is no Democratic solution to these problems; there is no Republican solution.

Party labels mean less and less to Virginians—and, indeed, to most Americans. They know that it is principle, rather than labels, upon which this nation was built.

In this modern age, more and more Virginians are thinking in terms of the general election. Fewer and fewer are participating in primaries. The best evidence of this was last year's gubernatorial primary. It drew fewer than one-fourth of the qualified voters.

Another important factor must be taken into consideration.

During 1969, the various candidates for Governor spent a total of $3 million. This is a staggering sum. Never before in Virginia have such huge sums been spent to achieve public office.

This is a deplorable trend. It discourages many from seeking public office. It could lead to undue influence.

Virginia, long noted for its integrity in high office, must not go the way of other states where elections are decided by wild spending.

Obviously, two election campaigns—a Primary followed by a General Election—would be twice as expensive as one campaign. Is this in the best interests of the people of Virginia?

I have listed two factors in my thinking.

Now we come to the most important.

Last month the Democratic State Central Committee took an unprecedented step. For the first time in 40 years, a Virginia Senator, if he is to seek re-election in the Democratic Primary, will be required to sign an oath that he will support for President whoever is selected by the Democratic National Convention.

Veteran political writer John F. Daffron reported for The Associated Press the actions of the committee in these words:

"RICHMOND.—The Virginia Democratic Party agreed yesterday to require candidates for office to pledge support of all Democratic nominees from the courthouse to the White House."

The Committee is within its rights to require such an oath. I do not contest its action.

But this action has made it impossible for me to file in the Democratic Primary.

I cannot, and will not, sign an oath to vote for and support an individual whose identity I do not know and whose principles and policies are thus unknown.

To sign such a blank check would be, I feel, the height of irresponsibility and unworthy of a member of the United States Senate.

I have given this matter a great deal of thought since the Committee action three weeks ago.

I am told that I could sign such an oath and forget it.

Perhaps there is a technicality behind which I could hide, but the intent of the Committee requirement is clear.

Whatever I do, I want to do in good faith.

One reason Americans, and especially our young people, have become cynical about persons in public life is because too many politicians have become cynical, saying one thing prior to election and feeling free to do something else after election.

No one knows today who will be the Democratic nominee for President in 1972—nor who will be the Republican nominee. No one knows what philosophy they will advocate.

The year 1972 will be a crucial one for our nation.

Before making a decision as to whom I shall support for President, I want to know the alternatives—and just where each candidate stands on the dominant issues.

To forfeit now my right to do this is to me unthinkable.

I had thought that this matter of a loyalty oath had been settled 18 years ago when Virginia's Governor John S. Battle told the 1952 Democratic National Convention in these words . . . "We in Virginia are not going to sign any pledge or any commitment which will prevent freedom of thought and freedom of action."

Governor Battle made this statement in the convention four days before a presidential candidate was chosen. I would be required to subscribe to an oath two years before a candidate is chosen.

I am anxious to serve the people of Virginia in the United States Senate. I love our country, and I feel I can continue to make a contribution to Virginia and to the nation as a United States Senator.

Occasionally there comes a time when one must break with precedent, when one must do the unusual.

For me, such a time has come.

I shall take a fresh approach—to some, perhaps, a bold approach.

At this particular time—in this particular situation—in this particular election—I feel I can best serve Virginia by taking my record directly to all of the people of Virginia in November.

Now is not the time—it is too early—to announce my candidacy for the Senate. But being an independent Democrat I shall, at the appropriate time, file as an Independent in order to preserve my freedom of action.

I realize full well the difficulties I face in this decision, the course I am taking is an uncharted one.

But I would rather be a free man than a captive Senator.

I want and need the support of all Virginians—Democrats, Republicans, Independents.

At a later date—between now and November—I shall discuss in detail my Senate record, and I shall continue to make known my views on the great issues facing our nation.

I have been independent in casting my votes in Washington, and I shall take only one oath—and that to the people of Virginia: To conscientiously and impartially serve all the people of our great state.

SHOE INDUSTRY FACING EXTINCTION

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. BURKE of Massachusetts. Mr. Speaker, may I again call to the attention of the Members of the U.S. Congress the growing problem of the domestic footwear industry caused by accelerating imports. The enclosed report by the American Footwear Manufacturers Association reveals in a very graphic manner why the footwear industry is suffering, why shoe factories are closing, and why thousands of shoe workers in the United States are losing their jobs. Indeed, no single industry has been called upon to make the sacrifices now being made by the footwear industry. No group of Americans have lost their jobs as a result of a failure by the Government to give them a minimum of protection—this is the least that the shoe workers could expect. While American dollars are being invested in shoe plants in foreign countries where labor is exploited, unemployment rates in the shoe industry here at home continue to climb. Our unemployment compensation funds are being drained—local communities lose tax producing properties, the tax

revenues of the home State and the Nation are reduced and the shoe industry is being eroded and is facing extinction. I trust this problem will be dealt with in the coming months.

A meeting was held at the White House on September 23, 1969, with President Richard M. Nixon, members of the Congressional Footwear Committee and representatives of the American Shoe Industry to urge President Nixon to offer domestic footwear manufacturers relief from steadily increasing import injury through voluntary quotas.

Present were Congressman JAMES A. BURKE of Massachusetts, Congressman LOUIS C. WYMAN of Maine, Congressman HERMAN T. SCHNEEBELI of Pennsylvania, Congressman PHIL LANDRUM of Georgia, Congressman HASTINGS KEITH of Massachusetts, Congressman MELVIN PRICE of Illinois, Senator MARGARET CHASE SMITH of Maine, Senator THOMAS J. MCINTYRE of New Hampshire, Senator EDMUND S. MUSKIE of Maine, Senator NORRIS COTTON of New Hampshire, Senator EDWARD W. BROOKE of Massachusetts, Senator HUGH SCOTT of Pennsylvania.

Members of the shoe industry who were present included George Fecteau, president, United Shoe Workers of America, AFL–CIO; William Scanlon, Boot and Shoe Workers of America; F. Keats Boyd, president, B. A. Corbin & Son, Co., Marlboro, Mass.; Hadley Griffin, president, Brown Shoe Co., St. Louis, Mo.; Alan Goldstein, Plymouth Shoe Co., Middleboro, Mass.; Robert S. Lockridge, Craddock-Terry Shoe Co., Lynchburg, Va.; Mark Richardson, president, National Footwear Manufacturers Association, William Sheskey, president, Commonwealth Shoe & Leather Co., Whitman, Mass.; A. Meyer, president, Gutmann & Co., Chicago, Ill.

I include for the RECORD the associations' March 13, 1970, report:

AMERICAN FOOTWEAR MANUFACTURERS ASSOCIATION,
New York, N.Y., March 13, 1970.

REVIEW OF A DECADE—AND BEYOND
LEATHER AND VINYL FOOTWEAR

The years 1968 and 1969 represent the end of a dramatic decade favoring imports at the expense of U.S. production. From 1968 to 1969 production decreased in the six age-sex categories, some drastically, with the greatest drop in women's (−17.1%), while imports substantially increased. For all types, production decreased by −9.3%, while imports rose 11.6%. The largest percentage change in imports occured in men's, juvenile and athletic shoe categories, thus portending a replay in these types similar to women's imports over the decade (Table I)

Among the nine types footwear, the trend of production during the Sixties showed either no growth or a decline (except in Men's and Slippers). Therefore, total production showed no growth in these 10 years. (Table II)

On the other hand, imports for the decade rose substantially or phenomenally for the six age-sex categories. (Table III)

The impact of imports is shown in the penetration tables where imports are taken as percentages of production (Table IV) and of market supply (Table V). Although all six age-sex types were deeply penetrated, women's footwear was hit the hardest.

What does the future hold for domestic production? The outlook is bleak! If the January, 1970, volume of imported footwear of 21.4 million pairs is 36.9% ahead of the average month of 1969. The January, 1970, price (F.O.B.) per pair is $1.90 or 13.6% less than the $2.20 per pair figure of 1969. This means that more imports are coming in at cheaper prices.

TABLE I.—DOMESTIC PRODUCTION VERSUS IMPORTS OF LEATHER AND VINYL FOOTWEAR COMPARING PERCENTAGES OF CHANGE IN PAIRAGE BY TYPES BETWEEN 1968 AND 1969

Type of footwear	Percentage of increase or decrease in pairs (1969–1968)	
	Domestic production	Imports
Men's	−3.4	+34.1
Youths' and boys'	+.4	+25.0
Women's	−17.1	+6.5
Misses'	−13.0	+32.1
Children's	−11.4	+14.3
Infants' and babies'	−10.5	+15.4
Athletic	+1.2	+47.1
Slippers	+3.4	−37.9
Other	−19.1	−35.7
Total, all types	−9.3	+11.6

Note: This table is based on tables II and III, respectively Domestic Production of Leather and Vinyl Footwear by Types and Imports of Leather and Vinyl Footwear by Types.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE II.—DOMESTIC PRODUCTION OF LEATHER AND VINYL FOOTWEAR BY TYPES

[In millions of pairs]

Year	Men's	Youths' and Boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	100.6	24.1	279.8	40.2	32.7	36.6	7.0	73.5	5.5	600.0
1961	103.3	24.2	273.4	39.2	31.7	35.8	6.6	72.6	6.1	592.9
1962	112.7	25.6	288.2	36.8	32.5	37.0	10.1	83.0	7.4	633.2
1963	110.7	24.0	275.2	35.5	30.7	33.5	9.8	77.6	7.2	604.3
1964	119.9	25.4	271.1	37.0	30.4	32.8	6.9	78.9	10.3	612.8
1965	118.2	25.6	279.9	36.5	33.5	32.5	7.0	90.2	[1] 2.8	626.2
1966	126.9	24.6	284.2	35.9	33.6	32.5	7.3	93.8	2.9	641.7
1967	123.7	25.3	258.0	27.6	30.7	30.0	6.9	95.6	2.0	600.0
1968 [2]	126.3	23.5	283.7	33.0	31.4	28.7	8.3	105.4	2.1	642.4
1969 [3]	122.0	23.6	235.2	28.7	27.8	25.7	8.4	109.0	1.7	582.1

[1] Not comparable to previous years due to Government changes in definition of "Other" type of footwear.
[2] Latest revised Department of Commerce figures for 1968.
[3] Preliminary estimates of 1969 production made by the American Footwear Manufacturers Association are based on the 1st 11 months of Department of Commerce data. These estimates are most likely slightly too high due to expected seasonal drop in December domestic production.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE III.—IMPORTS OF LEATHER AND VINYL FOOTWEAR BY TYPES

[In millions of pairs]

Year	Men's	Youths' and boys'	Women's [1]	Misses'	Children's	Infants' and babies'	Athletic	Slippers [2]	Other	Total
1960	6.4	0.8	14.0	0.4	0.4	0.5	----------	4.1	----------	26.6
1961	8.1	1.0	21.3	.6	.6	.8	----------	4.3	----------	36.7
1962	13.1	1.6	36.6	1.1	1.2	1.5	----------	7.9	----------	63.0
1963	12.4	1.5	37.9	1.1	1.1	1.4	----------	7.4	----------	62.8
1964	13.5	1.6	49.6	1.5	2.3	2.8	----------	4.1	----------	75.4
1965	15.2	2.0	52.3	1.5	2.5	3.4	1.1	8.6	1.1	87.6
1966	15.9	2.2	63.7	2.4	3.2	3.0	1.2	3.6	1.0	96.1
1967	19.6	3.0	90.4	3.2	4.7	2.8	1.4	3.1	.9	129.1
1968	26.1	3.6	124.9	5.3	7.0	2.6	1.7	2.9	1.4	175.4
1969 [3]	35.0	4.5	133.0	7.0	8.0	3.0	2.5	1.8	.9	195.7

[1] Women's footwear prior to 1965 included some slippers.
[2] Slippers include [illegible]-type moccasins, slippers, soft soles, and wool felt footwear.
[3] Preliminary estimates of 1969 imports were made by the American Footwear Manufacturers Association. These estimates were based on data provided by the Department of Commerce.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE IV.—IMPORT PENETRATION OF LEATHER AND VINYL FOOTWEAR BY TYPES, IMPORTS AS A PERCENTAGE OF DOMESTIC PRODUCTION

Year	Men's	Youths' and boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	6.4	3.3	5.0	1.0	1.2	1.4	----------	4.8	----------	4.4
1961	7.8	4.1	7.8	1.5	1.9	2.2	----------	5.0	----------	6.2
1962	11.6	6.3	12.7	3.0	3.7	4.1	----------	7.9	----------	9.9
1963	11.2	6.3	13.8	3.1	3.6	4.2	----------	7.8	----------	10.4
1964	11.3	6.3	18.3	4.1	7.6	8.5	----------	4.3	----------	12.3
1965	12.9	7.8	18.7	4.1	7.5	10.5	15.7	9.5	39.3	14.0
1966	12.5	8.9	22.4	6.7	9.5	9.2	16.4	3.8	34.5	15.0
1967	15.8	11.9	35.0	11.6	15.3	9.3	20.3	3.2	45.0	21.5
1968	20.7	15.3	44.0	16.1	22.3	9.1	20.5	2.8	66.7	27.3
1969	28.6	19.2	56.3	24.3	28.9	11.7	30.1	1.6	52.9	33.6

Note: This table is based on tables II and III, respectively, Domestic Production of Leather and Vinyl Footwear by Types, and Imports of Leather and Vinyl Footwear by Types.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

TABLE V.—IMPORT PENETRATION OF LEATHER AND VINYL FOOTWEAR BY TYPES, IMPORTS AS A PERCENTAGE OF MARKET SUPPLY

Year	Men's	Youths' and boys'	Women's	Misses'	Children's	Infants' and babies'	Athletic	Slippers	Other	Total
1960	6.0	3.2	4.8	1.0	1.2	1.3	----------	4.6	----------	4.2
1961	7.3	4.0	7.2	1.5	1.9	2.2	----------	4.8	----------	5.8
1962	10.4	5.9	11.3	2.9	3.6	3.9	----------	7.3	----------	9.0
1963	10.1	5.9	12.1	3.0	3.5	4.0	----------	7.3	----------	9.4
1964	10.1	5.9	15.5	3.9	7.0	7.9	----------	4.1	----------	11.0
1965	11.4	7.2	15.7	3.9	6.9	9.5	13.6	8.7	28.2	12.3
1966	11.1	8.2	18.3	6.3	8.7	8.6	14.1	3.7	25.6	13.0
1967	13.7	10.6	25.9	10.4	13.3	8.5	16.9	3.1	31.0	17.7
1968	17.1	13.3	30.5	13.8	18.2	8.3	17.0	2.7	40.0	21.4
1969	22.3	16.1	36.0	19.6	22.4	10.5	23.1	1.6	34.6	25.0

[1] Market supply=Domestic production plus imports. Exports of domestic footwear are disregarded due to the insignificant number of pairs shipped. Inclusion of export figures to determine the exact market supply quantities would virtually cause little or no change in the percentages of this table.

Note: This table is based on tables II and III.

Source: U.S. Department of Commerce and the American Footwear Manufacturers Association.

U.S. FOOTWEAR IMPORTS, JANUARY 1970

January unloaded 22 million more pairs of leather and vinyl footwear or more than 37% more than the average month last year, and 153% more than January when the dock strike was on. Leather and vinyl imports were 50% of an estimated domestic production of 44 million pairs.

LEATHER AND VINYL IMPORTS

	Millions of pairs			Percent change	Percent change
	1967	1968	1969	1968–1967	1969–1968
January	10.3	17.9	[1] 8.8	+74	[1] −51
February	10.9	17.0	[1] 15.9	+56	[1] −6
March	13.7	17.2	[1] 19.8	+26	[1] +15
April	11.9	17.0	[1] 27.1	+43	[1] +59
May	12.0	16.2	20.7	+35	+28
June	11.4	11.7	16.0	+3	+37
6 months average	(11.7)	(16.1)	([1] 18.1)	(+38)	([1] +12)
July	9.2	13.2	16.8	+43	+27
August	9.2	12.0	13.9	+30	+16
September	8.2	10.7	13.1	+30	+22
October	9.2	12.5	14.6	+36	+17
November	11.4	13.7	13.1	+20	−4
December	11.7	16.4	15.8	+40	−4
12 months average	(10.8)	(14.6)	(16.3)	(+35)	(+12)
Total year	129.1	175.4	195.7	+36	+12

[1] 1st 4 months 1969 totals affected by dock strike.

Note: Details may not add up due to rounding.

Enclosed with this report is an analysis of footwear imports from 33 nations that shows a powerful surge of imports from many sources of footwear.

The message is clear: as major sources of foreign shoes level off, new entries are exporting to the American Market with great zeal and vigor. Who said imports will taper off? It doesn't look that way.

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR

[Pairs and dollars in thousands]

Type of footwear	January 1970			Average monthly 1969		
	Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value	Average dollar value per pair
Leather and vinyl, total	21,425.2	41,439.8	1.93	15,616.1	34,986.7	2.24
Leather excluding slippers	10,074.5	32,480.8	3.22	8,041.2	28,689.3	3.57
Men's, youths', boys'	2,392.5	10,102.8	4.22	2,411.5	10,602.0	4.40
Women's, misses'	6,767.6	20,838.7	3.08	4,971.5	16,261.1	3.27
Children's, infants'	629.3	896.9	1.43	429.3	683.3	1.59
Moccasins	39.2	44.9	1.15	52.0	62.7	1.21
Other leather (including work and athletic)	245.9	597.5	2.43	176.9	1,080.2	6.11

Footnotes at end of speech.

TOTAL IMPORTS OF OVER-THE-FOOT FOOTWEAR—Continued

[Pairs and dollars in thousands]

Type of footwear	January 1970			Average monthly 1969		
	Pairs	Dollar value	Average dollar value per pair	Pairs	Dollar value	Average dollar value per pair
Leather and vinyl—Continued						
Slippers	7.6	19.7	2.59	29.8	63.9	2.14
Vinyl-supported uppers	11,343.1	8,939.3	.79	7,545.1	6,233.5	.83
Men's and boys'	1,253.6	1,496.5	1.19	812.0	1,024.5	1.26
Women's and misses'	9,059.7	6,771.7	.75	5,914.1	4,653.4	.79
Children's and infants'	914.6	605.0	.66	675.9	479.4	.71
Soft soles	115.2	66.1	.57	143.1	76.2	.53
Other nonrubber types, total	897.4	947.9	1.06	690.0	807.1	1.17
Wood	253.2	575.3	2.27	127.0	315.9	2.49
Fabric uppers	596.7	312.5	.52	490.6	392.9	.80
Other n.e.s.	47.5	60.1	1.27	72.4	98.3	1.36
Nonrubber footwear, total	22,322.6	42,387.7	1.90	16,306.1	35,793.9	2.20
Rubber soled fabric upper	2,299.6	2,208.8	.96	3,709.4	2,767.0	.75
Grand total, all types	24,622.2	44,596.5	1.81.	20,015.5	38,560.9	1.93

Note: Details may not add up due to rounding. Figures do not include imports of waterproof rubber footwear, zories, and slipper socks. Rubber soled fabric upper footwear includes non-American selling price types.

U.S. LEATHER AND VINYL FOOTWEAR IMPORTS, BY COUNTRY OF ORIGIN

Shoes and slippers (leather and vinyl)	1969 quantity (thousand pairs)	Percentage change, 1969/68	1969 value (thousand dollars)	Percentage change in dollar value, 1969/68
From:				
Japan	63,655	−2.3	55,196	17.6
Italy	60,535	+2.6	195,786	24.7
Spain	20,690	+45.2	73,424	54.2
China (Taiwan)	24,320	+58.8	13,526	73.5
France	2,508	−4.3	9,214	14.0
Hong Kong	3,356	+45.9	2,495	36.8
United Kingdom	3,117	+12.3	20,814	28.9
Mexico	2,396	−2.9	5,144	19.6
India	2,096	+8.9	2,108	4.7
Canada	1,976	+14.2	6,862	31.6
West Germany	1,913	+98.9	10,622	60.9
Sweden	539	+956.9	1,731	846.1
Brazil	377	+1,539.1	1,191	469.0
Denmark	294	+539.1	823	430.1
Greece	228	+174.7	2,042	221.2
Yugoslavia	186	+39.8	1,100	76.0
Ireland	168	+95.3	1,107	109.1
Poland	85	+1,600.0	174	4,032.6
Israel	73	+9.0	410	117.5
Argentina	59	+293.3	220	103.5
Finland	49	+145.0	483	111.7
Panama	33	+3,200.0	31	6,551.2
Philippine Republic	28	+300.0	34	143.3
Norway	27	+285.7	125	197.2
Uruguay	21	+162.5	43	270.5
Turkey	15	+650.0	35	920.8
Venezuela	9	+200.0	79	189.8
Malta	6	+50.0	19	50.5
Lebanon	4	+100.0	13	59.8
East Germany	4	+300.0	21	698.0
Guinea	3	+200.0	5	15.3
Colombia	1	[1] +261.5	7	120.9
U.S.S.R.	1	([2])	3	71.2
Total	188,779	+11.7	404,887	31.9
Other countries	6,894	+8.0	24,639	14.6
Total, all countries	195,673	+11.5	429,526	30.7

[1] Colombia 1968 pairage less than 500.

[2] Not calculated.

DECEPTIVE UTILITY ADVERTISING INCREASES CONSUMER COSTS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. METCALF. Mr. President, millions of Americans face a costly summer because of deceptive advertising by the Nation's largest industry, electric power.

Utility officials have already announced that entire areas may be blacked out this summer. Utility advertising departments, which created a power shortage by overselling their product, are now busy preparing for the emergency by promoting electric heating, rather than electric cooling.

The advertising department is much more important to a utility than its research and development branch. Advertising and public relations are, after all, the means by which utilities keep the public uninformed and the press docile. Advertisements and other public relations devices are now being used to delude the public regarding protection of consumers and the environment, industry regulation, and taxation.

I do not believe the public is being properly prepared for the forthcoming brownout, either by industry or Government. In power matters, I would add, it is often difficult to tell the difference between industry and Government.

I have recently received a report from a reputable, national engineering firm which deals with the costly problems faced by consumers, including businesses, when a brownout forces a voltage reduction. The report, by R. W. Beck and Associates to the Massachusetts Consumers Council, states that voltage reduction heats induction motors, reduces visibility on TV sets, degrades radio reception, shortens the life of some lighting fixtures, and dims others.

I ask unanimous consent to insert the Beck report at this point in my remarks.

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

R. W. BECK AND ASSOCIATES,
February 17, 1970.

Mr. DERMOT SHEA,
Executive Secretary, Consumers Council, Boston, Mass.

DEAR MR. SHEA: This is in reply to your letter of February 17th regarding the effects of voltage variation and specifically voltage reduction to electric appliances and equipment normally found in homes and modernized commercial establishments.

Electric utilities have, in the past, been identified as maintaining a high level of service to their customers, and normally have been guided by two main criteria: service continuity and voltage level. Service continuity being identified as always having power available without even momentary interruption, and voltage level being identified as a voltage which had very little fluxuation.

The power companies in the New England area have recently found themselves in a very changed condition because of insufficient generating and transmission capacity to supply the electric power requirements of their consumers. Various articles have appeared in recent months, pointing out this critical power supply situation, and the industry itself is more than just a little concerned as to how they can meet these power

supply demands. It has been interesting to note that very little information has been included in these articles on the effects the ultimate power consumer will see as a result of the power companies' failure to supply their consumers' requirements. Therefore, it was of great interest to me to see that your organization is investigating this area and pointing out some of the effects which will be felt by the individual home owner and business operator.

This lack of available electrical capacity has led to the electric utility companies' adoption of a program of voltage reduction which, in some areas of the country, is now being referred to as "load conservation". This, in effect, is a reduction in the voltage level of the power supply facilities which, in turn, reduces the overall load the companies are required to supply. Remembering our high school physics formula, power is the product of voltage potential and current flow, the power companies have utilized this basic formula to reduce their loads by reducing the voltage levels in amounts which have been identified to range up to 10 percent. Normally, the voltage regulation equipment located throughout the utilities' service area reinstate the desired voltage level when normal load variations cause this voltage to fluctuate and, in the past, this equipment has always provided a fairly constant voltage supply to each consumer. However, the present practice of the utilities of reducing this voltage during high load periods is amplified by the inability of this normally used voltage control equipment to handle these planned variations, and in some cases, can cause voltage variations at individual consumer homes in the range of 15 percent.

Some of the effects that the consumer will feel when the voltage level to his residence or business is reduced by 10 percent is (1) a 30 percent reduction in the light intensity from his incandescent lights, (2) heating equipment will have a near 20 percent reduction in output, (3) induction motors utilized in many types of appliances will have a near 20 percent reduction in their starting ability and an approximate 12 percent rise in their operating temperature, (4) fluorescent lamps now found in many homes and most commercial establishments will have their life cut by 20 percent besides having unsatisfactory starting and (5) electronic devices such as radios and television sets which are very sensitive to voltage fluctuation, will have a noticeable reduction in picture brilliance and sensitivity.

In summary, it can be said that the individual customer will receive a much less satisfactory operation of his electrical appliances under low voltage conditions and will be subject to earlier replacement because of shortened life.

The industrial consumer who has a large investment in automatic control equipment of the computer type and who utilizes electrical and automatic equipment to produce his product sees the effect of voltage reduction quickly and in some cases dramatically, when a substantial voltage variation occurs. Most of his equipment probably would have protective features to adjust for slight or, what can be considered in the past, normal variations in power supply voltage, but many of these facilities were not designed to handle large voltage variations. A momentary outage or severe voltage change causes most electrical equipment to either shut down or otherwise become inoperable. It is quite common for industries with highly mechanized equipment to look closely at the dependability and continuity of power supply service before locating their facilities. Many of the industries that are in the New England area can be identified as this type of industry.

I hope this information will be helpful to you and I would be happy to supply you with a list of references of publications and documents which substantiate the information discussed above.

If there is any other information which I can supply you in this regard, please contact me.

Very truly yours,

ROBERT G. TAYLOR,
Partner and Manager, Northeast Regional Office.

Mr. METCALF. Although practically no one is giving utility customers information about the costly effects of brownouts on them, the utilities have increased their efforts to mislead the public and public officials. Some of you will recall a particularly vicious series of national advertisement by power companies early in the 1960's. Seven long years ago John F. Kennedy shamed them into dropping these ads, which were designed to sow mistrust and fear. Recently this theme has reappeared. I refer specifically to an advertisement carried by Time, Newsweek, Broadcasting, Editor and Publisher, American Press, and U.S. News & World Reports in recent issues—perhaps other media carried it as well.

I shall briefly discuss this ad, headlined "How does it feel to pay more than your share of Federal taxes?" and ask unanimous consent that the text of the ad appear at this point in the RECORD.

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

HOW DOES IT FEEL TO PAY MORE THAN YOUR SHARE OF FEDERAL TAXES?

Perhaps it's news to you that many people do.

This is happening because government is in the electric power business in a very big way.

On the one-hand, investor-owned electric light and power companies serve about 80% of electric users in the U.S.A. and are among the largest payers of federal taxes in the nation.

Government power projects, on the other hand, though they sell hundreds of millions of dollars worth of electricity that goes to millions of residential, commercial and industrial users, do not yield any tax revenue to our national treasury. For example, from 1953 to 1968, more than $4,411,000,000 in federal tax revenues were lost through this situation.

This is because consumers who use government electric power are not required to pay in their electric bills the same taxes that other Americans pay. Obviously, everyone else has to make up the difference. That is one reason why so many people are paying more than their share of federal taxes.

What is suggested is that government electric power businesses assume federal tax-paying responsibility, as do the investor-owned electric power companies. This would spread the federal tax more fairly among electric users and open an added source of revenue to help meet the costs of government.

Mr. METCALF. It does not feel good to pay more than your share of Federal taxes. Electric utilities do not know how it feels, however, because they operate on a cost-plus system, with taxes, advertising, research and development and all other expenses included in the before-profit costs.

Furthermore, many utilities collect more for taxes than they turn over to government. The Federal surtax was reduced at the beginning of this year, and will soon be removed entirely. Can anyone cite an example of a utility which reduced rates to reflect the reduction in this tax? I know of none. In summary, no utilities are taxpayers and many of them are taxkeepers. I have dealt with that point before and it need not be belabored here.

I would, however, like to note the thesis of this ad, that "Government is in the electric power business in a very big way."

I doubt that the copywriter got mixed up on that ad. But actually, it should be stated the other way around. The Government is not in the electric power business in a very big way. Actually, the electric power industry is in the Government business in a very big way—from the White House to the schoolhouse, through Budget Bureau advisory committees, the Congress, and Federal Power Commission, State utility commissions and legislatures, and on to county, city, and school officials who are dined and duped by utility dukedoms or their emissaries.

This powerful utility influence is at the expense of the public, which is neither informed about nor represented in this insidious, pervasive system.

Recently I was favored, as I assume other Members were, with a brochure entitled "Some Basic Convictions About Advertising." It was prepared by Procter and Gamble and distributed by the American Advertising Federation. This booklet states that advertising lowers costs to consumers, forces competition, spurs continual product improvement, and complements scientific research.

The brochure is incorrect on all of those points, insofar as utility advertising goes. The record, much of it in the hearings on S. 607, the utility consumers counsel bill, and in the CONGRESSIONAL RECORD, shows that utility advertising increases consumer costs, decreases competition, and supplants expenditures which should be made on research and development.

Mr. President, this era will be known as the scandalous 1970's if the press decides to investigate, rather than profit, from, utilities. Tax policy, industry-government relations, environmental, and consumer protection, as regard utilities, are subjects far too important to be taught by the utilities themselves, through their deceptive advertising and public relations programs.

At the least, regulatory commissions should disallow advertising as a utility operating expense, borne by the customers. I am not optimistic about this being accomplished to a significant degree, without the corporate disclosure and public counsel provisions in S. 607 and without studied attention to utility affairs by inquisitive reporters backed by publishers willing to be snubbed at the club.

What a salutary event it would be were the news media simply to declare a moratorium on electric utility advertising. This decision could not be made lightly by some small publishers, whose large and regular advertising mats from the local power company provide enough income to keep the son and heir in college. Our morning newspaper—and its associated magazine, radio station, and television station—could afford to pioneer in

this field. Several publishing and broadcasting empires could well afford to divert a portion of the handsome revenues they have obtained from utilities into investigation of malpractice by public service corporations. The public's right to know—and much more—are vitally involved.

Mr. President, I ask unanimous consent to insert at this point in the RECORD an article from the Washington Post regarding Potomac Electric Power's "spring sales campaign" and the increased sale of air conditioners and an article from the New York Times regarding power shortages.

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

[From the Washington Post, Mar. 19, 1970]

PEPCO TAILORS ADS TO POSSIBLE SUMMER POWER SHORTAGE

(By Stephen Neary)

Potomac Electric Power Company's spring sales campaign will be concentrated this year on electric heating and cooking utensils instead of air conditioners, apparently because of fears that there will not be enough electricity available this summer to power more cooling units. In Baltimore William O. Doub, chairman of the Maryland Public Service Commission, has formally requested utility companies there to take the same course and to promote conservative use of electric appliances instead of ask customers to purchase more. Yesterday the combine of electric companies supplying a five-state area that includes the District of Columbia was forced twice to reduce its electricity flow despite temperatures that went only into the low 40s. And officials in the Washington area and also the East Coast, are fearful that the unseasonable power reductions portend even greater problems this summer than have occurred in the past.

Charles F. Luce, the chairman of the New York area's Consolidated Edison Company announced Monday that his company may be forced to black out entire residential areas in a few months when the demand for electricity hits its annual peak. These moves are all symptoms of the same problem, one of supply and demand. The demand is growing two-fold as the number of electricity-using customers increases, and each customer uses more and more appliances. Statistics compiled by the Air Conditioning and Refrigeration Institute, a national trade association, show that about $631 million worth of the cooling machines were sold in 1960. In 1968, the most recent year for which figures are available, sales totaled nearly $2 billion. At a meeting in December of the 12 utility companies that make up PJM interconnection, the combine that serves Maryland, Washington, Delaware, New Jersey and Pennsylvania, George Avery, chairman of the District of Columbia's Public Service Commission, called upon the companies to tone down their promotional campaigns for air conditioner sales.

Recalling last summer's "brownout," when Pepco called upon its customers to restrict their electric power usage voluntarily during a two-day period, Avery yesterday predicted "a strong possibility" of more power reductions and requests for voluntary cutbacks again this year. Both Avery and Maryland's Doub said that the utility companies are operating with a reserve capacity estimated at only 9 per cent to 12 per cent. The Public Service Commissions believe a 20 per cent capacity is needed. Working with such a thin reserve, the two chairmen said, requires that when a piece of apparatus breaks down or when customer demand becomes heavy, the utility companies are forced to cut back their output.

Norman Belt, the chief engineer for the Virginia Corporation Commission, pointed out that in addition to increased air conditioner sales and inaccurate market estimates, the electric power industry has been plagued by mechanical failures in its newer and larger power generating installations. Yesterday's reductions here were caused by demands on Pepco resources from utilities in other states serviced by the combine. Such reductions are the first step in controlling over-demand; if necessary, they are followed by pleas to industrial customers to curtail use voluntarily, then by general public appeals for curtailed use, and finally by shutting off entire consumer areas.

[From the New York Times, Mar. 15, 1970]

UTILITIES FACE POSSIBILITY OF FORCED POWER OUTAGES THIS SUMMER

(By Gene Smith)

It's late Friday afternoon in early July. Another hot, humid day . . . the third in a row with the temperature in the high 90's. The air-conditioner is belching out cooled air and half the office has fled early for the beaches and the Catskills. Across the Hudson in New Jersey the thunderheads are piling up. And, all at once, the lights flicker. They bounce on and off and then off completely! The air conditioner grinds to a halt! Outside, the theater marquees disappear. Blackout! That's the prospect facing millions of persons in this area this summer. It might not happen, but then, again, it might. And, in their private conversations, the top executives of many—if not most—of the major electric utilities in the Northeast have their fingers crossed against the possibilities of a total blackout . . . a repeat of that nightmare of Nov. 9, 1965, when the lights went off in the Northeast. That most famous of all power blackouts was the direct result of an almost improbable sequence of circumstances that only pointed up the fact that the improbable can really happen. Since then, the utility industry has worked hard to correct the glaring weaknesses that precipitated the 1965 blackout. Only last week the weekly economic highlights published by American International College in Springfield, Mass., acknowledged that the electric utilities have generally performed quite well since the night of that blackout.

But, the fact remains, the most logical time for a power blackout—or brownout, if not quite as severe—is during a prolonged heat wave, coupled with high power demand for rapid transit services, as just before a week-end, and with a severe thunderstorm tossed in. William G. Kuhns, president of the General Public Utilities Corporation, a utility holding company whose operating subsidiaries serve an area from the Atlantic Ocean in New Jersey to Lake Erie in Pennsylvania, said in an interview last week tha his power reserves were much better than a year ago. "We had a negative reserve last summer," he continued. "This summer we should have a 14 per cent reserve."

Mr. Kuhns was quick to point out that last year the Pennsylvania-New Jersey-Maryland power pool had only a 4.7 per cent margin but was expected to have "a little over 12 per cent" this summer. This same power pool of which his system is a vital part has been described by Senator Lee Metcalf, Democrat of Montana, as "one of the most fragile transmission systems" in the United States. Yet, its operation at full power levels could prove vital in preventing blackouts along the Atlantic Coast anywhere from Washington to New England. Senator Metcalf, in a recent attack on the large amounts utilities spend on advertising as contrasted with the lesser expenditures on research and development, charged that the nation's electric power supply was "neither adequate nor reliable." An imponderable in the power supply situation is the after-effect of the strike against the General Electric Company. General Public Utilities, for example, was not too dependent on an order for a gas turbine from G.E., but locally the Consolidated Edison Company had some 130,000 kilowatts of gas turbine orders with G.E. due for operation by June 1. It transferred 96,000 k.w. to the Westinghouse Electric Corporation and expects to have these in service in late summer and still hopes to get four G.E. units in operation by mid-June.

Arthur Hauspurg, vice president for electrical system and project engineering, predicted Con Edison's reserve at the beginning of June would be about 1,376,000 kilowatts, or a 17.8 per cent margin. A month later it should rise to 18.6 per cent, to 23.1 per cent Aug. 1 and 24.7 per cent Sept. 1, assuming all equipment on order is delivered and installed on schedule. "In other words we'll start the summer in about the same condition as last year. If we have hot spells early, there'll probably be some repetition of last year's brownouts. If they come in late summer it looks as if we can get by," Mr. Hauspurg said.

COLUMBUS, IND., DESCRIBED AS ARCHITECTURAL OASIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following article from the Sunday, March 27 edition of the New York Times which outlines the new architecture of Columbus, Ind.

The writer, Mr. Bill Thomas, describes this Midwestern city in the Ninth Congressional District of Indiana as an architectural oasis. Since the Cummins Engine Foundation began, in 1954, to finance the architect's fees for public and religious buildings, the community has gained an international reputation as the "Athens of the Prairie."

The article, describing Columbus' excellent program, reads as follows:

THE ATHENS OF THE PRAIRIE IS A RARE ARCHITECTURAL OASIS

(By Bill Thomas)

COLUMBUS, IND.—This small country town of 30,000 in southeastern Indiana calls itself "The Athens of the Prairie"—and with good reason. Seldom, if ever, has so small a community contained so many examples of innovative architectural achievements.

Columbus has averaged two masterpieces a year since 1954, according to an eight-page review in The Architectural Forum; 20 buildings, including churches, schools, a country club and business concerns, were praised for "an exceptionally high level of first-rate contemporary building design."

All are the accomplishments of men such as I. M. Pei, designer of the John Fitzgerald Kennedy Library in Cambridge, Mass.; Robert Trent Jones, known the world over for his golf courses; Eliel Saarinen, co-designer of the national museum in Helsinki, and many others.

Columbus, 40 miles south of Indianapolis on busy Interstate 65, was initially an agricultural town and largely dependent on the surrounding countryside. That has changed. As an indication of the community's transition, the 1964 census showed 1,029 farms in Bartholomew County, of which Columbus is a part. This was a drop of 213 farms from 1959 and a loss of 536 farms since 1954, when there were 1,565 farms in the county.

The transformation began in the late 1930's under the leadership of the Irwin family, founders of the Cummins Engine Company in Columbus, the world's largest producer of diesel engines. Irwin Miller, the grandson of an Irwin daughter, is present board chairman of Cummins.

Miller's first concrete interest in the redevelopment of Columbus came in 1940, when Eliel Saarinen designed the Tabernacle Church of Christ, now known as the First Christian Church, to which the Irwin family contributed generously.

POSTWAR ACTIVITIES

World War II interrupted any new additions in Columbus' building program, but in the early fifties Miller commissioned a building of his own. He selected Eero Saarinen—Eliel's son and a former classmate—to design the Irwin Union Bank.

In designing the bank, Saarinen began with two major considerations: To provide an efficiently functioning structure for present-day banking that would still reflect a friendly old-fashioned atmosphere, and to create a new building that would not clash with its neighboring structures of 1910 vintage.

The solution was found in a low, entirely glass-walled building in the middle of a tree-filled square reminiscent of the small plazas in Seville, Spain. The trees were conceived as part of the architecture, and common materials like brick, glass and concrete were used.

Shallow concrete domes gives variety to the ceiling height and add a simple dignity to the structure. The bank and drive-in facilities are blended into groups of trees and flowers.

About the time the bank was built, the town completed its new high school, and Miller decided that better things could be done. He implemented his architectural plans by establishing the Cummins Engine Foundation in 1954. Through it, he offered to pay the architect's fee for any new school building if the Board of Education would select the architect from a list compiled by experts in the field

Each architect chosen would have total responsibility for the planning and design of that particular building, and would be allowed 12 months to draw up his project. Each new structure would also have a different architect.

So far, five schools have been built according to these ground rules, and a sixth is under way. The schools turned out to be less costly than more standardly conceived ones, and a valuable aid in attracting teachers and administrators.

The Lillian Schmitt Elementary School, designed by Harry Weese of Chicago—his credits include the United States Embassy in Ghana—was the first school to be designed and built under the Cummins Foundation program in 1956. It is impressive for its use of large picture windows and a pleasant feeling of contact with the outdoors.

McDowell Elementary School, designed by John Carl Warnecke and built in 1960, is an example of what the foundation has fostered. McDowell is a cluster of separate buildings resembling a futuristic pagoda.

CLASSROOMS IN FOUR CLUSTERS

Classrooms are in four clusters of three rooms, each group forming the corner of a rectangle. In the center of the rectangle are two larger buildings. These are linked with the classroom clusters by canopied walkways that flank the courtyards.

Or take the W. D. Richards Elementary School (1965), a product of the imagination of Edward Barnes. It has bold, sloping roofs forming angular silhouettes, which complement the First Baptist Church across the street. The saw-toothed skylights provide studio-type lighting and leave the walls free for work space.

Or Lincoln School (1966), designed by Gunnar Birkerts, who also conceived the Fisher Administration Building at the University of Detroit. The center of the school is a freestanding multipurpose room surrounded on three sides (on the second floor on four sides) by a wide corridor. During a regular day, the stage is removed and the room is used as a special classroom.

A grass path separates the street and play areas, and a depressed circular amphitheater provides seating around a huge tree. The classrooms are all carpeted, reducing floor-care costs and also improving the acoustics.

The efforts of the Irwin and Miller families have mushroomed into a townwide undertaking by industry to promote Columbus's architectural well-being. Attempts are being made to preserve the downtown commercial core against the competition of the edge-of-town shopping centers.

Cummins has helped to keep the area lively by transforming an old hotel—it was forced to close because of the success of new highway-oriented motels—into its international corporate headquarters. At present, Columbus has eight motels with a total of 380 rooms.

The most exciting effort to keep the town's main street busy is a storefront renovation project, the effect of which is strikingly visible in the first of 17 blockfronts to be completed. This facelifting—it was directed by Alexander Girard, who designed the Fonda del Sol restaurant in New York's Time-Life Building—capitalizes on the one big architectural asset of downtown Columbus; its wealth of Victorian detail.

LINKED BY CANOPY

On this first blockfront, Girard eliminated a mass of competing signs and stretched a neutral canopy across all the fronts. Each building has received a different color treatment to emphasize the differences in detail, and every store has a new porcelain-enamel sign designed by Girard.

The secondary purpose of this project is to encourage the owners of other old buildings to take pride in them. Its influence can already be seen in some freshly painted structures on nearby blocks. Their owners have avoided soft pastel shades, relying instead on sharp blacks and whites, grays and vivid colors.

This spontaneous action is one more sign—along with the town's policies on schools, parks and redevelopment—that Miller's 10 years of active support for architecture have begun to bear fruit.

Perhaps the most striking and impressive example of contemporary architecture in Columbus is the North Christian Church, its spiral pinnacle piercing the sky from an open field on the north side of town.

This was Eero Saarinen's last design, completed only a short time before his death and built in 1964. "I want to solve [this design]," he said, "so that as an architect, when I face St. Peter, I am able to say that out of the buildings I did during my lifetime, one of the best was this little church . . . that speaks forth to all Christians as a witness to their faith."

The hexagonal shape of the church is a symbolic reminder of the Star of David and the church's roots in the Jewish faith; the cross atop the 192-foot spire proclaims Christian faith to the world.

The church rises alongside U.S. 31 where that road enters town from the north. The church stands isolated from the "ranch houses" of the neighborhood. Its self-contained form is unencumbered by wings, the worldly necessities of offices and classrooms being hidden beneath the stadium seating of the church itself and sheltered by its all-encompassing roof.

FOCAL POINT AMONG RESIDENCES

The First Baptist Church, designed by Weese and built in 1965, is the focal point in a residential area. The congregation wisely chose a low knoll on the northeast frontier of town, across the street from a new elementary school. Together, the two buildings, with their violently angular silhouettes, look like an expressionist miniature of a medieval village; even the pointed evergreens nearby contribute to the effect.

The form of the church is an attempt to integrate the liturgical functions and educational requirements of the modern church. The sanctuary seats 500 on both sides of an off-center aisle that focuses on the communion table and cross.

The greatest contribution of Columbus's first modern building, the First Christian Church, is a well-designed public open space near the center of town. This church is as much a series of well-contained gardens as it is of serene building forms.

The Saarinens placed the church itself on the eastern edge of the block, leaving most of the site for a sunken garden. The larger portion of the garden serves to offset the dour old City Hall across the street.

GIFT OF GOLF COURSE

Other community services have been provided, too. Otter Creek, a public golf course, was designed by Robert Trent Jones, completed in 1964 and donated to the city by the Cummins company. The par-72, 7,115-yard layout has been the site of the Indiana amateur tournament since 1966.

Jones is the designer of some of America's most beautiful courses, including Spyglass Hill in Pebble Beach, Calif., and the Firestone Country Club in Akron, Ohio. Adjoining the Otter Creek layout is a Weese-designed clubhouse.

The Cleo Rogers Memorial County Library, designed by I. M. Pei and built in 1968 at a cost of $2.2-million, includes a brick pavilion whose east and west walls and cornice rise from a brick plaza. Courtyards out of the plaza bring daylight to the lower level. The library has a capacity of 175,000 volumes.

Columbus certainly has enough fine buildings already to make a visit worthwhile, but the future looks even brighter. A study of the town's "design potentials" by graduate students at the University of Illinois indicated some things that might eventually be done to the downtown core of the town. It proposes creation of four superblocks by converting existing streets to malls.

PLAN FOR BACKYARD

The westernmost block—now the backyard of the main commercial district—would be completely rebuilt, with attractive apartment units over stores and parking structures along the main access roads. A new tower would join the existing courthouse and church tower in defining a triangular center of activity.

"The future of Columbus," Miller acknowledges, "depends on the attitudes of its people. The impact of these buildings on them is very subtle; it may take 100 years to show." For the present, he is sure that "there is less opposition to modern architecture than ever before."

A 32-page brochure on the city's architecture, including a suggested tour route and map, is available from the Columbus Area Chamber of Commerce, Columbus, Ind. 47201 (50 cents each to cover shipping and handling).

In that brochure, Sir Winston Churchill is quoted: "First we shape our buildings, then our buildings shape us."

THE 18-YEAR-OLD VOTE: STATUTE OR AMENDMENT?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, March 31, 1970

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks an editorial from the Washington Post, dated March 14, 1970, entitled, "The 18-Year-Old Vote: Statute or Amendment?"

I concur with the editorial's assertion that "when basic changes of this kind are to be made—the proper procedure is a constitutional amendment."

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

[From the Washington Post, Mar. 14, 1970]

THE 18-YEAR-OLD VOTE: STATUTE OR AMENDMENT?

The Senate's 64–17 vote to lower the voting age to 18 reflects a widespread demand for greater youth participation in the processes of government. It is a salutary trend. This newspaper is fully sympathetic with the objective, but the attempt to attain it by means of a statute instead of a constitutional amendment seems to us highly dubious.

The reasoning that statute alone will suffice is based largely on the Supreme Court's opinion in *Katzenbach* v. *Morgan* and the subsequent projection of the reasoning in that opinion to voting-age requirements by former Solicitor General Archibald Cox. The court, in that case, upset a New York law which made ability to read English prerequisite for voting. The state requirement was in conflict with the Voting Rights Act of 1965 which provided that no person may be denied the right to vote because of inability to read or write English if he had successfully completed the sixth grade in a Puerto Rican school where the instruction was in Spanish. The Supreme Court gave preference to the federal statute because it could "perceive a basis" on which Congress might view the denial of the vote to Spanish-speaking Puerto Ricans "an invidious discrimination in violation of the equal protection clause" of the Fourteenth Amendment.

Mr. Cox and some other constitutional authorities have concluded that Congress is now free to say that the denial of the vote to citizens between 18 and 21, on the ground that they lack the maturity to vote, is also invidious discrimination. It is a long leap, however, from striking down a discriminatory language requirement to fixing an age limit at which voting may begin. In the New York case there was actual discrimination against Puerto Ricans seeking to vote in that state despite the seeming general applicability of the statutory language. But where is the denial of equal protection in a voting-age requirement that is applied without discrimination to citizens of all nationalities, races and so forth? If it is invidious discrimination to deny the vote to 18-, 19- and 20-year-olds, would it not be equally unconstitutional to deny it to 17-year-olds?

The founding fathers unquestionably intended to leave voting-age requirements to the states. This is evident in the provision that voters in congressional elections "shall have the qualifications requisite for electors of the most numerous branch of the state legislature." The effect of the Senate's 18-year-old voting amendment to the voting rights bill would be to transfer to Congress this authority to fix voting requirements, in state as well as federal elections. We agree that the voting age should be lowered, but there are powerful arguments on grounds of policy as well as constitutional law for using the amendment process.

Sponsors of the change by statute, Senators Mansfield, Kennedy and Magnuson, think they have adequately guarded against inconclusive elections under the bill by expediting a test of its constitutionality. Certainly that is a wise precaution. But when basic changes of this kind are to be made (46 states now impose the 21-year-old voting requirement) the proper procedure is a constitutional amendment. Now that senators have had an opportunity to vote for a popular measure, they could logically agree to rest the reform on more secure ground.

TAX REVOLT?

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. GROSS. Mr. Speaker, the warning signals are out that at least some of the citizens of this country are fed up with public spending that fails to take into account governmental income and the sources from which it is derived.

Operators of family farms in Iowa are up in arms and, while their demands are for tax revision on the State and local level, this issue stems from the tax burdens that are being laid upon them by every level of government—Federal, State, and local.

Underway in Iowa is the beginning of a tax revolt through the withholding of the payment of the first half taxes to the State and county in an effort to compel the State legislature and Governor through nonviolent means, to revise the property tax laws.

The following is what might be called a "program for action" which is being widely distributed in Iowa:

PROGRAM FOR ACTION

Today in Iowa we are faced with 20th Century inflation. We are faced with 19th Century tax laws and as far as the earning power of property, farm property in particular, we don't know what Century.

In Winnebago County we do not have a tax association, but we are organized. We have from 2 to 20 people in each township who will go out and ask property owners to withhold their first half taxes. We had a large meeting in Forest City. From a standing count better than 2 out of 3 who attended will withhold.

We did not charter because:

1. There is no time at present.
2. We do not want to become the object of injunctions and or lawsuits.
3. There is the Farm Bureau, N.F.D., Farmers Union, Beef, Hog, Soybean, Corngrowers all active in our county and we all need property tax revision.
4. By not chartering we can use all the leadership in the above organizations with no conflict of interest and also prove that when the family farm is endangered all farm property owners will stand together.

THINGS WE WILL NOT DO

1. Take a large group to Des Moines. Someone will get rough.
2. Picket or march to our county courthouse.
3. We will not intimidate our legislators, they are the only ones who can change the present outdated property laws. We need them.

THINGS WE WILL DO

1. Have 2 or more people visit legislators in Des Moines two or more times per week.
2. Write the Governor. All property owners if they will, and explain their problems.
3. Conduct ourselves at all times as men of honor but also men of determination.
4. Ask for tax revision not tax relief.
5. Withhold first half taxes.

WHY WITHHOLD

1. We must provide a mandate for our Governor and legislators that we are determined but not violent on tax revision.
2. We are getting tired of talking with our mouth; now let's talk with our money.
3. There is no other way to inform all Iowans of the problem facing the Family Farm.

LET US FACE UP TO THE FACTS

HON. ODIN LANGEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. LANGEN. Mr. Speaker, during this last generation the American people have witnessed an unprecedented proliferation of the magnitude, scope, and cost of government. Given this situation increasing numbers are feeling the anxiety and frustration of being "swallowed up" by the Establishment, that is, the hopelessness of being trapped in a regimented system of high taxes, court edicts, Government guidelines, and the like.

Most frustrating of all has been the impact of war. And while there are a few who have profited, and there are others who acclaim the virtues of wartime prosperity, these are in the minority and unfortunately, self-deluded. Most of the American people are tired of war, tired of being strung along by false promises of easy victory, and most important disquieted by the terrible economic, moral, and social hardships that have accompanied our involvement.

Sometimes the truth hurts, but I believe we must level with the American people, we must tell them the alternatives, the costs, and the effects of the decisions being made by our national leaders.

A most sobering article which has just come to my attention tells it like it is—a straight-from-the-shoulder no nonsense assessment of the cost of war. May the Vietnam "hawks" and "doves" alike be alerted as I have been.

From "Our Mortgaged Future," by Mr. James Clayton, Playboy, April 1970, has extracted the following:

OUR MORTGAGED FUTURE

Next to the loss of life, the most permanent consequence of war in our history has been the veteran's pension. Although some economists would not include these pensions as a war cost, because over the years they have become more like welfare payments, nothing in the history of U.S. public expenditures has been more costly than veterans' benefits. The original direct cost—major national-security expenditures—of all of America's wars prior to Vietnam was approximately 372 billion dollars. This figure is about ten times higher than our second most expensive purchase—public education. Veterans' benefits for these same wars—when finally paid—will amount to nearly

500 billion dollars, even if the rates and extent of coverage were frozen as of today, which, of course, they won't be.

Veterans' benefits for our first five major wars are now virtually paid out. They have increased the cost of those wars an average of almost four times the original cost, primarily because it takes such a long time to pay out funds to veterans and their dependents. In the case of the War of 1812, veterans' benefits rose for 68 years after the war was over and were not fully paid out until 1946, 131 years after the fighting stopped. In no case have veterans' benefits from past wars lasted less than 113 years.

The main reason these benefits are so long-lived is that most are paid out to dependents, rather than to ex-soldiers, and most have nothing to do with a Service-connected injury but, rather, are a form of welfare assistance. Moreover, benefit rolls tend to become more inclusive and payments tend to increase with time. More than 90 percent of Spanish-American War and 50 percent of World War One veterans are now receiving some kind of compensation. Also rising rapidly is the percentage of those using their GI Bill education benefits. In 1964, 34,000 men were using their GI benefits; today, more than 500,000.

If veterans' benefits for the Vietnam war are anything like those for previous wars, we may expect them to increase annually (after a small initial spurt and decline immediately following the war) until about the year 2020. Then they will fall gradually until near the end of the 21st Century, when they will cease altogether. Assuming no change in present laws, the total cost of Vietnam veterans' pensions will be about 220 billion dollars. Since costs always increase with time, the final bill will undoubtedly be much higher.

After veterans' benefits, the interest on war loans is probably the most significant long-range financial cost of war. It is difficult to measure interest costs, because the interest on war loans is not separated from other interest costs in the national accounts. Interest costs for war debts prior to the Civil War were probably less than 20 percent of original war costs. During the Civil War era, however, interest on the public debt jumped from less than $4,000,000 in 1861 to $144,000,000 in 1867. For the next 25 years, interest payments gradually fell, until they finally leveled off at about $30,000,000. These payments, which are attributable to the Civil War, raised the cost of that conflict by about one third.

The rate of interest costs of recent wars is comparable. The noted economist John M. Clark, using Treasury Department data, once calculated the interest costs of World War One to 1929 at 9.5 billion dollars, or about 37 percent of the original cost of that war to that date. Henry C. Murphy, in his book National Debt in War and Transition, has shown that the Government borrowed 215 billion dollars to finance World War Two. That debt is still on the books and has cost us about 200 billion dollars in interest to date. This interest cost is now 70 percent of the original cost of World War Two.

Although we have reduced our debt after every war prior to 1945, no serious effort has ever been made to reduce the debt from World War Two or from subsequent wars. The Korean War probably added an additional ten billion dollars to the already swollen war-debt ledger. If the principal for the Korean War is not paid off any faster than that for World War Two, the additional interest by 1978 will be about 20 percent of the original cost. If interest costs continue to climb and attitudes toward public debt do not change substantially, it is conceivable that interest costs for World War Two and the Korean War eventually may actually exceed the original cost of those wars.

The amount of indebtedness for the Vietnam war is unknown. Since the war escalation of 1965, however, the public debt has risen almost 70 billion dollars. If this debt is treated like the Korean War debt—i.e., if no more than half of it is attributed directly to the war in Vietnam—then, by 1990, the interest costs on the Vietnam war debt will be 35 billion dollars (at four percent per annum—a conservative estimate rate), with the entire principal still outstanding.

Increased taxes have been an enduring consequence of war because of increased Federal borrowing. Income taxes began in this country as emergency war taxes. The Civil War made them a permanent feature of our Governmental system. By 1911, the high costs of financing the Spanish-American War, which required doubling tax receipts, pushed income from internal revenue above receipts from Customs duties. World War One increased internal-revenue receipts more than fourteenfold, from $380,000,000 in 1914 to 5.4 billion dollars in 1920. Per capita taxes increased nine times during that war. World War Two increased per capita taxes an additional seven times. If neither of these wars had occurred, our per-capita tax rate would have been about one tenth of what it actually was in 1946, assuming no inflation—which is primarily caused by war, as we shall see.

For this reason, it is misleading to view the present surtax either as temporary (as former President Johnson promised and as President Nixon still promises) or as the ultimate tax cost of the Vietnam war. From 1965 to 1967, the most recent date of available data, our per-capita taxes increased 27 percent. This is partly the result of an increase in military-retirement pay, which is now increasing $200,000,000 per year independently of other Department of Defense activities. Obviously, our taxes must go higher yet. The long-range taxation consequences of the Vietnam war are more likely to be an additional and permanent burden on top of an already large tax structure (itself mostly the result of past wars) rather than anything unique or presently unforeseen.

Traditionally, much of the cost of war has been met through inflation. We have had four periods of extreme inflation and deflation since 1800—all produced by war. The Civil War and World War One each doubled prices. World War Two increased prices by 50 percent. The Korean War further increased the cost of living by about ten percent.

Following the Napoleonic Wars, the previous upward surge of inflation tapered off during the 19th Century—a century of relative peace in Europe. Prices generally fell for 100 years. But the 20th Century has been a century of war and the price trend is sharply up. Prices are now five times higher than they were in 1900. If wars continue in the coming decades, the upward trend will continue and prices could be four times higher in the year 2000 than they are now.

Despite the extreme steps being taken by the Nixon Administration, the inflationary effect of Vietnam will probably result ultimately in a ten percent reduction in the standard of living of the average American. Since 1964, the consumer price index has increased 16 percent. If only half of that increase is attributable to the Vietnam war—a conservative estimate—then the inflationary cost of the Vietnam war to our G.N.P. to the first quarter of 1969 has been about 17 billion dollars in only four years. In the past, it has taken 10 to 20 years of peace to erase this war-caused inflation. If peace were to come this year, therefore, we could expect the inflationary effects of the Vietnam war to last at least until 1980 and cost a minimum of 30 billion dollars.

Over the centuries, war has tended to centralize Government; and during all major American wars, the power of the Federal Government has markedly increased. As economist Herman Krooss has shown, each of our three major wars has cost ten and a half times more than the previous one. With new financial obligations and new powers brought on by the war emergency, the Federal Government more than doubled in size during each of the last two major wars. The Vietnam war will continue, if not accelerate, this trend.

It is widely assumed, especially among economists, that the generation that fights the war is the generation upon which the burden of the war falls. For those who are killed and maimed, this is absolutely true. But, as we have seen, many burdens, such as veterans' pensions, last for several generations. These pensions irrevocably commit future funds that might have been used for other, more pressing purposes. Over several decades, these pensions, along with our war-generated graduated-income-tax system, also have tended somewhat to improve the social status of veterans. Partly because of a generous educational subsidy, veterans are better educated than nonveterans; their income is higher, their job security tighter and their rate of unemployment lower. The incidence of poverty among veterans, moreover, is less than that of nonveterans.

The burden of national debt, contrary to the views of some economists, may also have lasting influence. It can, for example, reduce the lifetime income of future generations if they decide, unlike this generation, to pay off the national war debt. In any event, we have been frustrated by the unwillingness of past generations to pay for their own wars, which has led to current inflation and the devaluation of the dollar. May not a future generation also be frustrated by our unwillingness to pay the full costs of the Vietnam war? Millions of people today are living on relatively fixed sources of income. As the cost of living continues to rise because of the war, not only do these individuals suffer decreased purchasing power but their children may fall to the next lower economic class unless the inflationary cycle is broken.

The Vietnam war has unquestionably lowered the standard of living of this generation. It has also lessened our willingness and that of future generations to take enterprising risks, because taxes remain high. It has materially lessened the supply of natural resources available to our children and shifted even further the balance of military vs. civilian priorities—a shift that is now going into its second generation.

Contrary to popular opinion, the Vietnam war will also probably decrease the G.N.P. in the long run. It is true that we have solved the problem of unemployment only in time of war, but this fact has misled many into believing that war means economic progress. Even with the enormous expenditures of the Cold War, our annual rate of increase in the G.N.P. has been less than three percent for the past generation. Historian John Nef, in his book War and Human Progress, looking back to the 15 Century, found that economic progress was faster in times of peace than in times of war and greater in countries less inclined than in those more inclined to war. John J. Clark, in his recent book The New Economics of National Defense, which focuses on the Cold War era, agrees with Nef. In the long run, decisions to continue the Cold War or to delay getting out of Vietnam, based on the alleged necessity of keeping people working and keeping the economy healthy, are at odds with historical experience.

The main reason many people feel that a war economy enhances the G.N.P. rate of growth is an excessive belief in the problem-solving powers of technology and in the generative force of research. Syllogistically, their reasoning runs something like this:

1. Modern war requires enormous amounts of research.

2. Research leads to new technological knowledge.

3. Technological knowledge leads to innovations and makes our economy run more efficiently.

4. Hence, war accelerates economic growth and brings prosperity.

For many, this now seems self-evident truth. But, as economist Robert A. Solo has shown in the Harvard Business Review for November and December, 1962, rising expenditures on research and development may actually be reducing the rate of economic growth in the United States. There is a negative relationship, he shows, between Cold War research expenditures and output per man-hour, inventive activity and the rate of increase of the G.N.P. Nor is the spin-off from defense projects substantial. We must realize that money spent for war is largely lost to other purposes. War—including research for war—depletes society's ability to solve nonwar problems. One can either fight, which is essentially destructive, or one can build. At no time in the past has a nation been able to do both. . . .

BEYOND THE MAIL STRIKE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DERWINSKI. Mr. Speaker, as a member of the House Post Office Committee who supported postal reform throughout our long deliberation, I take note of the sound and emphatic editorial in the Chicago Daily News weekend edition of March 21–22 which properly emphasizes the procedure that we should follow now that the strike is over. I insert the editorial at this point:

BEYOND THE MAIL STRIKE

Thanks in large part to Congress' overwhelming aversion to ruffling important voter blocs, the rule of law is working at a shamefully and dangerously low level of effectiveness. The mail carriers' strike provides the most immediate example. There are others.

Congress let the mail strike happen, while others who should have known better actually encouraged it. Congress has been playing footsie with both fellow politicians and the unions over President Nixon's postal reform bill, which would work efficiencies and open the way for higher pay for postal workers. At the same time Congress has been haggling for months over just how much the postal workers should be boosted over their present miserably inadequate pay scale, and whether it should be retroactive to last Oct. 1.

When the mailmen decided to strike, and to break their own oaths and the federal law in the process, they felt emboldened by Congress' senseless procrastination and also by the fact that everybody else and his brother has been defying the law and getting away with it. While this was the first strike at the federal level, the difference was not so obvious to a mailman trudging about the streets of New York. When his fellow service workers—policemen, firemen, garbagemen, teachers, motormen—struck in defiance of the law, they all won their strikes and were excused for their trespasses in the bargain. "Why not us?" the mailmen figured.

There are, of course, some good reasons for "why not us." Strikes violating state laws were one thing; strikes against the federal government put the whole nation in the shadow of anarchy. If the rule of law breaks down at the federal level, the American system of government has failed.

The law must be upheld and the public's vital welfare must be served: That is the executive branch's clear responsibility.

Congress' obligation goes beyond that.

When civilians must forfeit the right to strike they do not also forfeit the right to equitable treatment; the case for such treatment becomes all the more imperative.

Congress has the urgent obligation of enacting a fair rate of compensation for the postal workers, and of dating it far enough back to offset the damage caused by its own procrastination.

Congress must also look forward to some related problems that are bearing down upon it, and which it appears sadly unprepared to meet. The latest 37-day delay of the nationwide railroad strike expires on April 11. Now a nationwide trucking paralysis is threatened for April 1 or shortly thereafter. There are other, equally devastating nationwide stoppages in prospect.

In spite of fierce union pressure, Congress must come down to the grim business of outlawing strikes and lockouts that threaten nationwide catastrophe. It must define and proscribe such stoppages and it must set up machinery that will assure that the economic and other interests of the workers will be scrupulously protected in return for surrender of the strike right.

These are imperatives of these drastically changed and changing times.

COMMUNISM—THE NEW LEFT

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. ICHORD. Mr. Speaker, at a time when there are increasing efforts by the New Left to disrupt the harmony and stability of our society, I invite the attention of my colleagues to an excellent article by the commander in chief of the Veterans of Foreign Wars, Ray Gallagher, on the subject of "Communism—The New Left."

During Mr. Gallagher's tenure as commander in chief of that splendid organization, he has provided sustained and inspiring leadership in freedom's cause. My colleagues will recall the program he initiated last fall called "Operation Speak Out." This was one of the most effective nationwide efforts to enlist the voice of the silent majority to support the President in Vietnam.

I commend Mr. Gallagher on this comprehensive article regarding the New Left. I am sure all of my colleagues who voted for the Defense Facilities and Industrial Securities Act of 1970 will find Mr. Gallagher's support of this act most encouraging.

The article follows:

[From the Stars and Stripes, Mar. 5, 1970]

COMMUNISM—THE NEW LEFT EXPLORED BY VFW HEAD

(By Ray Gallagher)

Within a few short months the vocabulary of the average American has been expanded considerably. Words like "flower children," "happenings," "restructuring of the social order," "transformation of the establishment," "yippies," "murderous pigs," "SDS," and "the new mobe" have come in like a whirlwind—almost from nowhere.

At first most of us thought such new words were like fads—and like most things—would soon pass. Only they haven't. The fact is that the protest movement in America is not dead. How much of it is yet alive remains to be seen as we slip into the decade of the seventies.

The fact is there exists in America today a certain traitorous specimen of revolutionary young people, still relatively small in number, but fierce in commitment, who, for a variety of reasons, bitterly oppose our democratic system. The fact is these young people are set to restructure our free society—and many of them are willing to use force and violence to achieve their aims.

What is this new conspiracy? Who are they—these offspring of our generation who mock American heroes, who disparage American history, who contemptuously call our generation corrupt, evil and malignant; who say our American ideals, values and standards are sick and irrelevant to the times; who hiss and boo our elected officials, who scorn their elders and those in authority, who burn their draft cards; who praise Castro, and the recently departed Ho Chi Minh; who quote their revolutionary ideology from Karl Marx; who claim our schools are choking, stifling and stunting the brains of the young, who take and peddle drugs, wallow in filth, riot, burn and kill; denounce and desecrate the flag and never offer anything constructive to replace the system they aim to destroy. Who are they? What is their ultimate purpose? What is their vision?

MANY VARIETIES

I am speaking of the New Left in America, much of which is Marxist-Leninist (communist) dominated. The New Left tells us, "We have within our ranks communists of at least a half dozen varieties, we have leftists, socialists of all sorts, three or four different kinds of anarchists . . . nihilists . . . libertarian capitalists . . . and the articulate vanguard of the psychedelic liberation front."

We hear a great deal of nonsensical chatter from these groups but their underlying theme is deadly serious. The New Left aims to destroy our society. They offer in its place, a parallel governmental authority whose aim is the seizure of political power and the liquidation of constitutional authority.

It just so happens that the aims of America's New Left coincide with the historic aims of the system of the old left. And it just so happens that when the New Left protests in America, the old left also protests in numerous other countries—and for the same reasons and the same ideological causes.

It is also significant that during early February, 1970, some 300 communists party delegates met in Chicago to map out and coordinate new programs and objectives for the youth movement in America. Their objective is to bring the old hard line communists and the fierce new left into confidence.

In 1966 a new book "The New Program of the Communist Party U.S.A." was published. This new book outlines the overall plan for making the transition from capitalism to socialism. It is the Communist's plan of action for the 70's. It provides specific guidance to black power groups, youth groups, urban middle class groups, the intellectual community, minority groups and small businessmen. It tells each of these categories how to carry on the class struggle, how to oppose and eventually destroy the capitalistic system and how to make the transition to the new system of Marxist-Leninist control. There is one sentence in the book which is most interesting for those who say the New Left is something different than the communists of earlier decades. The book says, quote "In reality there is one left, new and old . . ." This new book stresses the fact that the actual contact is between classes and social forces. The communists are using the

younger generation because they are less burdened with old dogmas, more receptive to ideas and change, responsive to the promptings of their teachers and prone to radicalism.

The time has come for enlightened Americans in positions of responsibility to take those actions which will promote unity and domestic harmony at home and increase the possibility of enjoying a few years of liberty's blessings during our lifetime.

NEW LAW NEEDED

A good example of responsible leadership recently occurred in the House of Representatives. By an overwhelming majority the House of Representatives approved in late January of this year the Defense Facilities bill, H.R. 14864. Thus far, the Defense Facilities bill has attracted little press or public attention.

In terms of strengthening the security of the United States, this bill is most important. It is vital to our national interests. Unless and until the bill passes the United States Senate and is signed into law by the President, the Executive Branch has no legal device for keeping subversives out of sensitive positions in our defense facilities. Our defense industries are extremely vulnerable to any type of subversive efforts when they lack the means of self protection.

How many Americans know it is legal for communists and other subversives to work in sensitive defense industries, in such places for instance as missile factories and nuclear weapons plants? In this environment is it any wonder that Soviet leaders have learned so many of our innermost secrets, on military hardware? Is it any wonder that many of the Soviet Union planes, missiles and warships have achieved technical supremacy during a relatively brief span of years?

The Defense Facilities and Industrial Security Act of 1970 empowers the executive branch to establish a screening program for access to sensitive positions in defense facilities. But this new legislation does more than make it possible to weed out subversives, the bill provides a statutory basis for a continuation of the proctection of classified information. Beyond this, the bill revitalizes a screening program so that subversives can be excluded from waterfront facilities and merchant vessels.

I wish to commend the 274 members of the House of Representatives who passed this important bill. At the same time I urge the United States Senate to act swiftly and favorably on the bill.

Our nation simply cannot afford loopholes in our security laws at this time, particularly when we have in our midst a number of trained traitors and subversives who are actively trying to destroy our society and replace it with the Marxist-Leninist concept commonly called Communism.

Communism is an ideological and operational conspiracy, which the leaders, as a small group, use to get complete power over open societies and their social economic systems in order to, and using communist words, restructure or transform the capitalistic system into party controlled socialist systems.

Let us look at some communist achievements.

The murder of between 60 and 84 million people in the U.S.S.R. and the nation states of Eastern Europe.

Destruction of the Russian Empire and the cultures, economies and wealth of all satellite nations—over 500 million people.

The establishment of perpetual class war, revolution and chaos in most of the world.

Spread of the clouds of intrigue, ideological and semantic warfare, degeneration and destruction of the open societies throughout the world.

Establishment and expansion of a worldwide war on Christianity and other faiths.

Liquidation of the capitalist open market economy.

These are the aims of the Marxist-Leninists and their idealistic partisans, "the New Left."

Why has communism lasted for 53 years if it is without a scintilla of justification? The answer is that, because of half-baked education and naivete, it represents a package of plausible sophistries, used to exploit the weaknesses and yearnings of the masses. It provides a smoke screen behind which a limited few can carry on incredible conspiracy for seizure of worldwide open societies and incorporation into the world socialist system. And, unarmed people cannot argue with the business end of a gun.

Therefore, Communism explains why we had World War I, World War II, Korea and Vietnam, and now, the Middle East war. The hidden hand strives to perpetuate disarray, exacerbate hostilities and frictions until they are ready to seize political power.

Responsible forces, despite election results and changes in leadership, have been swept along and have been unable to change the course. Deception, semantic subversion, infiltration and penetration of the thought-control systems have made it possible to brain wash great numbers of people. Skillful exploitation of that basic deficiency of the Anglo-Saxon mind, its inability to comprehend intrigue, has kept many lawyers and naive business leaders from real opposition to communism. In fact, a great many have been so bemused by it as to act like collaborationists in arrangements for their own funeral.

When the Soviet diplomat offers a cocktail, he has hidden in his pocket an undertaker's contract to bury our system of democracy.

Therefore, Americans should know more about the New Left and what these young people aim to achieve, the origin of their inspiration and viewpoint, their tactics, what threat they pose to our country. In recent months, more evidence is accumulating of the tactical and semantic cooperation within the SDS complex, the black power complex and the socialist-communist youth complex.

As part of the adult generation we have an obligation to do everything possible to maintain a dialogue with our youth—to know what they are thinking. Many young people have legitimate complaints. Our society is not perfect. We need to listen to their ideas about the problems facing us. We have a capable, intelligent and sophisticated young generation. We should listen to them.

The vast majority of America's young people seek to take advantage of educational opportunities. They respect the law. They seek changes within the framework of law and order. These young people deserve the best which we as a Nation can give them.

TRIBUTE TO "TIC" FORRESTER

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mr. WHITTEN. Mr. Speaker, I join with my colleagues in paying tribute to the life in service of our late friend, E. L. "Tic" Forrester.

Tic, as everyone who knew him was aware, was a sincere man and a rugged fighter, a fine citizen and outstanding Member of Congress. We all treasure our memories of our association with him here. The benefits which flowed to his district and Nation as a result of his work in the Congress will long be felt.

To his loved ones we extend our deepest sympathy on his loss.

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1970

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MAHON. Mr. Speaker, I include a release highlighting the February 1970 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures:

FEDERAL CIVILIAN EMPLOYMENT, FEBRUARY 1970

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of February was 2,928,473 as compared with 2,929,564 in the preceding month of January. This was a net decrease of 1,091.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of February totaled 2,892,469. This was a net decrease of 1,124 as compared with employment reported in the preceding month of January. Employment by months in fiscal year 1970, which began July 1, 1969, follows:

Month	Employment	Increase	Decrease
July 1969	3,049,502	+9,140	
August	3,015,864		−33,638
September	2,945,752		−70,112
October	2,927,741		−18,011
November	2,913,598		−14,143
December	2,912,661		−937
January 1970	2,893,593		−19,068
February	2,892,469		−1,124

Total employment in civilian agencies of the Executive Branch for the month of February was 1,652,451, an increase of 10,939 as compared with the January total of 1,641,512. Total civilian employment in the military agencies in February was 1,240,018, a decrease of 12,063 as compared with 1,252,081 in January.

Civilian agencies of the Executive Branch reporting the largest increases were Treasury Department with 6,507 and Commerce Department with 2,996. These changes were largely seasonal.

In the Department of Defense the largest decreases in civilian employment were reported by the Army with 4,997, Navy with 3,896 and Air Force with 2,521.

Total Executive Branch employment inside the United States in February was 2,658,563, an increase of 4,346 as compared with January. Total employment outside the United States in February was 233,906, a decrease of 5,470 as compared with January.

The total of 2,892,469 civilian employees of the Executive Branch reported for the month of February 1970 includes 2,581,237 full-time employees in permanent positions. This represents a decrease of 8,254 in such employment from the preceding month of January. These figures are shown in Table 2 of the accompanying report.

The total of 2,892,469 civilian employees certified to the Committee by the Executive Branch agencies in their regular monthly personnel reports includes some foreign nationals employed in U.S. Government activities abroad but in addition to these there were 108,253 foreign nationals working for U.S. agencies overseas during February who were not counted in the usual personnel reports. The number in January was 108,598.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in the month of February totaled 29,182, an

increase of 7 as compared with the preceding month of January. Employment in the Judicial Branch in the month of February totaled 6,822, an increase of 26 as compared with January.

In addition, Mr. Speaker, I would like to include a tabulation, excerpted from the joint committee report, on personnel employed full time in permanent positions by executive branch agencies during February 1970, showing comparisons with June 1969 and the budget estimates for June 1970:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1969	January 1970	February 1970	Estimated June 30, 1970 [1]
Agriculture	83,425	81,946	81,853	83,000
Commerce	25,364	25,166	25,222	25,060
Defense:				
Civil functions	31,214	30,368	30,227	30,700
Military functions	1,225,877	1,182,908	1,172,008	1,165,900
Health, Education, and Welfare	102,941	100,515	101,068	102,500
Housing and Urban Development	14,307	14,244	14,301	14,900
Interior	58,156	59,085	59,284	59,300
Justice	35,106	36,090	36,497	37,600
Labor	9,723	9,795	9,775	10,300
Post Office	562,381	562,981	563,538	567,000
State	24,658	24,103	24,057	23,900
Agency for International Development	15,753	14,838	15,109	15,000
Transportation	60,386	60,819	61,240	53,600
Treasury	79,982	84,820	85,249	86,700
Atomic Energy Commission	7,047	6,983	6,990	7,000
Civil Service Commission	4,970	4,957	5,007	5,300
General Services Administration	36,176	35,979	36,173	36,400
National Aeronautics and Space Administration	31,733	31,533	31,489	31,400
Office of Economic Opportunity	2,856	2,057	2,097	2,400
Panama Canal	14,731	14,679	14,641	14,700
Selective Service System	6,584	6,583	6,624	6,600
Small Business Administration	4,099	4,032	4,030	4,100
Tennessee Valley Authority	11,987	12,281	12,347	12,300
U.S. Information Agency	10,500	10,249	10,208	10,200
Veterans' Administration	147,606	146,182	146,291	148,500
All other agencies	26,200	26,298	25,912	27,800
Contingencies				10,000
Total	2,633,762	2,589,491	2,581,237	2,602,800

[1] Source: 1971 Budget Document; figures rounded to nearest hundred.

FEDERAL TELECOMMUNICATIONS SERVICES FOR STATE SURPLUS AGENCIES

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, I am happy to state that it will soon be possible for the Federal donable property program to benefit from State use of the vast network of the Federal telecommunications system.

The donation program, authorized by subsection 203(j) of the Federal Property Act, permits surplus property from Federal agencies to be made available to States for educational, public health, and civil defense purposes. In fiscal year 1969, personal property which originally cost the Government $292 million and which later became surplus to Federal needs was distributed to the States. To do this required processing over 80,000 applications for property representing 260,000 line items.

Making this program work at the State level are 52 surplus property agencies which the Federal Property Act requires to be established. These agencies represent the 50 States as well as the District of Columbia and Puerto Rico. The donable property program has long been an outstanding example of intergovernmental cooperation at its best.

When the Congress approved the Intergovernmental Cooperation Act of 1968, it provided under title III that specialized or technical services could be made available on a reimbursable basis to State and local governments and units thereof. Pursuant to the act, the Bureau of the Budget issued detailed instructions as to the types of services to be rendered to States and the procedures to be followed. Telecommunications services were among those specified in the Bureau of the Budget Circular A-97, dated August 29, 1969.

The potential of increased savings and efficiency through use by the State surplus property agencies of the Federal telecommunications system was immediately apparent. Each State agency must follow many steps relating to the acquisition, distribution, and control of surplus property items. Long-distance calls to Federal installations holding surplus property, to HEW and GSA regional offices, and to other State agencies must regularly and frequently be made in order that donation program operations can be coordinated and expedited.

The Special Studies Subcommittee of the House Government Operations Committee has jurisdiction over the donable property program. As subcommittee chairman, therefore, I wrote to the Secretary of Health, Education, and Welfare and the Administrator of General Services asking that they take action toward making Federal telecommunications system services available to the State agencies. Both HEW and GSA have been considering the matter. GSA, of course, manages the Federal telecommunications system and hence must make the main decisions.

Through GSA's cooperation, substantial progress has now been made and I am pleased to have received the following letter from the Administrator:

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., March 18, 1970.

Hon. JOHN S. MONAGAN,
Chairman, Subcommittee on Special Studies, Committee on Government Operations, House of Representatives, Washington, D.C.

DEAR MR. MONAGAN: This is in reply to your letter of February 18, 1970, concerning Federal Telecommunications System service to State agencies for surplus property.

We have determined, in cases where existing facilities and personnel are sufficient to meet requirements for the additional service, that FTS service can be made available for State surplus property agencies established in accordance with the requirements of the Federal Property Act.

Requests for FTS service will have to be handled on an individual basis from the State agencies concerned, and we would require each State to establish a single coordinating point to process requests for service and serve as a billing point.

Your interest in this matter is greatly appreciated.

Sincerely,

ROBERT L. KUNZIG,
Administrator.

Each State agency now has the opportunity before it. I believe that each can use the service effectually and responsibly. I urge both State and Federal agencies concerned to work together promptly and earnestly so that this benefit to the program can be realized as soon as possible.

A PRISONER OF THE SYSTEM

HON. WILLIAM H. AYRES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. AYRES. Mr. Speaker, the March 25, 1970, edition of the Wall Street Journal carried an article entitled "A Prisoner of the System."

This timely editorial represents a succinct and, in my judgment, valid assessment of what is perhaps the key factor that continues to affect adversely the Interstate Commerce Commission generally but especially in its relationship with the Nation's railroad system.

Since I earnestly believe that this commentary will be of special interest to many of my colleagues, Mr. Speaker, I would like to include in the RECORD at this time the complete text of "A Prisoner of the System":

A PRISONER OF THE SYSTEM

Railroad regulation is such a mess that it's easy to get angry with the Interstate Commerce Commission, the agency that administers the confusion. Yet it's well to remember that the ICC is, by and large, only the prisoner of the foolish laws it must enforce.

When the ICC sees an opening, it often opts for common sense. Certainly that's true of its decision on the railroad's request for higher rates to haul fresh vegetables and melons from Arizona and California to the East.

Of course the ICC's approval of the in-

creases took time; the laws require that. The railroads asked for the boosts last summer and they were finally cleared by the agency only this month. Food chains and others objected not only to the size of the increases but to the fact that the railroads agreed to pay penalties to shippers if the vegetables and melons were delayed so long that they spoiled.

Opponents claim that the penalties would be illegal kickbacks, but that's really pretty silly. As the ICC said, the payments would be justified compensation for the railroad's failure to deliver promised services.

The case still may be far from settled. Under the law the opponents appealed to a Federal court which has held up everything with an injunction.

No one likes to be hit by higher prices and costs, and it's obviously true that at least part of the higher shipping costs will be passed along to consumers. It's also true that relatively low value commodities have always carried relatively low rail rates. Competition would permit a more accurate setting of rates, but national transportation policy isn't really geared for that sort of thing.

As the late President Kennedy said in 1962, "A chaotic patchwork of inconsistent and often obsolete legislation and regulation has evolved from a history of specific actions addressed to specific problems of specific industries at specific times. This patchwork does not reflect either the dramatic changes in technology of the past half century or the parallel changes in the structure of competition.

Though Mr. Kennedy proposed reasonable changes in the systems he got nowhere at all. The blame for that belongs not to the ICC but to Congress.

CHICAGO POLICE SUPERINTENDENT CONLISK ENDORSES HANDGUN CONTROL EFFORTS

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MIKVA. Mr. Speaker, on March 3, 1970, I introduced H.R. 16250, the Handgun Control Act of 1970. This bill would ban the importation, manufacture, transfer, sale, or transportation of handguns in the United States except by military or law enforcement personnel or certain persons and pistol clubs licensed by the Secretary of the Treasury. In light of the already high and increasing predominance of handguns in criminal violence in America, this bill attempts to limit the huge traffic in handguns which now exists in our country.

One of the most gratifying responses I have received to H.R. 16250 is from a group which has much to gain from effective handgun control: The Nation's law enforcement officers. These men—who are daily on the front lines of the fight against crime—have first-hand knowledge of how important the easy availability of handguns is to the criminal population. One such endorsement of handgun control which is especially gratifying is that from the superintendent of the Chicago Police Department, James B. Conlisk. In response to a letter from me requesting statistics on the use of handguns in Chicago crime and in the murder of Chicago policemen in the line of duty, Superintendent Conlisk wrote a most gracious reply. I quote from the last paragraphs of his letter:

According to the National Commission on the Causes and Prevention of Violence, the manufacture, importation and sale of handguns show a spiraling increase during the past decades. This increase roughly parallels the burgeoning rise in violent crime by use of handguns throughout the United States. Undoubtedly, there is a correlation between violent crime increase and the availability of firearms. Social reformation conceptualized as crime-reducing will be significantly hindered if non-military, non-law enforcement non-sports involved, crime-prone individuals are allowed, through lack of adequate restrictions, to possess and carry handguns for unlawful use. Unfortunately, too many handguns are in plentiful supply and readily acquired by individuals inclined toward crime. We, in law enforcement, applaud your efforts to reduce violent crime through additional handgun control.

I hope that the foregoing statistics, which do not fully or adequately portray the tragic ramifications of violent crime committed by the unlawful use of firearms, mainly handguns, will assist you in your crime prevention efforts.

I insert the full text of Superintendent Conlisk's letter at this point in the RECORD for the benefit of my colleagues.

DEPARTMENT OF POLICE,
Chicago, Ill., March 12, 1970.

Hon. ABNER J. MIKVA,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MIKVA: This is in response to your letter of March 5 addressed to Mr. Paul Quinn of this office. The following data regarding unlawful firearms usage is being submitted to you in compliance with your request.

Estimated number of handguns in private (non-law enforcement) hands in Chicago. Number legally licensed or registered? Number illegal?

As of March 6, 1969, there were 402,732 registered. Nonregistered would be purely guesswork.

Recent trend in handgun sales and ownership in Chicago (1960–69, for example)?

We are unable to submit these statistics. We have no empirical data regarding the foregoing. However, according to George D. Newton and Franklin E. Zimring, who compiled a staff report titled "Firearms and Violence in American Life" to the National Commission on the Causes and Prevention of Violence stated that in 1960 there were 474,677 handguns manufactured in the United States, and during the same year there were 128,166 handguns imported for private sale in the United States. In 1968 these totals were increased to approximately 1,259,356 handguns manufactured in the United States and 1,239,930 handguns imported for private sale in the United States. Accordingly, the importation, manufacture, and demand and sale of handguns, 1969 compared to 1960, indicates a 400% increase in the foregoing categories.

Number of fatal handgun accidents in recent years in Chicago?

Fatal handgun accidents are not tabulated.

Number of handgun homicides in Chicago and what percentage they are of the total homicides for several years? Same for robberies? Same for aggravated assaults?

MISUSE OF FIREARMS (ALL TYPES) IN HOMICIDE CASES

	1965	1966	1967	1968	1969
Total number of homicides	395	512	552	647	715
Homicides committed by use of firearms	194	257	311	375	[1] 438
Youths under 21 using firearms to commit homicides	38	72	95	115	171
Number of homicides committed by youths under 21 using firearms	30	63	70	100	125
Homicides by firearms:					
Youths under 21:					
90 percent increase 1966 versus 1965					
150 percent increase 1967 versus 1965					
203 percent increase 1968 versus 1965					
316 percent increase 1969 versus 1965					

[1] Indicates a 126 percent increase in homicide by use of firearms, all ages, 1969 versus 1965.

In 1968, of the 375 firearms used in homicide cases, 206 were revolvers, 64 automatics, 4 derringers, 27 shotguns, 14 rifles, and 60 were unidentified type guns. In essence, of the 315 identified firearms homicides, 274 were by handguns, or 87% of the firearms used to commit homicides in 1968 were by handguns. The same percentage ratio would probably hold for other years.

SERIOUS ASSAULTS

	1965	1966	1967	1968	1969
Total serious assaults	10,352	11,330	12,346	12,312	12,787
By shooting	1,298	1,873	2,412	2,839	[1] 3,145
Percent by shooting	12.5	16.5	19.5	23.0	24.6

[1] Indicates a 142-percent increase in serious assaults by shooting, 1969 versus 1965.

TYPE OF WEAPON USED IN THE OFFENSE OF ARMED ROBBERY

Year	Handguns	Shotguns	Rifles	Knives	Other: bottles, pipes, bricks, blackjacks	Total
1965	3,880	206	25	2,891	1,078	8,080
Percent of use	47.9	2.8	0.3	35.6	13.3	99.9
1966	4,241	182	35	3,063	1,047	8,568
Percent of use	49.5	2.1	.4	35.7	12.2	99.9
1967	4,941	227	42	2,638	1,129	8,977
Percent of use	54.1	2.8	.5	29.9	12.5	99.8
1968	6,247	268	62	2,417	950	9,944
Percent of use	62.8	2.7	.6	24.3	9.6	100
1969	[1] 7,640	575	124	2,317	1,255	11,911
Percent of use	64.1	4.8	1.0	19.5	10.5	99.9

[1] Indicates a 97-percent increase in the number of robberies committed by use of a handgun, 1969 versus 1965.

HOMICIDES AND SHOOTINGS OF POLICE

	1965	1966	1967	1968	1969
Homicides	1	2	5	5	9
Shootings			24	39	64

Your bill entitled "Handgun Control Act of 1970" has been reviewed with great interest. According to the National Commission on the Causes and Prevention of Violence, the manufacture, importation, and sale of handguns show a spiraling increase during the past decade. This increase roughly

parallels the burgeoning rise in violent crime by use of handguns throughout the United States. Undoubtedly, there is a correlation between violent crime increase and the availability of firearms. Social reformation conceptualized as crime-reducing will be significantly hindered if non-military, non-law enforcement, non-sports involved, crime-prone individuals are allowed, through lack of adequate restrictions, to possess and carry handguns for unlawful use. Unfortunately, too many handguns are in plentiful supply and readily acquired by individuals inclined towards crime. We, in law enforcement, applaud your efforts to reduce violent crime through additional handguns control.

I hope that the foregoing statistics, which do not fully or adequately portray the tragic ramifications of violent crime committed by the unlawful use of firearms, mainly handguns, will assist you in your crime prevention efforts.

Sincerely,

JAMES B. CONLISK, Jr.,
Superintendent of Police.

STRIKES AGAINST FEDERAL GOVERNMENT ILLEGAL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DERWINSKI. Mr. Speaker, as the post office strike reaches an end and the Congress properly looks forward to assessing the need for legislative activity, the principle which must be emphasized is that strikes by Federal employees are illegal and against the public interest.

This point is effectively emphasized in a release issued yesterday by the Federal Professional Association here in Washington, the full text of which I insert into the RECORD at this point:

FEDERAL PROFESSIONAL ASSOCIATION HEAD BERATES FEDERAL STRIKES

The president of the government-wide Federal Professional Association has issued a statement strongly condemning strikes by Federal employees and simultaneously has called for legislation to erase a number of Federal employee grievances, including those of postal workers.

"Strikes by Federal employees are both against the law and against the public interest," Lucile Graham of Washington, D.C., President of the Federal Professional Association, stated.

She expressed full sympathy for the salary needs of postal employees while castigating their resort to the strike as a means of making their demands felt.

"A strike of Federal employees trends dangerously close to anarchy. No principle in a democracy is more precious than the requirement that public employees must be inviolably pledged to maintaining public services," she said. "Law, order, and the successful functioning of the Nation require that the strike weapon be denied public employees," she said.

"Yet the fact that Federal workers cannot legitimately resort to the strike places a special burden on society to provide adequately for the protection, the needs, and the rights of its public employees," Miss Graham stated.

She asserted that government is derelict when it allows conditions to develop that are conducive to disobedience of the very laws which Federal employees are pledged to uphold and implement.

The members of the Federal Professional Association, an organization dedicated to improving the quality of the public service and the environment in which it is administered, have repeatedly affirmed a no-strike position. "The function of the Federal government depends in large measure on the commitment, competence, judgment, and integrity of the professional workers in the career service," she said. The Association is not antiunion.

"We do not believe in Federal strikes and we can imagine no circumstance in which we would agree that any group of Federal workers should strike, including the present one," she stated.

Miss Graham said that pay adjustments which would make salaries of Federal professional employees comparable with those paid by private enterprise are lagging by almost 18 months, but that the Association which she heads is seeking and will continue to seek remedial action through established legislative channels, rather than through strikes or other means which would disrupt orderly administration of the government.

SPEECH OF REGRET AT "TIC"' FORRESTER'S PASSING

HON. THOMAS G. ABERNETHY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mr. ABERNETHY. Mr. Speaker, in my 28 years of service in this body I have been associated with many Members whom I greatly admired for their courage and respected for their forthrightness and character. However, the respect and admiration which I had for these did not exceed that which I had for Elijah Lewis Forrester, whom we all affectionately knew as "Tic."

Our late and lamented friend, though small in stature, was a courageous giant. As a dedicated loyal American he was always ready to take on anyone at any time in defending the principles upon which this Nation was founded and upon which it was designed to progress and prosper through the ages.

He observed with great concern the attacks upon and whittling away of our great Constitution by those who sought, demanded, and achieved by means other than constitutional amendment. He lamented the trespasses committed by the judiciary upon the prerogatives of the legislative branch, as well as by the Chief Executive, through the abused process of Executive order.

Time after time "Tic" Forrester stood on the floor of this House and warned of Washington's departure from constitutional government, of spending beyond our means, of the hands from every nook of this Nation turning toward Washington for more and more Federal handouts and of the politically inspired cleavage that was separating the American people. The mess we are in today proves that "Tic" Forrester knew whereof he spoke.

This late statesman was a good and kind man. He was friendly and courteous. He loved this House. He loved people. And I am happy to say that he was my friend.

Earlier this year he telephoned me from his home in Georgia. At that time the papers were filled with reports of marching in the streets, of misconduct on the part of numerous college youngsters, of inflation and the depreciation of our dollar, of expanding Federal expenditures and so many other things that have come to concern many of us. He said:

Just wanted someone to talk with, someone to express my concern to about the direction of my country which I love so much.

And we talked on for a half hour or more. Indeed, he was concerned, just as every American should be.

Mr. Speaker, I have seen hundreds of men and women come and go from this body. Many of them have been forgotten, but not "Tic" Forrester. He left an impression upon those who served with him that will live throughout their lives; and he left a mark of service and statesmanship in the Halls of this Congress that will live on and on.

I regret the passing of my warm and personal friend, Elijah Lewis Forrester. I sympathize with his surviving wife and the members of his family. I thank the State of Georgia for sending him to this House where he served so ably and so well. And thank the good Lord for the life that He gave him, a life that was lived so well and did so much good for mankind.

WELFARE REFORM: LOOK CLOSER BEFORE YOU LEAP

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. ULLMAN. Mr. Speaker, the House is expected to vote soon on the administration's welfare reform bill. There is no question that the national welfare system should be renovated. The billions of dollars now poured into welfare can and should be spent much more efficiently and effectively.

I believe that the poor people of this State and this Nation should have a better opportunity to lift themselves out of poverty.

I also believe that the Federal Government should provide additional relief to State governments which are struggling to meet the rapidly rising cost of welfare.

In my judgment, then, there is clearly a need for welfare reform. However, the so-called welfare reform bill recommended by the administration and passed out by the Ways and Means Committee earlier this month is not sound reform nor well-considered innovation.

I voted against the bill in committee and I will vote against it on the House floor for several reasons. Reform should be built on the solid foundation of experience, and should be backed by clearly defined principles understood by all.

But in my judgment, the welfare reform bill is deceptive in nature and clearly understood by very few.

The administration says there will be improvement, pointing with much fanfare to work incentives it claims are in

the bill. The administration says that the poor will, for the first time, be able to work themselves out of poverty, and that the welfare rolls will be reduced.

In my judgment, this is a false hope. The heart of welfare reform should be human rehabilitation. There is little of that in this bill. The funding in the bill for job training, for day care to allow mothers with children to work, and for special Government agency training programs is pathetically inadequate—less than 15 percent of the total cost of the new program.

The bill raises the expectations of the poor for jobs, and then dashes them by grossly underfinancing the programs needed to make jobs possible.

On the other hand, more than 70 percent of the cost of the new welfare program would go for cash payments. Here is where the emphasis of the bill really lies.

The bill ultimately establishes the basis for a guaranteed annual income through a negative tax formula. It would permanently consign more than 10 percent of our national population to welfare handouts. The bill would institutionalize poverty, not eliminate it.

The existing welfare system is an administrative mess. The new bill would not clean it up. It would only take us a half step toward nationalization of the program by creating a new Federal layer of administration on top of the present structure.

The bill leaves much of the operation of the program at the State level. Furthermore, no effort has been made to streamline and coordinate the two dozen Federal work programs that should be operating in conjunction with the welfare system.

The bill means more bureaucracy, not less.

The existing welfare program is extremely expensive. It costs Federal taxpayers more than $4 billion a year. The new bill would add more than 12 million persons to the 10 million already on the welfare rolls. This move would double the Federal cost of the program.

Some additional cost to fight poverty is inevitable and necessary. I favor, for example, the provision in the bill for a Federal floor on payments to present welfare beneficiaries. This Federal minimum will help reduce the States welfare burden and bring a measure of equity into the system.

I also fully concur that the Federal payments in the adult categories—to the aged, the blind, and the disabled—should be significantly increased as provided by the bill. The inflationary pressures of the economy make it impossible for individuals in these welfare categories to exist on their present fixed incomes.

But I am opposed to adding millions of new persons to the welfare rolls, and billions of dollars in cost to the taxpayers, until we have improved the structure of the system.

I believe the need is for tighter Federal standards applied to the existing system and aimed at more efficient and effective administration. Above all, the need is for greatly expanded funding of existing programs created to open up jobs. These include the work incentive program, the special projects program for employment in the public sector, the JOBS program coordinated with the business community, and, of course, child care.

The thrust of Federal welfare spending should be placed on these programs, not on cash payments for up to 25 million Americans. Only then can we produce real reform and an effective welfare system that offers a real chance for the poor of this Nation.

Mr. Speaker, I am pleased that the Wall Street Journal in an editorial this week agrees that we should concentrate our efforts now on job training and child care, and build a sound welfare structure on the present foundation before we expand the rolls.

Certainly, there can be no argument with the editorial's contention that we should get behind the rhetoric and examine the facts and consequences of this far-reaching bill much more closely before we vote.

I commend the editorial to the attention of my colleagues:

[From the Wall Street Journal, Mar. 30, 1970]

CANDOR ON WELFARE REFORM

The Nixon Administration offers its welfare reforms not as a guaranteed annual income but as a way to reduce welfare rolls in the long run by putting recipients to work. In nearby columns this interpretation is defended by Jerome M. Rosow, Assistant Secretary of Labor. We're more than happy to print his comments, representing as they do the Administration's most candid explanation of how it hopes the plan will work.

We particularly hope that anyone judging whether the plan will in fact ever reduce welfare rolls will study these closely reasoned arguments rather than the oversimplified and misleading rhetoric emanating from the White House and environs. There has been an attempt to foster the misconception that the present welfare laws offer absolutely no monetary incentive toward work, and that therefore the incentives in the Administration's Family Assistance Plan are a major breakthrough.

In fact, work incentives are already provided under Aid to Families of Dependent Children, by far the largest present welfare program. Benefits are calculated to allow recipients to keep the first $360 a year plus one-third of additional earnings. As Mr. Rosow's explanation makes clear, the new proposal's only changes within the AFDC category are modest increases in the initial "disregard" and training allowances. This means direct incentives will be only marginally higher.

Similarly, it's easy to make too much of the proposed tightening of the requirement that recipients accept work or training. For one thing, even if a recipient's benefits are canceled for refusing "suitable" work, his dependents' benefits continue. For a family of four, the upshot is a cut of $300 in the basic $1,600 allowance, presumably with a similar reduction in state supplements—surely a meaningful sum to welfare families, but not so surely an infallible sanction.

Even less encouraging is the ambiguity about what employment is "suitable." The current Work Incentive Program does not require recipients to accept "dead-end" jobs such as domestics, porters or janitors. Under the new proposals, "suitable" would be defined on a case-law basis. Litigious welfare rights organizations have been spectacularly successful as of late; only last week the Supreme Court ruled that states cannot cancel benefits to ineligible recipients until after formal hearings where recipients are entitled to legal representation. In practice, almost certainly the requirement of "suitable" work will mean that recipients will typically be required to accept only those jobs for which they cannot qualify.

Now, that neither work requirements nor work incentives will be exactly overwhelming does not absolutely mean the Family Assistance Plan will fail in placing welfare recipients in jobs. But its chances of success depend on the more subtle processes and assumptions Mr. Rosow describes.

In fact, the real guts of the plan are the substantial increases in spending for day-care facilities and training programs. The Administration writes off the disappointing past record of these approaches as due to lower funding and undeniably enormous administrative difficulties. It believes that if it can remove the barriers of low skills and child care, welfare recipients will naturally take jobs without greater incentive than they now have.

As Mr. Rosow puts it, a "key assumption" of the plan is that "the great majority of welfare adults prefer work to idleness." On this assumption the Administration proposes to bet, for openers, an additional $5 billion or so.

Yet the assumption is, to say the least, not exactly unquestionable. In some areas welfare benefits are high enough that it would be economically irrational for recipients to work at low-level jobs. Whatever their answers to attitude surveys, many recipients may suffer such social disorientation that only a truly powerful incentive could induce them toward the complete change in life-style employment implies. Many recipients may not prove trainable for the type of jobs likely to be deemed "suitable."

In light of these obvious difficulties and the discouraging experience so far, we think it senseless to expand welfare rolls until we have better evidence that recipients can be managed off the rolls once they are managed onto them. There is no reason why day care and work training cannot be expanded without at the same time enacting what for all practical reasons is a guaranteed annual income. First see whether this approach works, then talk about expanding welfare to include an additional 12 million people.

In political reality, of course, the Family Assistance Plan is backed by the winning combination of Republican Party loyalty and Democratic Party principals. So we're happy to have Mr. Rosow detail what its passage will entail in terms of work incentives and work training. You can agree or disagree with the assumptions behind the bill, but at least the Administration is starting to make those assumptions clear, and the nation can better judge what policy will actually result if the reforms become law.

NEW PRIORITIES

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, as Congress considers new priorities, it may be worthwhile for us to occasionally listen to our younger constituents. I was recently visited by a group of eighth-grade students at Encinal School in Atherton, Calif. I was struck by the nature of their priorities as expressed in the petition they presented to me:

ENCINAL SCHOOL SCIENCE CLUB ESSIC

We of the Encinal School Science Club Essic, proclaim the following acts in which we are trying to stop pollution which is destroying our natural resources. Here are some of the activities in which we are attempting to help the fight to stop pollution:

One group of members are making a newsletter which we will distribute throughout

our community. We will explain to people how pollution is destroying our earth and what they can do about it. Second, we are trying to get television coverage telling the people what is happening and the consequences if pollution doesn't stop. We have bought two water testing kits which we will use for testing the Bay. From this we should be able to find out the pollutants of the Bay and where they are coming from. We are writing the companies which pollute the Bay and asking them why they do it and if they could please stop. Some members are going to clean up a little area around our Bay. Finally, we are urging everyone to write to their U.S. Congressmen. We are all hoping that Congress and President Nixon will continue to help stop pollution. The new bill proposed by President Nixon to help stop water pollution is very encouraging. We hope this type of bills will continue. Thank you for the work you do.

Respectfully,

ESSIC.

PAPER HINTS AMERICANS GET GUERRILLA TRAINING IN CUBA

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FISHER. Mr. Speaker, under leave to extend my remarks I include a UPI story, dated March 22. The article follows:

PAPER HINTS AMERICANS GET GUERRILLA TRAINING IN CUBA

DETROIT.—The Detroit News reported Saturday that young Americans who have gone to Cuba to harvest sugar cane may actually be undergoing training there for guerrilla warfare.

In a copyright story in its Sunday edition—most of it devoted to the recent wave of bombings and bombing scares across the country—the News said its information comes from classified reports of several free world consulates in Havana.

"The training of American radicals apparently has been going on for at least six months," the News said.

"It was accidentally discovered last fall when a West European consulate member, invited to the site to review Cuban militia operations, was inadvertently driven into the area where the Americans were being trained," the newspaper said.

The News continued: "In a report to his government, the consulate member identified the trainees as Americans beyond reasonable doubt. A large number were blue-eyed blonds, he reported, and he overheard many speaking English replete with the latest American slang.

"His report was supported on several later occasions by consulate members of other countries, who observed American youths in military attire in small towns and villages near the site."

The News quoted "a high-ranking Canadian government source" as saying that most of the approximately 500 young Americans now in Cuba purportedly to cut Fidel Castro's sugar cane crop actually are learning revolutionary warfare at a site 30 miles east of Havana.

"He (the Canadian source) said they are being taught by instructors from Red China and perhaps the Soviet Union. The training site is also used to prepare guerrillas for export to Latin America," the newspaper said.

On Feb. 13, about 480 young Americans gathered at St. John's, New Brunswick, and boarded the Cuban cattle boat Luis Arco Dergenas to go to Cuba. The 14 said they were going to help harvest the sugar crop.

VIETNAM WAR WAS L. B. J.'S DOWNFALL; WILL CIVIL RIGHTS BE NIXON'S WATERLOO?

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I insert the article, entitled "Vietnam War Was L. B. J.'s Downfall; Will Civil Rights Be Nixon's Waterloo?" from the Washington Daily News, March 24, 1970, in the RECORD:

[From the Washington Daily News, Mar. 24, 1970]

T. R. B.: VIETNAM WAR WAS L. B. J.'S DOWNFALL; WILL CIVIL RIGHTS BE NIXON'S WATERLOO?

At 9:35 Sunday evening, March 31, President Johnson's voice suddenly changed and it became obvious that he had departed from his prepared text. His administration was hemmed in, there was the Tet offensive, the New Hampshire primary was a defeat and the Wisconsin primary promised a disaster. The nation was sullen, frustrated, rebellious.

The speech was taking a strange turn. The tone was humble and painfully intense. There were no flamboyant cliches nor partisan thrusts. The voice was level as Mr. Johnson said simply, "I shall not seek and I will not accept the nomination of my party as your President."

And so, two years ago, the man who started with the highest majority in history ended with his party in shambles and a record he did not care to defend by seeking reelection. Sad too; a man who wanted to be loved; a man of immense gifts who had given the nation a mighty advance in social welfare, consumed by a nasty little war.

One wonders if Mr. Nixon, too will be a one-term President. Currently, he has a substantial majority in the polls but it is below where Mr. Johnson stood at an equivalent time. A moral issue betrayed LBJ, not merely a feeling that he had picked a wrong course, but a widening belief that he was falsifying facts.

In 1968 it was Vietnam. In 1972 the trap for Mr. Nixon may be civil rights.

Walter Lippmann was the nemesis of Mr. Johnson, the most powerful journalist in America, Cook, cosmic, certitudinous, his quiet authority arrested attention in a crowd. Almost alone at first, Mr. Lippmann made the opposition respectable; he laid down these postulates: America cannot fight a war in Southeast Asia with a conscript army; it needs no land war in Asia to assert its presence so long as it controls air and sea; modern military instruments in a jungle are like a herd of elephants fighting a swarm of mosquitoes; America will ultimately tire of such an exercise in futility and will withdraw. Most people now think he was right.

Today, Mr. Nixon has undertaken a new exercise in futility regarding America's most profound problem. Yes, we are a superpower; yes, we are the richest nation on earth; but yes, too, we are a racially divided country unlike any other great nation. Other Western lands willingly or reluctantly gave up their colonies; we cannot drop ours because it is within our boundaries.

One American in 10 is black; the 20 million Black Americans are better off, better schooled, and more aware than their grandfathers who saw the great political sellout of 1876. The morally exhausted North accepted Rutherford Hayes' accession to the Presidency and yielded up in return enforcement of civil rights for the better part of the next century.

Mr. Nixon is pursuing his Southern strategy, which is as much a will-o'-the-wisp in the long run as Mr. Johnson's adventure in Asia. He is trying to barter progress in integration for political advantage, but 1876 can't be repeated; no Grand Coulee can restrain this river.

Mr. Nixon is more oblique than Mr. Johnson. Even some admiring journalists say they don't know where he stands. Always he says that he loves the blacks and always, in practical terms, he has been competing with segregationist George Wallace. In cumulative detail Richard Harris in his book Justice (Dutton, $6.95) shows how Attorney General Mitchell has turned the issue of "law and order" against the Justice Department. That is only one aspect of it. There is school integration, the Supreme Court, and all the rest.

Few whites like, or want, integration. The North begins to see the sacrifices as the South has long known them. But the alternative to integration is repression, which means a different kind of nation. The South had a closed society for a century but that is not viable on a national scale for a modern society.

Southern schools in the past 16 years have made real progress; it is now endangered because Mr. Nixon wants the votes of George Wallace. There is de facto segregation in Northern neighborhoods as whites flee to the suburbs. Like it or not, the problem cannot rest there. It is as unstable as the earthquake fault in California; sooner or later while suburbs and black ghettos must be brought together under unified metropolitan government so that commuters from bedroom suburbs will share taxes and responsibilities with the whole area in which they are involved.

Mr. Nixon's benign neglect policy won't work. The reasons are as simple as those mentioned by Mr. Lippmann about Vietnam. Political economic and moral considerations will not permit second class citizenship for one American in 10 while the U.S. remains a democracy.

(NOTE.—The author of this column, who uses the initials T. R. B., is a veteran Washington correspondent. His column appears on this page every Tuesday. The column also appears in The New Republic magazine.)

THE SHARPEVILLE MASSACRE

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1970

Mr. DIGGS. Mr. Speaker, last Saturday, March 21, marked the 10th anniversary of the massacre at Sharpeville, South Africa. On March 21, 1960, South African police opened fire on several thousand demonstrators protesting against the law requiring Africans to carry passes at all times. On that day 69 persons, including eight women and 10 children, were killed and 180 were wounded. Subsequently, the United Nations General Assembly proclaimed March 21 annually as the "International Day for the Elimination of Racial Discrimination."

The memory of the Sharpeville shooting is fading but the effects of the massacre continue to be vivid. During the last 10 years, the Government of South Africa has remained intransigent and has in fact intensified its efforts to entrench the system of racial discrimination in defiance of appeals by the international community that it abandon its racial policy and seek a new course con-

sistent with respect for universal human dignity. Instead harrassment of opponents of apartheid in violation of the principles of the rule of law has continued. Widespread police activity has developed and laws have been enacted providing for house arrest and detention for 90 days without trial. More recently, the terrorism act has been legalized which allows for indefinite detention.

The conflict in South Africa is between people who were robbed of their birthright to land, liberty, and peace and a regime founded on injustice, inequality, and racial supremacy. In the words of Bishop Ambrose Reeves, whose article I am including below:

Unless there is a radical change in the present political and economic structures of South Africa a terrible and brutal civil war might not easily involve Africa alone but the whole world in a global racial conflict. The choice before the international community has been a clear one ever since Sharpeville. Either it takes every possible step to secure the abandonment of the present policies in South Africa or the coming years will bring increasing sorrow and strife both for South Africa and for the world. Sharpeville was a tragedy showing most plainly that the ideology of apartheid is a way of death and not of life. Can the nations recognize this before it is too late?

The article follows:

A MASSACRE RECALLED

(By Bishop Ambrose Reeves)

(NOTE.—Bishop Reeves, born on 6 December 1899, was an Anglican priest in South Africa from 1949 to 1960. During the latter part of his service in South Africa, he was Bishop of Johannesburg. An outspoken opponent of apartheid, he was active in arranging legal defence and relief for political prisoners and their families in South Africa. He organized relief for the families of those killed and wounded in the Sharpeville incident and arranged for an investigation of the incident. Shortly thereafter, he was deported from South Africa.

(Returning to the United Kingdom, he was for several years in charge of the Student Christian Movement. During the past three years, he has been Bishop of Lewes. He was the first petitioner before the United Nations General Assembly on apartheid, having appeared before the Assembly's Special Political Committee in 1963. He is the author of Shooting at Sharpeville and several pamphlets and articles.)

Events at Sharpeville on 21 March 1960 shocked the world and are still remembered with shame by civilized men everywhere. Early that morning a crowd of Africans estimated at between 5,000 and 7,000 marched through Sharpeville to the municipal offices. It appears that earlier that day people were urged to take part in this demonstration. However, many Africans joined the procession to the municipal offices quite willingly. Eventually this demonstration was dispersed by the police, using tear gas bombs and then a baton charge. Fortunately nobody was hurt.

I was not at Sharpeville when the shooting occurred but it was familiar territory to me. Time and again I officiated at the large African Anglican church there and knew intimately many of the congregation, some of whom were to be involved in the events of that tragic day. I could so well visualize the scene. Near my home in the northern suburbs of Johannesburg was a large zoo situated in acres of parkland. By a curious anomaly the lake near the zoo was the meeting-place for Africans working in the northern suburbs on a Sunday afternoon. After work they would leisurely make their way there in small groups—a gay, colourful, jostling crowd—families and individuals—chatting, laughing, singing, gesticulating and occasionally fighting. The thud of home-made drums could be heard shattering the Sunday calm. It could so easily have been like that on that crisp autumn morning in Sharpeville. Like that, but so very different.

During the morning news spread through the township that a statement concerning passes would be made by an important person at the Police Station later that day. The result was that many drifted to the Police Station where they waited patiently for the expected announcement. And all the time the crowd grew.

Reading from the police report on what subsequently happened, the Prime Minister told the House of Assembly that evening that the police estimated 20,000 people were in the crowd. This seems to have been a serious exaggeration. From photographs taken at the time it is doubtful if there were ever more than 5,000 present at any particular moment. They were drawn to the crowd by a variety of reasons. Some wanted to protest against the pass laws; some were there out of idle curiosity; some had heard that a statement would be made about passes.

Whatever may have brought them to the Police Station, I was unable to discover that any policeman ever tried either to find out why they were there, or ask them to disperse, in spite of the fact that their presence seems to have caused a good deal of alarm to the police. So much so that at 10 a.m. a squadron of aircraft dived low over the crowd, presumably to intimidate them to disperse.

The police claimed that the people in the crowd were shouting and brandishing weapons. The Prime Minister told the Assembly that the crowd was in a riotous and aggressive mood and stoned the police. There is no evidence to support this. On the contrary, while the crowd was noisy and excitable, singing and occasionally shouting slogans it was not a hostile crowd. Their purpose was not to fight the police but to show by their presence their hostility to the pass system. They expected that someone would make a statement about passes. Photographs taken that morning show clearly that this was no crowd spoiling for a fight with the police. Not only was the crowd unarmed, but a large proportion of those present were women and children. All through the morning no attack on the police was attempted.

Even as late as one p.m. the Superintendent in charge of the township was able to walk through the crowd, was greeted by them in a friendly manner and chatted with some of them. Similarly, the drivers of two of the Saracen tanks stated subsequently that they had no difficulty in driving their vehicles into the grounds surrounding the Police Station. This testimony was borne out by photographs taken of their progress.

As the hours passed, the increasing number of people in the crowd was matched by police reinforcements. Earlier there had only been 12 policemen in the Police Station: six white and six non-white. But during the morning a series of reinforcements arrived. By lunch time there was a force of nearly 300 armed and uniformed men in addition to five Saracens.

Yet in spite of the increased force that was then available, no one asked the crowd to disperse. The police strolled around the compound with rifles slung over their shoulders, smoking and chatting with one another.

SCENE WAS SET FOR EXPLOSIVE SITUATION

The scene was set. Anyone who has lived in South Africa knows how explosive that situation had already become. On the one side was the ever-growing crowd of Africans. On the other side was the South African police. Every African fears them, whether they are traffic police, ordinary constables or members of the dreaded Special Branch. Most policemen expect unquestioning deference from Africans.

The only action taken during that morning appears to have come not from the police but from two African leaders who urged the crowd to stay aw y from the fence around the perimeter of the compound in order not to damage it. Then Colonel Pienaar arrived in the compound. He appears to have realized that he had come into a dangerous situation and therefore made no attempt either to use methods of persuasion on the crowd or to attempt to discover what the crowd was waiting for. Instead, about a quarter of an hour after his arrival he gave the order for his men to fall in. A little later he said, "Load five rounds." But he said no more to any of his officers, or to the men. Later, Colonel Pienaar stated that he thought his order would frighten the crowd and that his men would understand that if they had to fire they would not fire more than five rounds.

During this time Colonel Spengler, then head of the Special Branch, was arresting three African leaders. He said subsequently that he was able to carry out his arrest because the crowd was not in a violent mood.

It is extremely difficult to know what happened next. Some of the crowd near the gate of the Police Station compound said later that they heard a shot. Some said that they heard a policeman say, "Fire". Others suddenly became aware that the police were firing in their midst. But all agreed that nearly everyone turned and ran away once they realized what was happening. Colonel Pienaar asserted that he did not give the order to fire. Moreover, he declared that he would not have fired in that situation. It was stated later that two white policemen opened fire and about 50 others followed suit, using service revolvers, rifles and sten guns.

POLICE ACTION CAUSED DEVASTATING CONSEQUENCES

Whatever doubts there may be of the sequence of events in those fateful minutes, there can be no argument over the devastating consequences of the action of the police on 21 March 1960 in Sharpeville. Sixty-nine people were killed, including eight women and 10 children, and 180 wounded including 31 women and 19 children.

According to medical evidence the police continued firing after the people began to flee, for while 30 shots had entered the wounded or killed from the front of their bodies no less than 155 bullets had entered the bodies of the injured and killed from their backs. All this happened in 40 seconds, when 705 rounds were fired from revolvers and sten guns. But whatever weapons were used the massacre was horrible.

Visiting the wounded the next day in Baragwaneth Hospital near Johannesburg, I discovered youngsters, women and elderly men among the injured. These people could not be described as agitators by any stretch of the imagination. For the most part they were ordinary citizens who had merely gone to the Sharpeville Police Station to see what was going on. Talking with the wounded I found that everyone was stunned and mystified by what had taken place. They had certainly not expected that anything like this would happen. All agreed that there was no provocation for such savage action by the police. Indeed, they insisted that the political organizers who had called for the demonstration had constantly insisted that there should be no violence or fighting.

ARRESTS FOLLOW MASSACRE

To make matters worse, some of the wounded with whom I spoke in hospital stated that they were taunted by the police as they lay on the ground, by being told to get up and be off. Others who tried to help were told to mind their own business. At first there was only one African minister of the Presbyterian Church of South Africa who tried to help the wounded and the dying.

Later, 77 Africans were arrested in connection with the Sharpeville demonstration

in some cases while they were still in hospital. In fact, it was clear on my visits to the wards of Baragwaneth Hospital that many of the injured feared what would happen to them when they left hospital.

The attitude of the South African Government to the events at Sharpeville can be seen from its reaction to the civil claims lodged the following September by 224 persons for damages amounting to around £400,000 ($1,120,000) arising from the Sharpeville killings. The following month the Minister of Justice announced that during the next parliamentary session the Government would introduce legislation to indemnify itself and its officials retrospectively against claims resulting from action taken during the disturbances earlier that year. This was done in the Indemnity Act No. 61 of 1961. Money could never compensate adequately for the loss of a breadwinner to a family or make up for lost limbs or permanent incapacity. But it would have been some assistance. It is true that in February 1961 the Government set up a committee to examine the claims for compensation and to recommend the payment of *ex gratia* payments in deserving cases. But this is not the same thing, and in fact by October 1962 no payments had been made.

FAILURE OF POLICE TO COMMUNICATE WITH CROWD

Few commentators since Sharpeville have attempted to justify the action of the police. In fact, many of them have drawn special attention to the complete failure of the police to communicate with the crowd at the Police Station. If it had been a white crowd the police would have tried to find out why they were there and what they wanted. Surely their failure to do so was due to the fact that it never occurred to them, as the custodians of public order, either to negotiate with the African leaders, or to try to persuade the crowd to disperse. Their attitude was summed up by the statement of Colonel Pienaar that "the Native mentality does not allow them to gather for a peaceful demonstration. For them to gather means violence." The same point was demonstrated even more graphically by one of his answers at the Court of Enquiry under Mr. Justice Vessels. When asked if he had learned any useful lesson from the events in Sharpeville he replied, "Well, we may get better equipment."

What happened at Sharpeville emphasizes how far the police in South Africa are cut off from sympathy with or even understanding of Africans. At no time did the police express regret for this tragic happening.

Yet it would be folly to attempt to fasten the whole blame for the events at Sharpeville on the police. By the mass of repressive legislation which has been enacted every year since 1948, the South African Government has given the police a task which becomes ever more difficult to fulfill.

It was this legislation which was indirectly responsible for the tragedy of Sharpeville, and in particular, the "pass laws". Indeed, the immediate cause of many in the crowd assembling at the Police Station was the growing resentment of Africans to the system of passes.

HISTORY OF PASS LAWS

The pass system originated in 1760 in the Cape Colony to regulate the movement of slaves between the urban and the rural areas. The slaves had to carry passes from their masters. Subsequently, the system was extended in various forms to the whole country and was eventually collated in the Native (Urban Areas) Consolidation Act of 1945. This Act made provision for a variety of passes, including registered service contracts and for passes permitting men to seek work in particular areas. But through the years an increasing number of Africans had been given exemption from these laws.

In 1952 a new act, ironically called "The Abolition of Passes Act", made it compulsory for every African male to carry a reference book. To the Africans, reference books are passes for they contain all the details which were previously entered on the various pass documents. Failure to produce it on demand constitutes an offence for which an African may be detained up to 30 days while inquiries are being made about him. In the 12 months ending 30 June 1966 no less than 479,114 Africans were prosecuted for offences against the "pass laws". At the time of Sharpeville there were 1,000 prosecutions a day for these offenses. By 1966, this had risen to over 1,300 a day. These figures speak for themselves.

PASS LAWS EXTENDED TO WOMEN IN 1960

In 1960 the Government decided for the first time in South African history to extend the pass laws to African women. In their case another fear was added that they might be subjected to manhandling by the police with a further loss of human dignity. In fact, by the time of Sharpeville it was estimated that three quarters of African women were in possession of reference books.

African wages in Sharpeville in 1960 were low, partly because African Trade Unions were not, and still are not, recognized for the purpose of bargaining with employers. Moreover, the continuing colour bar in commerce and industry meant, and still means, high minimum wages for white workers and low maximum wages for the black workers who make up the great majority of the labour force.

All this means two wage structures in South Africa which have no relation to one another: in the fixing of the black wage structure the workers frequently have no say at all. Several months before the tragic events at Sharpeville it was becoming obvious that those living in the township were facing an intolerable economic situation.

Sharpeville was not an isolated incident. The 10 years before Sharpeville had seen feverish activity by the opponents of *apartheid*. By means of boycotts, mass demonstrations, strikes and protests, the non-white majority had attempted by non-violent means to compel those in power to modify their racist policies. For example, on 26 June 1952, the Campaign of Resistance to Unjust Laws had been launched, the same day three years later (26 June 1955) 3,000 delegates had adopted the Freedom Charter which had been drafted by the Congress Alliance. This took place at a massive gathering at Kliptown Johannesburg. The following year (1956) the Federation of South African Women held a series of spectacular demonstrations against the extension of the pass system to African women. These culminated in a mass demonstration at the Union Buildings, Pretoria, on 9 August. Some 10,000 women gathered there in an orderly fashion to present 7,000 individually signed protest forms. Again, from 7 January 1957, many thousands of African men and women for months walked 18 to 20 miles a day to and from work in Johannesburg in a boycott of the buses. Although in this particular case they gained their objective, all the various endeavors by Africans to secure change by peaceful means brought little tangible result.

The surprising thing was that in all this activity there was very little violence on the part of boycotters, demonstrators and strikers. In spite of great and frequent provocation by the police, Africans remained orderly and disciplined.

"CIVILIZATION WITHOUT MERCY"

The crowd at Sharpeville was not attacking anything or anyone. Further, there is abundant evidence to show that they were unarmed. As the late Sir Winston Churchill pointed out in a debate in the British House of Commons on 8 July 1920, "There is surely one general prohibition which we can make . . . against what is called 'frightfulness'. What I mean by frightfulness is the inflicting of great slaughter or massacre upon a particular crowd of people with the intention of terrorizing not merely the rest of the crowd, but the whole district or the whole country". This is precisely what the police did at Sharpeville. On that occasion Sir Winston concluded his speech with some words of Macaulay, ". . . and then was seen what we believe to be the most frightful of spectacles, the strength of civilization without mercy". These are words which aptly summarize all that happened at Sharpeville.

Certainly the Government of South Africa, though badly shaken in the days immediately following Sharpeville, soon regained control of the situation. On 24 March 1960, the Government banned all public meetings in 24 Magisterial districts. On 18 April, the Governor-General signed a proclamation banning the African National Congress and the Pan Africanist Congress as unlawful organizations. On 30 March, in Proclamation No. 90, the Governor-General declared a state of emergency which lasted until 31 August 1960. During that time a large number of prominent opponents of Government policy of all races were arrested and detained without trial. In addition some 20,000 Africans were rounded up, many of whom were released after screening.

After some months, at least superficially, life became at least relatively normal. But underneath the external calm dangerous fires continue to smoulder; fires that can never be extinguished by repressive measures coupled with a constant and growing show of force.

Outside South Africa there were widespread reactions to Sharpeville which in many cases led to positive action against South Africa: action which still continues.

It is my personal belief that history will recognize that Sharpeville marked a watershed in South African affairs. Until Sharpeville, violence for the most part had been used by the white minority. Over and over again, non-white civilians were injured by police action or by assaults on them when in prison. Until Sharpeville the movements opposed to *apartheid* were pledged to a policy of non-violence. But on 21 March 1960, when an unarmed African crowd was confronted by 300 heavily armed police supported by five Saracen armoured vehicles, an agonizing reappraisal of the situation was inevitable. Having tried every peaceful method open to them to secure change without avail, the African leadership decided that violence was the only alternative left to them.

As Nelson Mandela said in court at his trial in October 1962, "Government violence can do only one thing and that is to breed counter-violence. We have warned repeatedly that if there is no dawning of sanity on the part of the Government, the dispute between the Government and my people will finish up by being settled in violence and by force."

Outwardly things may go on in South Africa much as before. Visitors may find a booming economy, the white minority may seem secure in their privileged position for any foreseeable future, some urban Africans may have a higher living standard than formerly. But all this should not deceive anybody. The fact is that for the first time both sides in the racial struggle in South Africa are now committed to violence; the white minority to preserve the *status quo;* the non-white majority to change: change from a society dominated by *apartheid* to one that is non-racial in character.

The fact that at the moment this is being expressed through small bands of guerrillas who may be neither very well trained nor well equipped does not mean that they ought therefore to be dismissed as having little significance. After all, we have the examples of Algeria, Cuba and Viet-Nam before us as powerful reminders of what may result from very small and weak beginnings.

Unless there is a radical change in the present political and economic structures of South Africa a terrible and brutal civil war might not easily involve Africa alone but the whole world in a global racial conflict. The choice before the international community has been a clear one ever since Sharpeville. Either it takes every possible step to secure the abandonment of the present policies in South Africa or the coming years will bring increasing sorrow and strife both for South Africa and for the world. Sharpeville was a tragedy showing most plainly that the ideology of *apartheid* is a way of death and not of life. Can the nations recognize this before it is too late?

VILLAGE IN DELTA HAS ONE TV SET AND AUDIENCE IS MOSTLY CHILDREN

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. CHAMBERLAIN. Mr. Speaker, as one who has been greatly concerned about the development of more effective communications in South Vietnam through the establishment of a television network, I read with special interest an article appearing in the New York Times of Wednesday, March 25, describing the impact of this effort, particularly in the Mekong Delta Village at Ninhquoi. I commend to the attention of my colleagues the following article:

[From the New York Times, Mar. 25, 1970]

VILLAGE IN DELTA HAS ONE TV SET AND AUDIENCE IS MOSTLY CHILDREN

(By Gloria Emerson)

NINHQUOI, SOUTH VIETNAM, March 16—The big box is here.

At 7 P.M. every day the villagers of Ninhquoi can tune in to Channel 7, their own station in the Mekong Delta, and find out how the war is supposed to be going. But, like many Americans, most of them prefer to be entertained.

The village television set is not in a living room, and no one eats dinner while watching it. The set is outdoors, protected inside a metal box raised more than six feet. It faces a lumpy, dusty unpaved stretch of street with shops and little houses whose doors seem never to shut.

This community-owned television set, given by the Government of South Vietnam, is a 23-inch screen American model marked Setchel Carlson.

It was an American idea to introduce television to Vietnam. In 1969, it was estimated that there were more than 300,000 television sets in South Vietnam, most of them privately owned.

YOUNG AUDIENCE UNMOVED

"Alexander's Ragtime Band," the musical theme for an old European film on the history of the cinema, blared out in Ninhquoi one recent night. The film did not grip the audience, most of whom looked under 8 years of age.

Ninhquoi, which lies beside a canal, is made up of five hamlets, with over 6,000 people in them. No one can say how many men between the ages of 18 and 38 have gone into the army.

The hamlets are not next door to one another. Many villagers wishing to see the community television set in the biggest hamlet must walk more than a mile.

Some fear the possibility of a Vietcong terrorist incident. Others are farmers who are too tired to make it.

At 7 P.M. it is still light in Ninhquoi. A village dignitary rises on his tiptoes to reach the knob of the television set. The programs end at 10:30.

It is the children of Ninhquoi—including some so little that they toddle rather than walk—who are the most faithful audience. They like the noise coming from the box even when they do not understand the pictures.

ELDERLY WATCH REGULARLY

Adult television watchers are usually elderly people who, like the young, are grateful for distraction. The women in the village like to say that they have too much to do in their homes to sit for three and a half hours watching television, but a few do.

What do the villagers of Ninhquoi most enjoy on television?

"I am ashamed to say," the village chief said. He is 39-year-old Le Thanh Tong, who rarely watches it himself.

The favorite program—as it is all over South Vietnam—is called "Cai Luong," which has no literal translation. The Vietnamese who defend it say it is a kind of renovated theater in which the players both sing and speak in Vietnamese. Others, such as the village chief, consider it a soap opera. The program, which lasts for two and a half hours, has a different plot each week, all satisfyingly complicated and melodramatic to the audiences.

"Fault of Older Sister and Love of Younger Sister" was the title of a recent "Cai Luong" program. It is shown on Friday nights in Saigon but on Saturday nights on Channel 7 in the Delta.

"It is not suitable for children, for it is much concerned with love," the village chief said.

CHILDREN ARE INDULGED

But Vietnamese children live in a splendidly permissive world where mothers do not shriek at them to get to bed. In Ninhquoi, all the smallest infants stayed up until the end of the last program. Even then, they were not rushed to bed.

"Cai Luong"—which the children seem to adore for its melodrama—is so popular in the Delta region that the television station only showed it in installments on Saturday night. The reason given is that other films—mostly propaganda shorts—can then be squeezed in between installments. The villagers would not watch, it is said, unless they were waiting for "Cai Luong" to be resumed.

The propaganda films, usually made in Saigon, include highly idealized short films on South Vietnamese soldiers or men in the militia, and virtuous South Vietnamese citizens.

What difference has television made in the lives of the villagers?

A visitor speaking no Vietnamese cannot easily judge. But the children of Ninhquoi seemed more excited by the landing and take-off of a helicopter in the village, and the wind it raised, than by the magician, the dancers and the newsreels they had seen the night before.

Some observers feel television in Vietnam has come much too early. Others believe that it is an ineffectual way of bringing the Government to the people, who for 20 years have been inundated by propaganda of all kinds.

In Myxuong, another Delta village many miles away, a community television set was given to the people two years ago.

The village chief, an unrelenting anti-Communist Nguyen Thanh Nhon, feels it has made the Government in Saigon more real to the people.

But in this village, too, it was noted that 80 per cent of the television audience were children.

"And also the television set causes more movement at night," Nguyen Thanh Nhon added, when pressed for his opinion on other changes.

The movement comes from the children, who would ordinarily be in their homes, although not asleep.

The villagers of Myxuong—like those in the rest of the region—see only one channel, since it is difficult to receive Saigon's Channel 9. Nor can they very often see Channel 11, which is the United States Armed Forces network for American soldiers in Vietnam.

SAIGON'S FAVORITES LISTED

This means they are missing some of the favorites of the Vietnamese in Saigon who own private sets. "The Dean Martin Show," "Dragnet," "Bonanza," "The Red Skelton Show," "Felony Squad" and "Jimmy Durante's Hollywood Palace," which are all broadcast in English.

Villagers in Myxuong requested set from the district information service, which distributes them. But here again, while the population in the four hamlets exceeds 6,000 only slightly more than 100 people could be seen watching at night.

To operate the Japanese-made Honda generator needed for their television set, and to buy gasoline for it, the villagers pay about $2 a month out of village funds.

Some Americans with the United States Government agency, Civil Operations Revolutionary Development Support, feel television in South Vietnam is "a way to sell the Government."

THIEU VIEWED ON TELEVISION

"President Thieu doesn't travel as much as I wish he would in this part of Vietnam, so the next best thing is for the people here to see him on television," an official of the agency in the Delta said.

Others are not so sure that it makes an important difference.

The impression that the Americans have an unusually keen interest in how the Delta television station is run also comes from talking to the station manager, who is Hoang Thai. He feels he has about 37,000 viewers.

Two pretty, young Vietnamese girls read the news on Channel 7.

"By itself the news is not interesting," Mr. Thai said. "A lady announcer attracts attention and has a more attractive voice and manners."

He studied film production at the University of Southern California in Los Angeles eight years ago, and has worked with Americans in Saigon.

A small budget, decided and provided by the Government, limits his scope in program planning. He has only two cameramen.

No actual scenes of combat, or military operations, are filmed for Channel 7, for financial and technical reasons.

Television in the Delta is playing an important part, Mr. Thai said, in the pacification program. One example: "Wanted" posters of Vietcong suspects are televised.

The Ministry of Information in Saigon estimates that there are 2,330 community-owned sets in all of South Vietnam. Some stand unused—as in the city of Cantho—some have been stolen and some have been given to officials to put in their homes so they can see the programs.

The project started when the United States Government distributed free about 3,500 television sets in pacified hamlets. In 1966, with American aid, advice and urging, the Government of South Vietnam started its own television system, and has been distributing community sets reportedly on its own initiative and with its own funds.

But most of South Vietnam's 17.5 million people depend on radios for news, relaxation and comforting kinds of noise.

CARSWELL'S TAINTED IMAGE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FRASER. Mr. Speaker, Austin C. Wehrwein often comments incisively upon legal matters on the editorial page of the Minneapolis Star. On Wednesday, March 25, 1970, Mr. Wehrwein discussed the G. Harrold Carswell nomination to the U.S. Supreme Court. This commentary is worthy of a wider audience and I include it in the RECORD today.

The final two paragraphs of Mr. Wehrwein's commentary sum up what many of us feel about President Nixon's choice for the most prestigious court in the world:

At the same time, it may be true enough that any Southerner, especially one with Carswell's political background, is bound to face some automatic opposition. Narrow sectionalism is, of course, unworthy whether it is used for or against a nominee.

But while the case against Carswell is necessarily made in the context of Carswell, the Southerner, the burden of the opposition rests on an assessment of Carswell, the man . . . the lawyer and the judge. Label words like "mediocre" . . . "dull" . . . "callous" . . . are harsh. Yet what has the Nixon administration, especially Attorney General John Mitchell, been able to do by way of counter argument to destroy the image such words have created?

Surely there is a southern jurist or lawyer or legal scholar who will add to the luster of the Supreme Court rather than tarnish it.

The commentary follows:

[From the Minneapolis Star, Mar. 25, 1970]

CARSWELL'S TAINTED IMAGE

(By Austin C. Wehrwein)

What is the case against G. Harrold Carswell's confirmation as a member of the Supreme Court?

Unlike Clement F. Haynsworth Jr., Carswell was not caught off base on the conflicts-of-interest issue, an issue that was considerably warmer at the time of the Haynsworth debate because the Fortas scandal was still fresh in mind.

The contentions do, in fact, seem to boil down to Sen. Hruska's characterization: "mediocre." But while lawyers make very sharp assessments of each other (not normally in public) and of judges (even less so in public), "mediocre" or any similar label alone is too subjective to serve as a public political verdict.

However, there is documentary evidence to support the conclusion of mediocrity . . . and not as the bumbling Hruska used it, in his awkward effort to equate Carswell with the average voter.

But I can't help but feel that somehow that the merits of the Carswell case have not been clarified in the discussion so far. Perhaps this, if, no more, suggests the ordinary character of his mind and the drabness of his personality. In any event, the best anti-Carswell "brief" is a long statement signed by more than 450 lawyers and law deans.

The essence is: "Carswell does not have the legal or mental qualifications. . . ."

The statement, sent to all the senators, added that Carswell was not even fit to hold the U.S. district judgeship he has now.

It said he showed in his testimony no express or implied repudiation of his 1948 praise for white supremacy until disclosure of that attitude jeopardized his confirmation.

It said that the 1956 leasing of a Tallahassee public golf course to a newly-formed private club for 99 years at $1 a year was for the deliberate purpose of excluding Negroes, and Carswell, then a U.S. attorney, was a leader in the maneuver.

The statement based much of its argument on that episode, stopping just short of calling Carswell's Senate Judiciary Committee testimony false. Instead, it used "lack of candor and frankness"; it also said he is "lacking the intelligence of a reasonable man" and was "utterly callous" to the implications of the "scheme."

By 1956, segregated municipal recreational facilities (such as a golf course) were clearly unconstitutional. Meantime, the generally-accepted (but not always successful) ploy was to sell or lease the facilities to a private segregationist group.

Affidavits, signed by both blacks and whites, submitted to the Senate committee showed that the community was fully aware of the obvious: The golf course was being "rented" at $1 a year to a new club solely to keep black players off the premises.

Carswell was an incorporator and director of the club, called the Capital City Country Club. He "subscribed" $100.

He told the committee, however, that he thought the $100 was to be used only to help refurbish the wooden club house. As regards the club's purposes he was blank. Here is some of the tesitmony in truncated form:

Sen. KENNEDY. (Was) . . . the purpose . . . to avoid the various court orders which had required integration of municipal facilities?

CARSWELL. I state again unequivocally . . . that I never had any discussions with anyone, I never heard any discussions about this.

KENNEDY. Did you have any idea that the private club was going to be opened or closed (to Negroes)?

CARSWELL. The matter was never discussed.

KENNEDY. What did you assume?

CARSWELL. I didn't assume anything.

The statement concludes from this line of testimony that Carswell would have to have been "rather dull not to recognize the evasion (of the law) at once."

That is the essence of the case against his "mental" qualifications.

It is tantamount to a saying he is morally suspect. As for legal qualifications, the statement said that a full study of his record found "no indication that the nominee was qualified—by the standards of pure legal capacity and scholarships."

More specifically, it cited 15 decisions involving civil and individual rights. In all, he decided against the individual. In all, he was unanimously reversed by the appellate court. The statement said:

"These 15 cases indicate to us a closed mind on the subject (of civil and individual rights)—a mind impervious to repeated appellate rebuke. In some of the 15 he was reversed more than once. In many of them he was reversed because he decided the cases without even granting hearing although judicial precedents clearly required a hearing."

The statement is, of course, a political tract rather than a bare recitation of facts. Nevertheless, it is persuasive. The rebuttal is that Carswell is being attacked because he is a Southerner and a "constitutional conservative." Unfortunately, only too often "constitutional conservative" means "segregationist."

At the same time, it may be true enough that any Southerner, especially one with Carswell's political background, is bound to face some automatic opposition. Narrow sectionalism is, of course, unworthy whether it is used for or against a nominee.

But while the case against Carswell is necessarily made in the context of Carswell, the Southerner, the burden of the opposition rests on an assessment of Carswell, the man . . . the lawyer and the judge. Label-words like "mediocre" . . . "dull" . . . "callous" . . . are harsh. Yet what has the Nixon administration, especially Atty. Gen. John Mitchell, been able to do by way of counter argument to destroy the image such words have created?

C.F.R. AND OUR COMIC OPERA AFRICAN DIPLOMACY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1970

Mr. RARICK. Mr. Speaker, at the United Nations Organization, leftwing extremists of the Organization of African Unity celebrated their victory over civilization in the paper war against Rhodesia. But, their ill-gotten gains in New York brought little relief to the domestic tensions at home. While they solved world problems on a one-chief one-vote basis, their tribes at home warred against each other and basic human rights enjoyed in civilized countries yield to emotion and expediency.

The comic opera leaders of their African tribal states have emerged again into the usual spear-shaking hostility and the boss-man rule of the traditional tribal state.

On March 12, I addressed the House at length on the tragedy of our foreign policy in Africa—page 7189.

On March 23, the local newspaper carried a human interest story of the new stability enjoyed in the Democratic Republic of the Congo under the dictatorship of the showcase gendarmerie sergeant, Mobutu, who was promoted to general, then to one-party President by his plantation masters, the IMF, and the World Bank. In fact, because he has been a good boy, Mobutu has received compensatory benefits. He has received an extra quota of S.D.R.'s—special drawing rights—paper gold—from the international bankers—just like taking candy from a baby.

The following day, President Ngouabi, the Red stooge and hardline Communist dictator of the other Congo, across the river, reported an attempted coup against his rule which he charged had been instituted by his neighbor, General Mobutu of the Domocratic Republic of the Congo, whom he accused of being "a lacky and running dog of imperialism."

He was probably right, since Mobutu breaks the monotony about every 10 days by threatening to send a company of his Israeli-trained paratroopers on a preventive retaliation mission to take over Ngouabi's Congo. Spear shaking has become so commonplace that the UNO does not even consider the incidents worthy of placing on the agenda. After all, the internationalists could not even get together on Biafra.

But, tribal justice for treason is swift and certain in the Congo. The death penalty for conspiracy was executed 7 days after arrest. The trial court and the supreme court must be one and the same in emerging Africa. It makes one question whether or not the condemned men had right to counsel—change of venue—even a jury trial.

While the Organization of African Unity tribal representatives in New York City were celebrating the diplomatic coup over the U.S. blunders in African foreign policy, and as the tribal chiefs were too busy spear-shaking at one another and executing conspirators to organize an army to realize their dream of conquering the civilized countries to the south, the President of the United States on March 23, celebrated a historic first by wining and dining at the White House with the ambassadors of the 32 members of the Organization of African Unity. Despite the exotic menu, I am pleased to report that there is no cause for alarm over the failure of the President to make a public appearance since the meal.

At the same time the American people were paying for the firewater to entertain the natives, the U.S. Davis Cup committee refused the youth of South Africa a right to play tennis in the 1970 Davis Cup Tournament because the athletes behind the Iron Curtain said they would refuse to play against free people.

And, despite the Anglo-U.S. "kowtowing" to the bloc vote in the United Nations organization, Soviet Russia stole all the diplomatic marbles by telling our new-found allies of the Organization of African Unity that it is all America's fault that we have not sent U.S. troops to preserve world peace in peaceful Africa by conquering warlike Rhodesia.

But the U.S. State Department does not change its "no win" policies easily. So the African expert, Secretary Rogers—fresh from his 10-day African tour of only nonwhite countries, and exuberant at his newly won "compromise sanctions" against Rhodesia—issued paper gold of his own, a 5,000-word document, probably not worth the paper printed on, except being good for more U.S. credit and prestigious backing.

What a tragic comic opera American diplomacy has become since it ceased to serve the interests of the American people in favor of the interests of the CFR.

I submit pertinent newsclippings to be included in the RECORD at this point:

[From the Christian Science Monitor, Mar. 20, 1970]

AFRICANS CELEBRATE ANTI-RHODESIA GAINS—UNITED NATIONS DELEGATES SEE U.S. VETO AS DIPLOMATIC COUP

(By Bertram B. Johansson)

UNITED NATIONS, N.Y.—African, and particularly Zambian, delegates to the United Nations are undisguisedly jubilant over the amount of sudden activity they have stimulated on the Rhodesian question since March 2.

Not only have they obtained another Security Council condemnation of the Ian Smith regime, which the British, to be sure, asked for as well.

They have achieved the closing of some eight consulates and national missions in Rhodesia, including that of the United States, in the time span of the Rhodesian debate here between March 2–18.

They see it as a diplomatic coup of the first order to have forced the United States to exert its first Security Council veto in the 25 year history of the United Nations.

The United States used its veto against an Afro-Asian resolution condemning Britain for failing to use force to overthrow the white minority regime in Rhodesia. Britain also vetoed the resolution.

COMPROMISE ADOPTED

The Security Council finally adopted a compromise resolution moved by Finland which calls on UN members to sever all relations with Rhodesia and to suspend all transportation to and from the rebel British colony.

The African jubiliation is seen by some here as possibly somewhat premature. Even Zambia delegates admit that the Smith regime may begin to feel so politically isolated by Security Council action and the closing of consulates that it might engage in some "military adventures" against neighboring Zambia.

Zambian officials here stated that the Smith government had killed innocent Zambian civilians on several occasions in border actions and had razed several Zambian villages to the ground. They also noted that Zambian territory had been invaded by Portuguese armed patrols from Mozambique.

CUTOFF CALLED POSSIBILITY

These same Zambians posed the possibility that the Smith regime might well attempt to cut off electricity generated at the Kariba Dam, a joint Zambia-Rhodesia operation. Zambia receives 70 percent of its electric power from the Kariba Dam.

From the African point of view, the United States veto represented a "desperate, cynical, and hypocritical move" to support Britain, and to oppose Africans on the use of force against Rhodesia.

From the United States view, the veto was cast as a sign of American awareness of responsibility to prevent the use of force against any government or peoples, no matter how illegal that government may be in the eyes of the international community.

U.S. Ambassador Charles W. Yost acknowledged that "it is natural and proper that the African members of the United Nations should feel deep frustration at the inability of our organization, thus far, to bring about the compliance of a regime (in Rhodesia), representing only 200,000 whites, and not even all of them, among 4.5 million blacks, with the legitimate demands and decisions of this Council. It is equally natural that they should seek further means to make our decisions prevail. . . .

POWER OUTLINED

"However, as we are all aware, the United Nations does not have unlimited powers. The Charter does not convey such powers upon it nor have members been able to agree among themselves to give it in fact all the authority which the Charter conveys, in principle . . . ."

Abmassador Yost reiterated that "in the present instance it seems to us both improper and futile to call upon the United Kingdom to overthrow the Smith regime by force—improper because starting a war anywhere is hardly what the United Nations should recommend and starting a war in southern Africa would be particularly risky business, futile because we all know perfectly well that the United Kingdom is not going to engage in any such hazardous enterprise. . . ."

Mr. Yost also expressed United States disagreement with a proposal to cut off all communications with the Smith regime. Having closed its consulate in Salisbury, the United States the Ambassador said, could not agree to cut off the land and air communications by means of which American citizens could leave southern Rhodesia.

Casting for the first United States veto came under dramatic circumstances. When it became apparent in debate on March 17 that the Soviet and Afro-Asian groups might well be able to summon enough votes to condemn Britain for not using force, several maneuvers were undertaken.

Britain's Lord Caradon asked for a 24-hour period in which to consider two paragraphs of a resolution incorporating a condemnation of Portugal and South Africa. This was denied.

SPEECH DELAYS ACTION

The American delegation, needing to telephone Washington for counsel and advice, asked for a half-hour delay, as a matter of diplomatic courtesy, especially since the African countries had asked, and obtained, several delays early in March. The half-hour delay for the United States was denied on a vote of the Soviet-Afro-Asian groupings.

Mr. Yost then achieved his delay by giving a short speech, and asking that it be translated into the official languages of the Council. Normally, delegates will waive "consecutive translation."

By the time the translations had been accomplished and several other delegates had issued caveats, explanations of position, exceptions, and qualifications—some of them by Africans—the American delegation obtained its precious half-hour of time to talk with the State Department in Washington.

And, to the surprise of everyone, the United States invoked its first veto in UN history.

In the past the Soviet Union has invoked 105 vetoes, the most recent one opposing condemnation of the Russian invasion of Czechoslovakia in 1968. Britain has cast 4 vetoes, including 1 on the Rhodesian question this week; France 3; and Nationalist China, 2.

U.S. spokesmen here were emphasizing they did not feel it was a defeat for the United States finally to have used its veto power. It is looked upon by these spokesmen not as an abuse of power, as many of the Soviet vetoes tend to be regarded, but as a device used to exert big power responsibility.

[From the Washington Post, Mar. 23 1970]

MOBUTU'S CONGO ENJOYS NEW STABILITY

(By Jim Hoagland)

KINSHASA, THE CONGO.—A decade after his unwieldy country burst into the world as a synonym for chaos and bloodshed, General Joseph Desire Mobutu is beginning to edge himself and the Congo forward to claim the leadership mantle in African affairs.

"He feels secure enought at home to start throwing The Congo's considerable weight around," says one astute Mobutu watcher, who sees a pattern in recent initiatives by the Congolese president.

Mobutu's efforts to gain more influence on the African scene apparently stem from his confidence that his grip on The Congo is now absolute, and that this rambling, increasingly rich country has largely cured its chronic instability.

Even for a continent where one-man rule is a feature of most governments, Mobutu's performance since he overthrew President Joseph Kasavubu in 1965 has been remarkable.

The 39-year-old general has extended his control unit until he now personally makes virtually every decision of importance for The Congo, which is as large as the United States east of the Mississippi, and inhabited by at least 16 million people.

This style of governing—termed by one diplomat who admires Mobutu as "paternal dictatorship"—is based on advice he receives from a small group of Congolese technocrats, and from Western advisers.

American support has been crucial to Mobutu in overcoming widespread rebellion that plagued the Congo from independence in 1960 until mid-1967. In addition to advice, the United States has poured about a half billion dollars in aid into the Congo from 1960 to 1969.

A success story here could provide a great boost to those who argue that the United States should be more active in Black Africa. If Mobutu and The Congo slip, however, it could be disastrous for American influence in Africa.

Western analysts see The Congo as a

counterweight to the more radical, leftist states in Central and West Africa. For these reasons, recent events that have attracted little public notice elsewhere have been carefully scrutinized here:

Mobutu moved quickly to identify himself more than any other African leader with Nigeria's victory in its civil war against Biafra. He was the first head of state to visit Lagos after the end of the war. The Congo's donation of $600,000 was by far the largest African contribution to the Nigerian relief effort, and The Congo sent military aircraft and personnel to help with relief.

An official of Chad's government recently revealed that The Congo is the only African country that is helping train Chadian troops in their fight against rebels. The official, Antoine Bangui, gave no figures, but said The Congo was helping "reorganize" Chad's army.

In the past few months, Mobutu has been Africa's most peripatetic ruler. He has visited nearly a dozen countries since November, and has noticeably improved his relations with leaders like Jean Bokassa of the Central African Republic.

Significantly, he has visited several English-speaking African countries. Mobuto is thought to feel that The Congo, which is French speaking but which is not tied to France, can be the bridge between the two language blocs in Africa.

CONFIDENT TRAVELER

If such visits demonstrate The Congo's growing interest in influencing Africa, Mobutu's extensive travels outside Africa indicate his self-confidence at home. A long absence by a leader in Africa often triggers a coup or coup attempt.

Mobutu, who has just announced that he will visit the United States in August, went to Europe twice last year. On the second trip, he was greeted by a 51-gun salute and open arms by King Baudouin of Belgium, The Congo's former colonial master.

The visit underscored the complete lack of open Congolese opposition to Mobutu from the left. Several weeks earlier, he had reached a settlement with Union Miniere du Haut Katanga, the giant Belgian firm that owned 80 per cent of The Congo's wealth before Mobutu nationalized its mines in 1967.

Analysts say the long delayed settlement gives the Belgians better financial terms than a similar deal worked out between Zambia and international copper companies recently. But there is no criticism of the settlement in Kinshasa.

Mobutu announced last week that presidential and legislative elections—the first of his five-year reign—will be held in December.

It is likely that Mobutu will be re-elected president without opposition, and that the National Assembly candidates will be handpicked by the hierarchy of The Congo's only political party, Mobutu's Mouvement Populaire de la Revolution.

But by living up to his promise of holding elections within five years of his takeover, Mobutu is showcasing the progress he has made.

PURSE POWER

The new budget discloses that Mobutu has taken all development and research funds away from government ministries and put them under his office. His office has also taken over many powers held in the past at lower levels.

This is the result of a governmental reorganization last August, which was overshadowed at the time by a spectacular cabinet reshuffle in which Mobutu downgraded the two men who were thought to be politically indispensable to him—Justin Bomboko, former foreign affairs minister and now ambassador to Washington, and Victor Nendaka, former finance minister and head of the Congolese Secret Police. He is now ambassador to Bonn.

There was undoubtedly deep political motivation behind the changes, but it has never been sufficiently explained either privately or publicly, sources here say. What has become clear now that the reorganization has begun to take effect is Mobutu's twin desires to tighten his personal control of the government apparatus and to replace political leaders with technocrats.

Nendaka was shoved aside for Louis Namwezi, the new finance minister who is a professional economist and who has close contacts with and the confidence of the International Monetary Fund and U.S. officials here.

The IMF and the World Bank, which coordinate their policies closely in the Congo, have played key roles in advising Mobutu. The IMF, for example, induced him to devalue his currency sharply in 1967. The World Bank, which has been dangling a large development loan in front of The Congo and which pressured Mobutu to settle with Union Miniere, may be even more disposed to granting the loan now that Nendaka has been replaced by Namwezi.

Despite Mobutu's justifiable pride in The Congo's newly found stability "The word stability is used like a religious chant here" says one diplomat, "everybody talks about it all the time." He still has to cope with the scars left by the violent outbursts of the past decade.

From the vantage point of this sweltering, river bank capital it is difficult to judge how far Mobutu's iron grip on his 35,000-man army extends out in the vast forests of The Congo. Some sources report that discipline of the once openly rebellious troops has improved, but is still far from tight.

Mobutu's other main problem of the moment seems to be wrestling with the economic discontent that is openly voiced in Kinshas.

Although workers have regained much of the purchasing power they lost in the 1967 devaluation, they are still caught in an inflationary squeeze.

There is much unemployment. And the people seem to be increasingly concerned that little of the millions of dollars pouring into the treasury are trickling down to the people, as the government hoards its assets to impress foreign investors with the country's stability.

In an election year, even an autocratic ruler like Mobutu is likely to make some moves to ease this discontent.

The most serious problem facing The Congo, in the view of one thoughtful long time foreign resident here, is strangely enough the country's momentary strength—Mobutu's unchallenged position as leader.

"The extent and type of aid the United States and other countries are giving Mobutu's government shows that he has convinced them there is no alternative to him in The Congo," the observer said.

"But by holding the reins so tightly and sending off anybody who might develop as a threat—or a successor to him, Mobutu is putting the country at the mercy of his fate."

[From the Washington Post, Mar. 24, 1970]

BRAZZAVILLE PUTS DOWN COUP, BLAMES OTHER CONGO

BRAZZAVILLE, March 23.—President Marien Ngouabi crushed a coup against his Communist-line regime in Congo-Brazzaville today.

About 50 rebels, apparently led by Pierre Kikanga, seized Brazzaville Radio and several other public buildings about 5 a.m.

Calling themselves the National Liberation Committee, they announced the abolition of the constitution, which Ngouabi proclaimed Dec. 31 when he turned the country into a people's republic with a red flag as its emblem and the International as its temporary anthem. The rebels said that Ngouabi had been deposed and a new government would soon be announced.

Ngouabi, dressed in a commando uniform, was reported to have personally taken command of loyalist forces ringing the radio station and ordered the rebels to surrender.

They chose to shoot it out. After a short battle Ngouabi's forces recaptured the station and it came back on the air to announce that the coup attempt had been defeated.

Kikanga and 29 of his men were killed, the radio announced, and Kikanga's body was put on public display. Two government soldiers were also killed.

The coup attempt seems certain to create new trouble between Brazzaville and the neighboring Congo-Kinshasa of President Joseph Mobutu.

Ngouabi charged in a broadcast today that Kinshasa had supported the coup. The rebels crossed the Congo River from Congo-Kinshasa, Ngouabi charged. He made the same accusation last November when another coup failed.

A radio appeal by Kikanga for military help from Kinshasa will give Ngouabi more ammunition with which to resume the war of abuse against the neighboring Congo. There had been a recent lull in the shouting match between the two Congos.

Kikanga also asked help from Gabon, the Central African Republic and Chad, which is likely to cause new strains in their relations with Brazzaville.

SECOND COUP ATTEMPT

Kikanga was a former army sergeant who fled Brazzaville for Kinshasa after taking part in an unsuccessful coup attempt in 1968. For that effort he had been sentenced to death in absentia.

Informed sources said that Kikanga was a supporter of exiled former President Abbe Fulbert Youlou, who lives in Congo-Kinshasa.

Jim Hoagland of The Washington Post cabled from Nairobi that the real danger to Ngouabi is from his left, not from pro-Youlou rightists.

Most observers expect any serious attempt to topple Ngouabi to come from forces seeking to make Brazzaville's links with Communist China stronger than they are.

"RUNNING DOGS"

"Long live the red flag! Long live the Internationale!" said Ngouabi in his broadcast following the defeat of the coup. He described the insurgents as "lackeys and running dogs of imperialism," a phrase often used by Peking.

Ngouabi said that all the plotters were killed or captured except one—former Defense Minister Augustin Poignet. "He is still in Brazzaville," Ngouabi said, "it is necessary to find him."

Brazzaville calls itself a Marxist revolutionary state with strong ties to Peking and asserts that its giant neighbor across the Congo River harbors and equips subversives. Kinshasa, which depends heavily on American financial and technical aid and views itself as a moderate, accuses Brazzaville of doing the same.

A major irritant in their long-standing dispute is Brazzaville's defensiveness about its small size (900,000 people to Kinshasa's 16 million plus) and lack of real ideology. For all the Marxist rhetoric of the Brazzaville regime, there has been little social change since it took on the trappings of a people's republic.

There are no diplomatic relations between the two Congos and no travel is allowed between them. Kinshasa was formerly the Belgian Congo while Brazzaville was a French colony.

The two Congos have been competing for support from neighboring countries, but they have stymied their neighbors' efforts to cool down their dispute.

Western analysts believe that Congo-Brazzaville is one of the few African countries where communism could establish a strong ideological hold. There are reports that the number of Chinese advisers has doubled from the 50 that were here several months ago.

[From the Washington Evening Star, Mar. 23, 1970]

LOYALISTS FOIL COUP ATTEMPT IN BRAZZAVILLE

KINSHASA, CONGO.—President Marlen Ngouabi of the neighboring Congo Republic announced today his loyal forces had crushed a coup attempt by 30 rebel soldiers he called "lackeys and running dogs of imperialism"—a favorite communist insult.

The rebels led by a Lt. Kikanga seized the radio in Brazzaville capital of the former French Congro across the Congo River from this former Belgian Congo capital. Government troops ringed the radio station with tanks and killed Kikanga.

"A group of adventurers, lackeys of international imperalism, headed by Lt. Kikanga, former officer, refugee in Kinshasa, attempted this morning to seize revolutionary power and wished to speak in the name of the people's army," Ngouabi said in a broadcast.

"But the army remained faithful . . . and as a single man, decided to encircle this group of mercenaries in the pay of the enemy.

"Long live the red flag! Long live the Internationale (the communist anthem)!"

A government communique repeated several times on the radio said, "the traitor Kikanga, running dog of international imperialism, was defeated. His body is at the Brazzaville General Hospital."

An appeal was broadcast for blood donors, apparently for rebels who were wounded. It also called citizens to an afternoon demonstration at the Brazzaville city hall "to decide the fate of the adventurers."

The rebel soldiers took Brazzaville Radio at 5 a.m. (11 p.m. yesterday EST) and announced the replacement of Ngouabi's Marxist government with a provision regime. They said the president has been arrested but was safe.

Appeals for military help from such neighboring nations as Gabon, Chad, the Congo and the Central African Republic went out over Brazzaville radio under the rebel soldiers before the station went dead at 7:45 a.m.

The rebel leader, Lt. Kikanga, was said to have fled the republic after being condemned to death for subversion in 1969. But he returned to engineer the abortive takeover attempt.

Shooting could be heard in Brazzaville from Kinshasa.

Later youths waving red flags, the emblem of the republic since it took to the path of communism in December, marched through the streets of Brazzaville to display support for Ngouabi.

A former army colonel, Ngouabi became president Dec. 31, 1968, and exactly one year later announced a constitution changing the nation's name to the Congo People's Republic and making the "internationale" the national anthem.

The rebel soldiers who seized Brazzaville Radio announced "the hour of liberty has rung . . . it is the end of irresponsibility, end of disorder in the administration, in the army, end of political ignorance, end of arbitrary arrests of officers . . ."

From Pointe-Noire, 220 miles east of Brazzaville on the Atlantic coast, an official loyal to Ngouabi went on the radio and accused the soldiers of distributing "imperialist propaganda" and warned them to give up by 9:15 a.m. or be crushed.

The loyalist troops moved in before that deadline and retook the station from the so-called "military committee of national liberation."

[From the Washington Evening Star, Mar. 30, 1970]

THREE MEN EXECUTED BY BRAZZAVILLE IN COUP ATTEMPT

KINSHASA, CONGO.—Three military men were executed yesterday in the neighboring Congo Republic for trying to overthrow the Marxist regime last week, Brazzaville radio said.

The broadcast said two other condemned leaders of the attempted coup are still at large.

The radio did not say how the men were executed but identified them as Capt. Albert Miaouama, Sgt. Jean-Marie Mengo and Andre Nkoutou, a chief adjutant of the national police.

[From the Washington Post, Mar. 30, 1970]

WORLD BANK PLANS OFFICE, GETS YEN

The World Bank announced yesterday it will establish resident mission in Lagos, Nigeria, next month at the request of the Nigerian government.

The bank also announced the Bank of Japan will lend 36 billion yen equal to $100 million, to the bank for 7.14 per cent annual interest.

World Bank president Robert S. McNamara called the loan "a development that is of prime importance to future financing of our activities. Only through the broadening of sources of funds available to the World Bank can it insure a continuing and sufficient supply of financing for its expanding loan operations."

[From the Washington Post, Mar. 29, 1970]

CONGO'S NEW CURRENCY REFLECTS COUNTRY'S ECONOMIC HEALTH

(By Jim Hoagland)

KINSHASA, CONGO.—"Monsieur, we do not have funny money here now," a Congolese taxi driver said recently with an aggrieved air, as a customer haggled over the $6 fare for a bumpy 10-mile ride from Kinshasa's airport.

There was undoubtedly a lot of self interest ladeled into the driver's remark, but it also indicates growing Congolese pride in an economic recovery that astounds financial experts.

General Joseph D. Mobutu sees this economic progress as perhaps the most important part of his campaign to fuse the 200 or so tribes who inhabit this central African giant into a nation.

CURRENCY STABLE

The driver seemed as proud as the president that Congolese currency, which was once the laughing stock of Africa and which sold on the black market for 300 to 400 percent markups has now stabilized.

The increasingly hard-to-find illicit money changers now give only 20 percent premiums.

President Mobutu introduced the new currency, which is called the zaire and which bears Mobutu's image, in 1967 when he agreed to a strong International Monetary Fund suggestion for a 350 percent devaluation. The Congo, suffering from the aftermath of its civil war and poor financial management, was nearly bankrupt then.

The Congolese disdain the ex-French colonies which have kept the French African franc as their currency and whose budgets therefore are tied to France. One zaire is worth two American dollars.

Mobutu, who has begun in the past few weeks to assert that "operation zaire" has succeeded, also whips up nationalist fervor by pointing to the Congo's healthy foreign exchange reserves ($236 million), compared to almost nothing three years ago and his liberal investment code, which has brought German, Japanese and American investors sniffing around this country, rich in minerals but devoid of infrastructure.

NAME MEANS RIVER

Mobutu checked off the old Congolese franc and went back in history for the name zaire (pronounced zah-ear) which is the answer Congolese tribesmen reportedly gave the the first white explorers who saw the Congo River and asked how it was called. Zaire is an African word that simply means "river."

Experts involved in the Congo's economic recovery credit it to two factors: increasing copper production while copper prices are at an alltime high, and improved budgetary control that has eliminated the inflationary deficit spending of past Congolese governments.

The copper mines of Katanga account for more than 60 per cent of the Congo's export earnings. Other important minerals are gold, tin, diamonds and cobalt (The Congo produces about half of the world's supply).

NATIONALIZED MINES

Mobutu nationalized the mines, which had belonged to a Belgian firm, Union Miniere du Haut Congo, in 1967. But realizing that law suits in Europe could strangle his chances for marketing the copper, Mobutu made a generous settlement with the Belgians a few months ago. About 1,500 Belgian technicians are currently running the mines. This, plus the legislation that gives foreign investors at least a year off from taxes, is attracting renewed attention here, and Mobutu makes the most of it.

He has hoarded the foreign exchange brought in by the mines in a move to increase investor confidence. A half billion dollars in U.S. aid has enabled him to do this and at the same time "keep the country together" in the words of one observer.

"The Congo is now at the transition point, where aid can be used to help the country take off," an economist here noted recently.

CONGO'S OWN BOMBAST

Sometimes the Congolese seem to get carried away with their own nationalistic bombast. This, at least, seems to be the most reasonable explanation of the frequent and loud assertions being made by Congolese officials that their country became the first in the developing world to join the Group of Ten last month.

In fact, the Congo was one of about 30 countries given extra quotas by the International Monetary Fund when the Special Drawing Rights system was put into effect.

This prestige move and vote of confidence in the Congo (which, because of its solid reserve position, is unlikely to need the extra rights), has somehow been translated with considerable chest puffing out as membership in "les dix."

The Congolese economic pride is also tempered by the realization that they still face major hurdles in economic development. The outlook, as one foreign expert describes it, is "fair with a few clouds."

TRANSPORTATION LACKING

The major problem is the lack of transport networks across the Congo, which is larger than Texas and Alaska combined but which has fewer miles of paved roads than Rhode Island, and which has only 25 miles of sea coast.

The Congo needs to double its current production of more than 300,000 metric tons of copper a year to retain its 6 per cent share of the world market, over the next decade, according to economists here.

The mines have the capacity to do this, but no one is sure they will have any way to get it out of Katanga to the sea.

The Congo River is one of the world's mightiest and longest, but is not navigable south of Kinshasa. An expensive and inefficient 1,500-mile rail-water-road system is currently used to ship about half of the copper to the port of Matadi.

The other half goes out along the British-owned Benguela railway through Portuguese Angola to the port of Lobito. But this link is vulnerable to sabotage by guerrillas fighting the Portuguese (and who do not get along with Mobutu), and affects Mobutu's relations with the Portuguese.

The United States, the Common Market's development fund and the World Bank are all considering studies for new transport links for the Congo, either along the river or a new railway. But the cost—likely to be over $250 million for either system—looks prohibitive thus far.

Lack of transportation cost the Congolese an important deal recently when a friendly government offered to buy the surplus corn and manioc crops that are rooting in the Congolese interior.

"Fine," a high ranking Congolese official reportedly told the ambassador who made the offer. "Go ahead and get it." When the ambassador gently suggested that perhaps the Congolese could bring the produce to the port, the Congolese official looked surprised. "We have no way of bringing it in from the bush," he said. The deal fell through.

Finally, there are the enormous social problems of the Congo which Mobutu has not yet begun to deal with effectively. Inflation, while not as bad as it was after the 1967 devaluation just about doubled prices, is still a concern to a population that earns about $100 per capita per year.

Corruption still flourishes and hampers economic gains. A young high school graduate says he would have to pay $10 to $20 to get a job. He would gladly pay if he had $10 to $20. A British businessman who came here hoping to place some new contracts quietly packed his bags and left after he found government officials expected a 25 per cent rake-off on all contracts.

But even these dark spots cannot dampen the enthusiasm of the Congolese about their new money and their burgeoning new economy. Many of them still are hoping that prosperity will eventually trickle down to them.

MALAWI SEIZES AXING SUSPECTS

BLANTYRE, MALAWI, March 16.—President Kamuzu Banda announced last night that police have arrested the alleged leader and members of a gang responsible for a recent wave of ritual axe killings in Blantyre's African townships.

Banda previously said the murders were the work of sorcerers seeking human parts for their medicines. But he has accused Malawian rebels in Zambia and Tanzania of taking advantage of the killings to concoct anti-government propaganda.

The murders, which may have killed as many as 28 persons in the past year, have caused widespread apprehension among Malawians. Most victims were hacked to death in their beds.

[From the Evening Star, Washington (D.C.), Mar. 24, 1970]

PRESIDENT FETES AMBASSADORS: SALUTE TO NEW AFRICA

(By Isabelle Shelton)

President Nixon, entertaining African ambassadors last night at what he called another White House "historic first," pledged U.S. sympathy for the nations on the emerging continent, especially their children.

The dinner, the first at which "all of the African diplomats were honored in this room (the State Dining Room) . . . indicates the escalating manner in which Africa and the nations of Africa have come upon the American as well as the international scene in a very short period of time," Nixon told representatives of the Organization of African Unity.

"I endorse in advance" the report and recommendations that Secretary of State William Rogers will give him in a few days concerning U.S.-African policy, based on Rogers' recent trip there, the President told the group of about 100, which included Rogers and his wife.

TOAST AND RESPONSE

"We only hope that in our policy toward Africa (we) . . . will be able to help you realize your hope, to extend to the greatest opportunity that is possible the ideas that you have for your future, but that, above all, to see that your children realize that they have a chance, a chance for a better world, a more peaceful world, a world of progress, a world of opportunity for them and all of the other children of the world," the Chief Executive went on.

Ambassador Edward Peal of Liberia, responding to the presidential toast on behalf of the 32 members of the Organization of African Unity who were present last night, said he and his colleagues "recognize the earnest altruism that has motivated the assistance, moral and material, extended to our people over many years and in a variety of contexts.

"We will always remain mindful of the close, strong, brotherly ties that link us to that large and creative segment of the American people," he continued, and "so long as there is respect for human dignity, and so long as there is one man who cries out from the dwindling jungle of tyranny, so long, Mr. President, will the American example and pattern be a very relevant and shining example for the building of the African dream."

The dinner for approximately 100, which reporters were not permited to attend, was designed, the White House indicated as a prelude for a New White House African policy (apparently to be enunciated in Rogers' report and recommendations on his recent trip, to be made in a few days.)

The dinner, according to some who attended, presented a colorful scene, with several ambassadors joining their wives in wearing colorful native costumes.

The Ambassador of Ghana and Mrs. Debrah, wearing what a few guests called identical "His and Hers" costumes, in bright red, yellow and black patterned fabric, were cited as especially notable.

"It was a warm and colorful evening all around," with American women at the black tie dinner seeking to match the brilliant colors worn by the African, according to the wife of one U.S. official who was present.

First Lady Pat Nixon wore a long-sleeved, high-necked white gown, belted at the waist and decorated at the neck with brilliants.

The menu called for Supreme of Striped Bass Duglere, Tournedos of Beef Saute Rossini, Artichokes Hascotte, Fresh Asparagus Hollandaise, Bel Paese Cheese, Bibb Lettuce Salad and Charlotte Royale.

The usual after-diner entertainment in the East Room was dispensed with last night, in place of a brief period of singing by the United States Army Chorus during the dessert course.

After-dinner guests mingled briefly with the Nixons over coffee and liqueurs, wandering from room to room on the public floor.

There they could admire the Andrew Wyeth paintings still on exhibit, and the display of spring flowers in the entrance foyer—huge tubs containing blooming cherry blossom trees, pink azalea trees, forsythia bushes and red geraniums.

WHITE HOUSE GUESTS

Guests at the dinner given by President and Mrs. Nixon at the White House last night were:

Secretary of State and Mrs. Rogers.

Ambassador of Liberia and Mrs. Peal.

Ambassador of the Libyan Arab Rep. and Mrs. Abidia

Ambassador of the Central African Rep. and Mrs. Gallin-Douathe

Ambassador of the Federal Rep. of Cameroon and Mrs. Owono

Ambassador of the Rep. of Niger and Mrs. Mayaki

Ambassador of the Rep. of Upper Volta and Mrs. Rouamba

Ambassador of the Rep. of Ivory Coast Timothee N' Guetta Ahoua

Ambassador of the Rep. of Burundi and Mrs. Nsanze

Ambassador of the Rep. of Dahomey and Mrs. Zollner

Ambassador of Morocco Ahmed Osman

Ambassador of the Rep. of Togo and Mrs. Ohim

Ambassador of Malawi Nyemba Wales Mbekeani

Ambassador of Ghana and Mrs. Debrah

Ambassador of the Somali Republic Yusuf O. Azhari

Ambassador of Nigeria and Mrs. Iyalla

Ambassador of the Rep. of Senegal and Mrs. Fall

Ambassador of Mauritius and Mrs. Balancy

Ambasador of Swaziland and Mrs. Sukati

Ambassador of the Rep. of Chad and Mrs. Massibe

Ambassador of the United Rep. of Tanzania and Mrs. Rutabanzibwa

Ambassador of the Rep. of Botswana and Mrs. Kgfaela

Ambassador of the Kingdom of Lesotho and Mrs. Mashologu

Ambassador of the Rep. of Guinea and Mrs. Keita

Ambassador of Kenya and Mrs. Kibinge

Ambassador of Sierra Leone and Mrs. Akar

Ambassador of the Rep. of Rwanda and Mrs. Nkundabagenzi

Ambassador of the Democratic Rep. of the Congo (Kinshasa) and Mrs. Bomboko

Ambassador of the Rep. of Mali and Mrs. Traore

Ambassador of Tunisia and Mrs. El Goulli

Ambassador of the Rept. of Zambia and Mrs. Chona

Ambassador of the Rep. of Gabon Gaston-Robert Bouckat-Bou-Nziengui

Ambassador of the Malagasy Rep. and Mrs. Razafimbahiny

Secretary of the Treasury and Mrs. Kennedy

Secretary of Agriculture and Mrs. Hardin

Sen. and Mrs. George D. Aiken

Sen. and Mrs. J. W. Fulbright

Sen. and Mrs. Gale W. McGee

Rep. and Mrs. Thomas E. Morgan

Rep. and Mrs. E. Ross Adair

Rep. Charles C. Diggs, Jr.

Rep. and Mrs. J. Irving Whalley

Charge d'Affaires a.i. of Ethiopia and Mrs. Mekbib

Charge d'Affaires a.i. of the Republic of Uganda Christopher Katsigazi

Gustavo Envela, Permanent Representative of Equatorial Guinea to the U.N.

Abdou O. Hacheme Charge, Embassy of the Islamic Rep. of Mauritania

Adm. Agency for International Development and Mrs. John A. Hannah

Dir., U.S. Information Agency and Mrs. Frank J. Shakespeare, Jr.

Dir., Peace Corps and Mrs. Joseph Blatchford

Chief of Protocol and Mrs. Emil Mosbacher, Jr.

Assistant to the President for National Security Affairs Henry A. Kissinger

Counselor, Dept. of State and Mrs. Richard F. Pedersen

Assistant Secretary of State for African Affairs and Mrs. David D. Newsom

Asst. Admr. for African Affairs, AID and Mrs. Samuel C. Adams, Jr.

Asst. Dir. for Africa U.S. Information Agency and Mrs. John E. Reinhardt.

Deputy Assistant Secretary of State for African Affairs W. Beverly Carter

Staff Assistant, National Security Council and Mrs. Roger Morris

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[From the Washington Post, Mar. 23, 1970]

RHODESIA NOT AFFECTED: DAVIS CUP NATIONS BAR SOUTH AFRICA

LONDON, March 23.—South Africa was officially barerd today from the 1970 Davis Cup tennis competition at an extraordinary meeting of the Davis Cup nations.

The seven-nation committee took no action on the entry of Rhodesia.

The committee, made up of representatives from Britain, France, the United States, Australia, Uruguay, Russia and Malaysia decided to exclude South Africa after the republic's delegate declined to withdraw South Africa's entry in the European zone.

The banning of South Africa means the

republic's sportsmen are now virtually excluded from all truly representative sports meetings. They were not invited to the last two Olympic Games and are banned from the World Soccer Cup.

RUGBY, CRICKET SHAKY

In minor sports like rugby union and cricket, South Africa still has ties with Australia, Britain and New Zealand, but the recent rugby tour of Britain was marred by demonstrations and trouble is expected on this summer's cricket tour of British Isles.

American delegate Bob Colwell denied his association was influenced by the decision of the South African government to deny Negro tennis star Arthur Ashe of Richmond, Va., a visa to enter the country to play in the South African Nationals, which open in Johannesburg on Tuesday.

"The Arthur Ashe incident was not a prime factor," he said.

U.S. CALLS MEETING

The United States, as the champion nation, felt it was necessary to convene the extraordinary session after the East Bloc nations, the Scandinavian countries and the Latin European entries had served notice they would default rather than play South Africa.

Last year South Africa gained the zone finals against Britain after beating Iran. Both Hungary and Czechoslovakia defaulted.

South Africa gained a bye in the first round of the European "B" section this year. She was due to meet the Finland-Belgium winner.

The seven-man committee met for 90 minutes before reaching a decision. The voting was kept secret, but Colwell said it was not unanimous. It was believed that Britain and France supported the continued representation of South Africa.

The ban is for 1970 only. South Africa will be permitted to enter next year's competition when the committee will again judge her case on its merits and in the light of the political climate.

[From the Washington (D.C.) Post, Mar. 13, 1970]

SOVIET UNION BLAMES UNITED STATES, BRITAIN FOR EXISTENCE OF RHODESIAN REGIME

(By Robert H. Estabrook)

UNITED NATIONS, March 12.—Soviet Ambassador Yakov Malik blamed the United States along with Britain this afternoon for allegedly supporting the white supremacy republic in Rhodesia.

The U.S. and its allies "bear the main responsibility for the emergence and subsistence thus far of the racist regime" of Prime Minister Ian Smith, he charged in a coldwar-style indictment in the Security Council.

Contending that these countries had had a major part in "emasculating" sanctions voted by the council, he accused them of preventing extension of similar measures to Portugal and South Africa.

Why does Britain not apply the treason act to members of the Smith regime, he asked rhetorically, recalling that in the last century treason had brought a death sentence.

"Because Smith and his government are committing crimes not against the United Kingdom but against Africans—against the people of Zimbabwe," (the African name for Rhodesia) he declared. He added that Smith regards the British "as friends and patrons."

Apart from championing an Afro-Asian resolution for extension of sanctions, Malik appeared to be attempting to offset any credit accruing to Western countries for the closure of their consulates in Rhodesia. West Germany today joined the U.S. and six other countries that have recently withdrawn consular representation.

A British spokesman noted today that apart from the U.S. and Germany, Norway, Denmark, Italy, the Netherlands and France have closed their consulates in Rhodesia and that Austria, which had been erroneously reported as having representation there has not had even an honorary consul since 1967.

Belgium and Switzerland are reviewing their policies, the British spokesman said, and only Greece, Portugal and South Africa appear unmoved by pleas to withdraw representation.

Burundi ambassador Nsanze Terence introduced the five-power Afro-Asian resolution calling on all states to sever immediately all remaining ties with Rhodesia including postal, telegraphic and air communications.

But Britain, which asked originally for a simple resolution calling on all states not to recognize the new republic, is understood to be considering a veto if the Afro-Asian measure should be put to a vote in its present form. The total communications ban also would pose constitutional difficulties for the United States.

The Council will continue the debate Friday afternoon.

[From the Washington Post, Mar. 26, 1970]

UGANDA TO BAN OPPOSITION, LINK IT TO ASSASSINATION TRY

(By Jim Hoagland)

NAIROBI, KENYA, March 25.—Uganda's government served notice today that it is going to outlaw opposition political parties.

The announcement made in Kampala and reported here by the Kenya News Agency, came as the government asserted for the first time that the opposition party was linked to the attempted assassination of President Milton Obote in December.

Obote, who has almost completely recovered from the bullet that struck him in the jaw and narrowly missed killing him, was in Nairobi today for a meeting with the presidents of Kenya and Tanzania, Jomo Kenyatta and Julius Nyerere.

They were meeting as heads of the East African Community to coordinate economic and social policies.

The Kampala announcement said that the government would introduce a motion establishing Uganda as a one-party state when the parliament meets again on April 20. The parliament, completely controlled by Obote's United People's Congress, is considered certain to pass the motion, observers here said.

Uganda's move to become a one-party state had been expected even before the assassination attempt.

Tanzania was the first of the three East African countries to do away with political opposition. Kenya has been a de facto one-party country since October, when Kenyatta angrily banned the opposition and threw its leaders into jail.

Leaders of Uganda's opposition Democratic Party, which had been gradually losing strength since Obote came to power in 1966, were jailed after Obote was shot, and the party was banned.

They were arrested under preventive detention laws, and were not charged with a role in the shooting.

But a Ugandan prosecutor told the district court in Kampala today that an unnamed "leader of a political party" now banned had been present when the plan to shoot Obote was drawn up.

The prosecutor, according to reporters who were present at the hearing, also said that the planning had taken place in the home of Princess Ndagire, the sister of the late Kabaka of Uganda, Sir Edward Mutesa.

Obote ousted the Kabaka, who was president of Uganda and hereditary ruler of the Baganda people of sourthern Uganda, in 1966. The Kabaka died in London in November.

The government asserted today that the assassination plot had been financed from London. Five Baganda men who pleaded guilty to conspiring and attempting to kill Obote were bound over at the hearing for sentencing.

A sixth man, who pleaded not guilty, was released when charges were dropped. He was immediately, re-arrested, however, under preventive detention.

The prosecution said that a 33-year-old taxi driver, Mohamed Sebaduka, had shot the president and would probably have succeeded in killing him if the gun had not jammed after the first shot.

Another man threw a grenade at Obote, but it failed to explode, the government said.

The government's portrayal of the assassination attempt as a joint Baganda and Democratic Party effort surprised some observers.

Because of the pattern of the government's investigation, and the still unsolved assassination of the army's second most powerful commander in January, some analysts had speculated that an inner-army or government feud had touched off the violence.

[From the Washington (D.C.) Star, Mar. 29, 1970]

UNITED STATES VOWS AFRICAN COOPERATION

(By George Sherman)

The Nixon administration yesterday formally proclaimed a policy of "constructive cooperation" toward Africa.

In a 5,000-word document entitled the "U.S. and Africa in the 70s," released at the State Department, Secretary of State William P. Rogers asserted the United States wants "no military allies, no spheres of influence, no big power competition in Africa."

The 25-page statement, promised here for more than a month, lays heavy stress on the nuts and bolts issues of economic development in black Africa. But only three pages deal with the politically charged issues of white southern Africa. The section makes no new departure in dealing with the problem of racist regimes.

"The problems of southern Africa are extremely stubborn," says the statement. "Passions are strong on both sides. We see no easy solutions." Without explanatory detail, it adds that "we take our stand on the side of those forces of fundamental human rights in southern Africa as we do at home and elsewhere."

In an accompanying letter, sent with the report to President Nixon, Rogers said American economic aid to Africa in the coming years should "be certainly not less than the present level."

NIXON NOTES APPROVAL

In a brief responding letter Nixon wrote that Rogers' "thoughtfully prepared policy statement on Africa is wholeheartedly approved." The President noted that a special opportunity now exists for the U.S. to "respond to African needs and build that relationship and understanding which we desire."

In over-all terms, a pledge of greater trade, private investment, and measured economic aid to Africa in the Document, fits the guidelines of "low profile" laid down by Rogers during his 10-nation tour of Africa in February.

The document states that the total U.S. shares in foreign aid to Africa has averaged $350 million a year, about 20 percent of all external, assistance to the continent. Officials later noted that this figure—which includes the $154 million in the budget of the Agency for International Development—does not include an additional $250 million contributed to such international programs for Africa as the United Nations Technical Assistance fund.

While pledging greater American participation in national economic development programs in Africa, the statement points to a "more flexible approach" in across-the-board regional and neglected economic field programs. It emphasizes that the U.S. will increase aid through international institu-

tions and "multi-donor arrangements," singling out especially the African Development Bank.

The document admits ambivalence toward dictatorship in Africa. One point it pledges American respect for the institutions "which the Africans themselves create." While stating American preference for democratic procedures, the statement recognizes that forces of change and "nation-building" in Africa "may create governmental patterns not necessarily consistent with such procedures."

But later, at another point, the policy statement shows no such ambivalence about the South African system of racial segregation.

"We continue to make known to them and the world our strong views on apartheid," a key paragraph reads. "We are maintaining our arms embargo. We oppose their continued administration of Namibia (Southwest Africa) and their implementation of apartheid and other repressive legislation there. We will continue to make clear that our limited governmental activities in South Africa do not represent any acceptance or condoning of its discriminatory system."

"We do not believe cutting our ties with this rich, troubled land would advance the cause we pursue or help the majority of the people of that country," it states. It also rejects the "fatalistic view" that "only violence" can end "racial oppression and residual colonialism" in Africa.

"Rather we believe," the statement continues, "that solution lies in the constructive interplay of political, economic and social forces which inevitably lead to changes."

A short paragraph maintains, however, that the United States will not recognize or maintain diplomatic relations with the breakaway white minority regime in Rhodesia. Officials explained that Rhodesia has been recognized by almost no one in the international community since breaking with Britain. Therefore it does not have the long "juridical existence" that justifies the United States maintaining diplomatic ties with South Africa.

HOPEFUL IN OTHER AREAS

The document holds out more hope for the evolution of the Portuguese territories of Mozambique and Angola. The U.S. government, it states, will continue to encourage "peaceful progress" toward selfdetermination in these territories.

"The declared Portuguese policy of racial toleration is an important factor in this equation," it states. "We think this holds genuine hope for the future." In the meantime, it continues, the U.S. will continue the 1961 embargo against arms shipments for use in the Portuguese territories.

On economic aid to Africa, the statement expresses the hope that European nations—with "historic links" to Africa—will continue to provide the bulk of foreign assistance.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

A PROPOSAL FOR A NATIONAL GOALS INSTITUTE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, Arjay Miller, dean of the Graduate School of Business at Stanford University, recently presented a most interesting and valuable statement to the Joint Economic Committee. As a long-time participant in the debate on national priorities, Mr. Miller is well acquainted with the hard choices which are attendant to rationing limited resources.

As a result of his study and experience in this area, he now proposes that a National Goals Institute be established as a quasi-independent body to advise both the Congress and the executive. Its members would be nationally recognized leaders, and its staff would be drawn from the eminently qualified and dedicated scholars who even now are devoting their own time and energies to the economic analysis of alternative policy choices. The task of establishing national goals should be a continuous process, and the creation of a permanent Institute of this nature would be a first step in this direction.

Because I am certain that Mr. Miller's remarks will be of special interest to my colleagues, the full text of his statement follows:

A PROPOSAL FOR A NATIONAL GOALS INSTITUTE

(By Arjay Miller)

National goals and priorities is a phrase heard frequently these days, most often invoked by partisans of particular causes which are felt to be neglected. I should like to speak to the matter, not in a substantive way, but in terms of a systematic approach to the ordering of such national priorities. I am particularly pleased to be invited to make my remarks to members of that deliberative body which can make a real determination of what national goals should be.

Participants in the dialogue are typically hard-working, public-oriented, genuinely-concerned individuals, who give freely of their own time and talent. In addition, the objectives each supports are collectively desirable. Who is there that doesn't want to eliminate poverty, crime, disease, hunger, war, ignorance, foul air and polluted water? Somehow, then, we must find not only an objective solution to the problem, but some means to resolve the conflicting priorities and methodologies as well. Recognition of very real limits on total resources compared to the conflicting claims against these resources is the essential first step. The hard choices which must be made depend on the availability of comprehensive objective information.

Considerable progress has been made and is being made on this overall problem, of which the work of this committee is an outstanding example. Significant contributions are also being made by such organizations as the Council of Economic Advisors, the Bureau of the Budget, and the National Planning Association, a non-profit organization located here in Washington. Encouraging recent developments include the presidential establishment last July of the National Goals Research Staff within the Executive Office under Mr. Leonard Garment and Mr. Charles Williams, and the recent work being undertaken by The Brookings Institution under the direction of Mr. Charles Schultz.

In my opinion, however, the comfort of all these organizations, valuable efis, falls short of meeting the enormous needs of the general problem. What we need initially, I am convinced, is an overall approach that will do two things: First, tell us what our economy is capable of producing over a given period of time, and, second, project the cost of present and contemplated national programs.

The first of these tasks is the easier by far. We can project at least the general magnitude of future increases in output. The long-term rate of increase in Gross National Product, as estimated by the Council of Economic Advisors, falls between 4 and 4½ per cent per year. With a current GNP of roughly $935 billion, our total output should advance about $40 billion per year, valued at today's prices.

The second step—projecting the cost of present and contemplated programs—is more difficult. But it can be done, I believe, even if we have to settle for ranges of cost in most of our long-term estimates.

First, we could project the cost of existing programs over, say, the next 10 years. The magnitude of built-in increases in these programs is not generally recognized, so the extent of this existing commitment must be made as we estimate the total demand upon our resources. In this calculation, the enormous cost of providing schools, hospitals, roads, productive facilities, et cetera to keep up with projected population growth should be clearly set forth.

Next we could project the cost of attaining generally recognized goals over the next 10 years. Wherever possible, use would be made of existing estimates contained in reports such as those prepared by Presidential Commissions and private organizations like the Carnegie Commission on Higher Education. At the present time, many valuable reports lose their effectiveness because they have no "home"; no place where their claim on national resources can be recorded and evaluated against competing demands.

Proposed legislation and Congressional Committee recommendations would also be considered. In addition to some mechanism for costing out generally recognized goals, there should also be some means for gathering and analyzing serious major proposals by groups or individuals wanting to press specific ideas. This participation is essential to the eventual implementation of solutions chosen at the grass roots level in our Country. In effect, we would achieve a national forum for airing of new approaches to public needs—a highly desirable objective.

A listing of all our national goals, together with estimated costs and the resources available to meet those costs, would be published on an annual basis. Probably the most significant figure in such a report would be the "gap" between the total cost of our goals and our ability to pay. In 1965, the National Planning Association published a report indicating this "gap" would amount to $150 billion by 1975. Recognition of new social needs, plus inflation, would now make that figure much larger.

General recognition of this "gap" would in itself be valuable, because it would open the eyes of those who believe that our problem is overproduction or that everything is possible in what is sometimes called our "economy of abundance." Furthermore, recognition of this "gap" would throw into perspective such recurrent questions as the shorter work week and technological unemployment. As long as so many recognized needs remain unsatisfied, the overall problem can be correctly portrayed as one of requiring more work, not less.

One big question remains: How is all this to be done? In my opinion, no existing organization seems appropriate to perform this task. This is why I proposed a year ago, in a talk before the American Economic Association and the American Finance Association,

the establishment of a permanent National Institute for the express purpose of developing an overview of America's needs and resources.

Under broad and responsible direction, the institute would be made up of a permanent, full-time professional staff drawn from many relevant disciplines—the behavioral sciences, economics, engineering, urban planning, medicine and so forth. Its task would be relatively narrow in scope but almost limitless in its implications for sound, coordinated social progress in the years ahead.

It would be most useful—if this idea has merit—for such an institute to be recommended by the President and established by an Act of Congress. I would recommend that its board of directors include representation from both the Executive Branch and the Congress, as well as from non-governmental areas such as business, labor and education. Its reports should be made directly to the President and to the Congress, and given wide public distribution.

Now let me deal with some of the questions I am sure this proposal will raise. Some might contend that an institute of this kind does not go far enough. They would prefer to see a neat ordering of social objectives that could be contained within our ability to pay. Some such restrictions and cutbacks would, of course, have to be accepted in any event, but this cannot be the prerogative of any single group or organization in our society. In a democracy, this is a process that all of us must and should share.

Reports by the Institute would have no binding force or direct authority in and of themselves. They would simply point out directions and possibilities, and provide a factual basis for enlightened public discussion and decision-making. Maximum participation in the work of the Institute would provide the mechanism for local "goals" programs to properly "mesh" with national priorities; concurrently, this same mechanism would provide greater local support of stated national priorities. In my home area, for instance, there is presently under consideration a county-wide goals program. The necessity for this area-wide program to be coordinated with national priorities cannot be easily overlooked. Additionally, financial support of positive local programs—through block grants or revenue sharing—could have a mutually beneficial affect.

Institute reports should spell out alternatives and the magnitudes involved in each of the different approaches. Individual directors of the Institute would be free to differ with a majority opinion and to add their own comments or recommendations to the basic report. Thus, these reports would be only the beginning point for orderly planning.

Our concern is not with absolutes, but with choices—with the kind of information that we as a people must have if we are to be able to see clearly the various alternatives open to us and choose rationally from among them. In Russia, a five-year plan carries the full force of government authority and the people have no options.

In our case, elected representatives of the people would choose whether to follow one plan or another—or one part of a plan and not another. Coupled with the "forum" concept and the coordination of local programs, this would mean maximum participation by our citizenry. This kind of planning, then, does not in any way supplant "The People's Choice;" on the contrary, it is meant to increase the people's ability to make clear and informed choices.

A second question that might be raised is why a National Goals Institute is needed now when we have progressed this far without one. The answer lies in the basic shift of emphasis that has occurred from private goods to public goods. The private sector has done such an effective job in meeting the demand for items like automobiles, television sets and radios that the most critical shortages today exist among such social goods as health, education and safety—areas in which public participation and planning is absolutely necessary.

Another question that might be raised about a National Goals Institute is whether it is possible to treat in quantitative terms all the goals of society. There obviously are many values in life that cannot be measured. The dispossessed in our society, however, have no problem in recognizing—and demanding—such basic quantitative objectives as more income, more jobs, more health care, to name just a few. These goals are important in themselves, and they are a foundation for the achievement of such broader goals as dignity and self-respect, social harmony and cultural advancement.

Let me turn now to another part of my subject today—the task of moving effectively toward the goals we choose. Even with a clear sense of priorities and adequate funding, tremendous effort would still be needed to develop a sound and effective attack on social problems. My own experience leads me to believe, however, that new approaches can be made to work if there is general agreement on the broad objectives of the entire community.

For example, I have devoted a great deal of time to the work of the Economic Development Corporation of greater Detroit, an organization of businessmen established to encourage and assist the development of black-owned and operated businesses in the city. There is general agreement among both whites and blacks on the desirability of minority ownership of varied kinds of business in the inner city and there is general agreement as to the kinds of assistance required—financial, technical and legal. But it is clear that these enterprises must be controlled and directed by residents of the inner city. The Economic Development Corporation is responding to requests for help from black entrepreneurs, and is making no effort to tell anyone how he must set up or run his business. This is determined by the black businessmen themselves.

Locally managed programs of this kind will add up to an effective national attack on social problems, I believe, if the local programs are conceived and implemented with clear understanding that they are only part of an overall effort to meet a problem of national dimensions.

This is why I believe so strongly in the idea of a National Goals Institute. Something of this kind is needed if we as a nation are to see our problems whole and learn to deal with them effectively. Unless we adopt a total view, we must resign ourselves to patchwork progress, and probably to eventual failure.

To make gains in one area of need while compounding problems in other areas is not real progress. For example, inner city factories would increase local employment but might at the same time add to the problems of air pollution and urban congestion. So what we must seek, actually, is a synthesis of efforts. All parts of a total program must be mutually consistent, at both the national and local levels.

The proposed National Goals Institute, unlike any existing institution, would have the following three characteristics, all of which would contribute to the successful operation of the organization.

1. *Degree of Independence.*—Although the Institute should be supported by both Congress and the White House, it should not be an integral part or fully dependent on either. A quasi-independent status should make it easier to attract nationally recognized leaders on its board of directors, and qualified scholars on its staff. In turn, this would assure objectivity in the work of the institute, and a recognition of that objectivity by the general public—both of which are essential for success.

2. *Government Support.*—Congressional creation of the Institute and backing by the Executive Branch would give it the kind of support necessary for effective operation, as well as make its output more acceptable to the governmental bodies which would be the primary users. Assurance of continued financial support is essential, and this could probably best be achieved through primary reliance on Congressional appropriations. Compared to the size of the problem, the amounts required would be small indeed. I would estimate expenditures of about $2,000,000 annually would be adequate.

3. *Continuity.*—The task of establishing national goals should be viewed as a continuous process, reflecting changes in the national mood as well as changes in our technology and social institutions. Continuity of employment would also aid in attracting the kind of personnel needed, and in their gaining the experience and expertise required to deal effectively with the complex issues involved.

The task of setting acceptable priorities for our society is a most difficult one. In the accomplishment of this task, the establishment of a National Goals Institute is only one small step, but, nevertheless, a vitally important and necessary one that can and should be taken now.

All the Institute can hope to accomplish is to provide a mechanism to aid in the decision making process; it can not be a substitute for leadership action itself. A specific example may help clarify this point. At the present time, leaders from practically all segments of society are calling out boldly for an end to environmental pollution, yet concrete proposals of exactly what steps should be taken are rare indeed. This should not be too surprising, when we realize that no one really knows how to define in objective terms what we mean by pure air or clean water, or what it will cost to attain these objectives. I have heard one estimate that 200 billion dollars would be required to clean up our environment, yet no one to my knowledge has indicated where funds approaching this magnitude will come from. The real character of the problem is brought home when we remember that previously announced national efforts, like the War on Poverty and the call for 2.6 million housing starts a year, are falling far short of their objectives, primarily because of a shortage of funds.

In other words, what is lacking most today is not a general recognition of what we would like to accomplish, but rather the ability to establish and communicate realistic programs. In my opinion, a National Goals Institute would help meet this need by enabling legislative bodies and sincere citizens in all walks of life to reach decisions based upon comprehensive and factual information. Hopefully, greater understanding of the true nature of problem dimension would lead to the establishment of *attainable* national goals and priorities, supplanting false hopes which can only lead to discouragement, frustration and despair.

We have the ability to make significant progress toward a better life, but only if we make a determined, continuous and intelligent effort. One factor in our favor today is the widespread unrest present among almost all segments of our society. Change is possible only when we are dissatisfied with the status quo. Let us view the present unrest then as a perilous opportunity—as a challenge to build a better future; using all the vision, good will, and power at our command.

AN INJUSTICE TO THE FAMILIES OF OUR SERVICEMEN IN VIETNAM

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, during our visits to the Department of

Defense Overseas Schools, members of the Dent committee have become aware of a special hardship faced by the widows and children of American servicemen who died serving their country in Vietnam.

The committee has discovered cases where the effective result of Department of Defense school policy has been to turn children out of the doors of their school as soon as there is word of the father's death in Vietnam. These children of these men had previously been attending Department of Defense schools abroad without paying tuition as dependents. Then, when their fathers are killed in Vietnam they are no longer technically dependents under the wording of section 607(a) of the Department of Defense Appropriations Act of 1970 and they cannot attend our schools without paying tuition.

For widows without much money who remain living in the home that their husband established, because they have family there who can help to bring up their now fatherless children, it is often impossible to come up with the $630 per child that present rulings have required.

These children are effectively denied an opportunity for an American education which is the right of all other American children. I doubt that it is in the Nation's best interest to deny an American education to the children of men who gave their lives while serving their country in Vietnam.

I am introducing today a bill to provide a solution to eliminate this injustice. The effect of my bill would be to permit the Department of Defense to provide education without payment of tuition where schools were available to the children of these deceased servicemen.

LEGISLATION ON DANGEROUS EXPLOSIVES

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, I am filing legislation today to regulate and control the traffic in dangerous explosives.

The lack of control over the sale and use of explosives in this country is scandalous. Greater regulation of these dangerous items is urgently needed and the Federal Government can move in the area of interstate commerce to provide some of the needed control. At the same time, State and local laws and ordinances must be modernized and enforcement of the laws must be upgraded.

The revolutionaries who seek to terrorize society to bring about its overthrow must be confronted with the full force of the law to put a stop to the wave of calculated brutality which endangers the lives of our people.

The bill that I am introducing today would first, impose a tax on the transfer of explosives of 1 percent of value; second, provide for the registration of all importers, manufacturers, and dealers of explosives; third, provide for an application procedure for others which would delay the transfer of the explosive until the application was approved. On the application, the transferee would state the use for the explosive and—as in the old Gangster Weapon Control Act of 1934—would be photographed and fingerprinted. The Secretary of the Treasury would have to approve the transfer once he was satisfied that it did not place the applicant in violation of law. Fourth, provide for one-time registration of those who lawfully and regularly use explosives; and fifth, it would prohibit anyone under indictment or who has been convicted of a crime punishable by imprisonment for more than a year, or any fugitive from justice, adjudicated mental defective, or patient of a mental hospital, from receiving or possessing any explosive.

THE WELFARE REFORM BILL

HON. JOHN W. BYRNES

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. BYRNES of Wisconsin. Mr. Speaker, the House will soon consider legislation that the Ways and Means Committee has reported to comprehensively reform our Federal-State-local welfare system. The chairman of the Ways and Means Committee delivered a speech before the National Association of Counties carefully considering the problems of the present welfare system and the recommendations for reform included in the new Family Assistance Act—H.R. 16311—by the Ways and Means Committee on March 11.

In order that all the Members may have an opportunity to review Chairman MILLS' remarks in connection with their consideration of this important legislation, I am inserting his remarks in the RECORD.

REMARKS OF HON. WILBUR D. MILLS

I appreciate your invitation to be here today, because it is always a stimulating and rewarding experience for me to renew my relationship with members of the National Association of Counties. Your organization over the years has contributed so very much to the improvement of our government at all levels.

We are in a period in our history when all levels of our governmental system, the counties, the states and the Federal government, are feeling an urgent need to re-examine their responsibilities and their capabilities. Your organization is playing an important role in this process. As Chairman of the Committee on Ways and Means, I know that your contributions in the areas of our jurisdiction are extremely important.

I want you to know that all of us on the Committee have benefited by your efforts to assist us in the area of welfare reform. Your recent testimony before the Committee was, as always, thoughtful and provocative.

Like many of you, I have been thinking hard about the welfare problem for a long time. Therefore, I welcome the opportunity today to share with you some of my thoughts on welfare reform and, in particular, the new welfare reform bill which the Committee on Ways and Means has recently reported. This legislation is important to you at the county level, as it is to all other levels of government.

I have felt for a long time that we needed to make a new start in welfare. We have been trying to improve and build on the original legislation of 1935, but it has been clear that this was not enough. Welfare has become a serious burden for our society, both in terms of high dollar costs and in its failure to help the people it was supposed to help.

When the President addressed the Nation on television last August, calling for a new system of "workfare" to replace the present inadequate system of "welfare," he obviously struck a very responsive chord with the public. His proposal gained widespread support.

As I listened to the testimony of experts before the Committee on Ways and Means, most of whom endorsed the general concepts, if not all of the fine print, in the Administration bill, I became convinced that this approach was a promising one.

The bill which the Committee on Ways and Means has reported to the House is essentially patterned after the bill presented by the Administration but with some major changes and additions, with which the Administration agreed. Some of these changes are very important, as I will delineate later.

If this bill works as we intend, it will not only provide more adequate assistance to many who are in desperate need, but will also be the catalyst to help move millions of families out of poverty and into economic independence. It is designed to help those who cannot help themselves. It will provide incentives and, where necessary, requirements to help those who are capable of achieving economic independence to do just that.

The bill provides for the creation of an entirely new program for poor families—the Family Assistance Plan. This Plan will be a genuine assistance plan for all families with children, and will eliminate the discrimination of the existing AFDC program, which provides no help for families where the father is present and is working.

One of the most disturbing letters any Members of Congress can receive is from the conscientious, hard-working father who is doing his very best to support his family, and who writes to ask why his taxes should be going to support a family in which no one is working and which is receiving more in welfare than he can earn. There really isn't any answer to this kind of letter.

As a condition of receiving benefits—and this is very important—able-bodied adults would be required to register with the employment service for employment or training. There are, of course, certain groups of people, such as the disabled and mothers of very small children, who may be unable to participate in employment, and the bill recognizes this by excluding them from the registration requirement. Those who are excluded from the registration requirement would be permitted to register voluntarily, however, and receive equal treatment under the work and training program.

However, except for very specific groups, as a condition to receiving benefits, *all* adults would be required to register their willingness to live up to their family responsibilities by agreeing to take suitable work or training.

While I am on this subject, let me address myself to the question of the registration requirement for mothers. Our bill does require mothers, except mothers of small children, to register for employment and training. I think this is fair. There are 11.6 million mothers with children under age 18 in this country who are *already* working. Most of them are working because they have to, and they are paying taxes like all the rest of us. How can we say that these mothers who are working to help their families should support millions of other mothers whether they are willing to work or not?

There are many welfare mothers who *do* want to work—Most of them, in fact, as various surveys show. This bill will give these mothers the best chance they have ever had

to build themselves and their children a better life. We make individualized training available. We assure them of child care. We help them become a part of the world around them, instead of a reject of the world.

A few days ago I read a story of the experiences of one of our present AFDC mothers. She was one of the lucky ones who was getting off of welfare and into a job. Let me tell you what she had to say about her life on welfare.

"If you're on welfare you don't have to work," she said. But—"Having no problems is as bad as having too many. With no problems you're not worth anything. It's OK when the children are little and you're busy taking care of them. But when they're in school, you get up and make the beds and sometimes do the dishes because you have all day to do them."

This woman went on to say: "Talk about incentive. Handing someone an income is not enough. You have to find the right button to push for each person." For her, she said, it was the chance to go to school.

And this is the kind of thing we're trying to do with this welfare legislation. We're trying to find the right kind of button for each person. We're trying to give these mothers a chance.

We expect that a great many mothers who are not required to register will welcome this chance, and will volunteer for registration. That has been our experience under the present Work Incentive Program.

One very significant difference between the Committee bill and the draft sent to us by the President is that we added a requirement for the registration of the working poor with the employment service. This change is an extremely important one. We do not intend that the working poor should be short changed in manpower services. Likewise, we do not expect that they will go on receiving government payments forever. We fully expect and intend that the Department of Labor will provide these citizens a chance to improve their working capabilities by providing the kind of training and other services they need.

We believe that most people want to be independent of government handouts. They will work if they can. But you know as well as I that there will always be a few who will abuse their rights. If we don't require all adults to register for work or training, we run the risk of having a few no-gooders ruin the program for everyone.

This legislation goes a long way toward mobilizing the rehabilitative resources of this country for the benefit of all poor families. It places very heavy emphasis on training and rehabilitation. The Federal government would pay 90 percent of the costs of manpower programs, which the states must match with 10 percent in cash or kind. The Department of Labor and the state manpower and employment services would be required to develop employability plans for each person who is registered. This approach is very different from the traditional manpower programs. We are providing for *individualized* manpower services, following the example of the better WIN programs. We start with the individual and try to meet his needs, rather than try to fit him into whatever training slot happens to be available. We do not envisage useless, unwanted, dead-end training under this program.

We also make it possible for him to get the other kinds of services he needs, such as necessary transportation, work clothes, and so forth, again with 90 percent Federal funding. If he has a major disability and needs vocational rehabilitation, he will receive that. He will get an exemption in earnings as a work incentive, so that he will always be better off working than not working. Child care will be provided when it is needed, and it will be the kind of child care that individual families want for their children.

The legislation provides for up to 100 percent Federal money for grants and contracts or day care programs, so that we can be sure that necessary day care will be provided, and so that we can also be sure that the care is of the quality needed for the welfare of the children.

The day care provision in the bill can go a long way toward breaking the cycle of poverty for many families. It not only will help the family by freeing the parent for work, but it can also provide the kind of preschool care which many poor children need. The right kind of day care center will provide educational, medical, nutritional, and social benefits which can have a decisive impact on their well-being in the future. This is an investment which I believe is necessary and justified.

As I am sure you know, the bill provides a Federal basic payment of $1,600 for a family of four. Families in states which have higher welfare payments now, will have to supplement the Federal payment up to their present levels for all of their recipients, except the working poor. In addition, the families eligible for Family Assistance will also be eligible for food stamps, and the value of the food stamp program to a family with an income of $1,600 a year would be $864, bringing the total value of cash and food stamps to $2,464. The working poor, by definition, will have some additional earnings which would raise them even higher, up to a break-even point of $3,920. All of these factors must be kept in mind when one analyzes the impact of the program on individual families in different circumstances.

The President's proposal also directed itself toward the old, the blind, and the disabled, and provided for the establishment of a single program for them, with a uniform minimum standard of need throughout the country. The move toward uniformity seems a good one, and the Committee agreed to it. However, we improved the provisions regarding these people, who are the most unfortunate in our society. The bill sets a new minimum of $110 a month for each recipient, an increase of $20 over the Administration proposal.

The bill also liberalizes the earnings exemptions for the disabled and for the aged, so that those who can work will be encouraged to do so.

National uniform standards of eligibility are established for these categories, as for needy families, so that there will be equal treatment of the poor throughout the nation in regard to such factors as resources and relative responsibility. In addition, the bill adjusts the Federal contribution to the adult assistance programs to assure that by helping these recipients we weren't wreaking havoc with the financial obligations for welfare of any particular state or locality.

With respect to administration of the program, we have tried to introduce as much uniformity as possible. Various alternative arrangements are possible as to the Family Assistance Plan. We expect, however, that the Federal government will generally administer the family assistance payments through a new Federal agency under the Department of Health, Education, and Welfare, which will have offices in convenient locations so that they can effectively serve the recipients. We also expect that many states will agree to have the Federal government administer the state supplementary payments. To encourage this, the Committee added a provision to the administration proposal which would provide 100 percent Federal financing for the administration of supplementary payments that are paid by the Federal government. If a state chooses to administer its own payments, it gets only 50 percent Federal matching for the costs of administration, as under existing law.

We made the same kind of change regarding administration of the new program of aid to the aged, blind, and disabled, in the expectation that this would also encourage Federal administration for these recipients.

This change should remove some burden not only from the state governments, but from county governments which, in many states, have had to pay part of the costs of administering welfare programs.

The new welfare proposal does ease the costs of welfare to most of the states, shifting a greater burden to the Federal government. Over all, according to estimates of the Department of Health, Education, and Welfare, the bill developed by the Committee shows slightly greater fiscal relief to the states than the bill that was originally introduced by the President.

In general, the effect of the Committee changes in the Administration bill is to give more savings to those states which have been making greater fiscal effort in their welfare programs. In those states that have local financing of public assistance programs a portion of any state savings will be passed on to the localities, including the counties. In addition, most of the counties in those states that pay out significant amounts in general assistance will receive added fiscal relief from the provisions of the bill covering working poor families under the family assistance plan.

I would be the last to suggest that this welfare reform proposal can solve all of our country's grievous social problems. But I do think that it will be a highly significant step forward. It is designed to promote individual integrity and efforts toward self-help. It is designed to help to stabilize poor families. These are important goals, and if we start on the road toward accomplishing them, we will have made a valuable contribution to a happier life for all the people of this country.

SMALL BUSINESS PROGRAM

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. STANTON. Mr. Speaker, I commend the President for his evaluation of small business in modern America and his suggestions for improving it.

It is refreshing to note that while task forces are legion in government, this one appears to have managed an accurate appraisal of its subject matter and made some constructive suggestions for solving problems. In this day and age a task force report that is helpful and to the point is scarce as hen's teeth.

The basic question that underlies all of this is really whether small business can survive, and, more importantly, whether we want it to survive. By his actions and his words the President has answered both in the affirmative. And with that I agree.

If small business can and should survive, and if it is still a practical path to national stability and personal achievement, then I think it has more than ordinary validity for members of our racial minorities.

We are all familiar with the fact that many other minorities—immigrants from other lands—found their way to economic security, community accept-

ance and ultimately full incorporation into the American society through the medium of small, local business. For many it was a difficult but rewarding Americanization.

Not only did these people win a better life for themselves in this way, but they made the Nation immeasurably richer in the process. The same thing can happen to today's minorities—and to the Nation.

For these reasons I applaud the President's proposed small business program and intend to support his efforts.

ECONOMIC PROGRESS OF NEGROES IN THE UNITED STATES: THE DEEPENING SCHISM

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I include the following:

ECONOMIC PROGRESS OF NEGROES IN THE UNITED STATES: THE DEEPENING SCHISM

(By Andrew F. Brimmer)

To be asked to address this Founder's Day Celebration in honor of the memory of Booker T. Washington is really a way of honoring the one receiving the invitation. Not only on this campus, or in this community, but in the country at large anyone with even the most modest sense of history knows that the memory of Booker T. Washington is honored every day by the simple fact that Tuskegee Institute is here. That memory is embossed and embellished each time that this institution can render another day of service to the Negro community, to its region and to the nation through its commitment to higher education.

Yet, it is also good to pause at least once each year to reflect explicitly on the founding of this institution in rural Alabama in 1881. Since 1917, Tuskegee has found the time for such reflection, and the roster of speakers testifies to the high regard for Tuskegee in this country and in the world. This annual celebration has drawn to this campus a President of the United States, the Head of a foreign government, a Chief Justice of the Supreme Court, members of the President's Cabinet, other leading representatives of the Federal and State governments—as well as eminent scholars and educators and outstanding figures in the private sector. However, in coming here, they came as much to encourage the work of a growing Tuskegee as to honor the memory of its founder. So I am flattered to be a part of this tradition.

Having accepted the invitation to speak before this assembly, I decided that you really did not want me to dwell on the obstacles which Booker T. Washington had to overcome in the creation of a viable institution; nor did you expect me simply to extol the record of Tuskegee's achievements during the last 89 years. Rather, given the nature of my own responsibilities, I assumed that I was invited because you thought I might have something to say with a bearing on some of the central economic issues which we face today—especially those issues of immediate relevance to the Negro community.

On that assumption, I decided that it might be helpful to focus on a question that has generated a considerable amount of debate in the last few weeks: did Negroes make such extraordinary progress during the 1960's that the best course for public policy over the years ahead is one of "benign neglect"? Obviously this is not a trivial question. While the exact meaning of this proposition is far from clear, it has been advanced in a context whose potential impact on public policy in the area of race relations can be considerable. Thus, it is crucial that all of us have a clear understanding of the extent of economic progress which Negroes have made—and we must also have a full appreciation of the extent to which important segments within the Negro community have failed to share in this progress.

To help provide such an understanding, I have pulled together a considerable amount of statistical information relating to the economic experiences of Negroes during the last decade. From an examination of this evidence, I am convinced that it would be a serious mistake to conclude that the black community has been so blessed with the benefits of economic advancement that public policy—which played such a vital role in the 1960's—need no longer treat poverty and deprivation among such a large segment of society as a matter of national concern. To accept such a view would certainly amount to neglect—but it would also be far from benign.

The evidence underlying my assessment is presented in some detail in the rest of these remarks, but the salient conclusions can be summaried briefly:

During the 1960's, Negroes as a group *did* make significant economic progress. This can be seen in terms of higher employment and occupational upgrading as well as in lower unemployment and a narrowing of the income gap between Negroes and whites.

However, beneath these overall improvements, another—and disturbing—trend is also evident: within the Negro community, there appears to be a deepening schism between the able and the less able, between the well-prepared and those with few skills.

This deepening schism can be traced in a number of ways, including the substantial rise in the proportion of Negroes employed in professional and technical jobs—while the proportion in low-skilled occupations also edges upward; in the sizable decline in unemployment—while the share of Negroes among the long-term unemployed rises; in the persistence of inequality in income distribution within the black community—while a trend toward greater equality is evident among white families; above all in the dramatic deterioration in the position of Negro families headed by females.

In my judgment, this deepening schism within the black community should interest us as much as the real progress that has been made by Negroes as a group.

Before concluding these remarks, I would also like to comment briefly on the new program of family assistance, recommended by the President and now being considered by the Congress. It is my impression that this program is a source of much discussion—and some apprehension—within the Negro community. In my personal judgment, there is more reason to support it than to campaign against its enactment.

Let us now turn to a closer examination of each of these main points.

EMPLOYMENT AND OCCUPATIONAL UPGRADING

The economic progress of Negroes can be traced in the trends of the labor force, employment and occupational advancement during the last decade. In 1969, there were just under 9 million nonwhites in the labor force—meaning that they were holding jobs or seeking work. (Well over 90 per cent of nonwhites are Negroes.) This was a rise of 16 per cent since 1960, a rate of increase virtually the same as for whites and for the total labor force. However, employment of nonwhites rose more rapidly than it did for whites (by 21 per cent to 8.4 million for the former compared with 18 per cent to 69.5 million for the latter). Expressed differently, while nonwhites represented about 11 per cent of the total labor force in both 1960 and 1969, their share of the gains in employment during the decade was somewhat larger; they accounted for 12 per cent of the employment growth, although they held just over 10 per cent of the jobs at the beginning of the period.

Advancement in the range of job helds by Negroes in the last decade was also noticeable. This was particularly true of the improvements in the highest paying occupations. Between 1960 and 1969, the number of nonwhites in professional and technical positions increased by 109 per cent (to 692 thousand) while the increase for whites was only 41 per cent (to 10,031 thousand). By last year, the nonwhites had progressed to the point where they accounted for 6½ per cent of the total employment in these top categories in the occupational structure (compared with less than 4½ per cent in 1960), and they got about 11 per cent of the net increase in such jobs over the decade. During this same period, the number of nonwhite managers, officials and proprietors (the second highest paying category) increased by 43 per cent (to 254 thousand) compared to an expansion of only 12 per cent (to 7,721 thousand) for whites. In the 1960's, nonwhite workers left low-paying jobs in agriculture and household service at a rate two to three times faster than did white workers. The number of nonwhite farmers and farm workers dropped by 56 per cent (to 366 thousand) in contrast to a decline of 31 per cent (to just under 3 million) for whites in the same category. In fact, by 1969, nonwhites accounted for the same proportion (11 per cent) of employment in agriculture as their share in the total labor force; in 1960, the proportion for nonwhites (to 16½ per cent) was more than 1½ times their share in the total labor force. The exit of nonwhites from private household employment was even more striking. During the last decade, the number of nonwhites so employed fell by 28 per cent (to 712 thousand); corresponding drop for white workers was only 9 per cent (to 900 thousand). Although roughly half of all household workers were nonwhites in 1960, the ratio had declined to just over two-fifths by 1969. The number of nonfarm laborers also fell (by 8 per cent to 876 thousand) over the last decade while the number of white laborers rose by the same percentage (to 2,809 thousand).

Nevertheless, as already indicated, the accelerated movement of nonwhites out of the positions at the bottom of the occupational pyramid did not carry through the entire occupational structure. For example, nonwhites in 1969 still held about 1.5 million of the service jobs outside private households—most of which require only modest skills. This represented one-fifth of the total—approximately the same proportion as in 1960. Moreover, the number of nonwhites holding semi-skilled operative jobs (mainly in factories) rose by 41 per cent (to about 2 million) during the decade, compared with an expansion of only 17 per cent (to 12.4 million) for whites. The result was that nonwhites' share of the total climbed from 12 per cent to 14 per cent. Taken together, these two categories of low-skilled jobs chiefly in factories or in nonhousehold services accounted for a larger share (42 per cent) of total nonwhite employment in 1969 than they did in 1960—when their share was 38 per cent. In contrast, among whites the proportion was virtually unchanged—26 per cent at the beginning of the decade and 27 per cent at its close.

While nonwhites made substantial progress during the 1960's in obtaining clerical and sales jobs—and also registered noticeable gains as craftsmen—their occupational center of gravity remained anchored in those positions requiring little skill and offering a few opportunities for further advancement. At the same time, it is also clear

from the above analysis that those nonwhites who are well-prepared to compete for the higher-paying positions in the upper reaches of the occupation structure have made measurable gains. These contrasting experiences should be borne in mind because they point clearly to the deepening schism within the black community.

TRENDS IN UNEMPLOYMENT

Over the 1960's, unemployment among Negroes declined substantially. In 1960, about 787 thousand nonwhites were unemployed, representing 10.2 per cent of the nonwhite labor force. Among whites in the same year, about 3.1 million were without jobs, and the unemployment rate was 4.9 per cent. By 1969, unemployment had dropped by 28 per cent (to 570 thousand) for nonwhites and by 26 per cent (to 2.3 million) for whites. Their unemployment rates had fallen to 6.4 per cent and 3.1 per cent, respectively.

The incidence of joblessness among nonwhites continued to be about twice that for whites during the 1960's. Even in those categories where the most favorable experience was registered, nonwhite unemployment rates remained significantly higher than those for whites. For instance, among married nonwhite males aged 20 years and over, the unemployment rate in 1969 stood at 2.5 per cent, compared with 1.4 per cent for white men in the same circumstances. Nevertheless, one should not lose sight of the fact that—taken as a group—Negroes made real strides in escaping idleness in the 1960's.

But, here again, we should not stop with this over-view. On closer examination, one quickly observes that a sizable proportion of the remaining unemployment among Negroes appears to be of the long-term variety. For example, in 1969, just under 20 per cent of the unemployed nonwhites on the average had been without jobs for 15 weeks or longer; among whites the proportion was only 12½ per cent. Moreover, those out of work for more than half a year represented 7 per cent of the joblessness among nonwhites compared with 4 per cent for whites. In 1961, when unemployment rose substantially under the impact of the 1960–61 recession, nonwhites accounted for about 21 per cent of total unemployment and for roughly 24 per cent of those without jobs for at least 3½ consecutive months. However, by 1969, nonwhites made up 27 per cent of the pool of long-term joblessness—although their share of total unemployment had declined slightly to 18 per cent. So, while a significant number of Negroes did find—and keep—jobs during the last decade, a sizable number of others were stuck in idleness for fairly long periods of time.

Still other evidence can be cited which underlines the contrasts within the Negro community. During the first eleven months of 1969, the unemployment rate among nonwhites living in the central cities of the 20 largest metropolitan areas averaged 6.3 percent; it was a full percentage point less among those living in the suburban sections of these areas. Among nonwhite teenagers (those members of the labor force 16 to 19 years old), the unemployment rate averaged 27 per cent. During the same period of 1969, there was very little difference in unemployment rates between whites living in central cities (3.1 per cent) and those living in suburbs (2.9 per cent), and for white teenagers, the rate was 10 per cent.

So, judged by the differential impact of unemployment—as well as by the trend of employment and occupational upgrading—some Negroes have experienced commendable improvement while others have lingered behind in relative stagnation.

TRENDS IN INCOME: A REEXAMINATION

Undoubtedly, income statistics are probably the most closely watched indicators of economic progress. This is true for Negroes as well as for whites. These figures also demonstrate that the Negro community recorded significant gains during the last decade. In 1961, aggregate money income of families in the United States totaled $306.6 billion, of which whites received $290.4 billion and nonwhites received $16.2 billion. Thus, the nonwhites' share was 5.3 per cent. By 1968, the total had risen to $488.4 billion—with $454.5 billion going to whites and $33.9 billion going to nonwhites. In that year, the nonwhites' share had risen to 6.9 per cent.

In terms of median family income, the same indication of progress is evident. In 1959, the median income of nonwhite families amounted to $3,164, or 54 per cent of that for whites—which amounted to $5,893. By 1968, the figure had risen to $8,936 for whites and to $5,590 for nonwhites, thus raising the nonwhite/white ratio to 63 per cent.

These relative family income data are a useful concept for some purposes, but they must be interpreted carefully. Otherwise they yield a misleading picture of the comparative economic status of the nonwhite population. A principal source of error is the failure of data on median family income to account for the fact that nonwhite families on average tend to be substantially larger than white families.

Data on median family income adjusted to a per capita basis to account for much larger minority families are presented in Table 1. (Attached.) When further adjustments are made to differentiate among types of families, several important conclusions result. The first and most important of these is that, for all types of families, nonwhite per capital family income is substantially lower in relation to that for white families than was suggested by the unadjusted figures. It appears that in 1967 the median income data unadjusted for differences in family size may have overstated the relative economic status of nonwhite families by something on the order of 11 per cent.

The information in Table 1 permits a further analysis of growth trends in per capita family income compared to growth trends in relative median family incomes for different types of households. For all families and for husband and wife families, the relative gains on a per capita basis were only slightly less than the relative gains on a total family income basis. The picture for female headed families, however, is completely different. The latter have the lowest median family income in general, and nonwhite families headed by females have the lowest median income compared to their white counterparts. What is perhaps even more disturbing, however, is that—because of the much larger size of nonwhite female headed households [1]—the per capita differences in family income are substantially wider than the differences in median family income. In 1967, the ratio of family income per capita of female headed nonwhite families (at 44 per cent) was 18 percentage points lower than the ratio of Negro to white median family income. The data in Table 1 appear to indicate that the gap between white and Negro per capita family income has not been narrowing as rapidly as suggested by the most widely cited income figures.

The conclusion reached by expressing median family income in per capita terms is that the usually observed ratios convey an unrealistic picture of family well-being because they fail to account for the larger absolute size of nonwhite families.

Another indication of the widening gap within the Negro community is provided by the distribution of income among families and individuals at different levels of income. Data showing these trends, by race and broad groupings of income classes, are presented in Table 2.

In examining these data, the first thing to note is that the distribution of income is by no means equal in either the white or nonwhite community. If it were, each fifth of the families would receive 20 per cent of the aggregate income in each year. In reality, however, only those families around and just above the middle of the distribution come close to receiving approximately this proportion of the total income. The families constituting the lowest fifth receive between 3½ per cent and 6 per cent of the income, while those in the highest fifth receive over 40 per cent of the total. This general pattern of income distribution holds for both white and nonwhite families.

But looking beyond these overall characteristics, it will also be observed that, within the nonwhite community, the distribution of income is considerably more unequal. Among nonwhites, from the lowest through the middle fifth, for each of the years shown, the proportion of aggregate money income received by the families in each category is below that for the white community. The opposite is true for nonwhite families above the middle fifth; their share is greater than that received by white families in the same category. The same tendency is evident when the top 5 percent of the families with the highest incomes in both groups are compared.

Moreover, in the last few years, the distribution of incomes within the nonwhite community has apparently run counter to the trend among white families. In both the 1961–65 period and the 1965–68 period, the income distribution for white families became more equal. For nonwhite families, the same trend toward greater equality was evident in the first half of the decade. However, it remained roughly constant in the 1965–68 years. And the share received by the top 5 per cent particularly showed no further tendency to decline.

Again, these figures seem to underline a conviction held by an increasing number of observers: a basic schism has developed in the black community, and it may be widening year-by-year.

POVERTY IN THE NEGRO COMMUNITY

Poverty is a difficult concept to define in any meaningful sense. Yet, quantitative estimates are necessary if policymakers are to have reliable information on which to make decisions. Since 1965, the United States Government has relied on the estimates developed by the Social Security Administration which, for whatever their defects, appear to be the most reliable data available. The poverty concept developed by the Social Security Administration classifies a family as poor if its income is not roughly three times as great as the cost of an economy food plan for a family of that particular size and farm or nonfarm residence. In 1968, a nonfarm family of four was assumed to be living in poverty if its total money income was less than $3,553. The income deficit of a family is that amount required to raise its income to the poverty threshold.

Table 3 reviews the 1959-68 record of the escape of individuals from poverty. These data demonstrate quite clearly that the rate of decline of poverty for whites has been substantially faster than the rate of decline for nonwhites. Between 1959 and 1968, poverty among whites declined by 39 per cent while poverty among nonwhites declined by 27 per cent. Thus, in 1968 nonwhites made up a greater proportion of the total poor population than they did in 1959—the fraction increasing from 27.9 per cent to 31.5 per cent. This much more rapid rate of exodus by whites from poverty is explained by the fact that in 1959 the average poor white family

[1] In 1967, the average Negro husband-wife family was .76 members larger than its white counterpart, but the average Negro female headed family was 1.26 members larger.

was not nearly as deeply in poverty as the average poor nonwhite family. In 1959, the median income deficit for white families was only $868 while for nonwhites it was $1,280, or 47.5 per cent higher. Clearly, it took less economic achievement to lift the average white family out of poverty. It should be further noted that in 1968 the median income deficit for poor nonwhite families was $1,260 while for white families it was only $907, a difference of 38.9 per cent. Thus, these figures suggest that the future will continue to witness a more rapid rate of escape from poverty by whites than by nonwhites.

The data in Table 3 are of further interest because they permit an analysis of changes in poverty status by type of family. Disaggregating the poverty data into male and female headed families highlights several important points. Between 1959 and 1968, the rate of decline in poverty among individuals in male headed families of whites and nonwhites was roughly equal and also rather rapid. In 1968, the number of individuals classified as poor in male headed households for both races was roughly half the number in 1959.

Distressingly, however, for female headed families, the pattern was quite different. For the white population, the rate of decline among poor individuals in female headed families was substantially below the rate for individuals in male headed families. By 1968, there were only 16 per cent fewer poor individuals in white female headed households compared with 1959. For nonwhites, the data on changes in poverty among individuals in female headed families are extremely disturbing. Between 1959 and 1968, the number of nonwhites in poor female headed families increased by 24 per cent, and the number of nonwhite family members under 18 rose by an alarming 35 per cent. Between 1959 and 1968, there was an *absolute increase* of 609 thousand nonwhite family members 18 or less classified as poor living in a female headed family. So while the 22 million Negroes constituted only 11 per cent of the country's total population in 1968, the 2.3 million poor children in nonwhite families headed by females represented 52 per cent of all such children.

The data on the rate of escape from poverty for different types of families also emphasize the development of a serious schism within the Negro community. Negroes in stable male headed families appear able to take advantage of economic growth and are leaving poverty at roughly the same rates as whites. The opposite appears true for families headed by a female, who appear unable to earn a sufficient income to escape poverty. The rapid increase in the number of poor nonwhites in female headed families—and particularly the very rapid rise of children 18 and under in their families—suggests that the problem of poverty in the black community has by no means disappeared.

Having discussed recent changes in the overall poverty population, it is important to examine briefly the rural experience. For farm families the record is much more encouraging with a decline of almost three-fourths in the number of poor individuals in nine years. Moreover, the rate of decline was roughly equal for whites and nonwhites. These results may in part reflect a growing prosperity in agriculture, but in large part they are due to a migration of the poor of both races from rural to urban settings.

The conclusions from this section are that nonwhite poverty in general has not declined as rapidly as white poverty, primarily because nonwhites classified as poor tended to be substantially poorer than whites classified as poor. This section has also shown that in the last decade there has been an alarming rise in the number of poor nonwhite children under 18 living in female headed families.

PROSPERITY IN THE NEGRO COMMUNITY: THE IMPORTANCE OF EDUCATION

The above discussion has obviously reflected a rather pessimistic assessment of several aspects of economic developments in the Negro community—focusing as it did on nonwhite poverty and the fact that actual white-nonwhite income discrepancies are wider than commonly observed statistics would suggest. To stop here, however, would present a somewhat unbalanced view of Negro economic progress. To present a more balanced picture, it is important to consider the source of some of the recent gains within the Negro community. In particular, it is important to discuss the role of education.

Recent data suggest that Negroes are making considerable gains in both secondary and higher education. Between 1960 and 1969, the per cent of Negro males aged 25 to 29 who had completed 4 years of high school or more increased from 36 per cent to 60 per cent while the white fraction increased from 63 per cent to 78 per cent. Thus, in 1960 the gap had been 27 percentage points, and in nine years this gap had narrowed to only 18 percentage points. In 1968, for the first time a greater percentage of Negro males aged 25–29 completed high school than Negro females.

In the case of higher education, the gains also have been impressive. Table 4 presents data on trends in Negro college enrollment between 1964 and 1968. In these four years, the number of Negroes in college rose by 85 per cent. What is more striking, however, is the fact that during this period, 82 per cent of this enrollment growth occurred in institutions other than the predominantly Negro colleges. Thus, in only four years, the per cent of Negro college students enrolled outside predominantly Negro colleges increased from 49 per cent to 64 per cent. This fact suggests that the larger institutions are becoming increasingly aware of minority problems and are making a concerted effort to assist minority group students. In four years the number of Negro students at these institutions has more than doubled.

The importance of higher education in the economic achievements of whites and Negroes is underlined by the data in Table 5. It is clear that median incomes for men of both races increase dramatically with increasing amounts of education. What is even more important, the ratio of Negroes' income to that of whites rises as the level of education climbs. Stated in a slightly different fashion, the relative gaps within the Negro community between those with higher education and those with lower education are wider than for whites. In 1968 a Negro man, aged 25–54, with a high school education had an income 29 per cent above that for a Negro man with only an 8th grade education, while for whites this gap was 26 per cent.

The case of a Negro with some higher education is of particular interest. This is a man with the highest absolute income and the highest income relative to whites. Unfortunately, due to the unavailability of more data, the figures in Table 5 probably seriously understate the contribution of higher education to Negro income. The last line in Table 5 shows the income of whites and Negroes with 1 or more years of college. This category is really a composite of the categories 1 to 3 years of college and 4 or more years of college. Of all Negro men 25 years of age or over in 1967 reporting one or more years of college, 60 per cent were concentrated in the 1–3 year category. For all white men reporting more than 1 year of college, there was a much greater tendency to have four or more years of college, with only 42 per cent concentrated in the 1–3 year class. If a more complete breakdown of the data in Table 5 were available, they would probably indicate a higher return to Negro higher education.

A second reason why the data in Table 5 may understate the returns to higher education for Negroes is that they fail to account for the age distribution of those achieving higher education. Since major education gains among Negroes have been a rather recent occurrence the better educated Negro man will be substantially younger than his white counterpart. Table 6 documents this point by comparing educational achievements of whites and Negroes at similar age levels. These data show conclusively that the differences in educational achievements are in large part a function of age with the widest gaps among the older segments of the population. It is clear that the best educated within the Negro community are much more highly concentrated in the younger age brackets. Since income increases directly with age, when education is held constant,[2] due to factors of experience and promotions based on length of service, the failure of the data in Table 5 to account for the relatively younger age distribution of the better educated Negro population seriously underestimates the returns to education for Negro males. The figure for white males with higher education refers to an older population and thus, in part, reflects returns to age and experience as well as returns to education. Unfortunately, we will have to wait until the processing of the 1970 Census has been completed to get more complete data.

The conclusions from this discussion of education then are much more encouraging than the results reached above. Younger Negroes are making substantial progress in achieving secondary and higher education, and this increased education is associated with higher absolute income and income relative to whites.

NEGROES AND THE FAMILY ASSISTANCE PROGRAM

As I indicated above, I would like to comment briefly on the proposal to change significantly the principal means through which the Federal Government provides assistance to needy families. In recent years, these programs have become an important source of income for many Negro families headed by females in which a sizable number of children are found. Thus, one can readily understand why the President's recommendation to change them submitted to Congress in August 1969, has generated so much discussion (and some apprehension) in the Negro community.

It will be recalled that, in broad outline, the proposed family assistance program would have the Federal Government pay a basic income to all families who could not provide for themselves—whether they are employed or unemployed. It would be geared to dependent families with children. It would replace entirely the largest of the Federally supported public assistance programs (i.e., aid to families with dependent children). Under the proposal, persons (except mothers with preschool children) who accept assistance would be required to register for work or training. It is estimated that in the first year of the program, over half of the families covered would have one member employed or undergoing training.

As recommended to Congress, the family assistance program would work in the following fashion: A family's basic allowance would consist of $500 for the first two members and $300 per member for each additional member. Thus, for a family of four, the allowance would be $1,600 per year.

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[2] In 1967, the median income of all males aged 25–34, with four years of college, was $8,716, for those with the same education, aged 45–54, it was $12,267, or 40.7 percent higher.

Cash payments to families would be computed by adjusting the basic allowance to account for the earnings of the family. The first $720 of family income would not affect the payments because it is assumed that there are basic costs of transportation, lunches, clothing, etc., associated with taking a job. Cash payments to families would then be reduced by 50 cents for each additional dollar of earnings above the $720 minimum.

A simple numerical example will illustrate the program's operation. Assume a family of four has a cash income of $2,000. The first $720 of this income would be disregarded, leaving a balance of $1,280. A family's cash payment would then be reduced by half this amount, or by $640. Since the family's basic allowance was $1,600, its cash payment after earnings would be $960.

So far only a rough idea can be provided with respect to the probable coverage of the family assistance program. The projections available are shown in Table 7, as prepared by the Department of Health, Education, and Welfare in February of this year. According to these estimates, in 1971, about 3.3 million families would be covered; of these 2 million (three-fifths) would be white, and 1.3 million (two-fifths) would be nonwhites. These families would include close to 18 million persons—of whom 44 per cent would be nonwhites. Gross payments would approximate $3.5 billion, and nonwhites would receive about $1.5 bilion—or 43 per cent. These annual payments would average around $1,060 for all families, about $1,000 for white families, and about $1,154 for nonwhites. However, since nonwhite families are expected to be somewhat larger (averaging 6.0 members vs. 5.1 members for whites and 5.4 members for all families), payments per capita would be about the same: $196 for all families, $198 for whites, and $192 for nonwhites.

It is difficult to compare the differential impact of the proposed program on particular groups of families compared with the existing program. However, it appears that a somewhat greater proportion of the families covered by the new program would be white compared with those covered by aid to families with dependent children (AFDC). In 1968, there were 1.5 million families participating in AFDC, involving 6.1 million persons, of whom 4.6 million were children. Outlays under the Federally aided programs amounted to $3.4 billion, and the average monthly payment per family was $168 (just over $2,000 per year).

In 1967, according to an HEW survey conducted in 1968, about 51.3 per cent of the families covered by AFDC were white, 46 per cent were Negro, and 2.7 per cent were other nonwhites. In 1961, whites constituted 51.8 per cent of the total, Negroes 43.1 per cent, and other nonwhites made up the remaining 5 per cent. So during the decade of the 1960's, Negroes as a proportion of total AFDC coverage increased while the proportion for all other groups was declining.

On balance, it appears that the new family assistance program would represent a considerable improvement—compared with the existing AFDC program—in about 20 States. Of these, 14 are Southern States (with a heavy concentration of Negroes), and most of the remainder are Western States (with a sizable proportion of Indians and Mexican-Americans among their populations). In 1968, the average annual payment under AFDC in the 14 Southern States was approximately $1,116. However, the average payment varies greatly among these States, and in some it is much below $1,000. Thus, given an annual payment of $1,600 for a family of four, there would be an increase of roughly $480 (or well over 40 per cent) compared with the amounts received by the average AFDC family in this region. While the exact status of families under the old and new programs cannot be determined, there appears to be no doubt whatsoever that the new proposal would result in a real improvement.

In 30 States there would also be an opportunity to make further improvements. However, in these cases, the outcome would depend on whether the States and local governments maintained their existing programs at substantially the same level. If these outlays were held at no less than 90 per cent of the 1968 level, assisted families would be better off in virtually every instance. Under the existing AFDC program, the average annual payment in these States in 1968 was $2,195 (of which $1,044 represented non-Federal payments). Under the new program (and assuming the 90 per cent maintenance factor), the average payment per family would rise to about $2,536. Thus, the new arrangement would imply an increase of roughly $340, or 15 per cent. The 30 States include primarily the heavily populated northern industrial States plus California. Most of these have a sizable concentration of low-income nonwhites in urban areas.

So, while these estimates of the probable improvement which might accrue under the new program of family assistance are obviously crude, they are suggestive. They imply that Negroes—and particularly the poverty-stricken families headed by females—would benefit substantially. And above all, it would create a promising basis for checking the increased dependence on public welfare of a growing segment of the population.

CONCLUDING OBSERVATIONS

The analysis presented here has sketched a rather mixed picture of economic progress among Negroes in the United States. While not meaning to deny or demean the recent impressive economic gains by Negroes, we must be careful that no one is lulled into believing (falsely) that the economic problems of Negroes have been solved. In this regard, the commonly observed income statistics, when accepted at face value, convey an unwarranted sense of greater economic parity between whites and Negroes than actually exists.

It was also noted that a closer analysis of the available data shows clearly that a definite economic schism has arisen within the Negro community. Individuals in male headed households appear able to share fairly well in economic advances, while those in female headed households are sinking backwards into poverty. Those individuals who have prepared themselves for challenging careers by seeking and obtaining higher education are registering relatively large improvements in incomes, while those without such training are falling further behind. Clearly, the economic condition of those who currently are lagging should be made a matter of serious national concern.

For this reason, the proposed family assistance program is pointing in the right direction, and—despite reservations many might have about some of its components—it should be viewed with greater receptivity within the Negro community.

TABLE 1.—FAMILY INCOME ADJUSTED TO PER CAPITA BASIS, BY TYPE OF FAMILY, BY RACE OF HEAD, 1959 AND 1967

	All families		Husband-wife families		Female-headed families	
	1959	1967	1959	[1] 1967	1959	[1] 1967
Median family income:						
White	5,893	8,274	6,089	8,269	3,538	4,879
Nonwhite	3,164	5,141	3,663	5,854	1,734	3,015
Ratio	0.54	0.62	0.60	0.71	0.49	0.62
Persons per family:						
White	3.58	3.59	3.66	3.66	2.93	3.03
Nonwhite	4.31	4.35	4.42	4.42	4.04	4.29
Per capita family income:						
White	1,646	2,305	1,664	2,358	1,208	1,610
Nonwhite	733	1,182	829	1,324	429	703
Ratio	0.45	0.51	0.50	0.56	0.36	0.44

[1] Data for 1967 refer exclusively to Negroes.

Source: U.S. Department of Commerce, Bureau of the Census, Income in 1967 of Families in the United States, Series P-60, No. 59, April 18, 1969, and U.S. Census of Population: 1960, vol. 1, Characteristics of the Population, pt. 1, United States Summary, 1964.

TABLE 2.—TRENDS IN THE INCOME OF FAMILIES IN THE UNITED STATES: 1950 TO 1968

[In percent]

Income rank	1968	1967	1965	1961	1950
FAMILIES					
Total, all races	100.0	100.0	100.0	100.0	100.0
Lowest fifth	5.7	5.4	5.3	4.8	4.5
2d fifth	12.4	12.2	12.1	11.7	12.0
Middle fifth	17.7	17.5	17.7	17.4	17.4
4th fifth	23.7	23.7	23.7	23.6	23.5
Highest fifth	40.6	41.2	41.3	42.6	42.6
Top 5 percent	14.0	15.3	15.8	17.1	17.0
WHITE					
Total	100.0	100.0	100.0	100.0	100.0
Lowest fifth	6.0	5.8	5.6	5.2	4.8
2d fifth	12.7	12.5	12.5	12.1	12.2
Middle fifth	17.7	17.5	17.7	17.3	17.3
4th fifth	23.4	23.5	23.4	23.2	23.1
Highest fifth	40.3	40.7	40.8	42.2	42.5
Top 5 percent	14.0	14.9	15.5	17.3	17.6
NEGRO AND OTHER RACES					
Total	100.0	100.0	100.0	100.0	100.0
Lowest fifth	4.8	4.4	4.6	4.0	3.5
2d fifth	10.5	10.4	10.7	9.7	10.2
Middle fifth	16.5	16.4	16.4	15.9	17.6
4th fifth	24.6	24.1	24.7	24.3	25.2
Highest fifth	43.6	44.7	43.5	46.0	43.5
Top 5 percent	16.1	17.5	15.5	17.4	16.6

TABLE 3.—PERSONS BELOW POVERTY LEVEL IN 1959 AND 1968, BY FAMILY STATUS AND SEX AND RACE OF HEAD

[Number in thousands]

	1959	1968	Percentage change
White total	28,484	17,395	−38.9
In Families with male head, total	20,211	9,995	−50.5
Head	4,952	2,595	−47.6
Family members under 18	8,966	4,298	−52.1
Other family members	6,293	3,102	−50.7
In families with female head, total	4,232	3,551	−16.1
Head	1,233	1,021	−17.2

TABLE 3.—PERSONS BELOW POVERTY LEVEL IN 1959 AND 1968, BY FAMILY STATUS AND SEX AND RACE OF HEAD—Continued

[Number in thousands]

	1959	1968	Percentage change
Family members under 18	2,420	2,075	−14.3
Other family members	579	455	−21.4
Unrelated individuals	4,041	3,849	−4.8
Negro and other races, total	11,006	7,994	−27.4
In families with male head, total	7,337	3,710	−49.4
Head	1,452	697	−52.0
Family members under 18	4,097	2,032	−50.4
Other family members	1,788	981	−45.1
In families with female head, total	2,782	3,439	+23.6
Head	683	734	+7.5
Family members under 18	1,725	2,334	+35.3
Other family members	374	371	−0.8
Unrelated individuals	887	845	−4.7

Source: U.S. Department of Commerce, Bureau of the Census, "Poverty in the United States, 1959 to 1968," series P-68, No. 68, Dec. 31, 1969.

TABLE 4.—NEGRO COLLEGE STUDENTS ENROLLED IN 1964 AND 1968, BY TYPE OF INSTITUTION

[Numbers in thousands]

	1964 (fall)	1968 (fall)	Change, 1964–68 Number	Change, 1964–68 Percent
Total enrollment	4,643	6,801	2,158	46
Total Negro enrollment	234	434	200	85
Percent total enrollment	5	6	(1)	(1)
Enrollment in predominantly Negro colleges	120	156	36	30
Percent of all Negroes in college	51	36	(1)	(1)
Enrollment in other colleges	114	278	164	144
Percent of all Negroes in college	49	64	(1)	(1)

[1] Not applicable.

Source: U.S. Department of Labor, Bureau of Labor Statistics; U.S. Department of Commerce, Bureau of the Census; U.S. Department of Health, Education, and Welfare, Office of Education.

TABLE 5.—MEDIAN INCOME OF MEN 25 TO 54 YEARS OLD, BY EDUCATIONAL ATTAINMENT, 1968

	Median income, 1968 Negro	Median income, 1968 White	Negro income as a percent of white
Elementary:			
Total	$3,900	$5,844	67
Less than 8 years	3,558	5,131	69
8 years	4,499	6,452	70
High School:			
Total	5,580	7,852	71
1 to 3 years	5,255	7,229	73
4 years	5,801	8,154	71
College: 1 or more years	7,481	10,149	74

Source: U.S. Department of Commerce, Bureau of the Census.

TABLE 6.—MEDIAN YEARS OF SCHOOL COMPLETED FOR PERSONS 20 YEARS OF AGE AND OVER, BY AGE, 1969

Age (years)	White	Negro	Difference
20 to 21	12.8	12.2	0.6
22 to 24	12.7	12.2	.5
25 to 29	12.6	12.1	.5
30 to 34	12.5	12.0	.5
35 to 44	12.4	10.6	1.8
45 to 54	12.2	9.1	3.1
55 to 64	10.9	7.6	3.3
65 to 74	8.9	6.1	2.8
75 and over	8.5	5.2	3.3

Source: U.S. Department of Commerce, Bureau of the Census.

TABLE 7.—RACIAL DISTRIBUTION OF RECIPIENTS UNDER THE PROPOSED FAMILY ASSISTANCE PROGRAM, 1971 PROJECTION

[Numbers in millions; amounts in billions of dollars]

Race	Families covered Number	Families covered Percent	Persons covered Number	Persons covered Percent	Gross payments Amount	Gross payments Percent
White	2.0	60.6	10.1	56.4	2.0	57.1
Nonwhite	1.3	39.4	7.8	43.6	1.5	42.9
Total	3.3	100.0	17.9	100.0	3.5	100.0

Source: Department of Health, Education, and Welfare "Selected Characteristics of Families Eligible for Family Assistance Plan: 1971 Projection," Feb. 2, 1970.

TEMPEST IN A TEAPOT

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MONAGAN. Mr. Speaker, the President has brewed a tempest in a teapot with his proposal to abolish the "Board of Tea Tasters." Does he seek revenge on tea drinkers like myself because someone slipped him a badly brewed cup of tea; or does he favor coffee over tea? In any event, Mr. Nixon, who rarely sips a soothing cup, should not aid in taking away the stimulation that many find in a pot of excellent tiffin or even Canton that accompanies Chinese food. Including myself there are many of English, Irish, Scotch, Russian, Jewish, and other extractions who demand quality and purity in their tea.

The tasting of tea also involves our ability to conduct a trade embargo successfully as importation of products originating from mainland China is prohibited under the Trading With the Enemy Act. Because of differences in climate, soil, and local practices, teas originating from a particular geographic area have a remarkably uniform character that is impossible to duplicate in teas grown elsewhere. A good teataster should be able to identify several hundred different teas and to distinguish hundreds more. An experienced taster by making organoleptic distinctions can identify not only the type of tea, the country of origin, but also the province or district and in a few cases the very garden of origin. Thus, teas originating on the Chinese mainland can be spotted by Government teatasters carrying out the functions required of them under the Tea Importation Act, 21 U.S.C. 41–50, and reported to the Bureau of Customs. They are also called upon to identify batches of this tea which have been smuggled into this country. By abolishing the teataster, surely it cannot be the President's intention to allow Communist China to increase its ability to sell tea in the United States.

Mr. Speaker, the recent pronouncements of the administration and the President on tea raise even more serious questions. The President's ability to enforce the Tea Importation Act as enacted by the representatives of the people of this country becomes subject to question due to the Snafu actions of agency bureaucrats. The one time tea importation and representation became a controversial issue the result was a splash—the Boston Tea Party. I urge the President to correct the record, to carry out the law of the land or utilize the constitutional process to change existing law else the tea importation problem could create another splash.

A few weeks ago the President announced in a message to Congress that he had decided to kill off 57 programs that were allegedly obsolescent including as the prime example, "the Board of Tea Tasters." Some administration spokesmen were quoted as saying that the Government would save $1 million a year by abolishing this program. Others reduced the estimate to $127,000 a year. The President himself stated $125,000 a year of taxpayer moneys would be saved by abolishing the "Board of Tea Tasters" which he said he could do on his own authority. The President was quoted as saying:

> Do you know that this government has a board of tea tasters? Now at one time in the dim past, there may have been good reason to single out tea for special tests, but that reason no longer exists. Nevertheless a separate tea-tasting board has gone along, at a cost of $125,000 a year at the taxpayer's expense, because nobody up to now took the trouble to take a hard look why it was in existence.

Mr. Speaker, as chairman of the Special Studies Subcommittee of the House Government Operations Committee undertaking a study of Government advisory groups, I have taken that hard look once in 1969 and again this year. The House and Senate took a hard look at this "Board" in 1940. Other hard looks have been taken at various times by Congress, which in its collective wisdom did not see any reason to abolish the "Board." I do not know of any reason for this "Board" to cease its existence.

There is no "Board of Tea Tasters," but there are two boards with tea examination functions. They are the Board of Tea Experts, 21 U.S.C. 42, and the U.S. Board of Tea Appeal, 21 U.S.C. 46–49, both statutory boards.

In September 1969, the Secretary of Health, Education, and Welfare reported to the subcommittee as follows:

> The Board of Tea Experts is required by the Tea Importation Act of 1897. The Board has met yearly as required to recommend to the Secretary standard samples of tea which constitute the legal standards for the year. It recommends and makes a written report annually to the Secretary. The Board will continue its functions as required by law. The Tea Importation Act of 1897, as amended, forbids the entry into the United States of any tea that fails to meet the standards of quality, purity, and fitness for consumption established annually by the Board.

Despite the above statements during the October 1969 Bureau of the Budget hearings on the fiscal year 1971 budget relative to the required tea examination functions the Administrator for the Consumer Protection and Environmental Health Science, DHEW, informed the Bureau of the Budget Examiner that during fiscal year 1971 the Food and

Drug Administration would discontinue the tea examination functions being performed under the Tea Importation Act and Regulations. In essence, this means that instead of sampling and examining every lot of tea imported into the United States for purity, quality, and fitness for consumption as required by the act, 21 U.S.C. 41–50, only infrequent spot checks will be made by occasional sampling and examination of import batches of tea.

On February 8, 1970, members of last year's Board of Tea Experts were notified they would not be appointed again. Thus, no one has been appointed to the Board as of February 16, 1970, as the statute requires. By law the Secretary of Health, Education, and Welfare, must appoint a Board to consist of seven members for a term of 1 year to prepare and submit to him standard samples of tea to be upheld for that year. Without these standards of quality, purity, and fitness for consumption as established by the Board the executive branch cannot carry the specifically required functions, 21 U.S.C. 41050, of the Tea Importation Act.

In recent testimony, March 17, 1970, before my subcommittee the Assistant Director of Executive Management of the Bureau of the Budget stated that he believed that legislation would be submitted to terminate the Board of Tea Experts, that legislation is required to terminate this Board, that in no way could it be appropriately terminated by administrative action alone. Furthermore, he said, if the Board has been terminated in effect, someone is not carrying out a function specifically required by law.

Mr. Speaker, this is the opinion of all who have read the Tea Importation Act. Yet—despite the statements of the Secretary of Health, Education, and Welfare to the subcommittee and the testimony of the Assistant Director of the Bureau of the Budget it is obvious that the Board of Tea Experts is inoperable possibly for the first time in 73 years and the functions of the Tea Importation Act will not be carried out as required by existing law. The action can be depicted as a thumbing of the nose at an act of Congress and also as ignoring our constitutional process. Such actions by the Executive make it difficult if not impossible to say to our dissidents they should respect and uphold the law and utilize the constitutional process to effect change where ever necessary.

Incidentally, it should be noted that the Board of Tea Experts—Tasters—costs the taxpayers little or no money. The Department of Health, Education, and Welfare submissions to the subcommittee disclose average annual cost figures for the Board of Tea Experts as $700 or $772 a year. The maximum annual budgeted costs for experts for the Board of Tea Appeals is $150. The total sum—costs—for both Boards is a far cry from $1 million or even $125,000 a year. In fact it is a rare year when expenses of the two Boards exceed $800 a year. Further this amount may be partly if not entirely offset as a result of tea examination fees collected on all imported tea and then deposited in the U.S. Treasury as miscellaneous receipts.

But does the figure of $125,000 have any significance. At best the Department of Health, Education, and Welfare's estimated total cost of administering the entire Tea Importation Act annually including inflated costs is slightly under $124,000. The following cost data was prepared by the agency to justify the prior determination that the enforcement of the Tea Importation Act as a program activity was not warranted.

Personal services costs—approximately 11-man years: Staffs at Boston, New Orleans, San Francisco, and New York—including apportioned time of inspectors and examiners, $111,500.

New York has one fulltime examiner.

San Francisco—the examiner spends about half of his time on tea.

The analyst in Boston devotes a fifth of duty time on tea.

New York has the equivalent of two fulltime import inspectors to collect samples.

New Orleans has the equivalent of one, San Francisco and Boston have about half each. The Tea Room Clerk in New York is full time.

Other objects costs at 10 percent	$11,150
Average annual cost for Board of Tea Experts	700
Preparation of tea standards samples	400
Experts for Tea Appeals Board (Maximum annual cost)	150
	123,900

However, this does not cost the taxpayer $123,900 a year as the following are recoverable sums. The Government prepares half-pound tins containing duplicate samples of teas which conformed to the yearly established standards of purity, quality, and fitness for consumption for sale to importers and dealers at a price which approximates the cost of preparation. The average cost of preparing standard samples is approximately $400 per year, and at a price of $2 each, the return is approximately $300 per year.

The tea examiners perform tea examinations for the Defense Supply Administration—DSA, and the General Services Administration—GSA—for which its agency is reimbursed approximately $2,000 per year.

The Tea Importation Act as amended requires payment of fee before examination of tea of 3.5 cents for each hundred weight or fraction thereof of all tea imported in the United States and prior to its release from Customs custody. In the past 2 years these fees have averaged slightly over $50,000 per year. Total $52,300.

Thus, the present cost to the taxpayer is approximately $70,000 to carry out all the functions of the Tea Importation Act. Readjustment of fees for standard samples and tea examination could make up the difference. The Tea Importers and the Tea Associations of the United States have made this proposal to Government officials. So at an approximate present cost to the taxpayer of $70,000 a year every batch of tea that is imported into the United States is checked in accordance with a fixed and uniform standard of purity, quality and fitness for consumption. No tea inferior to the standard may be released. So, for the past 73 years the Tea Importation Act procedures have prevented the importation of unsound contaminated or worthless tea. To do away with the Board of Tea Experts and the tea examination functions of the existing Tea Importation Act is certainly a false claim of economy. It is more so as it is known that tea importers and consumers appear to be willing to pay higher tea examination fees in order to assure coverage of all costs in this way rather than impose any burden on the taxpayer. The administration's proposal to occasionally sample and examine lots of tea by spot checks appears to be going back to the general philosophy of the Tea Importation Act of 1883 which did not prove to be adequate to protect the U.S. importer or consumer of tea.

AGGRESSIVE INDIA CALLS FOR ARMED ATTACK ON RHODESIA

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, the peoples of civilized nations are utterly aghast at the reactionary announcement by the Indian Government calling for the use of force by Britain to overthrow the Republic of Rhodesia.

First, India's announcement is completely antagonistic to the lives and property of millions of Indians who live in Africa and have already been forced to flee from the north and midland sectors into Rhodesia, South Africa, and Portuguese provinces for safety and sanctuary.

Second, for the Indian politicians in power to attack the Rhodesians as being a "racist regime" is like the pot calling the kettle black. No country in the world has and maintains a stronger system of racial and religious apartheid than that to be found in India, nor do more citizens of any nation starve year after year. Yet, no one has suggested isolating the segregated and ineffective government of India from the world community through economic sanctions nor that England overthrow the Indian Government to liberate the members of the untouchable caste or to feed the starving.

In fact, applying the same standards of conduct and behavior against the Indians that they have accused the Rhodesians of, it would appear more rational for the civilized governments of the world to withdraw their diplomatic recognition from India rather than from Rhodesia. No Rhodesian troops occupy either Kashmir or Goa.

There have been several incidents in India recently which might illustrate the manner in which the caste system prevails in the country despite the laws and the announced good intentions of the Government. In May 1968, seven members of one of the upper castes beat, tortured, and finally cremated an untouchable youth who had been accused of petty thievery. The beating of the young man apparently had a twofold purpose: To force a confession, and to serve as an example to the other untouchables in the

area that they must "stay in line" and not take too literally laws giving them legal equality. The young untouchable, with burns on 50 percent of his body and near death, appealed to an upper caste doctor for treatment—and was turned away. He then went to a police station for help, but was detained for several hours before being offered minor first aid. The next day, he was admitted to a hospital, but it was too late: the following day he died.

The riots of September 1969, when Muslims and Hindus clashed over job discrimination against the Muslim minority, resulted in thousands of casualties. Observers estimate that of those injured and killed, 80 percent were Muslim and 20 percent were Hindu. The reason offered by some sources for the discrepancy was that the predominantly Hindu police force was slow to act as long as the Muslims were receiving the brunt of the attacks, but were quick to act when the Hindus were at the disadvantage. During the same September riots, police were quick to break up labor demonstrations, perhaps an indication of the government's disregard for the working class poor. Other clashes between the Punjabi-speaking and the Hindi-speaking peoples tied up many of the northern cities: The Hindi-speaking peoples consider the Punjabis to be inferior.

Today in India, there are about 3,000 castes or subcastes, each of which is within one of the five major divisions. One is born into a caste, and can change that status only through death and an eventual rebirth in another caste. It is possible, of course, to disassociate one's self from a caste, but it is impossible to join another caste. For each caste, there is a body of laws and duties, derived from the Vedic Law of Manu, which apply to all members of the caste but may not necessarily apply to members of other castes or to castes of apparent equal status. For example, members of one group may marry their first cousins, while the members of another group may not: Or, one caste may eat lamb or goat, another may eat poultry or fish, another may eat eggs, and yet another may eat only vegetables. To violate these rules and duties necessitates a cleansing, if the transgression is minor in nature, or if the violation is major, the offending member of the caste will be "outcaste."

The primary reason for the caste rules is to avoid pollution. The eating of flesh may pollute the member of the caste to a high degree, and touching a person who eats flesh will pollute the caste member to a lesser degree. One may also be polluted by breathing bad air, perhaps talking to a polluted person or standing too close and breathing the fumes from his body. In the 1930's, it was reported in an Indian newspaper that there was a caste in the south of the country that was considered so low that other members of the society could not look at them without becoming tainted. The caste in question was engaged in the occupation of washing the clothes of untouchables. They lived in an isolated village and could travel only at night so that the other people would not see them.

Basically, there are two great schisms in Indian society. The three upper castes of the Brahmans, the Kabatriyes, and the Vaishyas form one group which looks down on the Shudras and the untouchables. The Shudras form a second group which is subservient to the upper three castes but which is superior to the untouchables. The untouchables, despite the constitution and the laws against discrimination, remain on the bottom of the social ladder. There are still some restrictions on occupation. The lowest forms of manual labor and the most degrading jobs are left to the untouchables, who may number as many as 20 percent of the 500 million people of India. Because of the poverty prevalent among the untouchables, there is little chance for them to better their station in life. Most quit school before they have received enough education to enable them to get the better jobs. In many cases, the untouchables are reduced to collecting carrion for their food.

The Shudras are for the most part the peasant community and the agrarian workers of India, although the lower castes of the Shudras are often not much better off than the untouchables. Theirs is a two-way struggle; upward against the entrenched positions of the higher classes in their attempts to increase their station in life, and downward against the rising expectations of the untouchables. The Shudras are occasionally allowed some mobility of caste, for it is the custom among some of the Vaishya castes to choose their wives from among the Shudras. The mobility is not reciprocal, however, for the Shudra men are not allowed to take wives from among the Vaishyas. The enfranchisement of the Shudras and the untouchables has given them great power since between them they constitute the majority of the Indian people and therefore hold the balance of the elections within their grasp.

There are privileges to be enjoyed by the upper castes, such as the control of the government by the Brahmans. Similarly, the Vaishyas, the traditional merchant caste of India, continues to dominate the economic field which they share with the Kahatriyas, who were the traditional warriors and rulers of ancient India. This does not suggest that all members of the government are Brahmans to the complete exclusion of the other castes, for there have been members of the cabinet who were untouchables and there has been a Muslim President in India. But a Brahman has an advantage in seeking a government job, for example, since there is a tendency to treat one's own caste with favor. Similarly, in the business world, the son follows the father, and the members of a caste will turn to those of the same caste as themselves when seeking new recruits for the firm or the industry or when applying favor on a contract or an investment. Discrimination not obvious on the surface is often subtly observed. Two men, of different castes, may work side by side at the same job, but the man of the lower caste would hesitate to approach his social better on an equal basis, using instead a humbling attitude in deference to his superior. The law, however egalitarian, cannot change the minds of the Indian people who prefer to maintain their caste system.

Just as there is a wide gulf between the law and the intention of the law to abolish discrimination and the caste system on the one hand, and the continuance of the discrimination and the maintenance of the caste system in practice on the other hand, there is also a chasm between Indian practice at home and the espousal of egalitarian causes abroad. As an illustration, the Indian Government has, in the past sessions of the United Nations, voted with the majority of the nations in condemning the practice of apartheid in South Africa. But it would appear to many observers that the practice of apartheid in its broadest context is little different from the practice of the caste system within India. In another example, the Indian Government has supported the United Nations resolutions which seek sanctions against the Rhodesian regime, even suggesting the use of armed force to end the white rule in Rhodesia. But the law within the nation of India has not been enough in itself to remove discrimination, no matter how forcefully it is applied. India has also advocated the adoption of the human rights conventions and has voted for the conventions in the United Nations, but the state of India cannot offer the same guarantees of human rights to its own people. India has condemned the colonial practices of Portugal, even attacking, conquering, and annexing, yet India allows a form of colonialism within its own boundaries.

The caste system in all its forms continues to influence the people of India. It is a paradox of history that India, outspoken in its criticism of social systems elsewhere around the world, cannot secure for its own people freedom from the practice of discrimination, any more than it can from hunger.

I include in my remarks a newsclipping stating the Indian position on free and independent Rhodesia:

[From the India News, Mar. 27, 1970]

WITHDRAWAL OF U.S. REPRESENTATION FROM RHODESIA WELCOMED

India has welcomed the decision of the Governments of the U.S., France, the Federal Republic of Germany, Italy, the Netherlands, and Norway to withdraw their consulates from Salisbury.

Mr. Surendra Pal Singh, Deputy Minister for External Affairs, gave the Government's views in a statement in the Lok Sabha (Lower House of Indian Parliament) on March 12. He said: "We consider the act of the racist regime to declare itself a Republic as totally illegal."

"We hope that it will not be recognized by any civilized nation in the world. We also hope that all the states, which continue to maintain diplomatic, consular, economic or military connections with Rhodesia, will sever their connection with it. In this connection, we are happy to note that the governments which had representation in Rhodesia, such as the U.S.A., France, the Netherlands and Norway have decided to withdraw their consulates from Salisbury.

"We are convinced that the illegal regime would not have survived if all members of the United Nations had strictly observed the general and mandatory sanctions adopted by the Security Council. Keeping in view the fact that these sanctions have not succeeded so far, we believe that full support to UN resolutions by all member-states including the use of force by Britain, is the only way to establish the legitimate rights of the people of Zimbabwe."

AND CHARLES EVERS: A CASE IN POINT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, under leave to extend my remarks, I include the following editorial:

AND CHARLES EVERS: A CASE IN POINT

Turning from what is cumulative and comprehensive—and no less real or pernicious for that—let us take up cases. Let us consider for a moment what his countrymen and his government have said to Charles Evers, who is the black mayor of Fayette, Miss. Mayor Evers is of course a lot more than that. He was born 47 years ago and raised poor in Decatur, Miss. He served in World War II as an army volunteer in the Pacific and again, in the Korean war, as a reservist. He took a bachelor of arts degree at Alcorn College, and in 1951, with his brother Medgar, he undertook a membership drive in Mississippi for the NAACP. That was to cost him his livelihood: because of his NAACP connection he was forced out of business in Philadelphia, Miss. It was also to cost his brother his life: Medgar Evers was murdered in Jackson on June 12, 1963, and Charles Evers, then living in Chicago, came home and assumed his dead brother's job as field secretary for the NAACP in Mississippi.

One hears a great deal about blacks who have been provoked and abused into despair, a great deal about black men and black women who have been forced to the conclusion that separatism or violence or both are the only solutions available to them. On the basis of his experience, Charles Evers would seem a likely prospect for this turn of mind. His recollections of family suffering and humiliation at the hands of white neighbors when he was a boy are vivid; his brother and the political leaders he followed—both Kennedys and Martin Luther King—were murdered; his every attempt to obtain for himself and others the simplest, most fundamental forms of equal justice in his state have been systematically and viciously fought by its citizens and its leaders. And yet this is a man who can still say that he "loves" Mississippi and that he "loves" his country and that he is bent on making justice work—within the system, by means of the traditional American political processes.

Charles Evers has had almost as much trouble on this count from those he describes as the "black extremists" as he has had from his white compatriots. But he has rejected the ridicule and pressures of this one and the ominous warnings of the other. His crime (in the eyes of both) has been his single-minded pursuit of political equity and racial understanding through the instruments of government that are theoretically available to all. A patient campaign led to the accreditation of his delegation at the Democratic convention in Chicago, and he was a stalwart among those who insisted that the delegation and the party it represented be black and white—not just black. His prodigious efforts to take advantage of the Voting Rights Act of 1965 via registration and get-out-the-vote drives and via the fielding of a number of candidates, led to his election as mayor of Fayette last year. None of this was done without risk, but his observations upon election and since have been wholly lacking in any of the vengeance or retaliatory spirit that he might easily have indulged had he wished. On the contrary, Charles Evers declared that his policy for the community he served would be one aimed at economic betterment for all citizens—black and white—and that there would be no racial violence from any quarter tolerated. "We're not going to do to white people what they've done to us," he said. "We're going to have law and order and justice." And again: "We've got to prove to this country we can work together. I know we can."

You would think that the kind of spirit and sense Charles Evers has shown would gain him allies and admirers in high places. But something quite different has occurred. One of the Nixon administration's first acts in the civil rights field was an attempt to eviscerate the Voting Rights Act, the legislation to which Mayor Evers and others could point as evidence that the system might be made to work. Then it pulled out the rug in Mississippi from under those of both races who, like Major Evers, had persisted in championing the worth of desegregating state institutions as a means of achieving racial amity and common justice. It sent Vice President Agnew to Jackson to titillate the fancy of his audience ("The point is this—in a man's private life he has the right to make his own friends . . . men like John Stennis and Jim Easterland have fought with great determination in Washington to preserve the strength and stability of this country . . . we believe that civil rights must be balanced by civil responsibilities . . ." and so on.). Now we learn that Mayor Evers, with the assistance of HEW staff, not long ago put in for an HEW grant to begin a comprehensive health program for his county—the nation's fourth poorest—and an adjoining county. And we learn too that the state's Republican chairman wrote a letter to Washington opposing it and that the grant has been refused.

What are men like Charles Evers to think of an administration that seems at pains to undercut everything that offers hope of achieving progress through the legitimate means and channels of government? Statements on school desegregation, anxious inquiries of selected visitors as to whether and why the administration has a "racist" image are at this point of secondary importance. If, as we believe, the first order of business for Congress is the rejection of Judge Carswell's appointment, so the first order of business for the White House is to cease undermining the legislative gains of the past and undercutting those men and women who are smart enough and brave enough to use them. The President must make plain that when he and his spokesmen talk so lovingly about the "people of the South" they mean *all* the people of the South, including such distinguished people as Charles Evers.

BYELORUSSIAN INDEPENDENCE

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. MINISH. Mr. Speaker, on March 25, Byelorussians everywhere in the free world celebrated the 52d anniversary of the proclamation of independence of the Byelorussian Democratic Republic, for it was on that date in 1918 that the Council of the First All-Byelorussian Congress made its stirring proclamation.

This anniversary is significant to Byelorussians, reminding them as it does of their day in the sun. Unfortunately, Byelorussians living in their native land today are denied the opportunity to mark this occasion so important to them. They are prevented from celebrating the memory of their declaration of freedom, and have been ordered to substitute the observance of the 100th anniversary of the birth of Vladimir Ulianoff in place of their national celebration of independence. Vladimir Ulianoff, otherwise known as Lenin, was the former leader of the Russian Bolshevik Party and head of the Soviet Russian Government. He does not signify in the least the hopes of freedom and sovereignty the Byelorussians cherish.

I want to remind my colleagues that the Byelorussian nation today suffers from a deprivation of most of its human rights and freedoms, the very rights proclaimed earlier by the Byelorussian Democratic Republic. Nonetheless, the stanch Byelorussians have kept hope alive, and believe that they eventually will be restored their independence. Their patience and steadfast resolve must not go unrecognized. It is my hope that their longstanding desire for freedom will soon be granted.

SCHWENGEL PRAISES AMANA MEAT MARKET

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. SCHWENGEL. Mr. Speaker, there has been a good deal of controversy in my home State regarding the need for Federal meat inspection. Without wishing to get embroiled in the controversy itself, I would like to take this opportunity to reaffirm my faith in the Amana Meat Market which seems to have borne the brunt of the controversy. The following editorial, which appeared in the Cedar Rapids Gazette on January 5, and the letter from K. L. Boynton which appeared in the People's Forum on the same date indicates the high regard in which the Amana Meat Market is held. I concur in the comments in this respect which are contained in the editorial and the letter:

AMANA MEANS QUALITY

Down through the years the Amana Society has won a well-deserved nationwide reputation for the quality of its products. Amana-made furniture is considered of heirloom status. Amana-woven woolen goods are much sought after. Amana-manufactured freezers, refrigerators and air conditioners are sold throughout the world. Visitors come from far and wide to taste Amana's fine wines, to sup at its many excellent restaurants and to take home meat and bread specialties.

Amana's people worked long and hard to build this reputation and, once earned, they have continued to work long and hard to maintain it; to make certain the standards that helped to win it are not lowered.

That's why the charge against the Amana Society meat market by a state agriculture department inspector came as a surprise. The Amana people, as much as any of us, are interested in sanitary conditions in their meat market. If there are some things that need to be changed, they are willing to change them. But, caught in a political crossfire between federal inspectors who give them a clean bill of health, and a state inspector, who didn't, it is an admittedly frustrating experience.

That there are political overtones in this unfortunate situation cannot be denied. Secretary of Agriculture Liddy, who thinks the state needs no federal assistance to inspect certain of its meat plants, obviously set out to prove state inspections to be more thorough than federal inspections. He did it in the home congressional district of State Sen. Edward Mezvinsky (D-Iowa City) who has championed federal inspections for Iowa.

But that's water over the dam. Political stump speeches won't work here. The Amana people have a right to know what, if anything, needs to be done to meet federal and state standards and be given a chance to do it—which is the approach the state inspector should have used in the first place instead of involving the Society in a political fight.

AMANA MEAT MARKET PRAISED

MANCHESTER

TO THE EDITOR: We travel a hundred miles from our base here in Manchester to buy meats at the Amana meat market because of the top quality of their product and their high standards of cleanliness.

We always find the shop spic and span, a pleasure to go into, and in talking with other visitors in the market who have just come from a tour of the plant and who are waiting to buy products to take home with them, we find that they too are impressed with the ship-shape and clean manner in which everything is done.

The real test is met in the food itself: Amana Market meat is so fresh and clean that it holds its quality longer in the freezer. . . .

We are old customers of Amana meat market, and will continue to buy their products with pleasure and confidence.

K. L. BOYNTON.

SOUTH AFRICAN THREADS AMONG THE GOLD

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FRASER. Mr. Speaker, the gentleman from Milwaukee (Mr. REUSS) has again made a notable contribution to our knowledge about international monetary matters. I refer to his March 20, 1970, Commonweal article which criticizes the U.S. Treasury's agreement with South Africa and the International Monetary Fund to support the price for South African gold production. Mr. Reuss, chairman of the Banking and Currency Subcommittee on International Finance and a member of the Joint Economic Committee, is one of our most informed Members concerning international finance. I commend his article to this body. It is a lucid and devastating commentary upon a very questionable decision. The article follows:

SOUTH AFRICAN THREADS AMONG THE GOLD

(By Hon. HENRY S. REUSS)

The United States Treasury apparently just can't stand prosperity. No sooner had the world monetary system won the war by South Africa to force the free market price of gold dangerously out of sight than the Treasury, last December 30, concluded an agreement with South Africa and the International Monetary Fund whereby the IMF—and ultimately the United States—will support the price of South African gold by buying it at $35 an ounce whenever the price dips below that figure in the free market.

To understand the meaning of the year-end gold agreement, let us look at the history of gold and the dollar in the last 25 years. Under the 1945 Bretton Woods Charter on which the international monetary system is based, the United States agreed to sell gold to official foreign monetary authorities for $35 an ounce. The U.S. gold reserve was then some $20 billion, and foreign dollar claims against it were only $7 billion. Thus it looked as if the United States could support this vestige of the gold standard without embarrassment to itself.

But for the last 20 years the United States has been losing gold and accumulating short-term debts it owes foreigners. Today our gold stock is $11.9 billion, and the dollar claims outstanding in foreign hands are $42.6 billion. This four-to-one bookkeeping "insolvency" exposes us to pressures which caused us seriously to retard economic growth in the first half of the 1960's and to impose undesirable controls on American investment and aid in more recent years.

Countries like France have a long history of using financial power for political purposes. France withdrew funds from Austria in 1931 to pressure Austria into avoiding union with Germany—a move that led to the collapse of the Credit-Anstalt bank in Vienna, which in turn led to a collapse of the international monetary system and in part to the rise of Hitler.

More recently, in the mid-1960's, France embarked upon a campaign to harass the dollar. If the United States were forced to give up her gold for French-held dollars, the French authorities reasoned, a panic could well be started which could induce the United States to bolster her flagging reserve position by doubling the price of gold. Thus the French gold speculators would be rewarded in their speculation.

France's efforts to have the price of gold doubled were vigorously joined in by the largest gold producer, South Africa, which today produces three-fourths of the world's newly mined gold. The Soviet Union, the other large gold producer, sat by, hoping that the effort to raise the price of gold would succeed.

These efforts to torpedo the dollar came to a climax in the winter of 1967–1968. The time was propitious, because international financial markets were unsettled by the devaluation of the pound sterling in November, 1967, and by the disastrous fourth-quarter United States balance of payments deficit. The United States, the United Kingdom, and other members of the "gold pool" poured gold into the London market, trying to prevent the speculators from raising the price to well above $35. The fear was that if the free market price of gold went to around $50 an ounce, central bankers would sell their gold in this market for a profit, replace it from the United States at $35 an ounce by presenting their dollars, and then repeat the process until the United States was forced to raise the price of gold. The gold pool poured some $3 billion of gold into the London market within a few weeks. But the price of gold continued to go up, and a catastrophe loomed ahead.

But then, in the nick of time, the seven gold pool countries framed the March 17, 1968, Washington two-tier gold agreement. Professor Richard Cooper of Yale, adviser to both the Johnson and Nixon Administrations, describes that agreement: "To prevent further losses, in March 1968 the pool took the far-reaching step of allowing the market price of gold to go free. The intent of this action was to divide gold into two commodities, one for monetary purposes and one for private uses. All new gold was to be directed to private uses; central banks agreed neither to sell nor to buy gold outside the monetary system. It was as if all monetary gold on March 17 were painted indelibly blue, with the claim that no new gold would be so painted in the future. This blue gold could transfer among central banks in settlement of international debts at a value of $35 an ounce. Metallic gold could sell in the market like any other non-ferrous metal, the price reflecting a balance between supply and demand for private uses. This division of markets was to be policed by the refusal of the U.S. Treasury, the only government committed to buy and sell gold for its currency, to deal in gold with those central banks that traded in gold with the private sector."

Within a few weeks the United States had obtained the adherence to the two-tier gold agreement of more than 80 countries—everybody important but France and South Africa. South Africa for more than a year—until mid-1969—tried to break the agreement by playing the old monopolist game of withholding its product from the market. The free market price of gold accordingly shot above $40 an ounce.

South Africa needs to sell practically all her annual gold production—around $1 billion—in order to overcome her normal balance of payments deficit, also about $1 billion. By keeping her gold off the market, she was able to force the price up, in the hope that central banks would depart from the two-tier agreement and once again threaten the United States with the necessity of doubling the price of gold, or else. But to South Africa's disappointment, the central banks (with one unimportant exception, Portugal) held firm and refused to buy. Thus South Africa, desperate for foreign exchange, was forced to sell gold on the free market in the second half of 1969. The price of gold promptly declined, ending up below $35 an ounce.

You would have thought that the United States Treasury would be rejoicing that the war had been won. There were problems, but they could have been easily handled.

The first problem was that some central bankers were understandably queasy at the prospect of their cherished gold reserves declining in value below $35 an ounce. Their citizens might well question the wisdom of their money managers, who put so much of the nation's reserves into such a fragile commodity as gold. These legitimate fears of central bankers could well have been stilled had the U.S. taken the lead in asking the IMF to guarantee the $35 an ounce value of all legitimate monetary gold.

A second concern was that the world's central bankers might begin to welsh on the March, 1968, two-tier agreement, and openly or clandestinely buy and sell gold in the private market in order to make a quick profit. The House-Senate Subcommittee on International Exchange and Payments pointed out that the Treasury had a splendid weapon for dissuading foreign central banks who might be tempted to violate the March, 1968, agreement. As the Subcommittee recommended: "The Secretary of the Treasury could condition his purchase of gold from a foreign monetary authority on the latter's assurance that it had not obtained 'bootleg' gold, whether newly mined or hoarded, from the private market. This Treasury 'condition' would be intended to, and in all likelihood would in fact, discourage foreign official purchases of 'bootleg' gold because of the knowledge that to do so would cause the withdrawal of any U.S.-financed floor."

The Subcommittee went on to warn that "the U.S. Treasury should under no foreseeable circumstances agree to support—either directly, through the IMF, or by sanctioning the purchases of other industrial countries—the free market price of gold."

RECOMMENDATION IGNORED

The Treasury chose to ignore the Subcommittee's recommendation—as of course it has

a legal right to do. On December 30, 1969, with Congress safely out of session, the Treasury entered into the agreement with South Africa. Under that agreement, South Africa will sell its current gold output in the private gold markets when the price is above $35 an ounce (an agreement of doubtful value, since South Africa had just established that it, for all practical purposes, has to do this in any event in order to avoid a balance of payments crisis for South Africa). When the price is below $35 an ounce, South Africa will be able to sell the IMF whatever amounts of gold are needed in order to pay for South Africa's trade and investment. The IMF would immediately unload its gold to its members. As the only country in the world committed to buy gold at a fixed price, the United States thus undertook an open-ended commitment to act as a purchaser of last resort for any South African gold entering the international monetary system. The agreement concluded, South Africa Finance Minister Nicolaas Diederichs went home to Pretoria, to well-deserved applause.

What is puzzling is that the United States Treasury also apparently expected applause for its agreement. The official Treasury justification for the agreement was that it was "essential to the preservation of the two-tier 1968 agreement." But the 1968 agreement, as Professor Cooper has described it, was to retain existing monetary gold in the system, but not to add to it. Every ounce of South African gold added to official monetary reserves weakens the two-tier agreement. Already the IMF has been purchasing South African gold under the December 30, 1969, agreement, since the free market price has remained below the $35 an ounce level.

Americans were shocked to hear some months ago an American major described the leveling of a South Vietnamese village: "In order to save it, we had to destroy it." Apparently this reasoning appeals to the Treasury: in order to save the two-tier agreement not to introduce new gold into the system, we have to introduce new gold into the system!

The December 30, 1969, agreement is unwise for at lease four reasons:

1. It gives speculators against the dollar a new lease on life. South Africa is given a direct never-below-$35 guarantee. Private speculators, and the Soviet Union, will get the spin-off encouragement that the South African agreement will tend to produce some floor on the free price of gold higher than otherwise would be the case. It thus improves their speculative abilities.

2. January, 1970, saw the distribution of $3.5 billion in paper gold—Special Drawing Rights—by the IMF to its members. This constructive new arrangement is designed to produce an orderly and controlled influx of new reserves into the system, one that will avoid both inflation and deflation. What becomes of the orderly SDR arrangement now that SDR's will be supplemented by uncontrollable amounts of new South African gold coming into the system?

3. The December 30, 1969, agreement rubbed salt in the wounds of the less developed countries. They were understandably distressed because two-thirds of the new SDR's—manna from heaven, in that they do not require the transfer of real resources from the countries receiving them—went to the wealthy developed countries. Stung by the deterioration in the export prices of their basic commodities, such as coffee, cocoa and tin, they succeeded in the September, 1967, Rio meeting of the IMF in getting a resolution adopted dealing with "the decisive importance of the stabilization of prices of primary products at a remunerative level for the economic advancement of the developing countries."

The IMF's first move on "stabilization of primary products" is the December 30, 1969, agreement to stabilize the price of the primary product, gold, of South Africa. That wealthy South Africa is a nation which pursues apartheid as a means of maintaining the control of a white minority over an increasingly persecuted and revolutionary black majority does not make the discrimination any easier to bear.

4. From the standpoint of the United States citizen, the December 30, 1969, agreement exposes us to losing real resources—goods and services that Americans produce by the sweat of their brows—in order to buy gold needed not for legitimate monetary reserve purposes, but to please South Africa. More, this South African gold will be paid for not by the ordinary method of asking for a congressional authorization and appropriation of the necessary millions or billions, but by simply printing the dollars that are used to make the sale. As University of Chicago Professor Milton Friedman has said: "The Treasury is authorized to create money to pay for gold it buys, so that expenditures for the purchase of gold do not appear in the budget and the sums required need not be explicitly appropriated by Congress . . ."

All told, the Treasury's December 30, 1969 agreement is a large step backward. The Congress is unhappy about it. Quite a few citizens and taxpayers, when they study the agreement, will be unhappy about it too.

JUDGES CONFERENCE ON THE FUTURE OF THE WORLD COURT

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FINDLEY. Mr. Speaker, on April 4, 1970, the Center for International Studies and the School of Law of New York University will sponsor a conference of judges, drawn from both American and Canadian national courts and the International Court of Justice to discuss "The Future of the World Court." The need for re-evaluation of the Court's role is apparent since, at the present time, there is not a single case remaining on the Court's docket.

This conference is predicated on the theory that insight into the adjudicative process gained by experienced judges in national courts can be used to solve the problems of adjudication at the international level. In a world of controversy, of disputes which constantly dissipate national resources and threaten humanity with extinction, law must play a role, alongside politics, in reducing the level of tension and ameliorating the risks. If law is to play such a role, there must be a forum in which legal arguments can be made and in which a judiciary, freed of political constraints, can develop reasoned principles and make just decisions.

It is not an easy matter to develop such an institution in a world climate of jealous state sovereignty, of deep ideological cleavages, of cultural diversity and political polarization.

It is thus particularly meaningful and appropriate that judges of the World Court should be turning for advice to leading members of the United States and Canadian judiciaries. Both operate in federal systems which continue to feature elements of state sovereignty, cultural diversity, and political polarization. In both countries, the Federal judiciary has had ample occasion to experience the problems inherent in such circumstances, yet the federal judicial systems in Canada and the United States have been singularly effective in developing the content of law while also developing a respect for judicial institutions.

On this basis, a comparison of different facets of national and international judicial experience may reveal areas in which the national judicial experience can provide guidance for developing the International Court of Justice into a credible forum in international adjudication. It is particularly gratifying that at this conference on "The Future of the World Court" the executive branch of the Government of the United States, as well as our judiciary, will be working with the judges from the International Court of Justice to find solutions to the problems of the Court's effectiveness. The State Department will be represented by its distinguished legal adviser, Mr. John R. Stevenson, a former president of the American Society of International Law and by the counselor in the Office of the Legal Adviser, Louis D. Sohn, who as Bemis Professor of International Law at Harvard Law School, has long and imaginatively dealt with the problems of creating a world order based on the rule of law.

Among the members of the judiciary participating in the discussion are:

From the International Court of Justice:

Manfred Lachs of Poland (to act as chairman of the conference).

Eduardo Jiménez de Aréchaga of Uruguay.

Hardy Cross Dillard of the United States.

Louis Ignacio-Pinto of Dahomey.

Philip C. Jessup of the United States.

John Erskine Read of Canada.

From the United States:

William O. Douglas, U.S. Supreme Court.

Frank M. Coffin, U.S. Court of Appeals, First Circuit, Portland, Maine.

George Clifton Edwards, Jr., U.S. Court of Appeals, Sixth Circuit, Detroit, Mich.

Walter Ely, U.S. Court of Appeals, Ninth Circuit, Los Angeles, Calif.

Harold Leventhal, U.S. Court of Appeals, District of Columbia, Washington, D.C.

Harrison L. Winter, U.S. Court of Appeals, Fourth Circuit, Baltimore, Md.

John Minor Wisdom, U.S. Court of Appeals, Fifth Circuit, New Orleans, La.

J. Skelly Wright, U.S. Court of Appeals, District of Columbia Circuit, Washington, D.C.

Dudley B. Bonsal, U.S. District Court, Southern District of New York.

Edward Weinfeld, U.S. District Court, Southern District of New York.

Oscar H. Davis, U.S. Court of Claims, District of Columbia, Washington, D.C.

From Canada: Bora Laskin, Supreme Court of Canada.

Out of these high-level deliberations I hope will come ideas that will reactivate the Court. More to the point of this meeting, I hope there will emerge new initiatives on the part of this country to apply concern for law and order to

the international level and to increase our use of the World Court.

It was just this concern over the ineffectiveness of the World Court which prompted me in the fall of last year to write to Judge Philip C. Jessep, the U.S. Judge on the Court and ask him for the opportunity to meet with him and some of the other officials to the Court.

On October 19, 1969, several Members of Congress accompanied me on a trip to the World Court. Those who met with Justices of the Court included Senators PELL, of Rhode Island, EAGLETON, of Missouri and JAVITS, of New York, and Representative QUIE, of Minnesota, and myself.

In addition to Judge Jessup of the United States, these judges were present: Jose Bustamente, former President of Peru, Sir Gerald Fitzmaurice, of Great Britain, Andre Gros, of France, Mandred Lachs, of Poland, Charles Onyeana, of Biafra. Mr. Onyeana was careful to identify himself as being from Biafra, not Nigeria. Clearly, he was a partisan in the Nigerian civil war. Also present was Stanley Aquarone, of Australia, Court registrar.

This meant that our circle included six of the Court's 15 Justices, nearly one-half the total.

In a sense, the turnout may have been less a tribute to the drawing power of our congressional group than to the somber fact that the Court judges had very little else to do.

The Court had only one case on its docket, adjudication of the Barcelona Traction case. That case has since been completed and the Court now has no litigation before it.

We asked why there was no business.

The French jurist supplied this answer: He said governments, like people, dislike litigation and avoid it when they can. He said governments, like people, dislike getting themselves into circumstances in which they may be the loser.

Others gave what may be a more fundamental reason: The foreign office or State Department officials simply prefer not to place matters before the Court. It is not the accustomed way to deal with problems. To an appalling extent, I am afraid, our Department of State could accurately be named the Department of Status Quo when it comes to making the World Court a useful tribunal.

In any case, the World Court gets business only if all parties to a dispute agree to place before it a matter at issue, and this rarely occurs.

In other words, the Traction case went to the Court only because the Government of Spain and the Belgian interests which had originally owned the company agreed to let the Court make the settlement.

The Court itself is housed in a magnificent structure called the Peace Palace. It was financed by Andrew Carnegie in a brief peaceful interlude before the outbreak of World War I.

The courtroom is appropriately colorless, dusty, and musty. Like the palace, the Court is largely a tourist attraction.

Actually, the Court has had success as far as its record goes. Of 60 cases since the Court resumed its work after World War II, the Court's decision has been carried out fully in every decision but one.

But today the world's highest tribunal is a pathetic institution. What is more pathetic is the state of world affairs that has made it so.

What can be done?

Several suggestions developed from our discussion:

First. The availability and high quality of the tribunal should be called to public attention—and especially to governmental attention—at every opportunity. When problems arise, no one seems to think of the Court as a place of settlement.

Second. The Court should be utilized for advisory opinions. Although not binding, these opinions can, nevertheless, be influential. The Court's statute should be changed to permit individual governments to request advisory opinions. Only the U.N. General Assembly or Security Council can presently make such requests.

Third. Future treaties should contain language bringing disputes arising from them under the Court's jurisdiction. This would remove uncertainties caused by the Connolly reservation.

Never in human history has the world had such great need for an international tribunal where disputes are settled, not by force or arms—or by lesser forms of power politics, but by the application of legal principles and precedents through a judicial process of hearings, testimony and cross-examination.

Nowhere is the need more clearly evident than in the Middle East, where clouds of war gather ominously.

Two years ago during the hostilities between Israel and its Arab neighbors, I urged that the United States use its influence to get the major parties in the dispute to place all the complex legal issues there involved before the World Court for adjudication. The issues are complex. Many go back as far as the Palestinian period. They involve refugee questions, seized and destroyed property, boundaries, and right of access. Neither side is without fault or responsibility, but feeling is so intense that a rational solution through negotiation between the parties seems out of the question.

The World Court provides a safe, face-saving fair way out of the present dilemma. If all parties agreed in advance to the Court's adjudiction of particular issues, most likely each would eventually confront a Court order not entirely to its liking. But because of the circumstances of the settlement—the process of adjudication as opposed to arbitration—the outcome would be one which each could defend back home with a minimum of repercussions.

A Jewish rabbi described my proposal as an appeal to reason. I like that description. Put another way, it is a proposal for peace in the Middle East through the application of legal principles and due process.

I have suggested similar measures in respect to the *Pueblo* crisis and the legal issues involved in Vietnam. I made the same suggestion regarding the dispute over the expropriation of an oil company by Peru. As a sovereign nation, Peru has the right to take the property, but it also has the obligation to make a fair settlement. Why not place the whole question before the World Court?

The sad truth, a truth which our trip to The Hague confirmed, is that our State Department and the foreign offices of other countries in the past have had almost no interest in utilizing the World Court.

I hope that initiatives such as this conference can provide the spark which will encourage all governments to warm up to the World Court and recognize its potential for peace.

DAM OUTRAGE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. McCLOSKEY. Mr. Speaker, the April 1970 issue of the Atlantic contains a perceptive article on the Corps of Engineers which I place in the RECORD at this point for the permanent reference of our colleagues:

DAM OUTRAGE: THE STORY OF THE ARMY ENGINEERS

(By Elizabeth B. Drew)

As times change so do the nation's needs and priorities. But the Army Corps of Engineers just keeps rolling along as it has for decades, working one of the most powerful lobbies in Washington, winning more than $1 billion a year from the Congress to straighten rivers, build dams, and dig canals that frequently serve only narrow interests and too often inflict the wrong kinds of change on the environment. Here the *Atlantic's* Washington editor tells how the Engineers do it, and suggests that a changing public opinion may at last force a change in their habits.

The St. Croix River, one of the few remaining wild rivers in the nation, forms a stretch of the border between Wisconsin and Minnesota before it runs into the Mississippi below Minneapolis. Not long ago, Senator Gaylord Nelson of Wisconsin discovered that the Army Corps of Engineers was considering the construction of a hundred-foot-high dam on the St. Croix. At the same time, Nelson and Senator Walter Mondale of Minnesota were trying to win legislation that would preserve the river in its natural state. Nelson took the unusual step of going before a congressional committee to oppose a Corps project in his own state. "The Corps of Engineers," he said, "is like that marvelous little creature, the beaver, whose instinct tells him every fall to build a dam wherever he finds a trickle of water. But at least he has a purpose—to store up some food underwater and create a livable habitat for the long winter. Like the Corps, this little animal frequently builds dams he doesn't need, but at least he doesn't ask the taxpayer to foot the bill."

Few politicians publicly criticize the Corps, because almost all of them want something from it at some point—a dam, a harbor, a flood-control project. A combination of Corps diplomacy and congressional mutuality keeps most of the politicians content, and quiet. The overwhelming majority of Corps projects are attractive federal bonuses, given free of charge to communities—some local contributions may be involved in small flood-control or municipal-water-supply projects—and therefore they are highly prized. "They take care of all of the states," said one Senate aide. "If there's water in a faucet in one of them, they'll go in there and build a dam."

There is no question that the civil works program of the Army Corps of Engineers, viewed over its long history, has benefited the country. It has made waterways navigable and provided hydroelectric power and flood control. Communities to which it has brought help have been genuinely grateful. Now, however, it is a prime example of a bureaucracy that is outliving its rationale, and that is what is getting it into trouble. As the Corps, impelled by bureaucratic momentum and political accommodation, has gone about its damning and dredging and "straightening" of rivers and streams, it has brought down upon itself the wrath of more and more people disturbed about the effects on the environment. A secret poll taken by the White House last year showed environmental concerns to be second only to Vietnam in the public mind. This rather sudden general awareness of the science of ecology—the interrelationships between organisms and their environment—has brought projects which disturb the environment and the ecology, as Corps projects do, under unprecedented attack. The Corps' philosophy, on the other hand, was recently expressed in a speech by its chief, Lieutenant General F. J. Clarke. "With our country growing the way it is," he said, "we cannot simply sit back and let nature take its course."

Criticism of the Corps and what its programs are all about is not based solely on environmental issues. The broader question, given the claims on our national resources, is whether it makes sense to continue to wink at traditional public works programs, and the self-serving politics which sustain them. The nation is now committed, for example, to making Tulsa, Oklahoma, and Fort Worth, Texas, into seaports, although each is about 400 miles from the sea, at costs of at least $1.2 billion and $1 billion respectively. There are other questions that might be raised at this point, such as whether subsidizing the barge industry should be a national priority; or whether we want to continue to dredge and fill estuaries and build flood-control projects for the benefit of real estate developers and wealthy farmers. The Army Corps of Engineers and its work have been a very important force in American life, with few questions asked. Yet it is not fair simply to castigate the Corps, for the politicians have made the decisions and the public has gone along. General Clarke had a point when he said that the Corps is being put "in the unhappy and, I can't help feeling, rather unfair position of being blamed for presenting a bill by people who have forgotten that they ate the dinner."

The Corps is part of a growing hodgepodge of federal bureaucracies and programs that work at cross-purposes. The Department of Agriculture drains wetlands while the Department of Interior tries to preserve them. The Corps dams wild rivers while the Department of Interior tries to save them. The Corps and the Bureau of Reclamation in Interior provide farmlands for crops which farmers are paid not to produce. The government spent $77 million to build the Glen Elder Dam in Kansas, a Bureau of Reclamation project which provided land to produce feed grains, for which the government pays out hundreds of millions of dollars a year to retire. The Tennessee Valley Authority is also still building dams, and it does strip-mining.

But of these water programs, the Corps is by far the largest. Each year Congress gives it more than a billion dollars, and each year's budget represents commitments to large spending in the future. In a deliberate effort to spread the money around, new projects are begun and ones already under way are permitted to take longer to complete, in the end driving up the costs of all of them.

The annual Public Works appropriations bill provides money for, among others, the Panama Canal, the Water Pollution Control Administration and the Bureau of Reclamation in the Interior Department, and various public power administrations, as well as the Corps of Engineers. This year it came to $2.5 billion, of which the Corps received $1.1 billion. The Corps is now at work on 275 projects. The total future cost of these will be $13.5 billion, not accounting for the customary price increases. Another 452 projects have been authorized by Congress, but have not yet been started. The Corps says that the total cost of these would be another $10 billion, clearly an under-estimation of some magnitude. For every project to which the country is already committed, the Corps, the politicians, and the local interests who stand to gain have many, many more in mind.

"DESTINY . . ."

The Corps' official history traces its beginnings to a colonel who dug trenches "in the darkness of the morning" during the Battle of Bunker Hill, and the subsequent orders of President Washington to establish a corps of military engineers and a school to train them. In 1802, the Corps was established, and West Point was designated to provide its members. The history of the Corps is interwoven with that of the country and its frontier ethic. It is a very proud agency. "They led the way," its history says, "in exploring the great West. They were the pathfinders sent out by a determined government at Washington. They guided, surveyed, mapped, and fought Indians and nature across the continent. . . . They made surveys for work on the early canals and railroads. They extended the National Road from Cumberland to the Ohio and beyond. They made the Ohio, Missouri, and Mississippi safe for navigation in the Middle West. They opened up harbors for steamships on the Great Lakes." After the war with Mexico, in which "the part played by the Army Engineer officers was impressive . . . the last segment of the great Western Empire was soon annexed. These things were all accomplished by the application of America's greatest power. That is the power of Engineering Character, Engineering Leadership, and Engineering Knowledge. All employed to fulfill our destiny." Following the Civil War, the civil works program of the Corps "was revived to benefit all sections of the reunited nation," and that is how the Corps has been fulfilling our destiny ever since. In 1936 the Corps was given major responsibility for flood control (until then largely a local function).

The major activities of the Corps are the damming, widening, straightening, and deepening of rivers for barge navigation, building harbors for shipping, and construction of dams and levees and reservoirs for flood control. It also works on disaster relief and tries to prevent beach erosion. A project can serve several purposes: building waterways, providing flood control, hydroelectric power, or water supply. As the Corps completed the most clearly needed projects in these categories, it found new purposes, or rationales, for its dams. The newer justifications are recreation and pollution treatment.

Pollution treatment (the government calls it "low-flow augmentation") is provided by releasing water from a dam to wash the wastes downstream. But there are now more effective and less expensive ways of dealing with pollution.

Recreation is provided in the form of still-water lakes behind the dam, for speedboating, swimming, and fishing. But the fish that were previously there often do not continue to breed in the stilled water. And the recreation, not to mention the scenery, of the natural river that used to be there, is gone. A flood-control channel is usually surrounded by cement banks, and the trees are cut down when a levee is built. When the water in a reservoir is let out during the dry months, or for "low-flow augmentation," the "recreation" area can become a mud flat.

These problems arise because the Corps of Engineers' mission has been narrowly defined. Other ways of dealing with transportation, power, and pollution are not in the Corps' jurisdiction, so the Corps is left to justifying what it is permitted to do. What hydroelectric power is left to be developed will make a very small contribution to the nation's power needs. The Corps builds its projects on sound engineering principles. If a highway cuts through a park or a city, or a dam floods more land than it protects, those are the breaks. A "straight" river is an engineer's idea of what a river ought to be. A talk with a Corps man will bring out a phrase like, "When we built the Ohio River . . ."

The Corps argues that having military men conduct civil works "is an advantage of outstanding importance to national defense." Actually, the military men in the civil works section of the Army Corps of Engineers represent only a thin superstructure over a large civilian bureaucracy. Most of the 1100-man uniformed Corps work solely on military construction. The civil works section of the Corps, in contrast, comprises about 200 military men, and under their direction, 32,000 civilians.

Generally, the career military engineers come from the top of their class at West Point, or from engineering schools. Once they join the Corps, they rotate between military and civil work, usually serving in the civil works division for three-year tours. The civil work is sought after, because it offers unusual responsibility and independence in the military system, and the experience is necessary for reaching the high ranks of the Corps. Through the civil work, a Corps officer can gain a sharpening of political acumen that is necessary for getting to the top. And there is the tradition: "The Corps built the Panama Canal," one officer said, "and every Corps man knows that Robert E. Lee worked on flood control on the Mississippi." It is a secure life, and when he retires, a military corps officer can get a good job with a large engineering firm or become director of a port authority.

The civilian bureaucracy is something else. The Corps, like other government agencies, does not attract the brightest civilian engineering graduates, for it does not offer either the most lucrative or the most interesting engineering careers. The Corps work is largely what is known in the trade as "cookbook engineering." A ready-made formula is on hand for each problem. The Corps' bureaucracy draws heavily from the South, where the engineers who built the first dams and controlled the floods are still heroes.

The military patina gives the Corps its professionad aura, its local popularity, its political success, and its independence. The military engineers are, as a group, polite, calm, and efficient, and their uniforms impress the politicians and the local citizens. The engineer who heads one of the Corps' forty district offices, usually a colonel, is a big man in his area; the newspapers herald his coming, and he is a star speaker at the Chamber of Commerce and Rotary lunches. But the military man gets transferred, so smart money also befriends the civilian officials in the district office. These men stay in the area, and want to see it progress. The Tulsa office of the Corps, for example, has about 1500 employees, of whom only three are military. The local offices are highly autonomous, for the Corps operates by the military principles that you never give a man an order he can't carry out, and that you trust your field commanders. If a district engineer believes strongly in a project, it is likely to get Corps endorsement. The Corps has mastered the art of convincing people that its projects are desirable, and so the projects are not examined very closely. Corps engineers are impressive in their command of details that non-engineers cannot understand, as-

siduous in publishing books that show what the Corps has done for each state, and punctilious about seeing that all the right politicians are invited to each dedication of a dam.

And so the Army Corps of Engineers has become one of the most independent bureaucracies in the federal government. The Corps' civil works section is neither of great interest to the Pentagon nor answerable to more relevant civilian bureaucracies. It makes its own living arrangements with the Congress, and deals not with the Armed Services Committees of the House and Senate, but with the Public Works Committees. Theoretically, the Corps reports to the appointed civilian chiefs of the Department of the Army, but these men are usually preoccupied with more urgent matters than Corps projects, and after a spell of trying to figure out what the Corps is doing, or even to control it, the civilians usually give up. "It was," said one man who tried not long ago, "like trying to round up the Viet Cong for an appearance on the *Lawrence Welk Show.*"

"I THINK I UNDERSTAND . . ."

The power of the Corps stems from its relationships with Congress. It is the pet of the men from the areas it has helped the most, who also usually happen to be among the most senior and powerful members, and the ones on the committees which give the Corps its authority and its money. Thus, when the late Senator Robert Kerr of Oklahoma was a key member of the Senate Public Works Committee as well as the Senate Finance Committee, he devoted his considable swashbuckling talents to winning final approval of a plan to build a navigation system stretching 450 miles from the Mississippi, up the Arkansas River, to Catoosa, Oklahoma, giving nearby Tulsa an outlet to the sea. The $1.2 billion project is said to be the largest since the Tennessee Valley Authority was built. The entire Oklahoma and Arkansas delegations, quarter-backed by a member of Kerr's staff, carried it through. The story goes that President Kennedy, having been advised to oppose the Arkansas River project, met with Kerr to seek his help on a tax bill. Kerr, not a very subtle man, told the President "I hope you understand how difficult I will find it to move the tax bill with the people of Oklahoma needing this river transportation." "You know, Bob," the President is said to have replied, "I think I understand the Arkansas River project for the first time." After Kerr's death, Senator John McClellan inherited the mantle of chief protector of the project, which reached the Arkansas-Oklahoma border last December, an event that was marked by a grand dedication.

The legislation that authorizes and appropriates the money for Corps projects encourages manipulation and swapping because of the unusual way in which it parcels out the money on a project-by-project basis. It is as if a housing bill had designated X dollars for a development here and Y dollars for a development there.

A very formal document—known around Capitol Hill as "eighteen steps to glory" explains the procedures by which a project is initiated. In actuality, what happens is that local interests who stand to gain from a Corps project—barge companies, industrialists, contractors, real estate speculators—get together, often through the Chamber of Commerce, with the district engineer and ask for a project. The Corps literature is quite explicit about this: "When local interests feel that a need exists for any type of flood control, navigation, or other improvement, it will be most profitable for them to consult at the outset with the District Engineer. He will provide full information as to what might be done to solve their particular problem, the authorities under which it might be accomplished, and the procedures necessary to initiate the action desired." Then the local groups ask their congressman, who is responsive to this particular segment of his constituency, to secure legislation authorizing the Corps to make a study of the project. Usually the Corps man is already aboard, but if not, he is not very far behind. "Sometimes," said a congressman who, like most of his colleagues, declined to be named when talking about the Corps, "the Chamber of Commerce will call me, and I'll say get in touch with Colonel So-and-so in the district office and he's over there like a shot; or the Corps will make an area survey and go to the community and drop hints that they might have a dam if they work on it." Freqeuently the project's promoters will form a group—the Mississippi Valley Association, the Tennessee-Tombigbee Association, the Arkansas Basin Development Association, and so on. The Florida Waterways Association, for example, boosters of the controversial Cross-Florida Barge Canal, has among its directors a realtor, representatives of a consulting engineering company, a dredging company, chambers of commerce, port authorities, newspapers, and a construction company. The associations meet and entertain and lobby. The Lower Mississippi Valley Association is noted for its days-long barge parties. Some twenty- to thirty-odd people from an association descend on Washington from time to time, to testify and to see the right people in Congress and the Executive Branch.

The power to authorize the study of a project, then to initiate it, and to appropriate the money for it is held by the Senate and House Public Works Committees, and by the Public Works Subcommittees of the Appropriations Committees of the two bodies. This is a total of seventy-one men; as is usual with congressional committees, a very few of the most senior men wield the key influence. It all comes down to a chess game played by the same players over the years—the committees, their staffs, and the Corps. There are always demands for more projects than can be studied, authorized, or financed, and so the Corps and the politicians are always in a position to do each other favors. One study can be moved ahead of another by the Corps if a man votes correctly. One project can get priority in the authorizing or appropriating stages. "Everyone is in everyone else's thrall," said a man who has been involved in the process, "unless he never wants a project."

The Corps has managed to arbitrate the demands for more projects than its budget can include through its highly developed sense of the relative political strengths within the Congress, and by making sure that each region of the country gets a little something each time. "We try to satisfy 10 percent of the needs of each region," said a Corps official. From time to time, the Corps has been pressed by the Budget Bureau to recommend instead the most feasible projects in the nation as a whole, but the Corps has resisted this impolitic approach. The Secretary of the Army rarely changes the Corps' proposals. The Budget Bureau does examine the Corps' proposals on a project-by-project basis, but it runs a poor third to the Corps and Capitol Hill in deciding what the Corps program should be. The President, who is but a passerby, cannot establish control over the public works process unless he decides to make the kind of major political fight that Presidents usually do not think is worth it. On occasion, the White House will oppose a particularly outrageous project—or, out of political exigency, support one. Outsiders are unable to penetrate the continuing feedback between the Corps and the congressional committees, and are insufficiently informed to examine the rationale, the nature, and the alternatives of each project.

There may have been a Corps of Engineers project that was rejected on the floor of Congress, but no one can recall it. Every two years—in election years—a rivers and harbors and flood-control authorization bill is passed by Congress, and every year, money is appropriated. It has been calculated that, on the average, the authorization bills have provided something for 113 congressional districts (or more than one fourth of the House of Representatives) at a time, and the appropriations bills for 91 districts. "We used to say," said a man involved in the process, "that we could put our mortgage in that bill and no one would notice, and then the appropriations committees would cut it by 15 percent." The most recent appropriation carried something for 48 states. On occasion, a senator, Paul Douglas of Illinois for one, or William Proxmire of Wisconsin for another, has spoken out against a particular Corps project, or the "pork-barrel" technique of legislating Corps projects, but they have not been taken seriously. "One hundred fifty-five million dollars has been spent as a starter," Proxmire once argued on the Senate floor in futile opposition to the Cross-Florida Barge Canal, "that is what it is, a starter—to make many more jobs, to make a great deal of money, and a great deal of profit. That is the essence of pork. That is why senators and congressmen fight for it and win re-election on it. Of course people who will benefit from these tens of millions of pork profit and jobs are in favor of it. That is perfectly natural and understandable. It will snow in Washington in July when a member of Congress arises and says spare my district the pork. What a day that will be."

Douglas fought rivers and harbors projects for years and then, in 1956, made a speech saying that he was giving up. "I think it is almost hopeless," he said, "for any senator to try to do what I tried to do when I first came to this body, namely, to consider these projects one by one. The bill is built up out of a whole system of mutual accommodations, in which the favors are widely distributed, with the implicit promise that no one will kick over the applecart; that if senators do not object to the bill as a whole, they will 'get theirs.' It is a process, if I may use an inelegant expression, of mutual back scratching and mutual logrolling. Any member who tries to buck the system is confronted with an impossible amount of work in trying to ascertain the relative merits of a given project."

"GROWING BANANAS"

The difficulty in understanding what a given Corps project will do, and what its merits are, comes not from a lack of material supplied by the Corps, but from an overabundance of it. A Corps report on a proposed project—the result of a survey that may take three to five years—is a shelf-long collection of volumes of technical material. Opponents of the project are on the defensive and unequipped to respond in kind.

Most of the projects that Congress asks the Corps to survey are, of course, turned down, because a congressman will pass along a request for a survey of almost anything. By the time a project moves through the Corps' Bureaucracy to the Board of Engineers for Rivers and Harbors in Washington—what the Corps calls an "independent review group"—it has a promising future. The Board is made up of the Corps' various division engineers, who present their own projects and have learned to trust each other's judgment.

The supposedly objective standard for deciding whether a project is worthy of approval is the "benefit-to-cost" ratio. The potential benefits of a project are measured against the estimated costs, and the resulting ratio must be at least one-to-one—that is, one dollar of benefit for each dollar spent (the Corps prefers the term "invested")—to qualify. There is, however, considerable flexi-

bility in the process, and at times the benefit-cost ratios of controversial projects are recomputed until they come out right. This was true of the Trinity River project to make Fort Worth a seaport, the Cross-Florida Barge Canal, and projects along the Potomac River. "There is enough room in the benefit-cost ratio," said a man who has worked with the Corps on Capitol Hill, "for the Corps to be responsive to strong members of Congress who really want a project." It has been remarked that the measurements are pliant enough to prove the feasibility of growing bananas on Pikes Peak.

There is much argument over the Corps' method of arriving at prospective benefits. For example, business that might be drawn by a project is considered among the benefits, even though there is no real way of knowing what business the project will attract and what the effects will be. The lower prices to a shipper of sending his goods by barge rather than by rail is also considered a national benefit; such a benefit may involve the fact that a wheat farmer is growing and shipping more wheat because of the lower prices, even though we do not need the wheat. The windfalls to real estate investors who have been lucky or clever enough to have bought inexpensive land—some of it underwater—in the path of a future project can turn up as a boon to us all in the form of "enhanced land values." The land, which can then be sold and developed for industrial, housing, or resort development, undergoes extraordinary value increases.

There are serious questions about how to estimate future benefits of flood control; the 1955 Hoover Commission report said that they are often "considerably overstated." In any event, in the three decades since the Flood Control Act was passed, annual losses due to floods have increased (in real prices). The apparent explanation is that the construction of flood-control dams, which cannot be built to guarantee protection against all manner of floods, do nevertheless encourage developers to build expensive properties on lands that will still be hit by floods. The protection of buildings which a flood-control dam attracts is counted as a national benefit, even though the buildings might have been built in a safer place, and there are less expensive ways to protect them. Anti-pollution treatment and hydroelectric power are counted as benefits even though there are cheaper ways of cleaning water and providing power. The benefits and costs are not compared with the benefits and costs of doing these things any other way. Promised benefits appear higher than they will turn out to be because of an unrealistic way of projecting the decline of the value of the dollar. Projected recreation benefits, which have accounted for an increasing proportion of the benefit to the nation from building these projects, are based on an assumption of how much people would be willing to pay for recreation privileges, even though they don't. The Corps lobbies to keep its parks free, in contrast to other national parks. The life of a project used to be estimated at 50 years in adding up the benefits; as fewer projects qualified, the Corps has simply shifted to a basis of 100 years. The cost of the loss of a wilderness, or a quiet river valley, is not deducted, there being no market value for that.

Since more projects are authorized than are given money to be begun, hundreds of them lie around for years, forgotten by all but the sponsors, or the sponsors' sons, and the Corps. If a project becomes too controversial, its backers can simply outwait the opponents. When old projects, sometimes thirty years old, are dusted off, they may be started without reconsideration of either the original purposes or the benefits and costs.

Once a project is begun, it costs almost invariably outrun the estimates. Project proponents, on the other hand, argue that the benefits are consistently underestimated. The Corps is very sensitive about cost "overruns." They say that one must keep inflation in mind, and that such projects get changed and enlarged as they go along. Such changes, undermining the original benefit-cost rationale, do not seem to trouble the Congress. The Trinity River project, estimated at $790 million when it was authorized in 1962, is now expected to cost a little over $1 billion, and construction has not yet begun. The increases are not limited to the controversial projects. A look at project costs in a 1967 Corps report, the most recent one available, shows "overruns" of over 300 percent.

"THE WILDEST SCHEME"

Last year, despite a tight budget policy against "new starts," money to begin the Trinity River project was included in Lyndon Johnson's final budget, and was approved by the Congress. During most of his White House years, Mr. Johnson was sensitive about bestowing federal rewards upon Texas, which had benefited so handsomely from his congressional career. Nonetheless, in the end, he overcame his scruples. The fact that he did can be credited to the persistence, and the excellent connections, of the Texas lobbyists for the project.

The major purpose of the Trinity project is to build a navigable channel from the Fort Worth-Dallas area 370 miles to the Gulf of Mexico. Like many other projects, this one has been boosted for a long, long time. It is said that Will Rogers was brought down to Texas once to make a speech in behalf of the Trinity, which is barely wet during some of the year. "I think you're right," Rogers told the Trinity Improvement Association, "I think you ought to go ahead and pave it." There have been a number of restudies of the feasibility of the Trinity project. At first it was justified on the basis of the shipping of wheat. The current justification assures a great deal of shipping of gravel, although there is some question as to the need to ship gravel from one end of Texas to the other. "It's the wildest scheme I ever saw," said a Texas politician who dared not be quoted. "They have to dig every foot of it. Then they have to put expensive locks in. You could put five railroads in for that price. I'm not carrying any brief for the railroads. You could put in a railroad and make the government pay for every inch of it and call it the United States Short Line and save a hell of a lot of money."

The Trinity River will feed barge traffic into another Texas-based waterways scheme, the Gulf Intracoastal Canal, which, when completed, will run from Brownsville, Texas, on the Mexican border, to the west coast of Florida. From there it will link up with the Cross-Florida Barge Canal, and then another channel all the way to Trenton, New Jersey. This has given the whole network a great deal of backing, which comes together in Washington through the efforts of Dale Miller, a longtime representative of a number of Texas interests. Miller, a white-haired, soft-spoken Texan came to town in 1941 with his ambitious, ebullient wife, Scooter, and took up his father's work in promoting projects for Texas. Miller represents the Gulf Intracoastal Canal Association, the Port of Corpus Christi, the Texas Gulf Sulphur Company, and the Chamber of Commerce of Dallas, for which the Trinity project is "the number-one program." He is also the vice president of the Trinity Improvement Association. ("So I have a direct interest in the Trinity at both ends.")

From the time they arrived in Washington, Dale and Scooter Miller played bridge almost every weekend with the young Corps lieutenants who lived at Fort Belvoir, just outside Washington, and now they are "good friends" with the important members of the Corps. "We move in military social circles," says Miller. "We have them to our parties, and they have us to theirs." The Millers also moved in Washington's political circles, and were close friends of Lyndon and Lady Bird Johnson's, and other powerful Washingtonians. Miller was the chairman of Johnson's inauguration in 1965. But he and his wife had the good sense to maintain bipartisan contacts. Last year they gave a large party that was described in the social pages as "50–50 Democrats and Republicans." Miller says that the coming of a Republican Administration has not hindered his work: "I just put on a more conservative tie, and I'm still in business." He works out of a suite in the Mayflower Hotel, its rooms filled with photographs of Johnson and Sam Rayburn, a harp, and a painting of the Dale Miller Bridge over the Intracoastal Canal in Corpus Christi. "It gives me an opportunity for that wonderful line," says Miller, "'I'm not too big for my bridges.'"

Miller is also president and chairman of the board of the National Rivers and Harbors Congress, an unusual lobbying organization made up of politicians and private interests who support federal water projects. The chairman emeritus of the Rivers and Harbors Congress is Senator John McClellan. Among its directors are Senators Allen Ellender of Louisiana (chairman of the Public Works Appropriations Subcommittee) and Ralph Yarborough of Texas, and Congressmen Hale Boggs of Louisiana and Robert Sikes of Florida. Other officers of the group represent industries which use water transportation for their bulk cargo—such as Ashland Oil, farmers, and the coal business—and the Detroit Harbor and dredging companies. The resident executive director in Washington is George Gettinger, an elderly Indianan who has been in and out of a number of businesses and was a founder of the Wabash Valley Association, and "learned from my cash register" the value of federal water projects. "Your directors of your churches have businesses," says Gettinger, "your trustees of your universities have businesses. Sure our people make a living in water resources, just like other people. So help me, it's time we sat down and started looking at the benefits that have derived from this program. It's one of the bright spots in solving the population problem. It has settled people along rivers so they don't have to live in the inner city. The ghettos in this country are something it's not good to live with."

COST INCREASES ON CORPS PROJECTS

Name of project	Cost estimate at time project was authorized	Amount spent through fiscal year 1966	Percentage overrun
Whitney (Texas)	$8,350,000	$41,000,000	391
John H. Kerr (North Carolina and Virginia)	30,900,000	87,733,000	185
Blakely Mountain (Arkansas)	11,080,000	31,500,000	184
Oahe Reservoir (North and South Dakota)	72,800,000	334,000,000	359
Jim Woodruff (Florida)	24,139,000	46,400,000	92
Chief Joseph (Washington)	104,050,000	144,734,000	39
Fork Peck (Montana)	86,000,000	156,859,000	82
Clark Hill (Georgia and South Carolina)	28,000,000	79,695,000	185
Bull Shoals (Arkansas)	40,000,000	88,824,000	122

In its pursuit of a solution to the urban crisis, the Rivers and Harbors Congress meets every year in Washington, at the Mayflower Hotel. Its members discuss their mutual interests and then fan out about town to talk to politicians and government officials. There is a projects committee which chooses priorities among the various proposed projects. "It asks the federal agencies about the projects," explains Gettinger. "Until the Rivers and Harbors Congress there was no kind of national clearance. Their endorse-

ment has meant so much because it comes from a group that serves without pay." The project committee holds hearings at each convention, and then it adjourns to Dale Miller's suite to decide the public works priorities. As it turns out, the projects that are mainly for navigation receive the most support. "We have no axes to grind," says Miller. "We're just in favor of development of water resources."

The nationwide coalition of interested groups keeps the momentum behind the public works program, and gives the barge industry, probably the program's largest single beneficiary, and an important national industry some seventy-five years ago, the strength to continue to win its federal largesse. Besides working with the Rivers and Harbors Congress, the barge companies have their own trade associations, which have warded off tolls for the use of the federally constructed waterways.

The only major group that opposes most Corps projects is the railroad industry, which inevitably resists federally subsidized competition. On occasion, it succeeds. It is generally believed, for example, that the railroads, working through the Pennsylvania state government, blocked "Kirwan's ditch," a controversial project named after Mike Kirwan of Ohio, the chairman of the House Public Works Appropriations Subcommittee. At a cost of almost $1 billion, "Kirwan's ditch" was to link Lake Erie and the Ohio River.

The railroads also opposed the Trinity River project, but they did not succeed. Trinity had too much going for it: Jim Wright, a congressman from Fort Worth and a friend of President Johnson's, is a senior member of the House Public Works Committee. Dale Miller, with valuable assistance from Marvin Watson when Watson was the President's appointments secretary and later when he was the Postmaster General, was able to help the representatives of the Trinity Improvement Association get a sympathetic hearing from all the important people, including the President. Balky officials were called into Postmaster General Watson's office to be persuaded of the value of the Trinity project.

Watson, as Miller put it, had "great familiarity with water projects in the Southwest." He had worked for the Red River Valley Association, and the Chamber of Commerce of Daingerfield, Texas, and then Lone Star Steel, which is located just outside Daingerfield. Watson had been a major force in securing, with the help of then Senator Johnson, a Corps water project which left Lone Star Steel with water and several of the surrounding little towns with higher taxes to pay off bonds which they had approved, in the mistaken impression that they too could draw water from the project. (It was later determined that they were too far away, and Watson became a very controversial figure in East Texas.) Watson maintained his efforts on behalf of the Red River Valley projects after he took up official positions in Washington. The Red River navigation project, to build a waterway from Daingerfield, Texas, to the Mississippi River, was authorized in 1968 to go as far as Shreveport.

After many years of success, Dale Miller's projects, like so many others, are now coming under fire because of what they will do to the environment. There is a "missing link" between the Gulf Intracoastal Canal and the Cross-Florida Barge Canal on the long way from Brownsville, Texas, to Trenton, New Jersey. The link has been authorized, but construction is being opposed. A navigation channel from Miami to Trenton already exists. "That doesn't carry a tremendous amount of tonnage," Miller says, "but it carries a tremendous amount of recreational traffic, people in their yachts and everything.

"The problem which all developers—which we are—now face is the growing awareness of environmental problems. I mean ecological change. It's a very difficult area because we don't know too much about it—what effects dredging will have on baby shrimp, or marine life. It cuts both ways. We had developed that whole Gulf part of it before anyone raised the question of the effects. Nature is much more resilient than people think it is. In dredging, you may disturb an estuary where baby shrimp and marine life were, but it didn't mean permanent destruction, just change. They were breeding somewhere else in a year. In this missing link we're going to have to satisfy the ecologists in advance, and it's going to be very difficult. I'm convinced that the developers and the preservationists are not as far apart as people think. I think the difference can be reconciled and then we can move even faster. The problem a lot of us have, paraphrasing the little-old-ladies-in-tennis-shoes approach, is that we're not dealing with the knowledgeable and experienced people in ecology, but the bird watchers and butterfly-net people who don't want anything changed anywhere, and you can't deal with them."

As the country runs out of choice land near the cities, the solution has been to fill in the adjacent waterways. Besides what such schemes do to the scenery, it is now beginning to be understood what they do to natural life. Estuaries, or those places where rivers meet the sea, provide a special balance of salt and fresh water that is essential to certain fish, such as oysters and shrimp. They also provide food and habitats for waterfowl. The damming of rivers has also damaged estuarine life. Local governments are often willing to have the estuaries dredged and filled, for this raises the real estate values, and hence the local tax base. One third of San Francisco Bay, for example, has already been filled in, most of it for airport runways, industrial parks, and areas proposed for residential subdivisions. "It is conceivable," said Congressman Paul McCloskey, who had fought for conservation as a lawyer before coming to Congress in 1967, "that by 1990 the filling of shallow waters of the Bay could reduce it to the status of a river across which our grandchildren will be skipping rocks."

In response to criticism of its easiness with granting land-fill permits, and to a recent federal requirement that the Corps consider the effects on fish and wildlife, the Corps has begun to deny some permits. One such denial, however, was challenged in court, and a district judge in Florida ruled that the Corps did not have discretion to deny a permit on any grounds other than that it would impede navigation. The case is still in the courts. The Corps argues, with some validity, that it should not be making zoning decisions for local governments. This points up the fact," said McCloskey, that some new national land-use authority must be created which will have the power to put federal zoning on waterways, historic sites, and land areas of particular national significance." Such a policy would protect such areas as the Everglades. Congressman Richard Ottinger of New York, also a man interested in conservation before it became fashionable, has been pushing legislation to require that the effects on the environment must be taken into account in any federal program which contributes to construction or issues licenses—the Corps, airport and highway programs, and so on.

"LUXURIOUS AREAS"

The Corps of Engineers public works program has been, among other things, an income-transfer program, and this is a good time to look more closely at who has been transferring what to whom. The federal government has been paying for the Corps program—or rather, all of the taxpayers have. And the Corps program consists in the main of subsidies for irrigation, navigation, and flood control. Some projects have been for the benefit of only one particular industry. Former Senator Douglas has charged, for example, that a project to deepen the Detroit River was for the benefit of the Detroit Edison Company alone, and that a project to deepen the Delaware River from Philadelphia to Trenton was to serve one mill of the United States Steel Corporation, which was quite able to pay for the project itself. An industry or developer builds on a flood plain and then asks the federal government to save it from floods. A wild river is converted for use by an industry; subsequently a federal subsidy is given to clean up the industry's pollution of the river. The barge industry is kept afloat because it is there.

Robert Haveman, an economist and author of *Voter Resource Investment and the Public Interest,* has shown that the preponderance of Corps projects has gone to three regions; the South and Southwest, the Far West, and North and South Dakota, but mainly to the South, in particular the lower Mississippi River area. Within an area, the rewards are not evenly spread. The major beneficiaries of the flood-control projects which also provide water for irrigation have been the large landholders—in particular, in the Mississippi Delta and San Joaquin Valley. These are the same landowners who are paid the largest federal farm subsidies for not growing the crops which the federal water projects make it possible for them to grow. The Corps is still preparing to produce more farmland, in the name of flood control in the Mississippi Delta region.

The Corps, in a publication called "The Army Engineers' Contributions to American Beauty," notes: "Dallas, the flood-control project for channeling the flood waters of the Trinity River through the center of town (once some of the least desirable real estate in the city) is being made into a long, winding stretch of parkway. In Los Angeles and other Pacific Coast cities built below mountain slopes, the development of attractive and sometimes luxurious residential areas has been made possible by Army Engineer projects which curb flash floods."

"AN IDEA"

The Corps established an environmental division a few years ago to advise on the environmental effects of its projects. This summer it is sponsoring a seminar on how it can better "communicate" with the public. Corps officials have been urging greater environmental concerns on the Corps members, and on their clientele, appealing, among other things, to their self-interest. In a recent speech, Major General F. P. Koisch, director of the Corps' Civil Works Division, told the Gulf Intercoastal Canal Association to listen to "the voice of the so-called 'New Conservation.'

"By and large," he said, "its advocates oppose the old concepts of expansion and development. Yet they are not merely negative, for they are willing to lavish huge sums on programs which embody their own conceptions of natural resource management. Their theories and concepts are not always consistent nor fully worked out. They are less concerned with means than with ends and goals—their vision of a better America. But they do seem to represent an idea whose time has come. So it grows clearer every day that it is up to us, who like to think of ourselves as scientific, practical men who know how to get things done, to make this new idea our own and make it work. . . . This can open a whole new career for the Gulf Intercoastal Canal Association. . . . This business of ecology," says General Koisch, "we're concerned, but people don't know enough about it to give good advice. You have to stand still and study life cycles, and we don't have time. We have to develop before 1980 as much water

resource development as has taken place in the whole history of the nation."

"It is a fact," said General Richard H. Groves, his deputy, in a speech, "that our nation is engaged in a struggle to survive its technology and its habits. It is a fact, too, that we are defiling our waters, polluting our air, littering our land, and infecting our soil and ourselves with the wastes which our civilization produces. These are serious problems, but we cannot permit ourselves to yield to an emotional impulse that would make their cure the central purpose of our society. Nor is there any reason why we should feel guilty about the alterations which we have to make in the natural environment as we meet our water-related needs."

In an interview, General Groves said he did not believe that the basic role of the Corps would change. "Certainly, parts of it will. One part that is obvious is control of pollution, control of the ecology, which is more or less the same. There are very heavy pressures that have developed, and nobody in this business can ignore them. We would hope that in responding to these pressures we don't lose sight of the need to keep everything in perspective. The program keeps growing. The program as you know is tied to people, and the people double every forty years. . . . We build the program," he said—and here is the heart of it all—"on the notion that people want an ever-increasing standard of living, and the standard of living is tied to water programs. If you conserve undeveloped areas, you're not going to be able to do it. If you double the population and they double their standard of living you have to keep going. It's not as simple as the people who take an extreme view say."

Clearly, no rational settlement of the conflict between "progress" and the environment is going to come from dam-by-dam fights between the Corps and the conservationists. The conservationists have been out there all alone all these years, and they have worked hard, but they have lacked a national strategy. In some instances, they have tried to have it all ways: opposing not only hydroelectric projects but also alternatives such as generating power through burning fuels (air pollution) or building a nuclear plant (thermal pollution and radiation hazards). Some conservationists have been interested in "preserving" the wildlife so that they could shoot it. Where engineers have been pitted against engineers, as in the case of the Oakley and Potomac dams, the opponents have been more successful. "The only way to resist," says Representative John Saylor of Pennsylvania, a critic of the Corps for years, "is to know a little more about the Corps than the Chambers of Commerce do." The new approach of trying to build a body of law on the basis of the "rights of the people" against a public works project could be of profound importance.

Some water economists have suggested quite seriously a ten-year moratorium on water projects. There is an ample supply of water, they say. Problems arise where industries use it inefficiently because it is provided so cheaply, and pollute much of it. The answer for the pollution, the experts say, is sewage treatment at the point where the pollution originates.

So one solution to the problems the Corps program creates would be simply to stop it. The Corps and the Public Works Committees and the river associations could give themselves a grand testimonial dinner, congratulate themselves on their good works, and go out of business. There are more effective ways of transferring money—for instance, directly—if that is what we want to do; there are others who need the money more. But such suggestions are not, of course, "practical."

For as long as anyone can remember, there have been proposals for removing the public works program from the military, and transferring the Corps' civil functions, or at least the planning functions, to the Interior Department or a new department dealing with natural resources. President Nixon considered similar ideas, but rejected them in preparing his message on the environment. The Corps likes being where it is, and the powerful Forest Service and Soil Conservation Service, which are secure in the Agriculture Department, and the congressional committees whose power derives from the present arrangements, have habitually and successfully resisted up to now. "The two most powerful intragovernmental lobbies in Washington are the Forest Service and the Army Engineers," wrote FDR's Interior Secretary Harold Ickes in his diary in 1937, in the midst of a vain effort to reorganize them and Interior into a new Department of Conservation. Whatever the chances for reform, it has never been clear who would be swallowing whom as a result of such a change. The closed-circuit system by which public works decisions are made should be opened to other interested parties. Certainly a federal program that is more than a century old should be overhauled. The Corps is now at work on some internal improvements, but bureaucracies are not notably rigorous about self change, and the water interests do not want change.

If there are to be a Corps and a Corps public works program, then proposals to expand the Corps' functions make sense. Making the Corps responsible for sewage treatment, for example, would give it a task that needs to be done, local governments a benefit which they really need and which would be widely shared, and politicians a new form of largesse to hand around. Antipollution could be spared the pork barrel through a combination of requirements for local action and federal incentives, and through adequate financing. Yet making antipollution part of the pork barrel may be just what it needs. Programs which appeal to greed are notably more politically successful than those that do not. The Corps' engineering expertise, in any event, could be put to use for something other than building dams and straightening rivers. It is the judgment of just about every economist who has studied the public works program that there should be cost-sharing and user charges. There have been proposals for making the beneficiaries of flood-control and navigation projects and harbors pay for them, or at least part of them.

In a period of great needs and limited resources, a high proportion of the public works program amounts to inefficient expenditures and long-range commitments of money on behalf of those who make the most noise and pull the most strings. Despite all the talk about "reordering priorities," the Nixon Administration's budget for the next year increases the money for the Corps. Even if the nation should want to double its standard of living (leaving aside for the moment the question of whose standard of living) and even if the public works programs really could help bring that about, it would be good to know more about the nature and price of such a commitment. At a time when a number of our domestic arrangements are coming under re-examination, this one is a prime candidate for reform. Meanwhile, the changes it is making in the nation are irreversible.

Controversial Corps of Engineers Projects

Cross-Florida Barge Canal

The Oklawaha River in northern Florida is—or was—one of the few remaining wild rivers in the nation. A fast-moving clear river, the Oklawaha runs through cypress swamps and wilderness. The river itself holds bass, sunfish, and other fish, and the woods contain deer, bear, and wild turkey; this was the country of *The Yearling*. But it was also in the path of the Cross-Florida Barge Canal, whose dams will turn some 45 miles of the Oklawaha into shallow lakes, and flood 27,000 acres of the surrounding forests.

The Cross-Florida Barge Canal was talked about as a possibility as far back as the early 1800s, at that point as a way of protecting shipping from pirates. The idea was revived in the 1930s as a job-producing program, and then again in the 1940s as a way of defending shipping from enemy submarines. It is now under way. Work on it finally began in 1964 as a navigation and recreation project. A Florida legislator who is taking the unusual posture of opposition to the project says, "The villain in the case of the barge canal is like an octopus. One of the tentacles is the Corps of Engineers and its blundering construction. Another consists of self-serving politicians, and still another is made up of the special interests, such as the phosphate, transportation, and paper industries. And finally, there are the state agencies, which from the start ignored the conservationists' warnings."

The benefit-cost ratio of the project has been a thing of change. From time to time new "benefits" have been added—flood control, "land-enhancement benefits" from the improved real estate around the reservoirs, and recreation. The interest rate charged against benefits is unusually low. Still, the benefits are to be only $1.50 for every $1.00 "invested."

At one time the U.S. Fish and Wildlife Service wrote a report on the project predicting that the dredging and damming and flooding of the area would destroy the game, the fishing, and the land; that the habitats supporting waterfowl, deer, and squirrel would be ruined. The Florida Board of Conservation, however, said that "it is inaccurate to think of the river as being destroyed or despoiled. Instead, a different set of wildlife and esthetic values will emerge. . . . The river in its original form is admittedly a stream of great beauty, but its retention in its original state would become a preservationist ideal involving enjoyment by a comparatively small group of elite purists rather than fuller use and greater enjoyment by a broad segment of the people. The economic benefits that would be foregone by a failure to complete the canal would place an extraordinarily high premium and economic burden on a less elite but overwhelming majority." The Florida Board of Conservation (now with a new title) contains the Division of Waterways Development. The head of the division was the Corps' district engineer for the project at the time it was revived in 1962.

One dam on the Oklawaha has already been completed. Behind it was created a giant, shallow, still pool filled with debris, logs, and weeds. The Corps has been trying to clear the pool; it sprayed the weeds with chemicals, which led to rotting weeds. This is expected to lead to algae and dead fish. The pool caused a new outcry over the project, and conservationists and ecologists from around the country have joined to try to stop it or move it. In a new approach a suit has been filed against the Corps to stop the canal. The grounds are that the Corps committed the people of the United States to expenditures "far in excess of the amounts contemplated" and that it denies "the rights of the people . . . to the full benefit, use and enjoyment of the economic, recreational, educational, social, cultural and historic values of the *Oklawaha Regional Ecosystem*."

The project's defenders suggest that the railroads are behind the uproar. The canal's supporters have been holding meetings and ceremonies and fish fries to drum up enthusiasm for the project. They stress that the canal will provide business growth and add to the national defense.

EVERGLADES NATIONAL PARK

To the south of the canal, the Everglades National Park has been endangered by Corps projects. The park's plant life, fish, alligators, and birds are linked in a complicated state of mutual dependence, all dependent in turn on a steady flow of fresh water from the North. A good part of that water has been diverted by the Corps for the benefit of farmers and developers in South Florida, and during a drought a few years ago, the park did not receive the necessary water from the flood-control project. This led to the death of thousands of birds and fish, and turned grassy areas into cracked, lifeless flatlands. The park has not yet recovered.

Now the Corps proposes to expand the South Florida water project. Yet it refuses to guarantee that in times of water shortages the park would receive the necessary water. It says that it cannot impose such a requirement on the state of Florida. Senator Nelson, who had been leading the fight in Washington to protect the park, charges that "the Corps is playing the game with the industrial development of Florida, and not protecting the other constituency, the Everglades, a park that belongs to the country."

The controversial plan to build a jetport in the Everglades does not involve the Corps. The plan has now been scaled down to one for a temporary training strip, which some predict will still have serious consequences for the park. There are yet other schemes for developing South Florida that would change the flow of the water in the park. Without some national protection, the Everglades could well be doomed.

THE OAKLEY DAM

In Illinois, a dam to supply water to the city of Decatur, population 100,000, has been filling with silt, and so the city's Chamber of Commerce and the Corps dusted off a 1939 plan for a larger dam, the Oakley Dam. The new dam is to provide water, flood control, and recreation, with the water supply being the smallest component of the project. When the benefit-cost ratio came out negative, the Corps added "low-flow augmentation" as a purpose. Decatur real estate developers have formed the Oakley Land Owners Association in anticipation of the real estate profits—they expect the price to go from $300 to $3000 an acre—from the land near the new dam. The opposition to the dam arose when it was realized that the reservoir would flood Allerton Park, a 1500-acre nature area maintained by the University of Illinois.

The Allerton Park opposition was better equipped than opponents in the usual Corps controversy because the university hired an engineering consultant. The engineering report showed that there was an underground supply of water for Decatur, and that advanced waste treatment was more efficient than "low-flow augmentation." But both are alternatives which the Corps, by the definition of its job, does not consider. And both would cost Decatur, as opposed to the federal government, more money.

OTHER DAMS

In Indiana, conservationists are fighting a dam on a Wabash River tributary, Big Walnut Creek, which would flood one of the few virgin forests remaining in the Midwest.

In Arkansas, Corps plans to dam the free-flowing Buffalo River raised so much controversy that even the state's senators are proposing that it be preserved as a wild river.

There are disputes over proposals by the Corps to place some dams along the Potomac River, at one time justified on the basis of hydroelectric power, then on pollution treatment, and then on water supply and recreation. The basis of the opposition is that it would destroy a beautiful valley and the natural life that lies within it.

Opponents of the project retained a consulting engineer, who reported that there were more feasible methods of obtaining both a water supply and pollution abatement.

The Corps has plans to place a dam on the last natural stretch of the Columbia River in the Northwest, a breeding ground for salmon, bass, and other fish as well as birds; the main purpose is water navigation.

TREND IN MANY NATIONS IS TOWARD VOTE FOR YOUTHS

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS. Mr. Speaker, I include the following:

[From the New York Times, Mar. 8, 1970]

TREND IN MANY NATIONS IS TOWARD VOTE FOR YOUTHS

LONDON, March 7.—Increasing numbers of young people around the world will soon be voting in national elections as a movement toward lowering the legal voting age steadily gathers momentum.

Britain, under the 1969 Family Reform Act, lowered the voting age from 21 to 18 on Jan. 1, and teen-agers will vote for the first time in a parliamentary special election next Thursday at Bridgewater in Somerset.

Several Commonwealth countries, including Canada, are debating whether to allow the British initiative. The United States also is considering a proposed constitutional amendment to lower the voting age from 21 to 18.

In many parts of the world, the movement toward younger voters is not new. Most Communist and Latin-American nations granted 18-year-olds the franchise many years ago.

The Soviet Union lowered the voting age to 18 in its 1936 Constitution. The same rules apply in Bulgaria, Rumania and Hungary.

SOCIALISTS APPARENTLY GAINED

Austria, adjoining the Communist nations of eastern Europe, lowered the voting age from 20 to 19 in 1968. Judging by returns in a general election March 1, the youth ballot helped increase the Socialist vote.

In Britain, Prime Minister Wilson hopes that the three million additional votes of people in the 18-to-21 age bracket will help get his Labor Government elected for another five years. But public opinion polls indicate that the new voters are as divided as their parents.

The election at Bridgewater, to fill a parliamentary vacancy, should provide an indication of how the teen-agers will vote in the next British general election, expected anytime between this spring and the end of Mr. Wilson's five-year term in May 1971.

It is estimated that 4,000 youngsters will be able to vote in the three-cornered contest at Bridgewater, where the Conservatives had a majority of 3,000 votes against Labor and Liberal candidates four years ago.

Britain's last major change in the franchise came in 1928 when the vote was given to women over the age of 21. At the time women won the vote in 1918, the minimum age was 30.

CAUTION BY ELDER VOTERS

A principal argument for suffrage for teen-agers is that television, radio and other modern means of communication enable youth to comprehend the major issues of the day far better than their parents did at the same age.

Their vote and interest in politics would channel youthful energies in the ballot box instead of into street demonstrations, according to the politicians.

But the older generation fears that the teen-agers are too impetuous, that they might vote to overthrow the established order or elect a dangerous demagogue.

Many Latin-American nations now allow 18-year-old youths to vote as a result of recent changes in their constitutions.

Chileans over 18 will get the vote Nov. 4—after a general election in September. Colombia promises a change in April—after presidential elections.

In Mexico, the voting age is 18 for men and women, as it is in Ecuador, Uruguay, Venezuela, El Salvador, Guatemala and the Dominican Republic. Brazil permits 18-year-olds to vote if they are literate and can speak Portuguese, the national language.

The trend toward the younger voter transcends geographical and even ideological boundaries. Some Latin-American nations still cling to the 21-year-old principle while countries in other parts of the world strike a compromise at 20.

Sweden lowered the voting age last year to 20—the same age accepted by Japan and the Swiss national Government. But several cantons in Switzerland are seeking to lower the voting age in local elections to 19 or 18.

In Ceylon, the voting age was lowered from 21 to 18 a decade ago, New Zealand reduced the age to 20 last year.

South Africa has allowed 18-year-olds to vote since 1958; but in Black Africa, the general level so far has been 21.

EMERGENCY OPERATIONS CENTER

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. HOGAN. Mr. Speaker, I am pleased to call the attention of my colleagues to an article in the April 1970 issue of the FBI Law Enforcement Bulletin, entitled "Emergency Operations Center." This article describes the efficient emergency communications operation of the Prince Georges County Police Department in my congressional district and is written by an outstanding police officer and one of my good friends, Capt. John J. Magruder, Sr., special operations commander of the Prince Georges County Police Department.

Organization and efficiency are the hallmark of excellence in any emergency situation. There are no groups which encounter such situations more frequently and deserve assistance and support for their efforts than our policemen and fire fighters.

The communications operation which Captain Magruder describes in this article will be of interest to police departments throughout the country. It will be of particular usefulness, however, to the adjoining police departments in the Washington Metropolitan area who are especially aware of the problems incidental to emergency situations in the wake of riots, marches, and demonstrations.

The article follows:

EMERGENCY OPERATIONS CENTER

(By Capt. John J. Magruder, Sr.)

In our modern society, communities are so structured that near total dependence is placed on government and community resources when an event takes place which causes apprehension or emotional tension among the citizenry. While procedures and techniques for the proper solutions may differ with each type of incident, the basic responsibility for effective performance by all concerned lies with the elected head of local government. Coordination and cooperation must be effected with all participating units by and through him.

If a program is being considered that will affect each and every person within a given locale, citizen involvement is a necessity. To be successful, government programs must have the support and cooperation of a majority of the people. In some instances, total community effort and involvement could be as important as the project or program being considered.

If the goal of total effort and cooperation is to be accomplished, we must first organize the entire government structure to facilitate continuity of thought and action within our organizations.

In Prince Georges County, we are represented by five elected commissioners who have total responsibility and accountability for all government activity. The county itself is purported to be one of the fastest growing communities in the Nation. Over 600 people move into the county each week. Prince Georges County has an area of 494 square miles and over 650,000 population. Geographically, it is located east of Washington, D.C., and north of Virginia. There is dense urbanization for at least 10 miles from the Nation's Capital; then the area begins to include larger estate-type homes, while the southern portion is still mostly rural tobacco growing farmlands. The inhabitants are extremely mobile. Many are employed in the District of Columbia, Virginia, or other sections of Maryland.

EMERGENCY "CALL-OUT"

During the past several years, we have experienced times when consolidation of effort was required to accomplish specific purposes. On these occasions, conventional methods of communications have been overloaded and at times inadequate.

Recognizing the communications problem, our county commissioners arranged a meeting of all department heads and their assistants. The purpose of the meeting was to establish plans to streamline methods, procedures, and facilities of all departments so that the entire county operational resources could be quickly mobilized in the event of a natural disaster—fire, flood, epidemic—internal disorder or any other type of local or national emergency. The chief of police, who is more involved in daily contacts of the citizen than most county officials, was designated to develop an operational plan to achieve the desired results. Each executive was aware that cooperation was essential to the success of any plan developed and that his department's support was needed.

Capt. John Rhoads, Commanding Officer of the Planning and Research Unit, and I, at the time head of the Training Unit, and our staffs, were given the assignment to coordinate the logistical problems. As always, the first problem was "money." However, Chief of Police Vincent S. Free was given assurance of adequate financing by the commissioners.

Each executive was required to provide complete lists of all manpower, vehicles, and other equipment and supplies available through his particular organization.

Each department was asked to develop an emergency "call-out" procedure and furnish plans for the procedure, as well as the names of four other officials in the agency who would be authorized to act with complete authority for the department under emergency conditions. Response and cooperation from all departments were beyond all expectations. The excellent cooperation demonstrated that each official visualized the potential of this effort. No doubt, each departmental head could recall occasions in the past when such procedures would have been of immense help.

The concept of this operation revolves around the principal of having the agencies involved in an operational problem in one area assist each other by consolidating management, communications, and equipment.

BASE OF OPERATIONS

In order to consolidate management and communications, we decided to set up an Emergency Operations Center (EOC) similar to a military "situation room" with modifications which would make the basic idea workable for civilian operation. Because of its location, the auditorium of the Police Academy was selected to be the base of operations. It is located near the Capital Beltway (Rt. 495) which encircles Washington, D.C., and, therefore, is easily accessible to all participants. Response time to and from this location is minimal to all parts of the county. The academy has no security problem to speak of and does not affect the needs of the general public when operating as an emergency center as there is little civilian activity within the building. The auditorium affords the necessary space for the command center and other offices and classrooms can be used without disrupting any vital installation or normal operation of the police department.

Within the county, many radio frequencies are allotted to various public service agencies, such as, building inspections, electrical inspections, plumbing inspections, board of education, park and planning commission, suburban sanitary commission (water department), fire department, civil defense, sheriff's department, four State police frequencies, as well as our four police operational frequencies. Transmitter-receivers on all these frequencies were installed in a small room adjacent to the auditorium to provide complete control of equipment from agencies involved in emergency operations. Remote desk sets were placed on desks normally assigned to officers of the Planning and Research Unit.

The Maryland State Police furnished a base station on the frequency allotted to our patrol area. Also, a classroom was reserved for their use as a staff command post where the barrack commander would establish a headquarters command for any emergency operation in the county. A radio on the headquarters frequency was installed in this room, permitting radio communication between the barrack commander and his headquarters in Pikesville, Md.

COMMUNICATIONS

We bought monitors for the radio frequencies used in the adjoining precincts of our neighboring police jurisdiction, the Metropolitan Police of Washington, D.C. (All of this is in addition to the normal intercommunications within the Washington suburban area. There has been a metroradio facility among nine police agencies of the area for a number of years; but, the capability exists within the central communications complex at our headquarters in Seat Pleasant, about 7 miles away. Tie-in is available, however, by using a direct telephone line from the Academy to headquarters.)

The telephone company installed a bank of call directors capable of using all of the 25 existing telephone lines within the Academy. Switches were placed in the lines so that the normal telephone operation can be cut off and diverted to the EOC.

Our County Public Works Department built map cases on two walls of the auditorium for 10 4' x 9' county maps. Telephone communication is available from the map areas to the communication hub, but at police and fire maps, two-way radios are installed. This enables personnel assigned to the maps to communicate with the communications area, headquarters, or field personnel by telephone or radio. All telephones from the map and the communication areas of the Academy to the central communications complex at headquarters are on a direct "hot line" status.

The facility for the fire department is similar, except its connection is with the Fire Control Center in Hyattsville, Md.

The police and fire departments are assigned two maps each, one for status guide and the other for existing problem operation. The remaining maps are allocated to other agencies on a need and priority basis. During normal auditorium use the map areas are encased with painted plywood enclosures.

All emergency telephones are stored in locked cabinets, and installation is accomplished by a normal "telephone jack" on each phone which has previously been numbered for a particular location.

An extra telephone (red) is located on the stage with the number known only to the Governor's office and the superintendent of the Maryland State Police. By law, should our commissioners need assistance from the National Guard, it is necessary to request this aid either through the superintendent of the State Police or directly from the Governor.

"PROBLEM TABLE"

A large conference table is on the stage for the five commissioners and their administrative assistants enabling them to set up operation at the EOC and to conduct any business necessary.

Other large conference tables are placed in a line down the center of the auditorium with space provided for representatives of the FBI, the Maryland State Police, the Prince Georges County Police, the Board of Education, Washington Suburban Sanitary Commission, the Public Works Department, the Sheriff's Department, the Maryland National Capital Park and Planning Commission, and the National Guard. These agencies and units can provide information, personnel, equipment, supplies, and/or facilities needed in an emergency. Together, they make up what is known as the "Problem Table" representatives. The chief of police has been designated as chairman of the Problem Table. Under existing instructions, the chief of police takes command of any emergency arising within the county.

Other smaller tables are located around the room for organizations which are considered to be important supporting elements. These include civil defense, disaster analysis (composed of the offices of the building inspector and the fire marshal) press relations, purchasing department, State attorney's office, county attorney, welfare department, health department, and community relations groups.

EOC IN EFFECT

The physical facility was completed, with radios installed and telephone service, 5 days after the project commenced. The telephone company worked two shifts on a 24-hour basis for 4 days to complete their portion. The radio supplier excelled in speedy delivery and installation of the radio units. Public Works completed and painted the map cases, and the Park and Planning Commission provided the special-sized maps necessary. To those of us involved in the planning, it was like a dream unfolding—everyone putting forth maximum effort, harmoniously and cheerfully cooperating to complete his portion of the plan ahead of schedule. In less that a week after the project started, our EOC was operational.

The entire program is designed to assist

the man doing the job on the street. I am sure many officers have had the experience of trying to call the power company during a storm to report hot wires down, or the highway department to request sand on icy roadways, and found it virtually impossible to make contact through the usual means.

What we have done is to bring, during emergencies, representatives of vital county units together in one room. Thus, emergency calls from workers and officers on the streets are received at a central headquarters. Response and supervision are immediately available through restricted telephone numbers and two-way radios.

When operating, the EOC is staffed by dividing each department into two shifts to provide 24-hour coverage. Each department is responsible for its own manpower. All police cadets are assigned to EOC as runners or telephone operators. Central communications personnel serve as radio operators. Female clerks and secretaries, normally assigned to units within the Academy, work as EOC telephone operators.

A complete list of information data, and services available from each participating organization, filed earlier with EOC, is ready for the use of each group's representative when he reports for duty during an emergency. Each organization has one head representative who may have a staff of not more than two assistants. Accurate records must be maintained during an emergency to show exactly what has been allocated for use, to give current availability of manpower and equipment, and to reflect the number of personnel and equipment ready for reassignment after completing their projects.

The representatives at the Problem Table play a most important role. When a problem is presented, they must know if the requested resource is available or obtainable, and, if so, its present location and time of availability.

With the cooperation of all concerned, EOC was ready for a "shakedown run" at the end of one week. One of our first problems encountered was the need for distinguishable, visible identification for those persons authorized to enter the EOC room. Blue identification cards were issued to all persons permitted to enter the building and the EOC room without challenge by the security guard. Red identification cards were issued to persons who had free access to all areas, including the communications section where access was very limited. All participants were required to use the front entrance, and all other entrances were secured. An intercom was installed for the security guard between the front entrance and the communications section so that names of people requesting entry could be checked.

NEWS MEDIA

Accommodations were also made for newsmen. Since they were not permitted in the EOC, a classroom was set aside as a pressroom and telephones installed for their use. Under actual emergency conditions, the community-press relations officer will prepare press releases, have them approved by the chief of police or the county commissioners, and then make the release in the pressroom. He will have a schedule for appearances at the pressroom, and will try to keep reporters informed of all activities.

Theoretical problems were forwarded to the EOC during the shakedown experiment, and all were resolved promptly and efficiently. A problem relayed from a field commander is taken from the radio section to the Problem Table by a cadet runner. The chairman evaluates the problem and gives it to the proper person or group for solution.

For example: The field commander needs two bulldozers, plywood, a streetsweeper, 100 policemen, and men to board up three business establishments. Public Works, the Park and Planning Commission, and the Washington Suburban Sanitary Commission could provide the bulldozers. Public Works has the streetsweeper and carpenters to board up the stores. The County Purchasing Department has, by prior planning, listed certain lumber companies which have agreed to maintain an inventory of specific lumber and material; they would tell Public Works where the plywood could be obtained, and give them the purchase order number at the same time. The police agencies would determine where the police manpower could be obtained. Each representative would prepare a written communication order for his portion of the problem and the cadet would relay all orders to the communications section for transmission and further action.

The problem is plotted by each group on its assigned map with the personnel and equipment allocated. Upon completion of the problem, the map is cleared, and the representative at the table notified that his group is ready for another assignment.

During these trial runs, we found many agencies had facilities and equipment that would be available or could be adapted for use in ways we had never considered. Also, we try to plan for any situation, and the problems presented were considered to be within the scope of reality.

As to emergency supplies, our fiscal officer and the Purchasing Department have arranged with various private sources to keep inventories of certain items such as plywood, food, ammunition, tear gas, and other essentials on hand at all times. We can send trucks to these business establishments to pick up the required material. Open purchase numbers have already been established and placed in the emergency category.

During the disorders of April 1968, there came a time when police agencies needed food, rest areas, and shower facilities. The representative from the Board of Education was queried, and a junior high school 1 mile from the EOC was set aside for our use. Cafeteria facilities were staffed by cafeteria personnel from four high schools that were closed because of the disorders. Food in large quantities was supplied by three large warehouse distributors, by prior commitment of the Purchasing Department, and transported in Public Works trucks. The junior high school housed 275 riot-trained police officers and staff, and hot food was prepared for distribution to the patrol force. The entire EOC had hot meals on a 24-hour basis for 6 days. Over 900 people were fed daily.

Some changes have been found necessary as a result of our experiences. Our radio communications unit has been tied in with the existing public address system so that conversations with the patrol can be broadcast throughout the Center. During the past year, the police department has enlarged its units in the building, and a switchboard is being installed which will improve operations.

An area has been set aside for intelligence evaluation where information is gathered from all available sources and forwarded to the chief for consideration and possible preventive action.

The Sheriff's Department has been designated to transport and incarcerate all prisoners. In addition to the county jail at Upper Marlboro and a lockup facility at Hyattsville, arrangements have been made to use other compounds at strategic locations throughout the jurisdiction. Also, court hearings at the place of confinement have been approved by the Chief Judge of the Peoples Court. For the most part, school buildings will be used with the gymnasiums serving as the compound. These were selected because almost all of the equipment was removable, there were no low windows, and a minimum number of deputies could provide security.

BETTER UNDERSTANDING

Originally, many people were of the opinion that this facility was solely for civil disturbance operations, but it has proved invaluable to our governmental structure on many instances. Snowstorms in the Washington area are notorious for the traffic problems they create. The EOC has helped involved agencies to alleviate some of the congestion resulting from these storms. Much duplication of effort has been eliminated. Better decisions are being made due to more accurate information and a deeper appreciation of the problem by all involved.

As a result of the interaction between the administrators of the various departments, they are now on a first-name basis and have a better understanding of each other's problems.

In order to gain greater public support, most of the civic clubs and organizations in the county were invited to attend demonstrations of the EOC. For the most part, citizens throughout the country have given full support to the project.

The understanding of the total problem and the need for cooperation have not only made this endeavor successful, but have also improved relations between the agencies on a day-to-day basis. We hope, of course, that the Center will never have to be used in a man-made problem again.

RHODESIA

HON. H. R. GROSS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. GROSS. Mr. Speaker, Mr. Anthony Lejeune is a British journalist whose articles appear in American newspapers, including the Indianapolis Star, from which this is reprinted.

The efforts of Great Britain, joined in by misguided officials of the United States, to destroy the Government of Rhodesia are disgraceful and if persisted in may result in engulfing a substantial area of Africa in a bloody war.

The well-reasoned article follows:

BRITAIN, UNITED STATES UNREALISTIC ON RHODESIA

(By Anthony Lejeune)

LONDON.—The first rule in international affairs is "Be realistic." To deceive oneself is, at best, folly; at worst, an invitation to catastrophe. As an example of obstinate unrealizing it would be hard to beat the policies adopted by the Western powers, particularly Britain and America, toward Rhodesia.

So let's state a few plain truths.

1. Everything which has happened in Rhodesia has been inevitable and predictable for at least 10 years—since Britain first tried to push the white Rhodesians into accepting constitutional changes which would have meant the loss, in a very short while, of their country as they had built it and known it.

2. It was equally inevitable and predictable that sanctions would fail. When Harold Wilson said, four years ago, that the Rhodesian rebellion would be over "within weeks, not months" he was either being flagrantly and short-sightedly dishonest, in the hope of warding off pressure from the Afro-Asian members of the Commonwealth, or else he was crassly refusing to believe what everybody who knew anything about Africa must have told him.

3. International disapproval matters very little to Rhodesia, so long as the back door to South Africa remains open. And South Africa must, in practice, support Rhodesia, because if Rhodesia could be brought down, the same

weapons would certainly be turned against South Africa.

4. Rhodesia, South Africa and the Portuguese provinces are perfectly capable of dealing with any foreseeable threat, whether from internal subversion or from Communist-equipped infiltrators.

5. Short of some lunatic and (one hopes) inconceivable military adventure, there is nothing the outside world, however disapproving, can do about the Republic of South Africa or the Republic of Rhodesia.

Ian Smith's declaration of a republic is, we are told, "illegal." But very few republics were born legally—certainly neither the United States nor the Soviet Union was. Sooner or later, and generally sooner, the world had to accept them. There is nothing uniquely wicked about Rhodesia; on the contrary, there is far less cruelty and injustice there than in many states which occupy honored places at the United Nations.

The only difference lies in the sanctions which Wilson was foolish enough to invoke, and the United Nations to impose, on the ludicrously false grounds that it was Rhodesia, not the African nationalists menacing her from neighboring territories, which constituted "a threat to world peace."

It is a great pity that America connived at this hypocrisy, this foolishness, this unrealism. And it is a pity that the secretary of state, Rogers, should still be identfying America with the "unfinished business" of trying to overthrow the government of Rhodesia, South Africa and Portuguese Africa.

Let's be realistic again. What are, or should be, the objects of British and American policy in southern Africa?

First, surely, the protection of our own interests, the West's interests, in this strategically and commercially very important part of the world. We need the sea routes around the Cape. We need Rhodesian chrome. We need friendly governments there.

Secondly, we desire the happiness, freedom and well-being of the people, both white and black, who live there. Can we really believe that they would be better off under the sorts of regime which now prevail north of the Zambezi?

All we have succeeded in doing so far is to drive Rhodesia into South Africa's arms, and to make South Africa a more united country than she has ever been before. Sanctions have strengthened Rhodesia: It is Britain and the West they hurt.

The wisest and kindest course for America would be to help Britain off the hook on which a decade of unrealism has impaled her.

RHODESIAN SANCTIONS MEANT TO CONCEAL TRUTH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, it is more than likely that the silly sanctions imposed by the UNO Security Council on the Republic of Rhodesia are intended to conceal from the world the truth rather than have any significant effect on the growth and development of the Rhodesian people.

In any event, they have been a blessing to Rhodesian industry—and to the making of a nation. Hardships conquered have a way of building morale among free men, and it is more than likely that the Rhodesians of the future will remember this time somewhat as we remember our Valley Forge.

The self-development hastened by the sanctions also add another similarity between the Rhodesian and the American people—our status as a viable nation in the 18th century and a world power in the 20th century is due in large part to the development of our own manufacturing industry—against the will of the London government. The error of the present government in London has forced the Rhodesians to develop their own basic industries, as did a similar error and attempted isolation lead to a similar development of self-sufficiency in South Africa.

I include in my remarks pertinent extracts from the Rhodesian Commentary.

MR. SMITH LUNCHES WITH ACE FIGHTER PILOT

Air Vice-Marshal Johnny Johnson, one of Britain's greatest flying aces in World War Two, lunched in Salisbury with Prime Minister Ian Smith who flew in Spitfires in the wing commanded by the Vice-Marshal. The picture shows them in the garden of the Prime Minister's residence.

Describing himself in an interview as a friend of Rhodesia, he said he was very interested still in the defense of the English-speaking nations, and in particular the countries around the Indian Ocean.

"It baffles some of us in Britain to see the stupidity of our own Government.

"We must be losing hundreds of millions of pounds in trade.

"We hope that when we get a sensible Government, we can once again take an interest in this tremendous area of strategic importance."

He warned that Communism was becoming more aggressive in the struggle between the two super powers.

The Russians had now achieved parity in military strength and were poised to begin their struggle for world domination.

BRIGHT FUTURE PREDICTED FOR RHODESIA BY MINISTER OF FINANCE

The outlook for Rhodesia in the 1970s is one of sustained growth and unbounded opportunities, according to the Rhodesian Minister of Finance, Mr. John Wrathall.

He said recently that the extent to which the national economy has recovered in recent years to reach the buoyant conditions that now exist, even in the face of international restraints, clearly demonstrates Rhodesia's inherent strength and the determination and drive of the Rhodesian people.

One of the most significant features, he said, has been the high level of investment in the economy in recent years. There was every indication that capital formation in 1969 will be even greater than the impressive level of R.$138m. achieved in 1968.

This level will be entirely matched by domestic savings.

Fixed investment in 1968 at constant prices was more than 34 per cent higher than the previous year and about one-third above its 1965 pre-sanctions level.

Fixed investment in mining increased by 80 per cent, compared with 1965 and investment in building and works in the private sector increased two and a half times over that period.

The 1968 total of almost R.$38 was the highest since 1960 and there is every likelihood that building activity in 1969 will have surpassed the 1960 total of R.$46m.

Industrial production has shown a steady increase and the 1969 output from mining can be expected to exceed the 1968 record of R.$68m. substantially.

Other indicators showing buoyancy include a marked increase in retail trade; the remarkable improvement in the operations of the Rhodesia Railways and the appreciable rise in electrical energy consumed.

There are no signs, said the Minister, of any slackening in building or manufacturing activity nor in investment in plant and machinery; and prospecting is continuing on an unprecedented scale.

Mandatory sanctions have been an inhibiting factor since 1965 but they are already eroding and can be expected to erode at a faster rate as time goes on.

The balance of payments position is sound and will enable Rhodesia to generate the major part of its foreign currency requirements of capital goods.

There are tremendous prospects for the mining industry, the Minister said. In the next few years the value of mineral production already topping previous record levels, can be expected to show an upsurge.

In agriculture great strides had been made in diversifying crop production.

Government policy in the past few years of introducing and supporting Local Government enable one to look forward to the Tribal Trust Lands making a major contribution to the country's export effort as well as providing for its own needs.

MOVE TOWARD A GREATER FREEDOM IN THE ECONOMY

Reviews of policy affecting both commercial and industrial sectors and representing the first step towards a return to conditions of greater freedom in the economy, were announced by the Minister of Commerce and Industry, Mr. Jack Mussett, in a statement presented to the Midlands Chamber of Industries.

"No country has achieved greatness without the development of a soundly based industry," said the Minister.

"By 'manufacturing' I refer to the increasing variety of goods that are now coming out of our factories.

"They range from shoe laces and Christmas cards at the bottom end through ploughs and plough shares, fertilizers, diamond drills and hydraulic pumps to alloys and steel at the top end—the latter being comparable with the best in the world as to quality and price.

RAW MATERIALS

"One does not require much of an imagination to appreciate the value of the contribution to the national economy of converting the raw materials of Selukwe, and Bukwa through the proper use of Kariba power and Wankie coal into the products I have mentioned.

"Greater advances are just around the corner. Without consulting the management of RISCO, I forecast that by the turn of this decade we will be fabricating our railway trucks entirely from the raw material of our own iron ore mines. This is real positive development and continued success in this direction means success over-all.

"Government has set its sights high in the knowledge that, despite certain limitations in the availability of foreign exchange, industry is in a position to expand at an even faster rate towards our ultimate objective of a balanced, broadly based economy.

"It is intended furthermore, that this development should be spread over the entire country so that the benefits that must inevitably flow will be felt by as many people as possible."

DECENTRALIZATION

He had appealed to industrialists to give serious consideration to the question of decentralization of industry. The inherent dangers and disadvantages which result from the concentration of industrial development

in a few select areas—social and health problems aside—were apparent to all.

"Government has long been conscious of the necessity for an in-depth study of the question of industrial development on a nation-wide basis, in the belief that a more dispersed distribution of development will be to the ultimate benefit of the economies of the smaller centres.

"I am pleased to be able to announce that I am shortly setting up a committee to examine and report on this subject."

Its terms of reference would embrace the examination of the possibility of providing inducements to overcome the locational attractiveness of the larger centres for industrial expansion and of controlling the urban migration of work-seekers.

The question of decentralization of industry could not, however, remain one-sided. Whilst the exercise will be aimed at encouraging the establishment of industry in the smaller centres, it remained the responsibility of the smaller centres to look after their own interest with every means at their command.

NORMAL TIMES

While on the subject of expansion, said the Minister, it had become evident that the time for holding back, to see if sanctions would be lifted, must end.

"These are normal times for Rhodesia and we know how we stand in relation to the rest of the world.

"We know who our friends are and that, in spite of all efforts to the contrary, we can still sell our products on world markets.

"We must prepare and proceed now to secure those world markets, and where possible, obtain a larger share of international trade. We cannot afford to wait because if we do others will take over what is rightfully ours."

If we could make the words "Made in Rhodesia" synonymous with value, we would find a ready export market for our products.

DIRECT PROTECTION

"If it is uncertainty over the future of the local market, when import controls are lifted, that is causing hesitation, let me assure you that in such circumstances not only will certain industries continue to be afforded direct protection if it is in the national interest to do so, but so also will those industries which are potentially viable but underdeveloped.

"Whilst, therefore, the ultimate object is to return to the use of the Customs tariff as the major means of protecting industry against outside competition, assistance will also include protection by means of import control for selected industries for specified periods of time."

IMPORT CONTROLS

Mr. Mussett said although import controls might have seemed somewhat harsh and restrictive, there was no doubt they had had the desired effect.

"Not only have we established a reputation for prompt payment in the international field, thereby engendering goodwill towards the country as a whole, but internally our financial position is such that we can look into the seventies with thoughts of greater foreign earnings, expansion, increased production and a quickening of the over-all tempo of development."

Government had been able to review policy on import allocations in respect of the industrial sector.

Policy on the distribution of local industrial products had also been reviewed.

NEW PROJECTS

The Minister finally spoke about the system of approval of new industrial projects, a system much maligned in the past, but which was vital in determining the rate and direction of expansion, and the over-all balance of the economy.

"When considering approval of industrial projects in the past we have taken into account a total of some 16 factors.

"Although in considering future applications these factors will continue to be taken into account, even greater emphasis will now be placed on four particular aspects which we consider to be of prime importance to our future rate of economic development, namely;

"(a) Where the project has substantial export potential.

"(b) Where such project utilizes local sources of raw materials.

"(c) Where it increases industrial efficiency or quality.

"(d) Where the savings in foreign exchange on imports would, in a short period, cover the outlay of currency involved in establishing the project.

"Since our assumption of independence in 1965 almost every sector of the economy has developed to a greater or lesser extent. But looking ahead it is becoming increasingly evident that we must, more and more, depend upon manufacturing industry for the future prosperity of this country.

GENERAL STABILITY

"Manufacturing has one marked advantage over the primary sectors of the economy; that of general stability.

Primary producers are, to a greater or lesser degree, susceptible to conditions over which the producer has very little control. Agriculture in particular is prone to the vagaries of the weather, and mining to the prevailing conditions of demand. Both these factors can have severe consequences on the country as a whole.

"The continued growth of manufacturing industry will help to iron out the effect of droughts, surpluses and falling world commodity prices.

"This is not to say that we must become a nation of industrialists. Our future lies in a balanced economy with the three productive sectors moving forward in unison.

RACIAL EQUALITY IN JOBS, AND UNIONS, COLLECTIVE BARGAINING, AND THE BURGER COURT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. DIGGS: Mr. Speaker, I include the following:

[From Michigan Law Review, December 1969]

RACIAL EQUALITY IN JOBS AND UNIONS, COLLECTIVE BARGAINING, AND THE BURGER COURT

(By William B. Gould*)

"Makin' a road
For the rich old white men
To sweep over in their big cars
And leave me standin' here."
—Langston Hughes [1]

I. INTRODUCTION

In the foreseeable future, the Supreme Court of the United States will be called upon to resolve many disputes resulting from the existence of racial inequality in the collective bargaining process and from the lack of full integration in union leadership. Those disputes will arise primarily because black workers are now challenging employers' and unions' practices which have hitherto been thought to be protected under the rubric of free collective bargaining.

No one can deny that there is a new-found willingness among black workers to challenge previously accepted practices. Yet some courts seem unaware of that developing militancy. The recent decision of the Court of Appeals for the District of Columbia Circuit in *United Packinghouse, Food and Allied Workers v. NLRB*,[2] provides an example. In that case, the court, speaking through Judge Skelly Wright, held that an employer's "invidious discrimination on account of race or national origin," [3] was impermissible under the National Labor Relations Act (NLRA). Judge Wright observed that such discrimination has a twofold effect: it leads to apathy on the part of those who are discriminated against, and it results in an "unjustified clash of interests" [4] between black workers and white workers and thereby considerably reduces the effectiveness of the bargaining unit. Undoubtedly, some will object to the result reached in that case on the ground that the NLRA was not intended to be a fair employment practices statute.[5] But there is another significant flaw in the opinion. That flaw is the attempt to equate the effects of racial inequality in public education—effects that existed in the situation in *Brown v. Board of Education* [6]—with the effects of racial discrimination in employment. Such an equation is not at all in step with current events. Thus, Judge Skelly Wright's conclusion, in *Packinghouse Workers* that "racial discrimination creates in its victims an apathy or docility which inhibits them from asserting their rights against the perpetrator of the discrimination" [7] is arguably anachronistic.

The problem with such an observation is that it comes at a time when the black worker is anything but docile. Indeed, employers and unions in such metropolitan areas as Detroit and Chicago are well aware of the new militancy of Negro employees who are frustrated by what they regard as discriminatory or poor working conditions and by the failure of the almost lily-white union leadership to correct those conditions.

The explosiveness of the situation can be seen not only in the frustrations of the black workers, but also in the increasingly organized hostility of those white workers who are just a rung above the Negro on the economic ladder, and who constitute what is probably the most alienated group in our society today. Moreover, the measures which have been taken to assist the cause of racial equality in employment, and which appear threatening to the white workers, have been ineffective to eliminate the practices which arouse the blacks. Indeed, Congress has thus far failed to provide the appropriations and the enforcement authority which are necessary if the Equal Employment Opportunity Commission (EEOC) is to enhance the likelihood that racial equality in jobs will become a reality for blacks. As EEOC Chairman Brown recently said, "[t]he only thing we can do if we find discrimination is to sit down with the employer or with the union and negotiate or conciliate the particular case. . . . It is almost impossible for us to do the job that has to be done unless and until we get cease-and-desist powers." [8] Thus, the net effect of the remedial steps that have been taken has been to increase the frustrations of both groups. While increased hostility on the part of white workers may be an inevitable side-effect of curing racially discriminatory employment practices, the situation would be considerably less explosive if the cure could eliminate the frustrations of at least the black workers.

When the rules of the collective bargaining game were being created and developed under the NLRA, discrimination in employment was still being openly engaged in; in fact, Congress did not address itself to the problem until 1964.[9] But when Congress did enact title VII of the Civil Rights Act of 1964[10] (title VII), and when it voted appropriations for the Executive Order which the Act took cognizance of,[11] it operated under the assumption that in a substantial number of instances black workers were not being dealt

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Footnotes at end of speech.

with fairly in the collective bargaining process. Had it not thought so, the detailed debate[12] and the comprehensive legislation would have been unnecessary. Accordingly, if the national labor law is to reflect current congressional views of collective bargaining activities insofar as race is concerned, then the NLRA, and the assumptions and practices which have developed under it, must be accommodated to the objectives of civil rights legislation. But until the principle of equality for black and white workers is effectuated in the labor-management context, it is the duty of the courts, operating under both the NLRA and title VII, to root out the past practices and to fashion remedies which mirror the more recently developed policy against discrimination.

The Supreme Court has taken such action in many similar areas. It has demonstrated an unflagging hostility to racial discrimination in voting, education, selection of juries, and housing. With respect to voting, the Court has held that eligibility requirements which were not applied to whites when discrimination was previously practiced must be set aside in order to root out the remnants of past inequality.[13] The Court's inclination to read civil rights statutes and constitutional guarantees of equality expansively is also typified by its treatment of the Voting Rights Act of 1965 in *Allen* v. *State Board of Elections*.[14] In that case, the legislature had enacted laws which altered the previously existing election procedures in three ways: they changed the basis of county elections from district-wide voting to at-large voting; they provided that some county officials were to be appointed rather than elected; and they created more difficulties for potential third party candidates than had previously existed. Despite damaging indications in the legislative history of the Act, the Court held that these laws had to be submitted for approval either to the Attorney General of the United States or to the District Court for the District of Columbia, since they constituted a "voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting,"[15] as contemplated by the Voting Rights Act. The Court stated: "The Voting Rights Act was aimed at the subtle, as well as the obvious, state regulations which have the effect of denying citizens their right to vote because of their race."[16]

In education, the Court has announced that the test for compliance with the fourteenth amendment is whether the school board's desegregation plan *in fact* accomplishes the stated objective—integration of the races.[17] Thus, in order to devise an effective remedy in this area, race must be consciously taken into account.[18] Discrimination in the jury system has been measured to some extent, although perhaps not as much as it should be, by statistics.[19] Finally, with respect to housing, the Court recently held in *Jones* v. *Alfred H. Mayer Company*[20] that the Civil Rights Act of 1866 prohibits racial discrimination in housing, and it indicated that the Constitution is especially concerned with remedying the vestiges of slavery for the American Negro.[21]

But the Warren Court never had the opportunity to interpret the provisions of title VII or to accommodate the NLRA to the legally recognized problems faced by racial minorities.[22] Indeed, the Court's last holding of major significance in this area was *Steele v. Louisville & Nashville Railroad Company*[23] which is a quarter of a century old and thus antedates Chief Justice Warren's appointment by almost ten years. Therefore, for better or worse, it is the Burger Court which will have the chance to shape the law of employment discrimination. That Court will be faced with few problems, if any, which will be more important than the question of the precise limitations on discriminatory employment practices. On those decisions will hinge the ability of Negro workers to compete economically with whites and to educate their children effectively. If the decisions interpret civil rights law expansively, the cost pressures of the black protest will be imposed upon employers; and the business community may perforce become more interested in correcting the many other ailments of the ghetto.

In dealing with the problems of employment discrimination, the Burger Court will have to face several new and major issues. This Article is concerned with two of the most important of those issues. The first is whether the present requirement that workers seek redress of their grievances through the exclusive representation of the union is applicable to victims of racial discrimination; and if not, what other remedies should be available to those workers. The second is whether quotas and ratios based on race are permissible; and if so, whether it is required that they be used to integrate union leadership after a merger of two previously segregated unions. While the main focus of this Article is on these problems, it will also deal briefly with the effect of the Supreme Court's decision in *Gaston County v. United States*[24] on remedies for existing discriminatory employment practices resulting from past segregation.

II. THE FAILURE OF THE UNION AS EXCLUSIVE BARGAINING REPRESENTATIVE IN DISCRIMINATION CASES AND POSSIBLE REMEDIES

Both the NLRA[25] and the Railway Labor Act[26] provide that a union selected by a majority of the workers within a particular craft or industrial unit is the exclusive bargaining agent for each worker in that unit, whether or not he is a member of the elected union. In interpreting those statutory provisions, the Supreme Court has held that individual employment contacts can be contravened by the union's exclusive authority, and that an employer is prohibited by statute from negotiating with individual employees rather than with the exclusive agent.[27] The neat order lines of those principles, coupled with a faith in the benefits of the arbitration process,[28] convinced the Warren Court that proceeding to arbitration is the union's prerogative unless the union has engaged in bad faith conduct,[29] and that an individual worker cannot obtain a judicial hearing of a complaint until he has exhausted any negotiated grievance-arbitration machinery which is applicable to his situation.[30] Moreover, since resort to the judiciary for the adjudication of contract claims would undermine arbitration, the employee in most instances cannot have his case reviewed on the merits.[31] These principles of law, however, were articulated in a nonracial context, and they should, ideally, have no adverse impact on the interests of workers of minority races.

In *Steele v. Louisville & Nashville Railway Company*,[32] the Supreme Court imposed on unions a duty of fair representation.[33] In that case, the Court held that a union acting as the exclusive bargaining representative of a craft or class of employees has the obligation to represent all employees in the craft without discrimination on the basis of their race, and that the courts have jurisdiction to protect the minority of the craft or class from a violation of that obligation.[34] Nevertheless, history has shown that the procedures requiring workers to seek redress solely through the exclusive representative have been inadequate to solve the problems of victims of racial discrimination.[35] Accordingly, in some situations involving racial discrimination against a worker, the Court has abandoned its ordinary rules and has allowed the worker to go directly to court without first proceeding through the union. Thus, the courts have agreed that when a worker alleges racial discrimination, but not a contractual violation, exaustion of the grievance-arbitration machinery is not required.[36] When both are alleged, however, it is much more doubtful that bypassing the union's procedures will be permitted.[37] Nonetheless, in *Glover v. St. Louis-San Francisco Railway*,[38] a case presenting allegations of both racial discrimination and contract violation, the Court unanimously held that exhaustion is not required when the reactions of union officials plainly indicate that the processing of grievances through machinery controlled by the union and the employer would be a futile act. In that case, which concerned a dispute over seniority and promotions, the Court relied heavily upon the demonstrated failure of the union to respond when the plaintiffs had "called upon" it to seek redress. As of this date, the question whether a mere *allegation* of racial discrimination and contract violation, without the union hostility demonstrated in *Glover*, permits a plaintiff to bypass privately negotiated arbitration procedures has not been answered.[39]

The significance of *Glover* and the need for an extension of the doctrine expressed in that case can best be seen by reference to the enactment of title VII of the Civil Rights Act of 1964. Title VII implicitly recognized both the ineffectiveness of the *Steele* doctrine of fair representation[40] and the unwillingness of labor and management to take affirmative action against discrimination. By enacting that statute, Congress determined that, despite the plaudits which American unions and employers had given one another for good race relations, and despite the supposed "bulwark" provided by *Steele* and the duty of fair representation,[41] legislation was necessary. Yet although some commentators have praised both the craft and the industrial unions for their progress after the enactment of title VII,[42] that progress has, on the whole, been quite insignificant. Developments during the five years since the passage of the Act do not support any greater confidence in the handling of racial issues at the bargaining table than that expressed by Congress in 1964. The rise of the black militant, whose logic is sometimes unsteady and irrational, is evidence of the distance between the white leaders of organized labor and the young Negro rank-and-file which is not afraid to challenge authority. Thus, it appears that the present procedures for handling the grievances of black workers—procedures requiring that those workers proceed through their union—are inadequate.

In some cases, the use of the *Glover* decision will be able to cure that inadequacy. Such cases are those in which the conflict between the collective agreement and the law clearly demonstrates that arbitration through the union would be inappropriate and useless.[43] But in situations in which the futility of using established arbitration procedures is not clear, other solutions must be sought. One possible solution involves an extension of the *Glover* decision to exempt *all* cases involving racial discrimination from the exhaustion doctrine.

But if *Glover* is not so extended, then some other type of protection for the Negro worker, who is less than confident about how the parties to the bargaining agreement will dispose of his claim, is necessary if the exhaustion doctrine is to be upheld as fair. In formulating that protection, it is imperative that the minority group worker himself become involved in the adjudication of his grievances, and that he have, if he wishes, the assistance of a representative who has his trust and confidence, such as a civil rights organization or a black worker's committee. Even if *Glover* is extended, so that the exhaustion requirement becomes totally inapplicable to racial discrimination cases, some kind of third party involvement should still be available to black workers. That conclusion is supported by three considerations.

Footnotes at end of speech.

First, the other principal avenues for relief—those established by title VII—are heavily congested because of a lack of appropriations and because of the statutory defects alluded to by Chairman Brown.[44] Second, while the grievant may allege racial discrimination, the heart of the issue may be white insensitivity about the conditions of employment which are not cognizable either as a violation of a no-discrimination clause or as a statutory violation. Third, the availability of third party intervention would eliminate any need for resort to the courts, and it would thus make possible the use of arbitrators who, as the Court so clearly indicated in the *Steelworkers* trilogy,[45] have a good deal of expertise to bring to bear on plant grievances of all kinds.

Thus far, the courts have not looked with favor on the principle of third party intervention and have viewed it as an unnecessary intrusion on a stable collective relationship. The leading case in this area is *Acuff* v. *United Paperworkers*[46] which did not involve consideration of race. In that case, the United States Court of Appeals for the Fifth Circuit held that wildcat strikers had no right to separate representation in an arbitration proceeding because there was no evidence of bad faith on the part of the union. The court reasoned that since the union has almost plenary authority to decide whether a grievance is to be pursued to the highest step of the conflict-resolution ladder,[47] it should also be able to control every phase of the grievance procedure, including the question of participation in the hearing.

There is, however, some question as to the continuing validity of the *Acuff* decision, for it is at least arguable that the tendency of the Warren Court toward adulation for union-negotiated grievance machinery will not be the pattern of the Burger Court. Furthermore, *Vaca v. Sipes*[48]—which initially set the stringent standards for establishing a violation of the fair representation duty,[49] and thus laid the foundation for *Acuff*—is hardly a balanced opinion. More important, the logic of *Vaca* does not require the result reached in *Acuff*. Indeed, *Vaca's* reasoning that the union has broad discretion to decide whether to go to arbitration does not compel, as the court in *Acuff* apparently thought it did, the conclusion that the union has absolute control over the grievance procedure. If the court's reasoning in *Acuff* were sound, it would follow that whenever an employee had a grievance, the union could fashion that grievance into whatever form it desired—even one to which the employee was unalterably opposed. Finally, in *Humphrey v. Moore*,[50] Justice White seriously discussed the possible need for third party representation and thereby gave credence to the notion that its availability is a necessary element in the duty of fair representation.[51]

However, the Court can devise effective arbitral remedies for racial discrimination in employment without rejecting either *Vaca* or *Acuff*. That fact is clear from the approach taken by Justice Douglas in *Textile Workers Union v. Lincoln Mills*.[52]

"The Labor Management Relations Act expressly furnishes some substantive law. It points out what the parties may or may not do in certain situations. *Other problems will lie in the penumbra of expressed statutory mandate. Some will lack expressed statutory sanction but will be solved by looking at the policy of legislation and the fashioning of remedies that will effectuate that policy. The range of judicial inventiveness will be determined by the nature of the problem.*" [53]

Certainly the labor and management practices which give rise to title VII's prohibitions against racial discrimination make proposals for representation of workers by third parties compatible with the Court's instructions in *Lincoln Mills*, since civil rights legislation dealing with employment practices must be regarded as part of the substantive law to which the Court referred. In addition, the nation has a special obligation to Negro workers—an obligation which results from the existence of slavery and from the systematic discrimination that followed it.[54] Thus, some form of third party involvement is a minimum protection for the black worker who desires it and whose grievance alleges both racial discrimination and contract violation. Such a procedure is hardly at variance with the principle of exclusivity or with the objective of uniformity, since it incorporates the dissidents within the union-employer structure rather than forcing them out of that structure. It is therefore much more consistent with the uniformity principle than is the procedure allowed in *Glover*, which permits the circumvention of the private machinery.

Third party intervention would be particularly important when "disadvantaged" workers are hired, because the employment of such persons is likely to lead to disputes over the discharges and disciplinary measures that result from absenteeism and poor work habits. Such disputes will probably be common in these circumstances, because a tradition of inferior housing, poor environment, and inadequate education frequently makes adjustment difficult for the newly hired black worker, particularly if he has never held a long-term job. Moreover, the lack of free or inexpensive transportation for the worker to his job-site increases the likelihood that he will miss numerous days of work.[55] Although a dual standard of discipline for blacks and whites is a possible solution to the problems which arise in this area, it is not a satisfactory one. The resentment of the white worker who is given a two-day suspension for excessive tardiness, while his black counterpart goes unpunished, would know no bounds.[56] Although that factor normally should not be taken into account in civil rights controversies[57]—even those in the employment area[58]—any management operating under such a system is likely to have severe morale problems. Furthermore, it would not be economically desirable to require employers to ignore absenteeism and poor work habits. Indeed, it would be extremely difficult for a company which is in competition with other businesses for a profit to tolerate practices which impair productivity.[59] Thus, a dual standard of discipline would probably be an ineffective method for dealing with the adjustment problems of a new disadvantaged worker.

A preventive approach is another solution. Under it, labor and management would provide temporary help during the period of adjustment for the employee who has not previously been exposed to the discipline of the work place. But for that solution to be effective, unions and employers must be willing to teach new employees how to tell time, how to read bus stop signs, and so on; and they must also be willing, perhaps, to provide free or inexpensive transportation to work. These efforts require both a substantial expenditure of time and money and a great deal of willingness on the part of labor and management, and neither is to be anticipated. Indeed, the infrequency with which such assistance has been provided was pointed out by Saul Wallen:

"[S]ome unions have been willing to negotiate special probationary arrangements to apply to their company's hard-core employment problems. But this has been far from universal. No data are available and one can only speculate on the extent to which rigid agreement provisions, drawn for typical labor market conditions, have thwarted the recruitment and training of the special population that makes up the hard-core unemployed.[60]"

Since no solution appears to be easy, then, the difficult practical problems involved in hiring disadvantaged workers are likely to lead to discharges and disciplinary measures. Those measures, in turn, lead to complex disputes which cannot, or will not, be solved either by employers or by unions. Thus, third party representation—the "triangular relationship," as one court referred to it[61]—is necessary for the resolution of such disputes.

III. THE PERMISSIBILITY OF QUOTAS BASED ON RACE AND THEIR USE IN INTEGRATING UNION LEADERSHIP

Nearly twenty years have passed since the Supreme Court unanimously decided in *Hughes* v. *Superior Court*,[62] that the California courts could enjoin civil rights picketing which was aimed at the alleged practice of job discrimination and which was designed to result in the hiring of Negroes in proportion to the Negro patronage of the picketed establishment. Justice Frankfurter, who wrote the opinion, was careful to qualify the Court's holding by emphasizing that the injunction was permissible only in light of California's good judicial record in dealing with racial discrimination in employment.[63] The *Hughes* opinion contains many defects, but its primary effect was to inhibit race consciousness in devising remedies for employment discrimination and to encourage the labeling of all such attempts as forbidden "quotas." That situation is changing now. Outside the labor area, the most notable recent instance of a policy reversal is *United States* v. *Montgomery County Board of Education*.[64] In that case, a unanimous Court, speaking through Justice Black, held that the use of a "ratio" of white to Negro faculty members was an appropriate means of dealing with past discrimination in the public school system. The Court specifically noted that it was not holding that racially balanced faculties were constitutionally required on all instances; but it also rejected the holding of the court of appeals that the ratio should be "substantially or approximately" complied with and that compliance with the desegregation orders should not be tested solely in terms of ratio.[65] Although the Supreme Court admitted that the ratio would be "troublesome" if it were regarded as an inflexible approach which might cause an injustice to the school board, it stated that such was not the case in the circumstances before it.[66] The Court based that conclusion on the district court's careful analysis of prior discriminatory practices[67] and on the facility with which the school board could achieve the required ratio.

There is a similar trend in the labor area. That trend can be seen in the Department of Labor's recent announcement of the Revised Philadelphia Plan.[68] There the Department took the position that an "effective affirmative action program" under the President's Executive Order[69] requires that certain racially oriented factors be considered in determining a definite standard for minority employment in the better-paid trades in Philadelphia. Those standards are (1) the current extent of minority group participation in the trade; (2) the availability of minority group persons for employment in the trade; (3) the need for training programs in the area or the need to assure a demand for those who are in an existing program or who have recently left one; and (4) the impact of the proposed program upon the existing labor force. The Department of Labor has argued persuasively that its plan is not prohibited by the antipreferential-treatment provision of the Civil Rights Act of 1964.[70] But without regard to the legal issues, the very existence of such a plan provides an indication, as do some recent court rulings,[71] that the mere thought of a quota no longer prevents the implementation of truly effective remedies for past discrimination.

Footnotes at end of speech.

It is unclear, however, whether the principles of race consciousness enunciated in *Montgomery County* and the Revised Philadelphia Plan are pertinent to the critical problem of integrating union leadership so that the races may share power equitably. Many of the difficulties that were discussed in connection with third party intervention and the black workers' distrust of union leadership [72] result from a confrontation between a black rank-and-file and a predominantly white union officialdom. The problem of integrating union leadership is particularly important when two local unions that have been segregated in the past—one all white and the other all black—merge as required by title VII.[73] Great tension will arise after such a merger if Negro local officers are voted out by a white majority, especially when past discrimination in employment conditions has been engaged in by the white local.[74] Can title VII be said to require the use of a quota or a ratio in order to insure that in these circumstances the minority group will have some representation?

Since it was the white leadership which initially negotiated the discriminatory conditions, and which probably imposed the segregation of the locals, that leadership's unchecked control of the union's position after a merger hardly bodes well for a collective bargaining process which is supposed to be fair to the Negro minority. If black elected officers are not able to participate in policy judgments, then the union's policy-making body is akin to a malapportioned or gerrymandered legislature. Even more analogous to the situation at hand is that which arose in *Allen v. State Board of Elections*.[75] In that case, the Supreme Court held that a state which is within the coverage of the Voting Rights Act of 1965 cannot convert its district system of election to an at-large system without a declaratory judgment or approval by the Attorney General, because the proposed conversion might result in a dilution of the Negro vote. The Court found that, "[v]oters who are members of a racial minority might well be in the majority in one district, but in a decided minority in the county as a whole. This type of change could therefore nullify their ability to elect the candidate of their choice just as would prohibiting some of them from voting." [76] Similarly, in the labor situation, when two segregated unions merge and black workers become the minority, the merger could cause those workers to lose all representation in the union leadership as effectively as would a total prohibition on their right to vote.[77]

Some of these issues arose in *Chicago Federation of Musicians, Local 10 v. American Federation of Musicians*.[78] In that case, the international union proposed to merge a local which was all Negro with one which was all white. Its merger plan provided that members of the black local would have the right to select a certain number of local union officials during a transitional period consisting of the first six years of the merged local's existence. The white local then challenged the international's proposal on two grounds: that a trusteeship had been formed in violation of the Landrum-Griffin Act,[79] and that such a trusteeship, together with the merger proposal, violated title VII of the 1964 Civil Rights Act.[80] A federal district court rejected those contentions and held that the merger arrangement was not improper from a "practical standpoint," since the international union was attempting to induce the merger through a guarantee of representation to members of the black locals.[81] Although the court noted that title VII was not effective at the time that the suit was filed, it did indicate that, because the plan was designed to promote integration and to protect the smaller local, the statute was not violated.[82]

The *Chicago Federation* case indicates only that a plan which allocates seats to each local is permissible under title VII; it does not deal with the question whether the statute can be read to *impose* black representation upon the merged local in certain circumstances. But the clear intent of title VII would be undermined if the use of subtle devices—such as the voting out of black leaders—to lessen the value of the black vote were permitted. As the *Allen* case demonstrated in connection with the Voting Rights Act of 1965, the use of such evasionary measures cannot be allowed.[83] Thus, it appears that title VII should be read to require some fixed or proportionate number of blacks in union leadership positions when the alternative is complete exclusion. The EEOC apparently accepted that type of reasoning, for, by holding in a recent case that title VII prohibits the dismissal of a black local's officials by white leadership after a merger,[84] it indicated that it will review merger terms.[85]

The problem of using ratios to integrate union leadership will presumably become more intense as the statute's effect becomes stronger in dealing with segregation. It is extremely unrealistic to believe that the election of white trade unionists who have practiced segregation in the past is compatible with the even-handed treatment which title VII supposedly contemplates for the plant community. Assuming, then, that the statute does require that there be some Negro representation, the extent of that required representation and the size of the quota or ratio necessary for implementing it depend upon the size of the merged local and, perhaps, upon the severity of the discrimination previously practiced. It is clear that when the EEOC and the courts make judgments of this nature, they must articulate them on an ad hoc basis, in order to provide the kind of flexibility contained in both *Montgomery County* and the Philadelphia Plan.

Required representation in leadership is hardly inconsistent with the Landrum-Griffin Act, since such a requirement simply adheres to the democratic choice of the employees in each local union. Furthermore, required integrated leadership is a necessary step, because the alternative to it, black separatism, is not a feasible, let alone desirable, objective in this country. If a merger of two segregated locals is allowed to dilute existing black power in the unions, there will surely be industrial strife of a racial nature which is antithetical to the policies of the NLRA; [86] and the circumstances of that dispute will be bound to favor the rhetoric of the separatists. Thus, the color line in unions, as well as in jobs, must be erased, and integrated leadership must be ensured by an active and compulsory use of quotas and ratios.

IV. GASTON COUNTY AND THE GRANTING OF COMPENSATORY SENIORITY AND TRAINING

While it is clear that black leadership in elected policy-making positions at both the international [87] and local level is a *sine qua non* for equality, the matter cannot be considered in a vacuum. Discriminatory employment conditions, which have their origins prior to the effective date of the Civil Rights Act of 1964, still exist and must be completely eliminated. During the past three years this subject has been examined in detail, particularly with respect to the problems of seniority and advancement,[88] and there is no need to reiterate those views here. However, a recent development may shed some light on one of the most perplexing of those problems—that faced by black workers who have been in an all-black department of a plant and who are transferred to a department which had previously been all white. In the usual case, those workers will have no seniority in their new positions, and they will have little opportunity for advancement since title VII expressly compels advancement only for those workers who are qualified [89] and the newly transferred black workers will usually have neither the experience nor the seniority to qualify them. Because this situation is the result of prior discrimination, it is reasonable to argue that title VII requires unions and management to rectify their previous practices by granting the transferred workers compensatory seniority credit in their new positions and by providing to those with adequate potential the additional training necessary to qualify them for promotion.[90] A recent decision of the Supreme Court, *Gaston County* v. *United States*,[91] in which analogous issues were raised, provides considerable support for that view.

The question in *Gaston County* was whether a state could escape coverage of the Voting Rights Act of 1965 because the low number of registered voters was attributable to their lack of literacy. The Court held that when the illiterate condition of Negro residents is attributable to past inferior educational opportunities, the statute is applicable and the state's literacy test must be suspended. The Court emphasized the relationship between the existing conditions and the past inequality:

"It is only reasonable to infer that among black children compelled to endure a segregated and inferior education, fewer will achieve any given degree of literacy than will be so among their better-educated white contemporaries. And, on the Government's showing, it was certainly proper to infer that Gaston County's inferior Negro schools provided many of its Negro residents with subliterate education, and gave many others little inducement to enter or remain in school." [92]

The lesson of *Gaston County* is that the state cannot take the illiterate Negro as it finds hi mif he state educational facilities are responsible for his condition. Much of the current fighting over seniority systems and other employment condiitons involves very similar issues and contentions. Like the state in *Gaston County*, unions and management argue that the denial of compensatory seniority and training results from the previous practice of discrimination, and that the denial is not discriminatory in itself; no more should be required to them than that they put an end to discriminatory employment practices. That viewpoint deserves no greater acceptance by the Burger Court than that which the Warren Court gave to the comparable defense in *Gaston County*.

In a recent case, however, the Court of Appeals for the Fifth Circuit failed to take cognizance of the full implications of *Gaston County*. In that case, *Local 189, United Papermakers v. United States*,[93] the court, while accepting the general principle that title VII does not permit unions and employers to carry forward the effects of past discrimination in the employment relationships, stated in dicta that the statute assists only those Negro workers who have "qualifications," that is, existing skills, which qualify them for promotion without training.[94] The court found that "business necessity" would preclude the employment of black workers in jobs for which the schools had failed to prepare them.[95] But the court did not take account of the situation in which unions and employers become involved in the discriminatory pattern by placing Negro workers in nonpromotable, unskilled jobs. *Gaston County* indicates that, in those circumstances, unions and managements, because they were originally responsible for the black workers' failure to build up seniority in the new department and to receive adequate training for advancement, must provide those workers with compensatory seniority and training.

Footnotes at end of speech.

V. CONCLUSION

As of this date, one cannot know whether the Burger Court will permit the Negro worker to be left "standin' there" like Langston Hughes' Florida road workers. The Court should not be deceived by those who say that the problem of racial discrimination can be dealt with effectively through full employment policies, although surely effectuation of those policies is the foremost hope of both races. But the immediate legal issues involve equity for the black worker in terms of the jobs that are available now. Without that kind of analysis, we must find ourselves saying with Mrs. Alving in Ibsen's *Ghosts:* "Oh, that perpetual law and order! I often think that that is what does all the mischief in this world of ours." [96]

The issue, then, is whether the law of racial equality will be made applicable to employment in a meaningful sense, that is, whether the Court will alter the black worker's current plight which Langston Hughes put so well when he said:

"Sure,
A road helps all of us!
White folks ride—
And I get to see 'em ride.
I ain't never seen nobody
Ride so fine before.
Hey buddy!
Look at me.
I'm makin' a road!" [97]

FOOTNOTES

†This Article is based on a speech presented by the author to the Labor Law Section of the American Bar Association at Dallas, Texas, on August 11, 1969.

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[1] *Florida Road Workers,* in MODERN AMERICAN POETRY 594 (L. Untermeyer ed. 1950).

[2] 70 L.R.R.M. 2489 (D.C. Cir. Feb 7) 1, *cert. denied,* 37 U.S.L.W. 3173 (U.S. Nov. 10, 1969). On remand from the court of appeals, the NLRB ordered a rehearing. Farmers' Cooperative Compress, 72 L.R.R.M. 1251 (Oct. 9, 1969).

[3] 70 L.R.R.M. at 2497.

[4] 70 L.R.R.M. at 2495.

[5] This argument first appeared with respect to the question whether a failure of a union to fulfill its duty of fair representation of its members constitutes an unfair labor practice. But despite the strong objections of Chairman McCulloch and Member Fanning, a majority of the National Labor Relations Board have never been troubled either by the argument presented in the text or by the absence of legislative history supporting the conclusion that a breach of the duty of fair representation constitutes an unfair labor practice; and they have come to that conclusion. *See* United Rubber Workers v. NLRB, 368 F.2d 12 (5th Cir. 1966), *cert. denied,* 389 U.S. 837 (1967); Miranda Fuel Co., 140 N.L.R.B. 181 (1962), *enforcement denied,* 326 F.2d 172 (2d Cir. 1963). But there are two differences between the duty found by Judge Wright in *Packinghouse Workers* and the duty of fair representation. First, when Congress passed the 1947 amendments to the NLRA, it was presumably aware that the Supreme Court had devised a judicial doctrine of fair representation. Second, the duty of fair representation is a logical corollary to the principle of the union as exclusive bargaining representative. Hence, there is a stronger argument for sustaining the administratively fashioned duty of fair representation than there is for upholding Judge Wright's attempt to make racial discrimination an unfair labor practice for an employer.

[6] 347 U.S. 483 (1954).

[7] 70 L.R.R.M. at 2495.

[8] N.Y. Times, July 21, 1969, at 30, col. 1. However, Chairman Brown's views on the matter have apparently changed. *See* N.Y. Times, Aug. 9, 1969, at 1, col. 5. *See also* JOBS AND CIVIL RIGHTS (Prepared for the U.S. Civil Rights Commission by the Brookings Institution, 1969).

[9] Civil Rights Act of 1964, 42 U.S.C. §§ 2000(a)-(h) (1964), *as amended,* 42 U.S.C. §§ 2000(d)-1(e), -1(g) (Supp. IV, 1965-1968).

[10] Civil Rights Act of 1964, § 703, 42 U.S.C. § 2000e–2 (1964).

[11] Exec. Order No. 10,925, 3 C.F.R. 448 (1959–1963 comp.), *as amended,* Exec. Order No. 11,162, 3 C.F.R. 215 (1964-1965 comp.). The Civil Rights Act of 1964 recognized this order in § 709(d), 42 U.S.C. § 2000e-8(d) (1964). Executive Order No. 10,925 has been superceded by Exec. Order No. 11,246, 3 C.F.R. 339 (1964-1965 comp.), *as amended,* Exec. Order No. 11,375, 3 C.F.R. 320 (1967 comp.), 42 U.S.C. § 2000c (Supp. IV, 1965-1968).

[12] *See,* e.g., 110 CONG. REC. 11,719 (1964) (remarks of Senator Tower); 110 CONG. REC. 12,595 (1964) (remarks of Senator Clark). *See generally* H.R. REP. No. 914, 88th Cong., 1st Sess. (1963); S. REP. No. 872, 88th Cong, 2d Sess. (1964).

[13] Louisiana v. United States, 380 U.S. 145, 154 (1965).

[14] 393 U.S. 544 (1969).

[15] 42 U.S.C. § 1973c (Supp. IV, 1965-1968).

[16] 393 U.S. at 565.

[17] Green v. County School Bd., 391 U.S. 430 (1968); Raney v. Board of Educ., 391 U.S. 443 (1968); Monroe v. Board of Commrs., 391 U.S. 450 (1968). The Court's most recent decision on school desegregation is Alexander v. Holmes County Bd. of Educ., 90 S. Ct. 14 (1969), in which the Court found that *Brown's* requirement of desegregation with "all deliberate speed" was no longer constitutionally permissible. 90 S. Ct. at 15-16. The Court then ordered the school districts involved in the case to begin desegregation "immediately."

[18] *See* United States v. Jefferson County Bd. of Educ., 372 F. 2d 836 (5th Cir.), *affd. with modifications on rehearing,* 380 F. 2d 385 (5th Cir. 1966) (en banc), *cert. denied sub nom.* Caddo Parish School Bd. v. United States, 389 U.S. 840 (1967). *But see* Vieira, *Racial Imbalance, Black Separatism, and Permissible Classification by Race,* 67 MICH. L. REV. 1553, 1603–04 (1969).

[19] Swain v. Alabama, 380 U.S. 202 (1965); Hernandez v. Texas, 347 U.S. 475 (1954); Cassell v. Texas, 339 U.S. 282 (1950); Aikins v. Texas, 325 U.S. 398 (1945); Hill v. Texas, 316 U.S. 400 (1942); Norris v. Alabama, 294 U.S. 587 (1935).

[20] 392 U.S. 409 (1968). *See* Larson, *The New Law of Race Relations,* 1969 Wis. L. REV. 470. *Compare* Dobbins v. Local 212, IBEW, 69 L.R.R.M. 2313 (S.D. Ohio 1968), *with* Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill July 14, 1969), and Harrison v. American Can Co., 2 FAIR EMPL. PRAC. CAS. 1 (S.D. Ala. July 8, 1969), on the applicability of *Jones* to racial discrimination in employment. *See also* Gould, *The Emerging Law Against Racial Discrimination in Employment,* 64 NW. U. L. REV. 359, 376–78 (1969).

[21] 392 U.S. at 437–44.

[22] *See generally* M. SOVERN, LEGAL RESTRAINTS ON RACIAL DISCRIMINATION IN EMPLOYMENT (1966); Aaron, *The Union's Duty of Fair Representation Under the Railway Labor and National Labor Relations Acts,* 34 J. AIR L. & COM. 167 (1968); Sovern, *The National Labor Relations Act and Racial Discrimination,* 62 COLUM. L. REV. 563 (1962).

[23] 323 U.S. 192 (1944). In that case, the Court held that the Railway Labor Act imposed on a union acting as the exclusive bargaining agent for a class of employees the duty to represent all employees without discrimination because of their race. This has become known as the doctrine of fair representation. *See* text accompanying notes, 33–34 *infra.* Of course, there have been a number of fair representation cases decided by the Court subsequent to *Steele* in both a racial and a nonracial context, and some of them were decided by the Warren Court. *See* Vaca v. Sipes, 386 U.S. 171 (1967); Humphrey v. Moore, 375 U.S. 335 (1964); Conley v. Gibson, 355 U.S. 41 (1957); Syres v. Oil Workers, 350 U.S. 892 (1956); Ford v. Huffman, 345 U.S. 330 (1953); Graham v. Brotherhood of Locomotive Firemen, 338 U.S. 232 (1949); Tunstall v. Brotherhood of Locomotive Firemen, 323 U.S. 210 (1944). *See generally* St. Antoine, *Judicial Valour and the Warren Court's Labor Decisions,* 67 MICH. L. REV. 317 (1968), on the role of the Warren Court and labor law.

[24] 395 U.S. 285 (1969).

[25] 29 U.S.C. § 159(a) (1964).

[26] 45 U.S.C. § 152(fourth) (1964).

[27] Medo Photo Supply Corp. v. NLRB, 321 U.S. 678 (1944); J. I. Case Co. v. NLRB, 321 U.S. 332 (1944).

[28] United Steelworkers v. Warrior & Gulf Nav. Corp., 363 U.S. 574 (1960); United Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960); United Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960).

[29] Vaca v. Sipes, 386 U.S. 171 (1967).

[30] Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965).

[31] Vaca v. Sipes, 386 U.S. 171, 185–86 (1968). It is not entirely clear, however, whether the Court is addressing itself to union exhaustion or to employee exhaustion when it speaks of exhaustion of contractual remedies and indicates that a worker may bring suit against an employer despite the absence of exhaustion in the event that the union has breached its duty of fair representation. The requirement is probably union exhaustion.

[32] 323 U.S. 192 (1944).

[33] *See* note 23 *supra* and accompanying text.

[34] 323 U.S. at 199.

[35] *See* test accompanying notes 40–42 *infra.*

[36] *See* United States v. Georgia Power Co., 71 L.R.R.M., 2784 (N.D. Ga. May 16, 1969); Dent v. St. Louis—San Francisco Ry., 265 F. Supp. 56 (N.D. Ala. 1969), *revd. on other grounds,* 406 F.2d 339 (5th Cir. 1969); King v. Georgia Power Co., 69 L.R.R.M. 2094 (N.D. Ga. 1968); Reese v. Atlantic Steel Co., 282 F. Supp. 905 (N.D. Ga. 1967); Bowe v. Colgate-Palmolive Co., 272 F. Supp. 332 (S.D. Ind. 1967), *revd.,* 2 Fair Empl. Prac. Cas. 121 (7th Cir. Sept. 26, 1969).

[37] *See* Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill. July 14, 1969); *cf.* NLRB v. Industrial Union of Marine & Shipbuilding Workers, 391 U.S. 418 (1968); Brady v. Trans-World Airlines, Inc., 401 F.2d 87 (3d Cir. 1968), *cert. denied,* 393 U.S. 1048 (1969).

[38] 393 U.S. 324 (1969).

[39] *See* note 37 *supra.* In Waters v. Wisconsin Steel Works of Intl. Harvester Co., 71 L.R.R.M. 2886 (N.D. Ill. July 14, 1969), *Glover* was distinguished because there was no showing of futility

[40] *See* text accompanying notes 33–34 *supra.* In essence, this is the analysis initially set forth in Gould, *Non-Governmental Remedies in Employment Discrimination,* in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969) [reprinted in 20 SYRACUSE L. REV. 865 (1969)]. That basic theme applies to various aspects of the existing industrial relations system. *See* Gould, *Labor Arbitration of Grievances Involving Racial Discrimination,* 118 U. PA. L. REV. 40 (1969); Gould, *Black Power in the Unions: The Impact upon Collective Bargaining Relationships,* 79 YALE L.J. 46 (1969).

[41] *See* Vaca v. Sipes, 386 U.S. 171 (1968), in which the Warren Court made this exaggerated claim.

[42] *See, e.g.,* F. RAY MARSHALL & V. BIGGS, EQUAL APPRENTICESHIP OPPORTUNITIES: THE NATURE OF THE ISSUE AND THE NEW YORK EXPERIENCE (1968). *Compare id., with* Blumrosen, *The Duty of Fair Recruitment Under the Civil Rights Act of 1964,* 22 RUTGERS L. REV. 465 (1968); Gould, *The Negro Revolution and Trade Unionism,* CONGRESSIONAL

RECORD, vol. 114, pt. 19, p. 24872; O'Hanlon, *The Case Against the Unions*, FORTUNE, Jan. 1968, at 170. *See generally* U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, EQUAL EMPLOYMENT OPPORTUNITY REPORT No. 1 (1967).

[43] *Cf.* United Rubber Workers v. NLRB, 368 F.2d 12 (5th Cir. 1966), *cert. denied*, 389 U.S. 837 (1967); Goodyear Tire & Rubber Co., 45 Lab. Arb. 240 (1965).

[44] *See* text accompanying note 8 *supra*.

[45] *See* note 28 *supra*.

[46] 404 F.2d 169 (5th Cir. 1968), *cert. denied*, 394 U.S. 987 (1969). Justice Black was of the opinion that certiorari should have been granted. *See* Fleming, *Some Problems of Due Process and the Fair Procedure in Labor Arbitration*, 13 STAN. L. REV. 235 (1961); WIRTZ, *Due Process of Arbitration*, in PROC. OF THE 11TH ANNUAL MEETING, NATIONAL ACADEMY OF ARBITRATORS, THE ARBITRATOR AND THE PARTIES 1 (1958).

[47] *See* text accompanying notes 29–30 *supra*.

[48] 386 U.S. 171 (1967).

[49] Those standards are discussed in text accompanying notes 29–31 *supra*.

[50] 375 U.S. 335 (1964).

[51] 375 U.S. at 349.

[52] 353 U.S. 448 (1957).

[53] 353 U.S. at 457 (emphasis added).

[54] *See* Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968); *Developments in the Law—Equal Protection*, 82 HARV. L. REV. 1065 (1969); Comment, *The "New" Thirteenth Amendment: A Preliminary Analysis*, 82 HARV. L. REV. 1295 (1969). With respect to industrial relations, see Gould, *Labor Arbitration Grievances Involving Racial Discrimination*, 118 U. PA. L. *Rev.* 40 (1969); Gould, *Black Power in the Union: The Impact upon Collective Bargaining Relationships*, 79 YALE L.J. 46 (1969).

[55] The problem of overly expensive transportation to work has been a point of dispute for some time in the Detroit area.

[56] *See* St. Antoine, *Litigation and Meditation Under Title VII of the Civil Rights Act of 1964*, in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969).

[57] *Cf.* Brown v. Board of Educ., 349 U.S. 300 (1955).

[58] *Cf.* Cooper v. Aaron, 358 U.S. 1 (1958)

[59] Unfortunately, the situation under discussion here cannot be equated with the refusal of Orthodox Jews and Seventh Day Adventists to work at certain times, because in those cases the minority is small and thus the harm to the employer is slight. To the contrary, in the area of programs to hire the disadvantaged, the hope is that the minority will become a sizeable one.

[60] Wallen *Industrial Relations Problems of Employing the Disadvantaged*, PROC. OF THE 22D ANNUAL MEETING, NATIONAL ACADEMY OF ARBITRATORS (1969).

[61] United States v. Hayes Intl. Corp., 70 L.R.R.M. 2926 (N.D Ala. 19683, *revd on other* grounds, 2 FAIR EMPL. PRAC. CAS. 67 (5th Cir. Aug. 19, 1969).

[62] 339 U.S. 460 (1950).

[63] 339 U.S. at 463–64.

[64] 395 U.S. 225 (1969).

[65] United States v. Montgomery County Bd. of Educ., 400 F.2d 1 (5th Cir.), *affg.* 289 F. Supp. 647 (M.D. Ala. 1968).

[66] 395 U.S. at 234–35.

[67] 289 F. Supp. at 649–52.

[68] Department of Labor, Order Requiring Specific Goals for Hiring Minorities in Better-Paying Philadelphia Construction Jobs, June 27, 1969; Memorandum from Assistant Secretary of Labor Fletcher to Heads of All Agencies, June 27, 1969.

[69] *See* Exec. Order No. 11,246, 3 C.F.R. 339 (1964–1965 comp.), *as amended*, Exec. Order No. 11,375, 3 C.F.R. 320 (1967 comp.), 42 U.S.C. § 2000e (Supp. IV, 1965–1968). For a discussion of Executive Order No. 11,246, see JOBS AND CIVIL RIGHTS, *supra* note 8; Powers, *Federal Procurement and Equal Employment Opportunity*, 29 LAW & CONTEMP. PROB. 468 (1964).

[70] 42 U.S.C. § 2000e–2(j) (1964). The Attorney General has approved the Plan. *See* Opinion of Attorney General John N. Mitchell on Legality of Revised Philadelphia Plan, DAILY LABOR REPORT No. 184, at E–1 (Sept. 23, 1969).

[71] Local 53, Intl. Assn. of Heat & Frost Insulators v. Vogel, 407 F.2d 1047 (5th Cir. 1969); Ethridge v. Rhodes, 268 F. Supp. 83 (S.D. Ohio 1967); Weiner v. Cuyahoga Community College Dist., 19 Ohio St. 2d 35, 249 N.E.2d 907 (1969).

[72] *See* text accompanying notes 36–45 *supra*.

[73] 42 U.S.C. § 2000e-2(c) (1964).

[74] Moreover, severe eligibility requirements can often effectively discourage newly hired black workers from participating in internal union political activities and from electing other blacks to leadership positions. *Cf.* Wirtz v. Hotel, Motel & Club Employees, Local 6, 391 U.S. 492 (1968); Wirtz v. National Maritime Union, 284 F. Supp. 47 (S.D.N.Y.), *affd.*, 399 F.2d 544 (2d Cir. 1968).

[75] 393 U.S. 544 (1969).

[76] 393 U.S. at 569.

[77] *See also* note 74 *supra*.

[78] L.R.R.M. 2227 (N.D. Ill. 1964). *Cf.* Gould, *The Negro Revolution and the Law of Collective Bargaining*, 34 FORDHAM L REV. 207, 255–57 (1965). In United States v. Local 189, United Papermakers, 57 CCH Lab. Cas. ¶ 9120 (E.D. La. 1968), a consent decree was issued providing that, during a transitional period, formerly segregated locals would have separate representation. *See also* Daye v. Tobacco Workers, 234 F. Supp. 815 (D.D.C. 1964).

[79] 57 L.R.R.M. at 2230. Section 3(h) of the Landrum-Griffin Act, 29 U.S.C. 403(h) (1964) defines trusteeship as, "any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws." When a trusteeship is formed, various requirements are imposed upon the labor organization which forms it. *See* Landrum-Griffin Act tit. III, 29 U.S.C. §§ 419–24 (1964).

[80] 57 L.R.R.M. at 2230. Section 703(c) of of title VII, 42 U.S.C. § 2000e-2(c), provides:

It shall be an unlawful employment practice for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

[81] 57 L.R.R.M. at 2227.

[82] 57 L.R.R.M. at 2236.

[83] *See* text accompanying notes 75–76 *supra*.

[84] Case No. NO 7–3–336U, 71 LAB. REL. REP. 339 (EEOC June 18, 1969).

[85] The Commission relied, in part, on the lack of any attempt "to merge the staffs of the two unions on a nondiscriminatory basis so as to approximate the proportions of membership contributed by the two previously segregated locals." 71 LAB. REL. REP. at 340.

[86] 29 U.S.C. §§ 202(a), (b), 203 (1964).

[87] On an international level, the problem is that district lines are drawn on a regional basis, and Negroes are in a minority in each region, even in unions having a large Negro membership, such as the United Automobile Workers and the United Steelworkers. *See Steelworkers Debate Black Representation*, 91 MONTHLY LAB. REV. 16–17 (1968). The UAW circumvented this problem in 1962 by electing to the Board a Negro Member-at-Large, Nelson Jack Edwards. More recently, the first Negro Regional Director-Board Member, Marcellius Ivory, was elected. *See* N.Y. Times, Aug. 1, 1968, at 11, col. 8; Owens, *Negro Is Pilot for 74,000-Member UAW Region*, Detroit Free Press, Aug. 15, 1968, at 2E. *See generally* Henle, *Some Reflections on Militants*, 92 MONTHLY LAB. REV. 20 (1969); Hill, *Black Protest and the Struggle for Union Democracy*, 1 ISSUES IN INDUS. SOCY. 19 (1969); Gannon, *Black Unionists: Militant Negroes Press for a Stronger Voice in the Labor Movement*, Wall St. J., Nov. 29, 1968, at 1, col. 1; Berstein, *Fervor of Racial Protest Starting To Press Unions*, Denver Post, June 15, 1969, § J, at 1; Stetson, *Negro Members Are Challenging Union Leaders*, N.Y. Times, June 29, 1969, at 37, col. 2.

[88] *See* Gould, *Employment Security, Seniority and Race: The Role of Title VII of the Civil Rights Act of 1964*, 13 How. L.J. 1 (1967); Gould, *Seniority and the Black Worker: Reflections on Quarles and Its Implications*, 47 TEXAS L. REV. 1039 (1969); Cooper & Sobol, *Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion*, 82 HARV. L. REV. 1598 (1969); St. Antoine, *Litigation and Mediation Under Title VII of the Civil Rights Act of 1964*, in ABA INSTITUTE PROC. ON EQUAL EMPLOYMENT OPPORTUNITY LAW (1969); Aaron, *Reflections on the Legal Nature and Enforceability of Seniority Rights*, 75 HARV. L. REV. 1532 (1962); Note, *Title VII Seniority Discrimination and the Incumbent Negro*, 80 HARV. L. REV. 1260 (1967). *See also* Local 189, United Papermakers v. United States, 71 L.R.R.M. 3070 (5th Cir. July 28, 1969).

[89] 42 U.S.C. § 2000E–2(h) (1964). For discussions of the comparable "affirmative action" remedial provision contained in § 10(c) of the NLRA, see St. Antoine, *A Touchstone for Labor Board Remedies*, 14 WAYNE L. REV. 1039 (1968); Note, *The Need for Creative Orders Under Section 10(c) of the National Labor Relations Act*, 112 U. PA. L. REV. 69 (1963). Section 10(c) authorizes the NLRB "to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this [Act] . . ." 29 U.S.C. § 160(c) (1964).

[90] I have made this argument before. *See* Gould, 13 How. L.J. 1 (1967), *supra* note 88; Gould, 47 Texas L. Rev. 1039 (1969), *supra* note 88.

[91] 395 U.S. 285 (1969).

[92] 395 U.S. at 295–296.

[93] 71 L.R.R.M. 3070 (5th Cir. July 28, 1969).

[94] 71 L.R.R.M. at 3071. Judge Wisdom's opinion did cite *Gaston County* for the proposition that, in order for title VII to be operative, past discrimination need not be unlawful at the time at which it was engaged in.

[95] The court stated:

Not all "but-for" consequences of pre-Act racial classification warrant relief under Title VII. For example, unquestionably Negroes, as a class, educated at all-Negro schools in certain communities have been denied skills available to their white contemporaries. That fact would not, however, prevent employers from requiring that applicants for secretarial positions know how to type, even though this requirement might prevent Negroes from being secretaries.

. . . Secretaries must be able to type. There is no way around that necessity . . . 71 L.R.R.M. at 3076.

[96] H. IBSEN, *Ghosts*, in 7 THE COLLECTED WORKS OF HENRIK IBSEN 220 (1924).

[97] *Florida Road Workers*, in MODERN AMERICAN POETRY 594 (L. Untermeyer ed. 1950).

YEAR-ROUND SCHOOLS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. WILLIAM D. FORD. Mr. Speaker, there have been many suggestions and

experiments to obtain a more economical utilization of the multibillion-dollar investment that the Nation has made in school buildings and equipment. One suggestion has been that school buildings might be utilized on a more comprehensive basis than the traditional 8-hour day for 10 months of the year. The Atlanta, Ga., school system has conducted an experiment using this concept. They have tried operating some of their schools on a year-round program. On February 28, 1970, the Christian Science Monitor carried an article which assessed the year-round experience in Atlanta which I insert in the RECORD for the attention of all Members of the House having an interest in education:

YEAR-ROUND SCHOOLS—GEORGIA DISTRICTS VIEW FLEXIBILITY AS A MAJOR GAIN

(By Leon W. Lindsay)

ATLANTA.—Year-round school, a concept bandied about in the United States for the better part of the last 100 years, is today an established fact in Atlanta.

Educators here not only figured out why the idea had not caught on, despite many sound arguments in its favor, they also came up with a number of new reasons for having year-round school, and a formula for making it attractive to the community.

In the process, they accomplished a revolution in high-school curriculum.

It's known here as the four-quarter school year, and the designation is one key to surmounting the logistic, scholastic, and public relations problems which have stymied previous attempts at year-round schools. More than 30 tries in the United States since 1900 have failed.

Actually, eight separate school systems in metropolitan Atlanta joined in working out the year-round plan. High-school systems in the cities of Atlanta, Decatur, and Marietta and in Clayton, Cobb, DeKalb, Fulton, and Gwinnet Counties are in various stages of implementing the four-quarter plan.

But Atlanta has gone further than the others. In this city the plan is being fully implemented.

Dr. John W. Letson, Atlanta superintendent of schools, and Dr. Curtis Henson, assistant superintendent for instruction, emphatically state that Atlanta did not adopt the year-round plan in order to cut down on building and operating costs.

The aim is to provide expanded opportunity for students to learn. Flexibility is a basic element in making the plan work.

No one is assigned to attend the summer quarterly—or any other quarter. Students may choose to attend any three of the four quarters—or all four if they wish to graduate early or "enrich" their high-school experience.

Teachers are not assigned to work during the summer quarter. They are given the opportunity to do so, and may increase their annual earnings this way. They still end up with a two-week August vacation, plus the usual school holidays.

Students who have failed courses can use the extra quarter to make up lost ground.

And the opportunity is increased for students to carry a limited school load and hold regular jobs. This is particularly attractive to youths from disadvantaged homes.

Perhaps the greatest indication of the new flexibility, however, is in the curriculum which was devised along with the four-quarter system. No less than 860 course selections are available to Atlanta high-school students. And among these are some not to be found in any traditional high-school curriculum.

Flexibility is also evident in the elimination of sequential arrangement of courses in most subject-matter areas. Of course, there are some, such as mathematics, in which sequential learning must be maintained. But as far as possible rigid requirements of this sort have been dropped.

Not only may high-school students under the four-quarter system take a quarter off at any point to work or travel; they may also devote a quarter solely to one educational activity. The Atlanta school system provides such opportunities.

Six of the eight systems initiated the quarter system in September, 1968. But only Atlanta planned a tuition-free-fourth quarter for the summer of 1969. The others went ahead with their traditional summer schools, for which tuition is required.

Some 12,000 Atlanta high-school pupils indicated they would attend the summer quarter in 1969. Since in this initial year of the new system all students were required to attend the first three quarters, this advance of almost 30 percent enrollment was considered good, says Dr. Henson.

Most of the 12,000 did, indeed, enroll for the fourth quarter. Slightly more than half these took a full load—five academic courses a day, Dr. Henson disclosed. Others were enrolled for the purpose of making up failures or for "enrichment."

That first summer quarter increased Atlanta's overall $70 million school budget by $1.2 million. So much for the old theory that year-round school would save money.

But since Atlanta is emphasizing improved educational quality and opportunity, Dr. Letson and his staff feel that fourth quarter is a bargain at the $1.2 million price.

The public apparently agrees. Despite the fact that 3½ mills was added to the city tax rate to finance the four-quarter plan, objections have been few.

JAYCEES—50 YEARS OF SELFLESS SERVICE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. FUQUA. Mr. Speaker, the measure of any man or organization is in results.

Truly it can be said of the Jaycees that here is an organization that has gotten results and this Nation and the world is richer for the vision of those young men who a half-century ago began the movement that was to become the world organization we know today.

This year the Jaycees are commemorating the 50th anniversary of their founding. I like the progressive spirit of this celebration, for instead of looking back, the attention is on the future.

Jaycees are young men between the ages of 21 to 35 who are motivated in "service to humanity." Their record of accomplishment in every corner of this Nation is the living tribute to these "Young Men in Action."

My own State is a good example. It was the Jaycees who took the leadership in the development of many of the programs that led to the formation of the Florida Highway Patrol. They were the leaders in developing our welcome stations which have meant so much to our vital tourist industry. They have been in the forefront of fighting for better government and for better communities. There is no area for civic betterment throughout our State which does not carry the imprint of the Jaycees.

Florida was the second State organization of the U.S. Junior Chamber of Commerce. The name Junior Chamber of Commerce came into being because the original group met in a Chamber of Commerce headquarters and a few years ago the name was changed to more accurately reflect its image as an organization of young men who are changing the world—the Jaycees.

From a beginning of a single chapter with an idea for bettering their community through the energy and initiative of young men has come an organization that spread throughout the United States and now as Junior Chamber International, has transported its precepts of selfless service throughout the world.

What has been accomplished in the past half century only portends that which will be done in the next 50 years. The Jaycee movement is founded on sound ground and truly its creed reflects all that is good and needed in this troubled world.

The creed of the Jaycees expresses a belief in God to give meaning and purpose to human life, that hte brotherhood of man transcends the sovereignty of nations, that economic justice is best achieved by free men through free enterprise, that Government should be of laws rather than of men, that the real treasure of earth is man's personality, and that service to humanity is the best work of life.

I have been a Jaycee myself and the thing that impressed me the most about the organization was the opportunity for leadership training for young men during their formative years.

The Jaycees are an active and ever-changing organization, for by its nature, it is of, by, and for the young leader. Here he has an opportunity to experiment with new ideas, to articulate the problems that he feels a community, State or Nation faces, and to attempt to do something about that problem.

I have been particularly impressed with the relevance which this organization gives to current problems. In every decade, the Jaycees have been a moving force of meeting the changing problems of society—ever in the forefront and quite often ahead of Government and other organizations in seeing the real problems that confront our society.

It would be impossible to recount the contributions which the 19 clubs in my congressional district have rendered. Young men who belong to the clubs in Apalachicola, Blountstown, Chattahoochee, Crescent City, Tallahassee, and East Tallahassee, Fernandina Beach, Gainesville, Green Cove Springs, Jasper, High Springs, Monticello, Lake City, Live Oak, Mayo, Orange Park, Palatka, Perry, and Quincy, have made tremendous contributions to our area of the State through the years.

Florida has furnished the leadership of the national presidency in the late, revered Selden Waldo of Gainesville, and 12 other national officers.

Florida Jaycees have come a long way from their beginning in 1923 with Jacksonville to the vibrant organization of

today of over 150 local clubs and a membership of over 10,000 in our State.

This Nation and the world is richer for their having existed. I am proud to have this opportunity to pay tribute to a movement I consider to be one of the finest forces for progress and leadership training that man has ever devised.

All of us have a right to be proud of their accomplishments and to wish for them a second half century of service to humanity.

COURT MAY DEFEND ITSELF—AT LEAST AGAINST CRIMINALS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1970

Mr. RARICK. Mr. Speaker, last February 16—H852—I called to the attention of the House the agitation and propaganda technique of the Communist movement in relation to the abuse of the courts.

It is worth summarizing the purpose and the nature of such assaults on justice at this time.

The radical in the hands of justice does not cease to be a soldier of the conspiracy—he simply adopts a new role. He uses the very concern of our judicial system for the protection of his rights to make that system unworkable. At the same time, he utilizes the stage as an agitation soapbox and as a platform from which to disseminate his propaganda. If he can so disturb the judicial machinery as to make his conviction impossible, so much the better, from the viewpoint of the conspirator.

Today the Supreme Court handed down what will probably become a landmark decision in a criminal case. I say probably, because Justice Douglas has already suggested that this was only an ordinary criminal and he probably did not have the same rights to constitutional protection which will be found in a "political" trial—such as that of a Communist, a subversive, a Negro, or a "civil rights worker" perhaps.

Misbehavior of a defendant, or his attorney, or of anyone else in a court in such a manner as to interfere with the proceedings of the court, and to tend to make the judicial process impossible is a direct and criminal contempt of that court—and has been from a very early time. This is so well settled in our law that the casebook example used in law school is written in the old law French.

The court has an inherent right of "self-defense" and when it is directly attacked it invokes this power of contempt punishments—for the purpose of protecting its very existence. We, in this House, have the same power. Were an unruly body to invade our Chamber and make our proceedings impossible, this House could direct its Sergeant at Arms to secure and incarcerate the miscreants for such time as necessary to enable the House to get about its business. Indeed, we have seen just an event occur in the legislature of one of the States, in Madison, Wis., not too long ago.

Because of the importance to all of us, and to the readers of the RECORD as well, I include in my remarks pertinent newspaper clippings relating to the actions of the U.S. district court in the Chicago conspiracy trial, the current press comments on today's Supreme Court decision, and the decision and opinions of the Supreme Court in Illinois against Allen, the case to which I refer.

The material follows:

[From the Chicago (Ill.) Tribune, Feb. 18, 1970]

HOW CAN A JUDGE PROTECT HIMSELF?

Protests against the contempt-of-court sentences in the riot conspiracy trial are coming from the usual mixed bag of professional liberals, dreamy idealists, and nuts. One of their complaints is that the sentences were too severe. Six months is long enough for contempt of court, they say.

The critics overlook the fact that when the defendants and their lawyers insulted Judge Hoffman and caused frequent disorders in the courtroom they were not merely trying to show off or to exercise exuberance. They were trying deliberately to provoke the judge into declaring a mistrial and sending them to jail for contempt. They figured that the worst they would get would be six-month sentences.

If six months were the limit for the worst possible misbehavior in a courtroom, no defendant ever could be sentenced to more severe punishment, no matter what the offense charged against him. He could simply insult the judge and accept a contempt sentence. When called back for another trial, he could repeat the contemptuous behavior and get another mistrial. This process could be continued indefinitely until witnesses died or disappeared and the prosecution's evidence was gone.

Judge Hoffman outfoxed the riot conspiracy group by submitting to their outrageous abuse and by keeping a careful record of every contemptuous act. At the end of the trial he sentenced the defendants for separate actions and made the sentences run consecutively.

Whether the cumulative sentences are upheld on appeal remains to be seen. If Judge Hoffman is upheld, the stiff sentences should serve as a healthy deterrent to others tempted to use the same tactics. On the other hand, if Judge Hoffman is reversed by the higher courts, they should specify what else he might have done to protect himself.

The only alternative so far suggested is that courtrooms be equipped with soundproofed plastic booths or separate rooms where unruly defendants, could be sequestered. Loudspeakers would permit them to hear the proceedings, and they would have telephones to communicate with their lawyers. Israel used a booth in the 1962 trial of Adolf Eichmann, not because he was contemptuous but to protect him from assassination.

A committee of architects, judges, and lawyers is investigating the possibility of designing courtrooms so that quiet, if not decorum, can be maintained in the trial of revolutionaries. A separate study is being made by a committee of the American Bar Association with the aim of establishing guidelines for dealing with disrupters. Such committees take forever to make reports.

Plastic booths or similar cages for defendants would be a confession of failure by our court system. Surely every judge should have authority to use jail sentences severe enough to maintain the dignity of the court against those trying to force mistrials. Appeals should be available to prevent the abuse of this authority by tyrannical judges.

If there are many more trials like the one recently concluded in Chicago, the riot conspiracy group will have won a major victory in their campaign to destroy the judicial process.

[From the Chicago (Ill.) Tribune, Feb. 26, 1970]

THE JUDICIAL PROCESS MUST BE PROTECTED

Judge Edwin A. Robson of the United States District court, who soon will be its chief judge, has issued an order forbidding defendants, counsel, witnesses, and court personnel to make out-of-court comments about a forthcoming trial of 15 radicals accused of breaking into and destroying the records of a draft center.

Judge Robson's drastic order was necessitated, he said, by the out-of-court activities of defendants, defense counsel, and certain news media during the riot-conspiracy trial of seven revolutionaries in Judge Julius J. Hoffman's court. In an obvious attempt to transfer their case from the courtroom to the country, the defendants held daily press conferences at which they made outrageous statements about the judge, witnesses, the government and its prosecutors, the law under which they were tried, etc., before ever-present television cameras.

Judge Robson asserted that William M. Kunstler, one of the defense lawyers, "repeatedly and brazenly" transgressed court rules and the canons of ethics by "continuous inflammatory statements concerning jurors, witnesses, evidence, the judge, and rulings by the court during the trial."

These extrajudicial activities, together with obstructive conduct by the defendants and their lawyers inside the courtroom, radicalized a considerable section of the nation's youth and resulted in a display of incredible ignorance of the law, the rules of evidence, and the facts of the case by liberal newspapers all over the country.

This newspaper has never condoned restrictions on sources of information to which the press has a legitimate right of access. Restrictions on the right of the press to obtain and to publish information which it deems essential to the public interest, even while a trial is in progress, would not be permissible under the Constitution. We do not believe, however, that Judge Robson's order has any such intent or will have that effect. It simply prevents extrajudicial comments about a judicial proceeding by defendants, witnesses, counsel, and court personnel.

Judge Robson's order, based upon the Supreme Court's decision in the murder case of Dr. Samuel Sheppard, was made necessary by the attempt of revolutionaries in this country to sabotage and undermine the judicial process, which they rightly regard as a bulwark of the system they seek to overthrow. Defendants in the riot-conspiracy case, of whom five were found guilty and all seven were jailed for contempt, together with their lawyers, because of their outrageous conduct during the trial, disdain to conceal their purpose to destroy the courts.

Justices of the United States Supreme Court took cognizance of this threat to the judicial process Tuesday during an oral argument on the case of William Allen, who was convicted of holding up a Chicago tavern and sentenced to 30 years in prison. Allen was sent to jail for disruptive conduct before his trial was concluded, and the question before the Supreme Court is whether this violated his constitutional right to confront his accusers.

Chief Justice Warren E. Burger, Justice Hugo L. Black, and Justice Thurgood Marshall all indicated agreement with the state of Illinois that Allen's conduct was an "ef-

fective waiver" of his right to be present throughout the trial.

"Something has to be done to protect the courts from such indignities and frustrations," said Justice Black.

If the Supreme Court rules against Allen, the courts will have ample authority to protect themselves. Unruly defendants can be dragged off to jail without waiting, as Judge Hoffman did, until their trial is over. Judge Robson has shown how to prevent inflammatory extrajudicial activities by defendants and their lawyers. We may have to enlarge our prison facilities, but the revolutionaries can be contained.

[From the Washington (D.C.) Star, Mar. 31, 1970]

RULING ASSERTS TRIAL DISRUPTERS MAY BE OUSTED

(By Lyle Denniston)

An accused person who disrupts his own trial may be barred from the courtroom, punished for contempt or even bound and gagged, the Supreme Court ruled today.

In a precedent-setting decision which will control trial judges in a series of highly controversial cases, the justices said an unruly defendant had no constitutional right to be present during his trial.

Seven members of the high court supported the decision in full.

The eighth, Justice William O. Douglas, did not file a dissent, but said he thinks the court should not have laid down formal guidelines, particularly because of problems he foresees in "political trials."

Justice Hugo L. Black wrote the brief but far-ranging opinion insisting upon order during criminal trials.

"Our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity," the court's senior justice wrote.

BEARING ON HOFFMAN

"It would degrade our country and our judicial system to permit our courts to be bullied, insulted and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes."

Emphasizing the worry it apparently had about recent boisterous trials, the court took only five weeks to reach its decision. That is an unusually short time for a major constitutional ruling.

Black's opinion was supported by Chief Justice Warren E. Burger and Justices John M. Harlan, Potter Stewart, Byron R. White and Thurgood Marshall.

A seventh justice who said he agreed with the result, William J. Brennan, Jr., wrote his own opinion giving his reasons.

Brennan suggested, as Black had not, that an accused who is physically removed from his trial should have an opportunity to "communicate with his attorney and, if possible, to keep apprised of the progress of his trial."

Brennan did not say what he meant, except to refer to technological arrangements—presumably telephones or closed-circuit television facilities.

The court's ruling, while giving basic constitutional support to some of the actions of Federal Judge Julius J. Hoffman in the "Chicago Seven" conspiracy trial, did not endorse the precise actions the judge took.

For example, the decision today did not say whether the use of punishment for contempt may be delayed until the trial is all over, as Hoffman did, or must be used at the time the accused becomes unruly and disruptive.

The decision also does not settle the amount of punishment that may be given for contempt by a boisterous defendant.

The decision does give some implied support to a New York State judge, John M. Murtagh, who has refused to go ahead with a case against 13 Black Panthers accused of a bombing conspiracy until they promise to behave themselves in court.

The high court said flatly that a judge may "imprison an unruly defendant . . . and discontinue the trial until such time as the defendant promises to behave himself."

Today's ruling came in a case involving an Illinois man, William Allen, sentenced to a 10- to 30-year prison sentence in 1956 for robbing a bartender at gunpoint.

During his trial, Allen repeatedly spoke abusively, to the judge and said he would not allow his trial to go ahead. He was banished from the courtroom.

The 7th U.S. Court of Appeals ruled, however, that Allen had a constitutional right to be present during his trial. It ruled that he could be bound and gagged to make him behave.

The decision in Allen's case was applied Oct. 30 and 31 by Hoffman during the Chicago conspiracy trial. He ordered one of the defendants, Bobby Seale, bound and gagged to stop frequent outbursts.

Seale later was convicted of contempt of court and was ordered tried separately from the other accused. He is awaiting trial.

The high court ruling today emphasized that the justices felt that shackling and gagging should be used only as a last resort.

"Use of this technique," Black said, "is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold."

It is partly because of its distaste for that technique, the court said, that it approved other methods of keeping order.

The justices gave no indication of whether they favored contempt punishment or removal from the courtroom.

However, Black's opinion warned trial judges not to use their contempt power in such a way as to permit an accused to stay in jail while his trial is suspended in hopes of allowing enough time to pass to win an acquittal on the basis that important witnesses were unavailable.

"A court must guard against allowing a defendant to profit from his own wrong in this way," Black said.

Under the decision, a judge apparently has the discretion of whether to keep the trial going after he punishes a person for contempt or to stop the trial until he is assured that the accused will behave.

Black said that punishing for contempt or threatening such punishment might sometimes be enough to make an accused behave. But if that is not enough, he may then be banished, Black said.

Douglas, referring to past cases in which labor leaders, Communists or anarchists and left-wing dissidents were tried in highly controversial prosecutions, said in his separate opinion the court should wait for such a political case to come to it before deciding on rules of conduct.

But, he said, "The Constitution was not designed as an instrument for . . . rough-and-tumble contest. The social compact has room for tolerance, patience, and restraint, but not for sabotage and violence."

Brennan's separate opinion similarly did not endorse unruly behavior in court. "The nation cannot endure if we allow our precious heritage of ordered liberty to be ripped apart amid the sound and fury of our times."

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER *v.* WILLIAM ALLEN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MR. JUSTICE BLACK delivered the opinion of the Court.

The Confrontation Clause of the Sixth Amendment to the United States Constitution provides that "In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him. . . ." We have held that the Fourteenth Amendment makes the guarantees of this clause obligatory upon the States. *Pointer* v. *Texas*, 380 U.S. 400 (1965). One of the most basic of the rights guaranteed by the Confrontation Clause is the accused's right to be present in the courtroom at every stage of his trial. *Lewis* v. *United States*, 146 U.S. 370 (1892). The question presented in this case is whether an accused can claim the benefit of this constitutional right to remain in the courtroom while at the same time he engages in speech and conduct which is so noisy, disorderly, and disruptive that it is exceedingly difficult or wholly impossible to carry on the trial.

The issue arose in the following way. The respondent, Allen, was convicted by an Illinois jury of armed robbery and was sentenced to serve 10 to 30 years in the Illinois State Penitentiary. The evidence against him showed that on August 12, 1956, he entered a tavern in Illinois and, after ordering a drink, took $200 from the bartender at gunpoint. The Supreme Court of Illinois affirmed his conviction, *People* v. *Allen*, 37 Ill. 2d 167, 226 N. E. 2d 1 (1967), and this Court denied certiorari. 389 U.S. 907 (1967). Later Allen filed a petition for a writ of habeas corpus in federal court alleging that he had been wrongfully deprived by the Illinois trial judge of his constitutional right to remain present throughout his trial. Finding no constitutional violation, the District Court declined to issue the writ. The Court of Appeals reversed, 413 F. 2d 232 (1969), Judge Hastings dissenting. The facts surrounding Allen's expulsion from the courtroom are set out in the Court of Appeals' opinion sustaining Allen's contention:

"After his indictment and during the pretrial stage, the petitioner [Allen] refused court-appointed counsel and indicated to the trial court on several occasions that he wished to conduct his own defense. After considerable argument by the petitioner, the trial judge told him, 'I'll let you be your own lawyer, but I'll ask Mr. Kelly [court-appointed counsel] [to] sit in and protect the record for you, insofar as possible.'

"The trial began on September 9, 1956. After the State's Attorney had accepted the first four jurors following their *voir dire* examination, the petitioner began examining the first juror and continued at great length. Finally, the trial judge interrupted the petitioner, requesting him to confine his questions solely to matters relating to the prospective juror's qualifications. At that point, the petitioner started to argue with the judge in a most abusive and disrespectful manner. At last, and seemingly in desperation, the judge asked appointed counsel to proceed with the examination of the jurors. The petitioner continued to talk, proclaiming that the appointed attorney was not going to act as his lawyer. He terminated his remarks by saying, 'When I go out for lunchtime, you're [the judge] going to be a corpse here.' At that point he tore the file which his attorney had and threw the papers on the floor. The trial judge thereupon stated to the petitioner, 'One more outbreak of that sort and I'll remove you from the courtroom.' This warning had no effect on the petitioner. He continued to talk back to the judge, saying, 'There's not going to be no trial, either. I'm going to sit here and you're going to talk and you can bring your shackles out and straight jacket and put them on me and tape my mouth, but it will do no good because there's not going to be no trial.' After more abusive remarks by the petitioner, the trial judge ordered the trial to proceed in the petitioner's absence. The petitioner was removed from the courtroom. The *voire dire* examination

then continued and the jury was selected in the absence of the petitioner.

"After a noon recess and before the jury was brought into the courtroom, the petitioner, appearing before the judge, complained about the fairness of the trial and his appointed attorney. He also said he wanted to be present in the court during his trial. In reply, the judge said that the petitioner would be permitted to remain in the courtroom if he 'behaved [himself] and [did] not interfere with the introduction of the case.' The jury was brought in and seated. Counsel for the petitioner then moved to exclude the witnesses from the courtroom. The defendant protested this effort on the part of his attorney, saying: 'There is going to be no proceeding. I'm going to start talking and I'm going to keep on talking all through the trial. There's not going to be no trial like this. I want my sister and my friends here in court to testify for me.' The trial judge thereupon ordered the petitioner removed from the courtroom." 413 F. 2d, at 233–234.

After this second removal, Allen remained out of the courtroom during the presentation of the State's case-in-chief, except that he was brought in on several occasions for purposes of identification. During one of these latter appearances, Allen responded to one of the judge's questions with vile and abusive language. After the prosecution's case had been presented, the trial judge reiterated his promise to Allen that he could return to the courtroom whenever he agreed to conduct himself properly. Allen gave some assurance of proper conduct and was permitted to be present through the remainder of the trial, principally his defense, which was conducted by his appointed counsel.

The Court of Appeals went on to hold that the Supreme Court of Illinois was wrong in ruling that Allen had by his conduct relinquished his constitutional right to be present, declaring that:

"No conditions may be imposed on the absolute right of a criminal defendant to be present at all stages of the proceedings. The insistence of a defendant that he exercise this right under unreasonable conditions does not amount to a waiver. Such conditions, if insisted upon, should and must be dealt with in a manner that does not compel the relinquishment of his right.

"In light of the decision in *Hoyt* v. *Utah*, 110 U.S. 574 (1884) and *Shields* v. *United States*, 273 U.S. 583 (1927) as well as the constitutional mandate of the Sixth Amendment, we are of the view that the defendant should not have been excluded from the courtroom during his trial despite his disruptive and disrespectful conduct. The proper course for the trial judge was to have restrained the defendant by whatever means necessary, even if those means included his being shackled and gagged." 413 F. 2d, at 235.

The Court of Appeals felt that the defendant's Sixth Amendment right to be present at his own trial was so "absolute" that, no matter how unruly or disruptive the defendant's conduct might be, he could never be held to have lost that right so long as he continued to insist upon it, as Allen clearly did. Therefore the Court of Appeals concluded that a trial judge could never expel a defendant from his own trial and that the judge's ultimate remedy when faced with an obstreperous defendant like Allen who determines to make his trial impossible is to bind and gag him.[1] We cannot agree that the Sixth Amendment, the cases upon which the Court of Appeals relied, or any other cases of this Court so handicap a trial judge in conducting a criminal trial. The broad dicta in *Hoyt* v. *Utah*, *supra*, and *Lewis* v. *United States*, 146 U.S. 370 (1892), that a trial can never continue in the defendant's absence has been expressly rejected. *Diaz* v. *United States*, 223 U.S. 442 (1912).

We accept instead the statement of Mr. Justice Cardozo who, speaking for the Court in *Snyder* v. *Massachusetts*, 291 U.S. 97, 106 (1968), said: "No doubt the privilege [of personally confronting witnesses] may be lost by consent or at times even by misconduct."[2] Although mindful that courts must indulge every reasonable presumption against the loss of constitutional rights, *Johnson* v. *Zerbst*, 304 U.S. 458, 464 (1938), we explicitly hold today that a defendant can lose his right to be present at trial if, after he has been warned by the judge that he will be removed if he continues his disruptive behavior, he nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that his trial cannot be carried on with him in the courtroom.[3] Once lost, the right to be present can, of course, be reclaimed as soon as the defendant is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

It is essential to the proper administration of criminal justice that dignity, order, and decorum be the hallmarks of all court proceedings in our country. The flagrant disregard in the courtroom of elementary standards of proper conduct should not and cannot be tolerated. We believe trial judges confronted with disruptive, contumacious, stubborn defiant defendants must be given sufficient discretion to meet the circumstances of each case. No one formula for maintaining the appropriate courtroom atmosphere will be best in all situations. We think there are at least three constitutionally permissible ways for a trial judge to handle an obstreperous defendant like Allen: (1) bind and gag him, thereby keeping him present; (2) cite him for contempt; (3) take him out of the courtroom until he promises to conduct himself properly.

I

Trying a defendant for a crime while he sits bound and gagged before the judge and jury would to an extent comply with that part of the Sixth Amendment's purposes that accords the defendant an opportunity to confront the witnesses at the trial. But even to contemplate such a technique, much less see it, arouses a feeling that no person should be tried while shackled and gagged except as a last resort. Not only is it possible that the sight of shackles and gags might have a significant effect on the jury's feelings about the defendant, but the use of this technique is itself something of an affront to the very dignity and decorum of judicial proceedings that the judge is seeking to uphold. Moreover, one of the defendant's primary advantages of being present at the trial, his ability to communicate with his counsel, is greatly reduced when the defendant is in a condition of total physical restraint. It is in part because of these inherent disadvantages and limitations in this method of dealing with disorderly defendants that we decline to hold with the Court of Appeals that a defendant cannot under any possible circumstances be deprived of his right to be present at trial. However, in some situations which we need not attempt to foresee, binding and gagging might possibly be the fairest and most reasonable way to handle a defendant who acts as Allen did here.

II

In a footnote the Court of Appeals suggested the possible availability of contempt of court as a remedy to make Allen behave in his robbery trial, and it is true that citing or threatening to cite a contumacious defendant for criminal contempt might in itself be sufficient to make a defendant stop interrupting a trial. If so, the problem would be solved easily, and the defendant could remain in the courtroom. Of course, if the defendant is determined to prevent *any* trial, then a court in attempting to try the defendant for contempt is still confronted with the identical dilemma that the Illinois court faced in this case. And criminal contempt has obvious limitations as a sanction when the defendant is charged with a crime so serious that a very severe sentence such as death or life imprisonment is likely to be imposed. In such a case the defendant might not be affected by a mere contempt sentence when he ultimately faces a far more serious sanction. Nevertheless, the contempt remedy should be borne in mind by a judge in the circumstances of this case.

Another aspect of the contempt remedy is the judge's power, when exercised consistently with state and federal law, to imprison an unruly defendant such as Allen for civil contempt and discontinue the trial until such time as the defendant promises to behave himself. This procedure is consistent with the defendant's right to be present at trial, and yet it avoids the serious shortcomings of the use of shackles and gags. It must be recognized, however, that a defendant might conceivably, as a matter of calculated strategy, elect to spend a prolonged period in confinement for contempt in the hope that adverse witnesses might be unavailable after a lapse of time. A court must guard against allowing a defendant to profit from his own wrong in this way.

III

The trial court in this case decided under the circumstances to remove the defendant from the courtroom and to continue his trial in his absence until and unless he promised to conduct himself in a manner befitting an American courtroom. As we said earlier, we find nothing unconstitutional about this procedure. Allen's behavior was clearly of such an extreme and aggravated nature as to justify either his removal from the courtroom or his total physical restraint. Prior to his removal he was repeatedly warned by the trial judge that he would be removed from the courtroom if he persisted in his unruly conduct, and, as Judge Hastings observed in his dissenting opinion, the record demonstrates that Allen would not have been at all dissuaded by the trial judge's use of his criminal contempt powers. Allen was constantly informed that he could return to the trial when he would agree to conduct himself in an orderly manner. Under these circumstances we hold that Allen lost his right guaranteed by the Sixth and Fourteenth Amendments to be present throughout his trial.

It is not pleasant to hold that the respondent Allen was properly banished from the court for part of his own trial. But our courts, palladiums of liberty as they are, cannot be treated disrespectfully with impunity. Nor can the accused be permitted by his disruptive conduct indefinitely to avoid being tried on the charges brought against him. It would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes. As guardians of the public welfare, our state and federal judicial systems strive to administer equal justice to the rich and the poor, the good and the bad, the native and foreign born of every race, nationality and religion. Being manned by humans, the courts are not perfect and are bound to make some errors. But, if our courts are to remain what the Founders intended, the citadels of justice, their proceedings cannot and must not be infected with the sort of scurrilous, abusive language and conduct paraded before the Illinois trial judge in this case. The record shows that the Illinois judge at all times conducted himself with that dignity, decorum, and patience that befits a judge. Even in holding that the trial judge had erred, the Court of Appeals praised his "commendable patience under severe provocation."

We do not hold that removing this defendant from his own trial was the only way the Illinois judge could have constitutionally solved the problem he had. We do hold, however, that there is nothing whatever in this record to show that the judge did not act completely within his discretion. Deplorable as it is to remove a man from his own trial, even for a short time, we hold that the judge did not commit legal error in doing what he did.

The judgment of the Court of Appeals is *Reversed*.

FOOTNOTES

[1] In a footnote the Court of Appeals also referred to the trial judge's contempt power. This subject is discussed in Part II of this opinion. *Infra*, at 7–8.

[2] Rule 43 of the Federal Rules of Criminal Procedure provides that "[i]n 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] See Murray, The Power to Expel a Criminal Defendant From His Own Trial: A Comparative View, 36 U. Colo. L. Rev. 171, 171–175 (1964); Goldin, Presence of the Defendant at Rendition of the Verdict in Felony Cases, 16 Col. L. Rev. 18, 18–31 (1916).

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER *v.* WILLIAM ALLEN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

NO. 606.—OCTOBER TERM, 1969

MR. JUSTICE BRENNAN, concurring.

The safeguards that the Constitution accords to criminal defendants presuppose that government has a sovereign prerogative to put on trial those accused in good faith of violating valid laws. Constitutional power to bring an accused to trial is fundamental to a scheme of "ordered liberty" and prerequisite to social justice and peace. History has known the breakdown of lawful penal authority—the feud, the vendetta and the terror of penalties meted out by mobs or roving bands of vigilantes. It has known, too, the perversion of that authority. In some societies the penal arm of the state has reached individual men through secret denunciation followed by summary punishment. In others the solemn power of condemnation has been confided to the caprice of tyrants. Down the corridors of history have echoed the cries of innocent men convicted by other irrational or arbitrary procedures. These are some of the alternatives history offers to the procedure adopted by our Constitution. The right of a defendant to trial—to trial by jury—has long been cherished by our people as a vital restraint on the penal authority of government. And it has never been doubted that under our constitutional traditions trial in accordance with the Constitution is the proper mode by which government exercises that authority.

Lincoln said this Nation was "conceived in liberty and dedicated to the proposition that all men are created equal." The Founders' dream of a society where all men are free and equal has not been easy to realize. The degree of liberty and equality that exists today has been the product of unceasing struggle and sacrifice. Much remains to be done—so much that the very institutions of our society have come under challenge. Hence, today, as in Lincoln's time, a man may ask "whether [this] nation or any nation so conceived and so dedicated can long endure." It cannot endure if the Nation falls short on the guarantees of liberty, justice, and equality embodied in our founding documents. But it also cannot endure if we allow our precious heritage of ordered liberty to be ripped apart amid the sound and fury of our time. It cannot endure if in individual cases the claims of social peace and order on the one side and of personal liberty on the other cannot be mutually resolved in the forum designated by the Constitution. If that resolution cannot be reached by judicial trial in a court of law, it will be reached elsewhere and by other means, and there will be grave danger that liberty, equality, and the order essential to both will be lost.

The constitutional right of an accused to be present at his trial must be considered in this context. Thus there can be no doubt whatever that the governmental prerogative to proceed with a trial may not be defeated by conduct of the accused that prevents the trial from going forward. Almost a half century ago this Court in *Diaz* v. *United States*, 223 U.S. 442, 457–458 (1912), approved what I believe is the governing principle. We there quoted from *Falk* v. *United States*, 15 App. D.C. 446 (1899), the case of an accused who appeared at his trial but fled the jurisdiction before it was completed. The court proceeded in his absence, and a verdict of guilty was returned. In affirming the conviction over the accused's objection that he could not be convicted in his absence, the Court of Appeals for the District of Columbia said:

"It does not seem to us to be consonant with the dictates of common sense that an accused person . . . should be at liberty, whenever he pleases, . . . to break up a trial already commenced. The practical result of such a proposition, if allowed to be law, would be to prevent any trial whatever until the accused person himself should be pleased to permit it. . . . This would be a travesty of justice which could not be tolerated. . . . [W]e do not think that any rule of law or constitutional principle leads us to any conclusion that would be so disastrous as well to the administration of justice as to the true interests of civil liberty. . . .

"The question is one of broad public policy, whether an accused person, placed upon trial for crime and protected by all the safeguards with which the humanity of our present criminal law sedulously surrounds him, can with impunity defy the processes of that law, paralyze the proceedings of courts and juries and turn them into a solemn farce, and ultimately compel society, for its own safety, to restrict the operation of the principle of personal liberty. Neither in criminal nor in civil cases will the law allow a person to take advantage of his own wrong."

To allow the disruptive activities of a defendant like respondent to prevent his trial is to allow him to profit from his own wrong. The Constitution would protect none of us if it prevented the courts from acting to preserve the very processes which the Constitution itself prescribes.

Of course, no action against an unruly defendant is permissible except after he has been fully and fairly informed that his conduct is wrong and intolerable, and warned of the possible consequences of continued misbehavior. The record makes clear that respondent was so informed and warned in this case. Thus there can be no doubt that respondent, by persisting in his reprehensible conduct, surrendered his right to be present at the trial.

As the Court points out, several remedies are available to the judge faced with a defendant bent on disrupting his trial. He can have him bound, shackled, and gagged; he can hold him in civil or criminal contempt; he can exclude him from the trial and carry on in his absence. No doubt other methods can be devised. I join the Court's opinion and agree that the Constitution does not require or prohibit the adoption of any of these courses. The constitutional right to be present can be surrendered if it is abused for the purpose of frustrating the trial. Due process does not require the presence of the defendant if his presence means that there will be no orderly process at all. However, I also agree with the Court that these three methods are not equally acceptable. In particular, shackling and gagging a defendant is surely the least of them. It offends not only judicial dignity and decorum, but also that respect for the individual which is the lifeblood of the law.

I would add only that when a defendant is excluded from his trial, the court should make reasonable efforts to enable him to communicate with his attorney and, if possible, to keep apprised of the progress of his trial. Once the court has removed the contumacious defendant, it is not weakness to mitigate the disadvantages of his expulsion as far as technologically possible in the circumstances.

[In the Supreme Court of the United States, Mar. 31, 1970]

STATE OF ILLINOIS, PETITIONER v. WILLIAM ALLAN, ON WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT

NO. 606 OCTOBER TERM, 1969

MR. JUSTICE DOUGLAS.

I agree with the Court that a criminal trial, in the constitutional sense, cannot take place where the courtroom is a bedlam and either the accused or the judge is hurling epithets at the other. A courtroom is a hallowed place where trials must proceed with dignity and not become occasions for entertainment by the participants, by extraneous persons, by modern mass media or otherwise.

My difficulty is not with the basic hypothesis of this decision, but with the use of this case to establish the appropriate guidelines for judicial control.

This is a state case, the trial having taken place nearly 13 years ago. That elapse of time is not necessarily a barrier to a challenge of the constitutionality of a criminal conviction. But in this case it should be.

There is more than an intimation in the present record that the defendant was a mental case. The passage of time since 1957, the date of the trial, makes it, however, impossible to determine what the mental condition of the defendant was at that time. The fact that a defendant has been found to understand "the nature and object of the proceedings against him" and thus competent to stand trial[1] does not answer the difficult questions as to what a trial judge should do with an otherwise mentally ill defendant who creates a courtroom disturbance. What a judge should do with a defendant whose courtroom antics may not be volitional is a perplexing problem which we should not reach except on a clear record. This defendant had no lawyer and refused one, though the trial judge properly insisted that a member of the bar be present to represent him. He tried to be his own lawyer and what transpired was pathetic, as well as disgusting and disgraceful.

We should not reach the merits but should reverse the case for staleness of the record and affirm the denial of relief by the District Court. After all, behind the issuance of a writ of habeas corpus is the exercise of an informed discretion. The question, how to proceed in a criminal case against a defendant who is a mental case, should be resolved only on a full and adequate record.

Our real problems of this type lie not with this case but with other kinds of trials. *First* are the political trials. They frequently recur in our history[2] and insofar as they take place

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Footnotes at end of speech.

in federal courts we have broad supervisory powers over them. That is one setting where the question arises whether the accused has rights of confrontation that the law invades at its peril.

In Anglo-American law, great injustices have at times been done to unpopular minorities by judges, as well as by prosecutors. I refer to London in 1670 when William Penn, the gentle Quaker, was tried for causing a riot when all that he did was to preach a sermon on Grace Church Street, his church having been closed under the Conventicle Act:

"Penn. I affirm I have broken no law, nor am I Guilty of the indictment that is laid to my charge; and to the end the bench, the jury, and myself, with these that hear us, may have a more direct understanding of this procedure, I desire you would let me know by what law it is you prosecute me, and upon what law you ground my indictment.

"Recorder. Upon the common-law.

"Penn. Where is that common-law?

"Recorder. You must not think that I am able to run up so many years, and over so many adjudged cases, which we call common-law, to answer your curiosity.

"Penn. This answer I am sure is very short of my question, for if it be common, it should not be so hard to produce.

"Recorder. Sir, will you plead to your indictment?

"Penn. Shall I plead to an Indictment that hath no foundation in law? If it contains that law you say I have broken, why should you decline to produce that law, since it will be impossible for the jury to determine, or agree to bring in their verdict, who have not the law produced, by which they should measure the truth of this indictment, and the guilt, or contrary of my fact?

"Recorder. You are a saucy fellow, speak to the Indictment.

"Penn. I say, it is my place to speak to matter of law; I am arraigned a prisoner; my liberty, which is next to life itself, is now concerned: you are many mouths and ears aaginst me, and if I must not be allowed to make the best of my case, it is hard, I say again, unless you show me, and the people, the law you ground your indictment upon, I shall take it for granted your proceedings are merely arbitrary.

"Recorder. The question is, whether you are Guilty of this Indictment?

"Penn. The question is not, whether I am Guilty of this Indictment, but whether this Indictment be legal. It is too general and imperfect an answer, to say it is the common-law, unless we knew both where and what it is. For where there is no law, there is no transgression; and that law which is not in being, is so far from being common, that it is no law at all.

"Recorder. You are an impertinent fellow, will you teach the court what law is? It is 'Lex non scripta,' that which many have studied 30 or 40 years to know, and would you have me to tell you in a moment?

"Penn. Certainly, if the common law be so hard to be understood, it is far from being very common; but if the lord Coke in his Institutes be of any consideration, he tells us, That Common-Law is common right, and that Common Right is the Great Charter-Privileges. . . .

"Recorder. Sir, you are a troublesome fellow, and it is not for the honour of the court to suffer you to go on.

"Penn. I have asked but one question, and you have not answered me; though the rights and privileges of every Englishman be concerned in it.

"Recorder. If I should suffer you to ask questions till to-morrow morning, you would be never the wiser.

"Penn. That is according as the answers are.

"Recorder. Sir, we must not stand to hear you talk all night.

"Penn. I design no affront to the court, but to be heard in my just plea: and I must plainly tell you, that if you will deny me Oyer of that law, which you suggest I have broken, you do at once deny me an acknowledged right, and evidence to the whole world your resolution to sacrifice the privileges of Englishmen to your sinister and arbitrary designs.

"Recorder. Take him away. My lord, if you take not some course with this pestilent fellow, to stop his mouth, we shall not be able to do anything to night.

"Mayor. Take him away, take him away, turn him into the bale-dock."[3] The Trial of William Penn, 6 How. St. Tr. 951, 958–959.

The panel of judges who tried William Penn were sincere, law-and-order men of their day. Though Penn was acquitted by the jury, he was jailed by the court for his contemptuous conduct. Would we tolerate removal of a defendant from the courtroom during a trial because he was insisting on his constitutional rights, albeit vociferously, no matter how obnoxious his philosophy might have been to the bench that tried him? Would we uphold contempt in that situation?

Problems of political indictments and of political judges raise profound questions going to the heart of the social compact. For that compact is two-sided: majorities undertake to press their grievances within limits of the Constitution and in accord with its procedures; minorities agree to abide by constitutional procedures in resisting those claims.

Does the answer to that problem involve defining the procedure for conducting political trials or does it involve the designing of constitutional methods for putting an end to them? This record is singularly inadequate to answer those questions. It will be time enough to resolve those weighty problems when a political trial reaches this Court for review.

Second are trials used by minorities to destroy the existing constitutional system and bring on repressive measures. Radicals on the left historically have used those tactics to incite the extreme right with the calculated design of fostering a regime of repression from which the radicals on the left hope to emerge as the ultimate victor.[4] The left in that role is the provocateur. The Constitution was not designed as an instrument for that form of rough-and-tumble contest. The social compact has room for tolerance, patience, and restraint, but not for sabotage and violence. Trials involving that spectacle strike at the very heart of constitutional government.

I would not try to provide in this case the guidelines for those two strikingly different types of cases. The case presented here is the classical criminal case without any political or subversive overtones. It involves a defendant who was a sick person and who may or may not have been insane in the classical sense[5] but who apparently had a diseased mind. And, as I have said, the record is so stale that it is now much too late to find out what the true facts really were.

FOOTNOTES

[1] See n. 5, *infra*.

[2] From *Spies* v. *People*, 122 Ill. 1, involving the Haymarket Riots. *In re Debs*, 158 U. S. 568, involving the Pullman strike, *Mooney* v. *Holohan*, 294 U. S. 103, involving the copper strikes of 1917; *Sacco & Vanzetti* v. *State*, 255 Mass. 369, 259 Mass. 128, 261 Mass. 12, involving the Red scare of the 20's; to *Dennis* v. *United States*, 341 U. S. 494, involving an agreement to teach Marxism.

As to the Haymarket riot resulting in the *Spies* case, see Commons, History of Labor in the United States, pp. 386 *et seq.* (1918); Swindler, Court & Constitution in the 20th Century, cc. 3 and 4 (1969).

As to the Pullman strike and the *Debs* case, see Pfeffer, This Honorable Court, pp. 215–216 (1966); Lindsey, The Pullman Strike, cc. XII and XIII (1942); Commons, History of Labor in the United States, pp. 502–508 (1918).

As to the *Mooney* case, see the January 18, 1922, issue of *The New Republic;* Frost, The Mooney Case (1968).

As to the *Sacco-Vanzetti case* see Fraenkel, The Sacco-Vanzetti Case; Frankfurter, The Case of Sacco-Vanzetti.

As to the repression of teaching involved in the *Dennis* case, see Kirchheimer, Political Justice, pp. 132–158 (1961).

[3] At Old Bailey, where the William Penn trial was held the baledock (or baildock) was "a small room taken from one of the corners of the court, and left open at the top; in which, during the trials, are put some of the malefactors." Oxford Eng. Dict.

[4] As respects the strategy of German Communists *vis-a-vis* the Nazis in the 1930's, see Heiden, Der Fuehrer, pp. 461, 462, 525, 551–552 (1944).

[5] In a 1956 pretrial sanity hearing, Allen was found to be incompetent to stand trial. Approximately a year later, however, on October 19, 1957, in a second competency hearing, he was declared sane and competent to stand trial.

Allen's sister and brother testified in Allen's behalf at the trial. They recited instances of Allen's unusual past behavior and stated that he was confined to a mental institution in 1953, although no reason for this latter confinement was given. A doctor called by the prosecution testified that he had examined Allen shortly after the commission of the crime which took place on August 12, 1956, and on other subsequent occasions, and that, in his opinion, Allen was sane at the time of each examination. This evidence was admitted on the question of Allen's sanity at the time of the offense. The jury found him sane at that time and the Illinois Supreme Court affirmed that finding. See *People* v. *Allen*, 37 Ill. 2d 167.

At the time of Allen's trial in 1957, the tests in Illinois for the defendant's sanity at the time of the criminal act were the M'Naghten Rules supplemented by the so-called "irresistible impulse test." *People* v. *Carpenter*, 11 Ill. 2d 60, 142 N. E. 2d 11. The tests for determining a defendant's sanity at the time of trial were that "[h]e should be capable of understanding the nature and object of the proceedings against him, his own condition in reference to such proceedings, and have sufficient mind to conduct his defense in a rational and reasonable manner," and, further, that "he should be capable of co-operating with his counsel to the end that any available defenses may be interposed." *People* v. *Burson*, 11 Ill. 2d 360, 369, —— N. E. 2d ——, ——.