of Intermediate School 131, at 855 Bolton Avenue in the Soundview section.

Tonight's session initiates a decentralized schedule for Planning Commission meetings. The commission will hold one in four of its regular biweekly meetings in a borough other than Manhattan. It will meet in Staten Island on July 24, in Brooklyn on Sept. 11, and in Queens on an October date still to be selected.

Tonight's Bronx meeting will include public hearings on several specific matters encompassed within the miniplans for the Soundview, Hunts Point and Kingsbridge areas. This, Mr. Zuccotti said, is in line with the commission's belief that plans promulgated for a neighborhood should not be merely academic studies of problems and possible solutions, but should instead be geared to actionable proposals.

In Kingsbridge, for example, the main problem as determined by the Planning Department's Bronx staff and by Community Board 14, which covers the area, is the compatibility of recently built high-rise apartment houses with the older one-family and two-family residences in the neighborhood.

At tonight's meeting, public comment will be invited on a commission proposal to rezone an area bounded generally by Kingsbridge and Irwin Avenues and by 232d and 283d Streets as a means of preserving low-density development. The rezoning would cover property that has been assembled by a developer with a view toward erecting a high-rise building, and would effectively bar such development.

In the Soundview peninsula, a series of zoning and mapping changes are proposed, flowing from a conclusion of the miniplan for the area that preservation of open space and provision of new park and recreational facilities are needed to protect the several residential communities that have survived changes there.

One change would rezone the Harding Park neighborhood to retain the basic low residential density of the southern part of Soundview. Another would demap an extension of the Bronx River Parkway and part of Randall Avenue to assure that the future Soundview Park along the Bronx River will be uncluttered by roads.

Community Board 8 has approved the Soundview Peninsula proposals. The miniplan for the Hunts Point area, across the Bronx River to the southwest of Soundview, was prepared by the South Bronx Community Planning Unit, one of three specialized agencies created recently by the Planning Commission to deal with matters affecting neighborhoods that span more than one community board. Besides the South Bronx unit, which covers Mott Haven and Morrisania as well as Hunts Point, there are specialized units in Harlem and in northern Queens.

The Hunts Point miniplan, approved by Community Board 2, focuses on preventing 7,000 units of older housing considered to have potential for rehabilitation, and on rearranging traffic circulation within the peninsula so that commercial vehicles, most of them going to and from the growing Hunts Point wholesale food market, do not impinge on residential areas.

ALLEN P. WHIPPLE NAMED TO BICENTENNIAL RESEARCH INSTITUTE

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1974

Mr. BRINKLEY. Mr. Speaker, I was delighted to learn that one of my constituents, Mr. Allen P. Whipple of Perry, Ga., was recently honored by being named to the America Bicentennial Research Institute. Mr. J. Frank Antil, executive director of the Bicentennial Research Institute, in making the announcement noted that Mr. Whipple's selection was "in recognition of his professional and civic attainments within the community of American man—and is entitled to all due honor and respect accorded to outstanding contributions to the growth and development of this American Republic."

As a member of the Bicentennial Committee in my hometown of Columbus, Ga., I would like to take this opportunity to extend my highest personal congratulations to Mr. Whipple. Mr. Speaker, at this point I am inserting for the review of my colleagues an article concerning Mr. Whipple which appeared in the Houston Home Journal of June 13, 1974.

The article reads:

PERRY'S WHIPPLE NAMED TO BICENTENNIAL RESEARCH INSTITUTE

Allen P. Whipple, Realtor and Insuror of Perry, has been named in The America Bicentennial Research Institute (1776–1976) of America according to an announcement made by J. Frank Antil of Dallas, Texas, Executive Director.

Whipple is a former Professional Scout Executive of the Peach Belt District. He is a graduate of Emory University and opened his own business, Whipple Realty and Insurance Co. in 1955.

The American Bicentennial Chairman stated, "Allen P. Whipple is hereby acknowledged as an important and valuable Human Resource of the United States of America, living during the closing decade of the First-American Bicennium (and, as such has been selected for inclusion in Library of Human Resources of the America Bicentennial Research Institute in recognition of his professional and civic attainments within the Community of American Man. Accordingly, he is, therefore, duly recognized by his countrymen and is entitled to all due honor and respect accorded to outstanding contributions to the growth and development of this American Republic."

Whipple is Immediate Past State Chairman of Publicity for the Ga. Assn' of Realtors. He is immediate past Chairman of the Public Relations Committee for the Perry Kiwanis Club. He is past Chairman for the Perry Board of Realtors Ethics, and Arbitration Committees.

In 1974, he was named to Who's Who of America, Inter-National Who's Who, and selected to England's "The Two Thousand Men of World Achievement".

He was among six realtors in the state nominated for the Most Outstanding Realtor in Georgia and was Perry's Realtor of the Year in 1973.

Whipple serves on the Executive Board of the Boy Scouts of America, is Scout Finance Chairman for the Thunderbird District's Guardian program, serves on the Advisory Board of Directors for the Georgia Lung Assn. and is a member of the U.S. Naval Institute of Maryland.

Presently he is Vice Pres. and Publicity and Promotion Chairman for the Perry Board of Realtors.

SENATE—*Wednesday, July 10, 1974*

The Senate met at 11:30 a.m. and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

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

Bless the Lord, O my soul: and all that is within me, bless His holy name. Bless the Lord, O my soul, and forget not all His benefits: Who redeemeth thy life from destruction; who crowneth thee with loving kindness and tender mercies;—Psalms 103:1, 2, 4.

The righteous shall be in everlasting remembrance.—Psalms 112:6.

Thanks be to Thee, O God, for Thy servant Earl Warren, for the greatness and goodness of his manhood, for his home and his family, for the magnitude of his service to his State and Nation, for his love of humanity, his outgoing friendship, his courageous convictions, his faith in democratic institutions, his commitment to the divine law, and his abiding trust in Thee.

Grant to all who mourn the consolations of Thy Holy Spirit and the sure knowledge that as we walk with Thee here so shall we walk with Thee eternally.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 10, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 3703) to authorize in the District of Columbia a plan providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the District of Columbia, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3477) to amend the act of August 9, 1955, relating

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to school fare subsidy for transportation of schoolchildren within the District of Columbia, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House had passed the bill (H.R. 5686) to amend the Motor Vehicle Safety Responsibility Act of the District of Columbia and the District of Columbia Traffic Act of 1925, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 8217) to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MILLS, Mr. ULLMAN, Mr. BURKE of Massachusetts, Mr. SCHNEEBELI, and Mr. COLLIER were appointed managers of the conference on the part of the House.

HOUSE BILL REFERRED

The bill (H.R. 5686) to amend the Motor Vehicle Safety Responsibility Act of the District of Columbia and the District of Columbia Traffic Act of 1925, and for other purposes, was read twice by title and referred to the Committee on the District of Columbia.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 9, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

FORMER CHIEF JUSTICE EARL WARREN

Mr. MANSFIELD. Mr. President, one of the great jurists in the history of the Republic passed away yesterday. I refer to the late Chief Justice of the United States, Earl Warren.

I do not have enough words at my disposal to express my great admiration and deep respect and affection for Earl Warren, but I do have enough words to express to him, even though he has gone, and to his family, my great admiration for what he has done to bring about equality in this country; for the forthrightness with which he faced up to his responsibilities, and for the fact that he never dodged an issue and, while not always right, he was always there when the time came for a decision.

I ask unanimous consent that an editorial which appeared in today's Los Angeles Times, entitled "Earl Warren," be inserted at this point in the RECORD.

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

EARL WARREN

It was a case of little significance—nothing like the great issues that so often came before the U.S. Supreme Court under the long tenure of Chief Justice Earl Warren. And the decision stirred up none of the controversy surrounding the landmark rulings of the Warren court's era.

Yet the decision was a symbol both of the man and the judge.

A savage Alabama law cut off state aid to dependent children of mothers who had extramarital relations with a man in the home. Speaking for the court, Chief Justice Warren struck down the statute. It was inconceivable to him that children should go hungry because of the conduct of their mother.

That Alabama law was not justice, and equal justice under the law was Warren's abiding ideal. When he immediately sought through his power and influence in that great office to give substance to this principle, many friends and critics alike were confounded.

If they had been more familiar with the man and the official, whose public life went back to 1919, they would have been less astonished—or not surprised at all.

Nearly 50 years ago, an aggressive, 34-year-old district attorney said, "It is a shame to think that there should be one law for the poor and one for the rich." His name was Earl Warren. It was essentially the same man who nearly 30 years later became chief justice of the United States. In the intervening years, his beliefs as a young man had been reinforced by a remarkable public career. He had been elected governor of California for an unprecedented third term when he was named chief justice by President Eisenhower.

The storm that beat against the Warren court began in his very first term when the chief justice wrote the unanimous opinion that segregation in public schools no longer could be tolerated. The decision that compelled legislative reapportionment was bitterly attacked. The fury of the critics was kindled again by the one man-one vote opinion that ruled unconstitutional the composition that then characterized most state legislatures.

But these controversies, furious as they once were, have faded. The nation has come to recognize that discrimination by race in any area of public life cannot be accepted in a democratic society. The nation has come to understand that representative government must be representative in fact as well as in theory. Otherwise democracy is poisoned at the well.

Still the center of controversy is the concern expressed by the Warren court for the protection of the rights of criminal suspects. The court's decisions on criminal procedure were a natural outgrowth of the struggle for civil rights. Dean A. Kenneth Pye of Duke law school observed:

"If (during this period) the court's espousal of equality before the law was to be credible, it required not only that the poor Negro be permitted to vote and to attend a school with whites, but also that he and other disadvantaged individuals be able to exercise, as well as possess, the same rights as the affluent white when suspected of crime. It required that the values expressed in the Bill of Rights have meaning to the vast majority of our citizens whose contact with the criminal process is limited to local police and local judges . . ."

What got the Warren court in trouble, said a noted Illinois judge some years ago, was the attempt to put "flesh and blood" on our ideals. Genuine fear also was a factor in the hostility generated by the court's decisions strengthening the rights of criminal suspects. These changes coincide with a time of rising crime and violence. One writer described this as a "monumental incongruity"—the court placing "rigid limitations" on the police "at a time when the United States had the most serious crime problem of any so-called advanced nation in the world."

Simpler critics put their criticism in simpler and more appealing terms. The Warren court, they said, took the handcuffs off criminals and put them on the police.

After he left the court, Mr. Warren answered the critics. "Those who would adhere to the Bill of Rights in our common cause against crime," he said, "are accused of being 'soft on crime' and therefore responsible for the lawlessness, which is largely born of slums, ignorance, bad health conditions, race discrimination and lack of economic opportunity."

The spirit of the man, who sought to convert the ideals of justice into a living reality for every citizen, was best reflected, perhaps, when he came to Los Angeles, the city of his birth, three years ago to address a religion convocation.

Retired from his labors on the court and approaching his 80th birthday, he said, "The foundations of a new world must be laid by those who have the courage to change the old; by those who arteries are still soft and clear, whose minds are still active, and hearts still generous."

Was Earl Warren a great chief justice? In a poll several years ago, 65 "academic experts" ranked him among the 12 "great justices" in the court's history. Yet history must supply the definitive answer long after the tumult of this age has died away.

But he was a great man. Of that we can be certain, if humanity and courage and a generous heart are placed on the scale.

Mr. HUGH SCOTT. Mr. President, I have the warmest recollections of Earl Warren, whose death we mourn, whose passing has taken a giant from us.

I campaigned for him in 1948, as the chairman of my party, when he was the candidate for Vice President.

I had known him before that as Governor of California and Attorney General, and after that as Chief Justice of the Supreme Court.

He will be remembered for his landmark decision in regard to the one-man, one-vote principle, by which the equality promised in the Declaration of Independence and guaranteed in the Constitution was finally, after long and bloody encounters, brought to pass.

He will be remembered, too, for the Brown case, in which he, through his tact and skill, brought about a unanimous decision of the Supreme Court in which the Court was finally brought to say that its previous decisions were wrong and that indeed equality in education was a must in this country, and that separate but equal was separate enough and utterly unequal.

He was a fine man, a pleasant man, a good friend. We will miss him very much, and I extend my condolences to his wife and to his family, and I hope that time will soften the burden of their grief and

that remembrance will sweeten their days.

I have referred heretofore to Cicero's Oration for Milo, but it is applicable peculiarly to Earl Warren, when Cicero said of his friend that he was "Vir et fortissimus in publica re et firmissimus in re suscepta." That is, a man both very brave in public life and very strong in a cause which he had undertaken.

Mr. President, I join with my colleagues and all of America today in mourning the loss of the former Chief Justice of the United States, Earl Warren. An outstanding leader, a fair jurist, a former attorney general in California, a man with impeccable character and possessor of a great record of achievement as Governor of the State of California, and Vice Presidential candidate of the Republican Party in 1948.

Just last month, the former Chief Justice was the commencement speaker on a number of campuses. He placed great confidence in the young people of this land. And at these commencements, he challenged those who hold the future of this Nation urging them, as I have done so often, to have faith in our system of government because it is the best in this world. And he knew this well because for 16 years he was the Nation's Chief Justice.

Mr. President, in today's New York Times, a summary story on the death of the late Earl Warren presents some reflections by his colleagues. I ask unanimous consent that the article be printed in the RECORD.

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

EARL WARREN IS DEAD IN CAPITAL AT 83; CHIEF JUSTICE IN VAST SOCIAL CHANGE

(By Anthony Lewis)

WASHINGTON, July 9.—Earl Warren, who as Chief Justice of the United States presided over extraordinary constitutional change, died tonight at Georgetown University Hospital. He was 83 years old.

The retired Chief Justice had entered the hospital a week ago with what was diagnosed as coronary insufficiency and congestive heart failure—his third hospitalization with heart problems this year. He suffered a cardiac arrest at 8:10 this evening, according to a hospital spokesman.

Mrs. Warren, the former Nina Meyers, was with him. Other survivors are his sons, James, Earl Jr. and Robert, and daughters, Virginia (Mrs. John Charles Daly), Dorothy (Mrs. Harry Van Knight) and Nina (Mrs. Stuart Brown).

Warren E. Burger, who became Chief Justice in 1969 upon the retirement of Mr. Warren, issued the following statement tonight upon learning of Mr. Warren's death:

"Earl Warren's life epitomized the American dream. His unique half-century of public service as prosecutor, Attorney General, Governor and Chief Justice spans one of the most dynamic eras in our history and his contribution was large indeed.

"During my tenure in office he was constantly available for consultation on the growing problems of the Federal courts and his wise counsel was invaluable.

"In retirement he continued to be active, speaking to students on college campuses all over America. He constantly expressed his faith in young people and his confidence in America and its future."

Associate Justice Thurgood Marshall, the first black named to the Court, said of Mr. Warren: "When history is written, he'll go down as one of the greatest Chief Justices the country has ever been blessed with. I think he is irreplaceable."

Justice Marshall said that Mr. Warren had been a catalyst not only in civil rights "but the right of the individual."

"And I would say individual rights are more important than civil rights, and I think he was the focus point of the government, emphasing the individual's rights," Justice Marshall said.

16 YEARS ON BENCH

Mr. Warren was Attorney General of California for four years, Governor for 12 and the Republican candidate for Vice President in 1948. But his long political career was entirely overshadowed by his nearly 16 years as Chief Justice, from 1953 to 1969.

It was often said that no Chief Justice since John Marshall had had so profound an impact on American law and life. During the Warren years the Supreme Court, usually a conservative influence, became a force for libertarian reform.

The school segregation case, Brown v. Board of Education, was the best-known symbol of those years. Decided on May 17, 1954, just eight months after Mr. Warren took his seat, the case held segregated schools unconstitutional, overruling the 60-year-old separate-but-equal doctrine. Later cases applied the new rule to all racial barriers imposed by law.

The Chief Justice's role in the Brown case was hidden by the Supreme Court tradition of secrecy in deliberation. But many students of the period believe that he had a crucial role in achieving unanimity on the Court.

The public knew the racial segregation cases better than any others in the Warren years. But changes just as sweeping came in two other areas: criminal law and legislative apportionment.

The Warren Court interpreted the Constitution to provide many new rights for those suspected or accused of crime. For example, all poor defendants were for the first time guaranteed the right to free counsel. Evidence secured by illegal police methods was excluded from use at trials.

Then, in 1966, came the landmark case of Miranda v. Arizona. The Court held that all arrested persons had a right to see a lawyer before being questioned by the police—a free lawyer if they could not pay for one—and had to be advised of that right.

Chief Justice Warren once said himself that he regarded the apportionment cases as more important than those dealing with either race or criminal defendants' rights.

Precedents had barred Federal courts from even considering challenges to legislative districts that were gerrymandered or grossly unequal in population. Then, in 1962, the Court turned away from that history and said that Federal judges could consider apportionment cases.

Two years later, in a massive opinion by the Chief Justice, the Court held that every house of every state legislature had to be districted substantially on the basis of equal population. The result was the redistricting, in a short time, of almost all American state legislatures.

These cases made Earl Warren a highly controversial figure, very likely the most controversial judge of the century. Southern segregationists ran campaigns to "impeach Earl Warren." Liberals honored him more than they did most Presidents.

A LIBERAL RECORD

Ironically, this liberal reformist judge had been appointed by a conservative President, Dwight D. Eisenhower. Privately, President Eisenhower made clear in later years he had been surprised and not always pleased by the judicial record of the man he moved from the governorship of California to the Supreme Court.

But in fact Mr. Warren had been a notably liberal Governor, who occupied the center of the political spectrum in California and made a habit of winning both Republican and Democratic nominations.

He was a large man with a hearty manner, who loved the outdoors and felt at ease with ordinary working people. But his plain exterior concealed a powerful character that bridled at any suggestion of impropriety.

From his seat on the bench Chief Justice Warren would often indicate a distaste for something that the Federal government or a state had done to some individual. He would ask counsel, as if the latter were personally responsible, "was that fair?"

THE 99TH ANNIVERSARY OF THE BIRTH OF THE LATE DR. MARY McLEOD BETHUNE

Mr. HUGH SCOTT. Mr. President, on another matter on which I solicit the attention of my friend, the distinguished majority leader, today is the 90th anniversary of the birth of the late Dr. Mary McLeod Bethune, founder and first president of Bethune-Cookman College and the National Council of Negro Women and former president of the Association for the Study of Afro-American Life and History, and its executive committee and its membership throughout the United States have urged us to have our respective bodies make note of this important anniversary.

She was a highly respected, internationally renowned educator and leader, and because she lived America was truly enriched. I make note of this and call attention of the Senate to this anniversary because Dr. Bethune had a most important impact on our times and what she has done deserves to be long remembered.

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

Mr. HUGH SCOTT. I would be glad to yield.

Mr. MANSFIELD. I am glad to join the distinguished Republican leader and to note that during her lifetime Mary McLeod Bethune was recognized for the many contributions which she had made to the welfare of this Republic, and that she was recognized because she had vitality, understanding and a prophetic idea of what the future held for this country. She was truly a great woman.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed beyond 11:45 a.m., the statements therein to be limited to 5 minutes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

AMENDMENT TO BUDGET REQUEST FOR THE DEPARTMENT OF TRANSPORTATION (S. DOC. No. 93-94)

A communication from the President of the United States transmitting an amendment to the request for appropriations transmitted in the budget for the fiscal year 1975 in the amount of $5 million for the Department of Transportation (with accompanying papers). Ordered to be printed and referred to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S. Con. Res. 79. A concurrent resolution expressing the sense of the Congress with respect to the celebration of the 100th anniversary of the birth of Herbert Hoover (Rept. No. 93-993).

H.R. 8543. An act for the relief of Viorica Anna Ghitescu, Alexander Ghitescu, and Serban George Ghitescu (Rept. No. 93-994).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

H. Con. Res. 2[illegible]. A concurrent resolution requesting the President to proclaim the 7-day period of July 16, through 22, 1973, as "United States Space Week" (Rept. No. 93-992).

By Mr. HUGH SCOTT, from the Committee on the Judiciary, without amendment:

S. Res. 186. A resolution to refer the bill (S. 2571) entitled "A bill for the relief of Sperling and Schwertz, Inc.", to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 93-995). Considered and agreed to.

By Mr. METCALF (for Mr. ERVIN), from the Committee on Government Operations:

S. Res. 355. An original resolution authorizing supplemental expenditures by the Committee on Government Operations for an inquiry and investigation relating to budget and accounting measures and operations (Rept. No. 93-990).

THE FEDERAL JUDICIAL SYSTEM—REPORT OF THE COMMITTEE ON THE JUDICIARY (REPT. NO. 93-991)

Mr. BURDICK, from the Committee on the Judiciary, submitted a report entitled "The Federal Judicial System," pursuant to section 10, Senate Resolution 56, 93d Congress, 1st session, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. HARTKE, from the Committee on Commerce:

Roger Lewis, of the District of Columbia; and

Gerald D. Morgan, of Maryland, to be members of the Board of Directors of the National Railroad Passenger Corporation.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 3741. A bill to exempt from Federal taxation the obligations of certain nonprofit corporations organized to finance student loans and to provide that incentive payments to lenders of those student loans shall not be regarded as yield from the student loans for the purpose of determining whether bonds issued by such nonprofit organizations are arbitrage bonds. Referred to the Committee on Finance.

S. 3742. A bill designating San Angelo Dam and Reservoir on the North Concho River as the "O. C. Fisher Dam and Lake." Referred to the Committee on Public Works.

By Mr. STEVENS:

S. 3743. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes. Referred to the Committee on Commerce.

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

S. 3744. A bill to amend the Interstate Commerce Act in order to establish a 2-year moratorium on the abandonment of certain electric railroad facilities. Referred to the Committee on Commerce.

By Mr. METCALF:

S. 3745. A bill to amend the Legislative Reorganization Act of 1946 to authorize the appointment of hearing examiners by congressional committees. Referred to the Committee on Rules and Administration.

By Mr. LONG:

S. 3746. A bill to increase the amount of a loan that the Secretary of Commerce may guarantee from 75 percent to 87.5 percent of the cost of certain vessels, and for other purposes. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S.J. Res. 225. A joint resolution relating to the issuance of a special postage stamp commemorating the 20th anniversary of the Food for Peace program. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3741. A bill to exempt from Federal taxation the obligations of certain nonprofit corporations organized to finance student loans and to provide that incentive payments to lenders of those student loans shall not be regarded as yield from the student loans for the purpose of determining whether bonds issued by such nonprofit organizations are arbitrage bonds. Referred to the Committee on Finance.

LEGISLATION TO INCREASE THE AVAILABILITY OF STUDENT LOANS

Mr. BENTSEN. Mr. President, I am today introducing a bill which will enable nonprofit corporations, which were organized to finance student loans, to issue tax-exempt municipal bonds if the proceeds of these bonds are used to provide student loans in accordance with title IV-B of the Higher Education Act of 1965.

There are several higher education authorities in the State of Texas that desire to issue tax-exempt municipal bonds to finance student loans made in accordance with the Higher Education Act of 1965. The bill that I am introducing today will amend the Internal Revenue Code to enable nonprofit corporations in Texas and any other State to do so.

The South Texas Higher Education Authority, for example, was established under the Texas Nonprofit Corporation Act for the purpose of arranging for the financing of student loans. Many worthy students will be denied the opportunity to receive a college education in the absence of this much needed source of student loans. This would have a particularly damaging effect in many economically disadvantaged areas where it is particularly important to provide young people with as great an educational opportunity as possible in order to foster community development.

Mr. President, one of our highest national objectives is to provide all young people with an opportunity to attain as much education as possible. The bill I am introducing today will help promote that goal by providing student loans that might not be otherwise available to our young people.

By Mr. BENTSEN:

S. 3742. A bill designating San Angelo Dam and Reservoir on the North Concho River as the "O. C. FISHER Dam and Lake." Referred to the Committee on Public Works.

O. C. FISHER DAM AND LAKE

Mr. BENTSEN. Mr. President, I rise today to introduce a bill which would, upon the date of January 3, 1975, change the name of the San Angelo Dam and Reservoir, in Texas, to the "O. C. Fisher Dam and Lake."

O. C. FISHER has never lost sight of the fact that he is a servant of the people. Through 16 Congresses, O. C. FISHER has served the people of the 21st District in Texas, with honesty, dedication, and a devotion to the American constitutional system of government. In his more than 20 years on the House Armed Services Committee, Congressman FISHER has supplied a firm and thoughtful approach to our country's defense needs.

The 21st District of Texas, which Congressman FISHER has so ably served, is a part of Texas subject to long droughts and torrential rainfall. It was the uncertainty of the weather in this part of Texas that made the San Angelo Dam and Reservoir a necessity. A devastating flood, which had ravaged the city of San Angelo in 1956 prompted the building of this vast flood control project. The project still serves a vital protective function, as well as a valuable recreational service to the people of the area.

Congressman FISHER has authored many water conservation and flood control projects similar to the San Angelo Dam and Reservoir project, in his years in the Congress. We are all fortunate to call him Congressman, and I am proud to call him friend. It is for these reasons, Mr. President, that I feel it only fitting that the San Angelo Dam and Reservoir permanently bear his name, as a reminder to the citizens of the 21st Dis-

trict, the State of Texas, and the United States, of Congressman FISHER's steady, uncompromising devotion to his constituents and his country.

By Mr. STEVENS:

S. 3743. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I introduce today a bill which would amend the Federal Aid in Fish Restoration Act, commonly known as the Dingell-Johnson program, which is funded by a manufacturer's excise tax on certain items of fishing equipment, has made an invaluable contribution to the sport fish conservation programs of State fish and wildlife agencies. My bill would increase the level of funding by expanding the tax base and also remove some present inequities in the program.

According to the 1970 National Survey of Fishing and Hunting, the period between 1955 and 1970 witnessed a 59-percent increase in the number of sport fishermen in the United States along with a 77-percent increase in the number of fishing days. During the 1960's the increase in number of sport fishermen was double that of the increase in population.

This upward trend is not expected to level out, according to data compiled by the Outdoor Recreation Resources Review Commission—ORRRC—report. The ORRRC report predicted that by 1976 some 37.5 million U.S. fishermen would fish some 750 million days. The ORRRC report also pointed out that the cost of fish management programs was outstripping funds available to support them. If fish conservation programs of the future and the provision of new sport fishing opportunities are to meet the increasing demands on the sport fish resource of this country, additional funding must be developed.

Accompanying these increasing pressures for recreational fishing opportunities have been objections regarding some aspects of the funding of the Dingell-Johnson program. Manufacturers of fishing tackle have observed that only a few items of sport fishing equipment are subjected to the present 10-percent excise tax with the result that only some segments of the industry account for all of the funds available to support the program.

I know that there will be some arguments raised against expanding the tax base of the Dingell-Johnson program. Some will argue that the benefits would be too small or that the expansion places an unfair burden on those who do reap the benefits of the Dingell-Johnson program.

All States with ocean, large lake or river fishing may set up Federal aid projects to benefit those waters. In 1972 alone, 44 States have availed themselves of the Dingell-Johnson program. A tax on underwater sport swimming equipment is, I feel, equitable since a healthy fish population is of both direct and indirect benefit to the nonconsumptive underwater sports enthusiasts viewing pleasure. Industry sources have estimated that additional revenues raised by expansion of the Dingell-Johnson tax base has been estimated as high as $3 million. This would be highly significant in terms of State budgets and resulting angler benefits. Thus the broadening of the Dingell-Johnson tax base would be both equitable and substantial.

In addition, some manufacturers object that they are responsible for paying the excise tax at the time they sell their merchandise rather than when payment is received from the vendee. Manufacturers frequently do not receive payment from retailers until months after shipment of the merchandise. In consequence, many manufacturers, especially smaller companies, are forced to borrow funds to pay the tax or lose a competitive edge by requiring immediate payment from the retailer.

Today, all manufacturers operate under this same procedure. The fact that the date the tax is due is nondiscriminatory does not, in my opinion, mean that it is fair. Because of the number of small companies in the fishing tackle industry—approximately half of the estimated 250 companies in the industry have annual volumes of less than $200,000—they must meet their Federal excise tax liability by borrowing from the bank. It is only good sense to allow these companies, as well as others in the industry, to meet their tax obligation when they receive payment for the sale.

In terms of equity to the industry, therefore, compelling reasons exist for alleviating problems created by the present program. Various alternatives have been reviewed by the Department of the Treasury, Internal Revenue Service, the American Fishing Tackle Manufacturers Association, and the International Association of Game, Fish and Conservation Commissioners, and the bill I am today introducing is designed to resolve the inequities mentioned as well as to supplement existing levels of funding.

Under the amendments proposed, the 10-percent excise tax would be extended to cover all sport fishing equipment, parts, and accessories including hooks, lines, leaders, sinkers, minnow buckets, tackle containers, rod holders, nets, stringers, fish finders, depth locators, and down riggers. At present, the tax extends only to fishing rods, reels, creels, and artificial lures, baits, and flies. In addition the bill would impose the excise tax on articles of underwater sport swimming equipment such as wet suits, face masks, and spear guns. Second, the bill would amend the present system by delaying the time for payment of the excise tax generally from time of sale to time of payment to the manufacturer.

These amendments would make available each year some $2 to $3 million in additional funds, an increase of approximately 20 percent, for support of approved State programs for sport fish restoration. No appropriation would be required by Congress and no additional manpower in the Bureau of Sport Fisheries and Wildlife would be needed.

Increased funding is important to the sport fish programs of many States, including Alaska. Although Alaska encompasses a tremendous geographic area, it is sparsely populated. Since 1952, when the first distribution was made of Dingell-Johnson funds, through fiscal year 1974, Alaska has received $7.2 million for sport fish restoration projects. Without that contribution, effective management of the sport fish resource by the Alaska Department of Fish and Game would not have been possible.

The same story may be told for all the other States. Great progress has been made in achieving the purposes of the original program—restoration of the Nation's sport fisheries. Nevertheless, much needs to be done. A growing human population will require more diligent and far-reaching fishery conservation efforts to supply an essential recreational need.

My proposals will supplement the funds available for this important work and eliminate a needless impediment to the fishing tackle industry.

Mr. President, I ask that my bill be printed in the RECORD immediately following my remarks.

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

S. 3743

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

TITLE I—FISH RESTORATION FUND

SEC. 101. (a) The first sentence of section 3 of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for for other purposes", approved August 9, 1950 (16 U.S.C. 777b), is amended to read as follows: "To carry out the provisions of this Act, there is authorized to be appropriated an amount equal to the revenue accruing from tax imposed with respect to articles taxable at 10 percent by section 4161 of the Internal Revenue Code of 1954 (relating to sport fishing and underwater swimming) during the fiscal year ending June 30, 1976, and each fiscal year thereafter.".

(b) The amendment made by subsection (a) of this section shall take effect July 1, 1975.

TITLE II—TAX ON SALE OF SPORT FISHING AND UNDERWATER SWIMMING EQUIPMENT

SEC. 201. (a) Section 4161(a) of the Internal Revenue Code of 1954 (relating to the imposition of tax on the sale of certain articles) is amended to read as follows:

"(a) SPORT FISHING AND UNDERWATER EQUIPMENT.—

"(1) There is hereby imposed upon the sale by the manufacturer, producer, or importer—

"(A) of any article of sport fishing equipment; and

"(B) of any article of underwater sport swimming equipment, including, but not limited to, wet suits, underwater face masks, snorkles, swimming fins, air tanks, air tank regulators, and spear guns; a tax equivalent to 10 percent of the price for which so sold.

"(2) As used in this subsection, the term 'sport fishing equipment' means—

"(A) fishing reels, rods, fabricated poles, organic, synthetic, and metallic lines testing 80 pounds or less, fishing spears, and items of terminal tackle including, but not limited to, leaders, artificial lures, baits and flies, fishhooks, bobbers, sinkers, snaps, drayles, swivels, underwater riggers, and underwater spreaders;

"(B) fishing supplies and accessories including, but not limited to, tackle containers, fish stringers, creels, bags and baskets, portable bait containers, landing nets with handles not more than 6 feet in length and hoops not more than 36 inches in diameter, and gaff hooks with handles not more than 6 feet in length;

"(C) fishbook disgorgers, fish knives, scalers, rod holders, line and fly dressing, fly tying materials, preserved packaged bait, floaters, and waders;

"(D) tip-ups, tilts, ice augers (both manual and power), ice spuds, ice skimmers, and manufactured ice houses and windshields; and

"(E) portable fish finders (including both thermometers and depth finders), outriggers of 10 feet or more in length when extended, down riggers, rod belts, fishing chairs, and fishing harnesses.

"(3) The tax imposed by this subsection is due and payable upon receipt of the payment from the vendee but not later than the close of the eighth month after the date of the sale.".

(b) The amendment made by subsection (a) of this section shall apply with respect to articles sold by the manufacturer, producer, or importer hereof on or after July 1, 1975.

By Mr. HUMPHREY:

S.J. Res. 225. A joint resolution relating to the issuance of a special postage stamp commemorating the 20th anniversary of the food-for-peace program. Referred to the Committee on Post Office and Civil Service.

TWENTIETH ANNIVERSARY OF FOOD FOR PEACE

Mr. HUMPHREY. Mr. President, today marks the 20th anniversary of the enactment of Public Law 480, which has been popularly titled the "food for peace" program.

As one of the originators of this program, I am extremely proud of its usefulness during the past two decades. At a time when parts of the world are facing famine, it is useful to recall the good which has been accomplished under this great humanitarian effort.

We in the United States have never had to worry about food shortages; our production capacity far surpasses the demand of our people. However, all nations are not as fortunate. Approximately 100 countries with 70 percent of the world's population have been termed "less developed countries." By far, the most pressing need in these nations is nutritious food. Public Law 480 initiated the U.S. policy to utilize our abundant food to "combat hunger and malnutrition and to encourage economic development in the developing countries."

The act, as it now exists, contains two major sections. Title I authorizes the President to sell our excess farm commodities to foreign nations on credit terms. The goal of this provision is to promote the improvement of agricultural productivity in countries that have the resources but lack the impetus to get an appropriate program off the ground. Our title I sales program has given these countries the necessary extra time to initiate their own agricultural programs.

Beginning in 1967, all Public Law 480 title I sales agreements were required to contain self-help measures to be taken by the recipient countries. These measures have encouraged the recipient nations in expanding their food production. Unfortunately, much more remains to be done.

The food-for-peace program has generated foreign currencies that have been available for a variety of purposes beneficial to the United States and friendly nations throughout the world. A number of scientific, medical, cultural, and educational activities have been fostered through these funds.

Medical and health-related research has benefited greatly through the utilization of excess foreign currencies by the National Institutes of Health, Health Services and Mental Health Administration, and the Food and Drug Administration. These agencies have used these funds to carry out projects aimed at providing better health services. In 1972, 300 such projects were provided for in eight excess-currency nations.

Title II of the Public Law provides agriculture commodities on a grant basis "to meet famine and other urgent or extraordinary relief requirements, to combat hunger and malnutrition especially in children, and to promote economic and commnuity development in friendly developing areas."

In fiscal year 1973, over $38 million in title II Public Law 480 assistance was provided to countries suffering from disasters such as droughts, floods, cyclones, and earthquakes.

In 1973, food-for-peace commodities were used in the case of the Nicaraguan earthquake. Within 4 days, enough food was on hand to feed all 300,000 earthquake victims for a month.

The hunger and starvation in Bangladesh following the cessation of hostilities was also alleviated through the use of title II commodities; 500,000 metric tons of food, including 300,000 tons of wheat, were committed for Bangladesh. Since independence, additional quantities of food have been provided, with the total estimated value of $109.4 million. These food donations have meant that thousands of Bengali people are alive today who otherwise would have perished.

Title II of the Public Law 480 program also provides the means whereby American nonprofit voluntary agencies participate in humanitarian development programs. Agencies such as CARE, Catholic Relief Services, Church World Service, Lutheran World Relief, American Jewish Joint Distribution Committee and Hadassah have taken very active roles in the implementation of these vital programs.

The U.S. voluntary agencies contribute heavily from their own resources in carrying out these programs in developing nations. Thus, the value of the food is stretched because administrative costs to the U.S. Government are reduced.

It is hard for us to envision the contribution that this program has made around the world in saving lives and giving hope.

I had the privilege yesterday to meet with Mother Theresa, who has been carrying on her great humanitarian work among the dying of Calcutta. She pointed out how useful our food assistance had been and how much it was still needed.

I have attempted in this brief statement to point out some of the major accomplishments of Public Law 480 on its 20th anniversary. We can already look back on this program as one of the landmarks, not only of our history, but in the annals of mankind as well.

To serve as a reminder of this occasion, Mr. President, I am submitting a joint resolution, calling for the issuance of a stamp commemorating the 20th anniversary of the food-for-peace program. Such a step is certainly appropriate, and I urge my colleagues to join in its support.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 406

At the request of Mr. ROBERT C. BYRD (for Mr. NELSON), the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 406, to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

S. 2845

At the request of Mr. ROBERT C. BYRD (for Mr. NELSON), the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2845, to amend the Federal Food, Drug, and Cosmetic Act in order to protect consumers against food additives which have mutagenic or teratogenic effects on man or animals.

S. 2863

At the request of Mr. BUCKLEY, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of S. 2863, to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to provide that certain seatbelt standards shall not be required under such act.

S. 3374

At the request of Mr. BUCKLEY, the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. JAVITS), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 3374, to amend the Small Business Act to assist in financing of small business concerns owned by persons who are disadvantaged because of certain social or economic considerations.

S. 3516

At the request of Mr. BROCK, the Senator from Minnesota (Mr. HUMPHREY), was added as a cosponsor of S. 3516, to provide for the issuance of special series of postage stamps, in conjunction with the Bicentennial celebration of the United States, depicting the flags of each of the 50 States, Guam, the District of Columbia, Puerto Rico, and the Virgin Islands.

S. 3517

At the request of Mr. BROCK, the Senator from Minnesota (Mr. HUMPHREY), was added as a cosponsor of S. 3517, to provide for the issuance of special series of postage stamps for the Bicentennial celebration depicting an historical event or individual from each of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

S. 3571

At the request of Mr. PERCY, the Senator from California (Mr. TUNNEY) was added as a cosopnsor of S. 3571, the Higher Education Expenses Tax Deferment Act.

S. 3625

At the request of Mr. DOMENICI, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor to S. 3625 to provide for the recycling of used oil, and for other purposes.

S. 3660

At the request of Mr. STEVENSON, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 3660, to amend the Export-Import Bank Act of 1945.

S. 3680

At the request of Mr. TUNNEY, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of S. 3680, a bill to prevent the unfair taxation of recent college graduates.

SENATE CONCURRENT RESOLUTION 100—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF "CONFIDENCE AND CONCERN; CITIZENS VIEW AMERICAN GOVERNMENT—A SURVEY OF PUBLIC ATTITUDES"

(Referred to the Committee on Rules and Administration).

Mr. MUSKIE submitted the following concurrent resolution:

S. CON. RES. 100

Resolved by the Senate (the House of Representatives concurring), That the compilation entitled "Confidence and Concern: Citizens View American Government—a Survey of Public Attitudes," prepared by the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations that there be printed two thousand additional copies of such document for the use of that committee.

SENATE CONCURRENT RESOLUTION 102—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO REGULATORY REQUIREMENTS ON DISTILLED SPIRITS AND WINE

(Referred to the Committee on Finance.)

Mr. COOK. Mr. President, I am pleased to join with my distinguished colleagues, Senator JAMES BUCKLEY and Senator WALTER HUDDLESTON, in introducing a concurrent resolution calling for a congressional study to determine whether additional regulatory requirements should be imposed on packages of distilled spirits and wine.

For the past 40 years, the production and distribution of distilled spirits and wine have been subject to a much higher degree of governmental supervision than any other consumer products. All standards of identity are prescribed by the Government for approval; and all production processes are inspected and supervised by the Government. These safeguards adequately protect the public against the use of any harmful ingredients or processes.

And yet, the Bureau of Alcohol, Tobacco, and Firearms now proposes to broaden its supervision over these highly regulated industries by requiring that all ingredients be listed on each label. There are some 300,000 active distilled spirits and wine labels. To require a separate listing of ingredients for each of these labels would impose a heavy and costly burden on Government as well as on industry, which costs ultimately must be borne by the consuming public, and there is serious doubt that it would serve any useful purpose.

No country in the world requires ingredient labeling of government-standardized distilled spirits or wines. Such a unilateral action by the United States would generate serious problems in international trade.

Before our country adopts such a requirement, Congress should consider its broad implications and determine whether it truly is needed in the public interest. This is particularly important at this time, when we are attempting to reduce the costs of Government by eliminating unnecessary Federal programs. Meanwhile, until all relevant facts are assembled and carefully studied, the proposed administrative action by the Bureau of Alcohol, Tobacco, and Firearms should be deferred—not necessarily canceled, but merely postponed during a reasonable study period.

I urge my colleagues to give this concurrent resolution their most careful consideration. I ask unanimous consent that the text of the resolution be printed in the RECORD immediately following my remarks.

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

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring),

Whereas, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department proposes to promulgate regulations which would require a statement of ingredients on every bottle of distilled spirits and wine produced and sold in or imported into the United States; and

Whereas, the production of distilled spirits and wine involves a higher degree of governmental supervision than any other consumer product; and

Whereas, under the Internal Revenue Code and the Federal Alcohol Administration Act each producer must obtain federal approval for all ingredients used in each distilled spirits and wine product before it reaches the marketplace; and

Whereas, federal agents conduct frequent on-site inspections of all distilled spirits and wine production procedures; and

Whereas, each bottler must obtain prior federal approval for each distilled spirits and wine label; and

Whereas, federal chemists test samples of distilled spirits and wine to make sure that no harmful ingredients are present and that the product is properly labeled; and

Whereas, each producer must comply with strict standards of identity which are established under federal law for all distilled spirits and wine beverages; and

Whereas, federal officers investigate all suspected violations and take punitive actions where warranted; and

Whereas, each distilled spirits bottle must be labeled with the brand name, class and type, alcohol content, net contents, name and address of manufacturer, country of origin for imports, and where applicable, coloring or flavoring, percentage of neutral spirits and statement of age; and

Whereas, each wine bottle must be labeled with the brand name, class, type or other designation, alcoholic content or type designation in lieu thereof, net contents and the name and address of the bottler or importer; and

Whereas, the requirement of listing the ingredients on the labels or bottles would add greatly to the cost to Government due to the regulation, inspection and supervision of such labeling; and

Whereas, the proposed regulations not only would impose an undue financial burden on business but also would impose a great and undue burden on the consumer who ultimately would bear the cost of such labeling; and

Whereas, no other country in the world requires the listing of ingredients on distilled spirits or wine whose composition and processing are regulated by its Government; and

Whereas, the imposition of such regulations would be an enormous hindrance and undue burden on international trade;

Now, therefore, be it resolved by the Senate (The House of Representatives concurring), That it is the sense of Congress that the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department not promulgate the intended regulations until the Congress of the United States be given the opportunity to consider this matter and its broad implications in full.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. NELSON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Concurrent Resolution 88, relative to a national economic emergency.

SENATE RESOLUTION 355—ORIGINAL RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. METCALF (for Mr. ERVIN), from the Committee on Government Operations reported the following resolution:

S. RES. 355

Resolved, That Senate Resolution 269, 93rd Congress, agreed to March 1, 1974, is amended as follows:

(1) In section 3, strike out "$2,079,000" and in lieu thereof insert "$2,099,000".

(2) In section 7(a), strike out "$189,000" and in lieu thereof insert "$209,000".

(3) In section 10, strike out "$2,099,000" and in lieu thereof insert "$2,119,000".

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970—AMENDMENT

AMENDMENT NO. 1543

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970, to provide appropriations to the Drug Enforcement Administration on a continuing basis.

SENATE CONCURRENT RESOLUTION 40 HONORING SIX VOCATIONAL STUDENT ORGANIZATIONS—AMENDMENT IN THE NATURE OF A SUBSTITUTE

AMENDMENT NO. 1544

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. BROCK. Mr. President, for myself and the Senator from Colorado (Mr. DOMINICK), I am today submitting an amendment in the nature of a substitute to the Senate Concurrent Resolution 40, honoring the six vocational student organizations: Distributive Education Clubs of America, Future Business Leaders of America, Future Farmers of America, Future Homemakers of America, Office Education Association, and Vocational Industrial Clubs of America.

When I first introduced this resolution last July 13, I wanted to call public attention to these outstanding student organizations and to praise them for their exceptional accomplishments in promoting career awareness and occupational understanding among the young people of our country. In addition to career development these six organizations have taken an active role in building the civic, social, and leadership capabilities of their student members. The organizations have long believed, as we all do, that these qualities of character are most important to successful careers and well informed citizens. Their programs and activities have strived to combine the elements of education, dedication to country, and motivation for success in a way few groups have ever achieved.

At a time when many young people are troubled in spirit about the quality of life and specifically about how they can make a contribution to the betterment of society, it has been my experience that the more than 2½ million student members of these six organizations have found a unique and harmonious way of improving their communities as well as themselves. During this past year I have had several opportunities to meet and talk with these vocational students both in my home State of Tennessee and in other States throughout the country. I have been continually impressed with the maturity and clarity of their thoughts. Their sense of direction at such a young age, which I believe comes from their career orientation, is refreshing and uplifting to one's spirit. Their enthusiasm and motivation to accomplish occupational as well as community goals is the key to their individual and collective success.

There are many who are quick to criticize the ills and faults of our country and hopefully in a positive and constructive manner all of us can work together to correct and elimiate these faults. But all of us are sometimes slow to acknowledge those who are already improving our country and performing a job well done. The six vocational student organizations have not only demonstrated their beliefs in our free enterprise system, our democratic form of government, and individual opportunities, they have also been working to correct our Nation's problems and build for a better future. BICEP—a program of youth muscle for environmental action—is one such project where the six organizations are jointly working together on environmental clean up projects throughout the Nation. It was the first youth program to seek the Bicentennial Administration's approval.

I believe these six vocational student organizations: Distributive Education Clubs of America, Future Business Leaders of America, Future Farmers of America, Future Homemakers of America, Office Education Association, and Vocational Industrial Clubs of America which are the major such organizations in the country, deserve the respect and appreciation of all Americans for their truly outstanding contributions to career development among our young people.

They have provided an invaluable service for millions of young Americans by providing the connecting link between education and occupation and cementing the relevance of education to a promising and productive business career. The amended version of Senate Concurrent Resolution 40 would bestow the proper recognition and respect upon these vocational student organizations and upon their millions of past, present, and future members. Never before has any such recognition and praise been accorded to them and the time has come to correct this shortcoming.

I call upon each and every one of my distinguished colleagues to join with me in supporting these fine organizations and recognizing their exceptional contributions to education. This support and recognition can be most appropriately given by swift passage of Senate Concurrent Resolution 40 in its amended form. I ask unanimous consent that the text of this amended concurrent resolution be presented in the RECORD at the conclusion of my remarks.

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

AMENDMENT NO. 1544

Strike out all after the resolving clause, and insert in lieu thereof the following:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the following student organizations provide exceptional motivational and learning experiences in career preparation, leadership development, occupational understanding, civic responsibility, and social consciousness which improve the quality and relevance of their respective instructional programs for America's young people:

Distributive Education Clubs of America.

Future Business Leaders of America/Phi Beta Lambda.

Future Farmers of America.

Future Homemakers of America.

Office Education Association.

Vocational Industrial Clubs of America.

SEC. 2. It is further the sense of the Congress that the activities of vocational student organizations be encouraged by the states in which they are active.

Mr. DOMINICK. Mr. President, I am pleased to see that the distinguished Senator from Tennessee (Mr. BROCK) has taken this occasion to amend his concurrent resolution honoring the six vocational student organizations. As an original cosponsor of this resolution, I welcome these improvements, and now believe that all of my colleagues can wholeheartedly support this measure which properly recognizes the Distributive Education Clubs of America, Future Business Leaders of America, Future Farmers of America, Future Homemakers of America, Office Education Association, and Vocational Industrial Clubs of America.

The six vocational student organizations have been quietly going about the business of developing future leaders of this country for over 25 years. Indeed, some of the past national officers of these six organizations are, today, Members of Congress, successful businessmen, and respected educators. Their accomplishments speak well of the dedication and determination that has been shown by these organizations as they develop the civic, social, and leadership capabilities of their student members.

In addition to developing good citizens, the six vocational student organizations are also developing productive citizens who have occupational excellence and lifetime careers.

As an integral part of vocational educational programed instruction, they: the Distributive Education Clubs of America, Future Business Leaders of America, Future Farmers of America, Future Homemakers of America, Office Education Association, and Vocational Industrial Clubs of America are helping to promote not only career awareness among students, but also occupational proficiency so that as students finish their formal education they can make an easy transition into the world of work, and become productive members of our society. Greater career awareness among students is of tremendous significance in demonstrating the relevance of education to future occupational and career goals and for this reason alone, the six vocational student organizations deserve our thanks and appreciation.

These six student organizations, because of their integral role in the different programs of vocational education, have served vocational education teachers as a means of motivating and providing interest for their students.

They have helped to bridge the gap between the classroom and the real world by providing teachers with solid opportunities to involve many elements of society, business, agriculture, government, and others in the educational process.

From my vantage point on the Education Subcommittee, I have seen the outstanding achievements of these six organizations and know of their contributions to improving education. I have been most distressed, however, that they have not received the public recognition for their exceptional efforts which they have earned. Senate Concurrent Resolution 40 in its amended form, will provide for the first time, that much deserved recognition. Senate Concurrent Resolution 40 will also provide the incentive for these organizations to redouble their efforts to attract and involve even more students; to promote and encourage even greater career awareness and occupational excellence among our young people; and to develop and build the leadership and civic characteristics that are important to the future of our country.

I join with my distinguished colleague Senator BROCK in asking that Senate Concurrent Resolution 40, in its amended version, be given prompt consideration, and I urge my other distinguished colleagues to acquaint themselves with these fine student organizations.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 1487

At the request of Mr. NELSON, the Senator from Ohio (Mr. METZENBAUM), the Senator from Connecticut (Mr. WEICKER), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Amendment No. 1487 to repeal the "no knock" provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the District of Columbia Code, intended to be proposed to the bill S. 3355, a bill to provide appropriations to the Drug Enforcement Administration.

NOTICE OF HEARING ON JUROR FEES AND EXPENSES

Mr. BURDICK. Mr. President, the rate of inflation in the past 6 years has created a growing concern that the existing fee structure for grand and petit jurors in our Federal court system may have become inadequate. A careful study by the Judicial Conference of the United States has indicated that congressional action is needed to authorize and increase in the amounts permitted for juror attendance fees, travel and parking expenses, and subsistence expenses for jurors who cannot travel to and from their places of service each day. Jury service is a fundamental civic responsibility and an essential element in our constitutional system of justice. I believe we must act expeditiously to reduce any danger that, in order to comply with his or her duty to serve on either a grand or petit jury in our Federal district courts, a citizen must suffer unreasonable financial hardship. I am therefore announcing that the Subcommittee on Improvements in Judicial Machinery will hold a public hearing on July 23, 1974, commencing at 10 a.m. in room 6202 Dirksen Office Building, to review the recommendations for changes in juror fees and expenses suggested by the Judicial Conference of the United States. At that time the subcommittee will also appraise alternative recommendations set forth in S. 3265.

Communications relative to this hearing should be directed to the subcommittee staff, 6306 Dirksen Office Building, extension 5-3618.

NOTICE OF HEARINGS ON S. 2591, THE FINANCIAL INSTITUTIONS ACT OF 1973

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions will continue hearings on July 24 and 25 and July 30 on S. 2591, the Financial Institutions Act of 1973, to improve the efficiency and flexibility of the financial system of the United States.

This set of hearings will focus on the ability of financial institutions to attract and retain deposits, particularly in periods of high interest rates and strong competition for funds in the capital markets.

The need for congressional inquiry into this area is accelerated by the issues presented in the proposed Citicorp offering of $850 million of securities which are designed to be attractive to the small consumer saver and may therefore have the effect of diverting funds from financial institutions.

Senator BENNETT, the ranking minority member of the subcommittee, along with our colleagues on both sides of the aisle, have expressed their desire to explore these issues in an expeditious and orderly fashion.

Testimony will be received from regulatory agencies and representatives of various segments of the financial community. The hearings will commence each morning at 10 a.m. in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 225-7391.

NOTICE OF HEARINGS ON OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will again review the operation of the Occupational Safety and Health Act of 1970, with public hearings. The initial hearings are scheduled for Monday, July 22, Monday, July 29, Tuesday, July 30, and Wednesday, July 31, in room 4232 Dirksen Office Building at 9:30 a.m. Additional hearings are anticipated. A number of bills to amend OSHA are also pending before the subcommittee and witnesses wishing to present testimony on these bills are invited to do so at the hearings. The pending bills are S. 586, introduced by Senator DOMINICK; S. 976, introduced by Senator McINTYRE; S. 1147, introduced by Senator DOMINICK; S. 1249, introduced by Senator CURTIS; S. 2823, introduced by Senator CHILES; S. 3147, introduced by Senator CLARK; S. 3454, introduced by Senator STAFFORD; and S. 3654, introduced by Senator BELLMON. Representatives of interested organizations or individuals wishing to make an appearance or submit a statement should contact Donald Elisburg, counsel, Subcommittee on Labor, 202-225-3674.

NOTICE OF HEARING ON AMENDMENT OF THE RURAL ELECTRIFICATION ACT

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification, of the Committee on Agriculture and Forecstry, will hold a hearing on H.R. 12526, a bill to amend sections 306 and 308 of the Rural Electrification Act of 1936, as amended, with respect to loan guarantees.

The hearing will commence at 10 a.m. on Thursday, July 18, in the Agriculture Committee hearing room, 324 Russell Senate Office Building.

Witnesses who desire to testify should contact the committee clerk before the close of business on Friday of this week.

ADDITIONAL STATEMENTS

MARY McLEOD BETHUNE: A PROUD AND LIVING LEGACY

Mr. HUMPHREY. Mr. President, I am pleased to call to the attention of my colleagues a 3-day celebration in honor of Mary McLeod Bethune—public servant, educator, civil rights leader, and great American.

Mary McLeod Bethune personified the pride, courage, and tenacity that guided the earliest days of the struggle for human rights in America. Born of former slaves, Mary Bethune very early identified and grasped her responsibilities to the Negro community in the United States—to a people to whom had been pledged the blessings of liberty, but who continued to struggle under legal, social, and economic barriers to full participation.

She was keenly aware of the cruel and arbitrary distinction which existed in the laws and practices of the land she loved, and established as her mission the correction of injustices which blocked the enhancement of human life.

Mary Bethune grew up in a time when "emancipation" meant freedom to work the soil and be poor. She was hungry for knowledge. After a late start in school, she sought and obtained higher education. But the fulfillment of these goals was not for her the final satisfaction. For Mary Bethune clearly understood that liberation has to mean more than freedom from slavery. She knew that ignorance and poverty are the cruelest enemies of true emancipation—emancipation of the human spirit.

It is most appropriate that the statue of Mary Bethune stands in Lincoln Park, facing the statue of our famous President. For Mary Bethune, and others with whom she worked, understood that, in a sense, the torch of freedom had been passed on to her—that to make freedom real, education and employment and complete equality were yet to be wrested from the hands of Jim Crow.

In my view, one of the reasons that Mary Bethune was able to have such a vital influence on our society was that she understood the totality of human existence. She knew that in order to be liberated, her people must have an opportunity to get a decent education, to have meaningful employment, to house their families in clean and comfortable homes, and to have pride and confidence in themselves and in their fellow human beings around the world. And her efforts were directed at improving the total life of black people.

She was a great believer in youth, and it was most appropriate that as one of the top officials of the National Youth Administration she was able to prepare literally thousands of young people for jobs in industry, and for careers in education.

She observed firsthand the special barriers which existed to keep black women from the mainstream of American life, and she always managed to see that they were included in national meetings held around the country during the Roosevelt administration.

As founder and, for many years, president of Bethune-Cookman College, she worked to instill pride and ambition in young people. Hers was a promise of hope, backed up by solid accomplishment.

Mary Bethune, and the people with whom she worked in the first half of this century, were the solid rock—the major driving force—in the development of national policies which have brought us toward universal equality.

Like all truly great leaders, Mary Bethune's work was dictated by her love for people, and by a deep and abiding respect for human potential.

Her legacy for blacks is a beautiful legacy to be cherished by all people who yearn for peace and brotherhood. Beyond these things, she left a legacy of the uplifted spirit, of the oneness of mankind with each other and with our Creator.

Mr. President, this woman is one or many in our Nation whose contributions have meant progress in all facets of our national life. Yet there is little in the history books to record these accomplishments. I have noted in this Chamber that our distinguished minority citizens are sadly underrepresented in the art works which stand in the Capitol. I have introduced legislation which will provide for greater representation of minorities among the statues, busts, and portraits which our citizens view when they come here. I am hopeful that this proposal will move through the Congress so that we may get about the business of giving due credit to persons like Mary McLeod Bethune, whose lives were dedicated to an America where equality is a living symbol.

Mr. President, I ask unanimous consent that two articles appearing in the Washington Post, on the unveiling of the statue of Mary McLeod Bethune in Lincoln Park in Washington, D.C., and related events, be printed in the RECORD.

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

HONORING MARY BETHUNE: A PROUD, PRINCIPLED WOMAN

(By Angela Terrell)

Once during the days of segregated waiting rooms in Southern railroad stations, Mary McLeod Bethune was in a new railroad station in Cincinnati, says Clarence Mitchell Jr. of the late educator and black women's leader. "She noticed a lot of blacks, just up from the South who were used to shabby jim crow facilities, hesitating to venture into the bright, new waiting room. She walked into the center of the room, beckoned and said loudly, 'Come in children, this is for you.' "

On Wednesday, on what would have been Mrs. Bethune's 99th birthday, a statue of her handing her legacy on to two children will be unveiled in Lincoln Park, 12th and East Capitol Streets.

The 17-foot bronze statue, sculptured by Robert Berks, who did the bust of John F. Kennedy in the Kennedy Center, will be the first memorial of a black American or of a woman to be erected in a public park in the nation's capital.

The three-day celebration, which will include an awards ceremony for black women Wednesday night and a concert at the Kennedy Center Thursday, is the result of a 13-year fund-raising effort by the National Council of Negro Women (NCNW). An affiliation of women's organizations united to deal with problems in the black community, NCNW was founded by Mrs. Bethune in 1935.

Dorothy I. Height, president of the NCNW, says it is significant that the $400,000 raised by the council to pay for the statue came "dollar by dollar" from the pockets of private citizens, not government agencies.

"She always said, 'Leaders should be concerned about the masses,' " says Mitchell, director of the Washington bureau of the National Association for the Advancement of Colored People. Mitchell worked with Mrs. Bethune in President Franklin Roosevelt's "black cabinet," a group of black advisers serving in various government agencies.

"She was a very, very dignified person at all times," says Mitchell of the person he credits for bringing him to Washington. "You always acted respectful in her presence, but never felt intimidated—she was warm. Impressive looking, she always sat erect, reminding you of the imperial manner of a Queen Victoria."

Mary McLeod was born in Mayesville, S.C., the 15th of 17 children. Her parents were former slaves who became sharecroppers. Unable to begin her education until she was 11, she nevertheless went on to Scotia Seminary at Concord, N.C., and finished at Moody Bible Institute in Chicago. Within half a century, Mrs. Bethune was awarded degrees by 14 colleges or universities and was decorated by several foreign governments.

In 1904, with $1.50, some orange crates and five young girls, Mrs. Bethune founded in Florida the Daytona Normal and Industrial School for Negro Girls, which subsequently became Bethune-Cookman College. Mrs. Bethune, who had a brief marriage to Albert Bethune and had one son, Albert Jr., served as president of the college from 1904 to 1944, when she was named president emeritus.

"My mother sold sweet potato pies and fish sandwiches at church after services to help raise money for the school," says Louise Maxienne Dargans Fleming, former administrative assistant to the late Harlem congressman Adam Clayton Powell Jr. Her older sister, Maude Dargans, was one of Mrs. Bethune's first students.

"Mrs. Bethune was like a godmother to me. When Powell first offered me a job, I went to her for advice," said Dr. Fleming, now director of research for the House Education and Labor Committee. "She was one of the first persons to encourage Adam to go to Congress. She stood in his pulpit (New York's Abyssinian Baptist Church) and publicly urged him to go. She was always willing to lend a hand.

"Mrs. Bethune was a principled woman of great bearing—proud. She was the kind of woman who once told the Ku Klux Klan 'you are not going to parade in the colored town tonight' and they didn't, because they knew all of the blacks would fight back," said Dr. Fleming.

In 1936, Mrs. Bethune joined President Roosevelt's National Youth Administration as director of the Office of Negro Affairs. She became friend and co-worker of Eleanor Roosevelt, and when the President died, Mrs. Roosevelt gave Mrs. Bethune one of his canes, which she kept with her until her death in 1955. She was mentioned by Roosevelt biographer, Joseph P. Lash, as having "the most marvelous gift of affecting feminine helplessness in order to attain her ends with masculine ruthlessness."

Agreeing with this was another colleague during that time, Robert Weaver. He later became the first black to hold a Cabinet post when President Kennedy appointed him Secretary of Housing and Urban Development.

"She was a remarkable woman. She was our spokesman," said Weaver, now professor of urban affairs at Hunter College. "In those days we had no political strengths—it was like building bricks without straw. We had to create our own pressures to get things done. Through Mrs. Bethune, I learned much about the political process."

Mrs. Bethune strongly believed in what today would be called "black power." Her favorite saying was, "I believe in God, and so I believe in Mary Bethune." Clarence Mitchell remembers that while speaking to a crowd she'd say, "Of course I'm black but I'm also beautiful," and then pause to be challenged.

"No one ever did," Mitchell said. It was part of a talk to blacks about taking pride in themselves as a matter of course and not in self-defense. "She personified this image," he said.

In her last will and testament, written a few years before her death. Mrs. Bethune left a legacy of love and leadership for blacks. It reads: "I leave you love . . . hope . . . the challenge of developing confidence in one another . . . thirst for education . . . respect for the use of power . . . faith . . . racial dignity . . . desire to live harmoniously with your fellow man . . . finally a responsibility to our young people."

THE BETHUNE LEGACY

(By Angela Terrell)

Cramming into a half hour the eventful 90-year life span of Mary McLeod Bethune is no easy task. But a small team of writers, producers, and technicians has done a first-rate job in "Last Will and Testament: The Bethune Legacy," which airs tonight on WMAL-TV (Channel 7) at 7:30.

The film was made to coincide with a three-day celebration here beginning today, highlighted by the dedication of a 17-foot bronze statute in Lincoln Park, honoring the late black educator, presidential adviser and black women's leader. Its success lies mainly in its close focus on two phases of Mrs. Bethune's life: the founding and growth of Bethune-Cookman College in Daytona Beach, Fla., and her role as adviser on black affairs to President Franklin D. Roosevelt.

The story unfolds through a combination of Bethune memorabilia—Franklin Roosevelt cane given her by Eleanor Roosevelt and old, brown photographs of events in her early life—interspersed with live interviews of people who knew and worked with her.

Richard V. Moore, president of Bethune-Cookman College, told how Mrs. Bethune talked a prospective benefactor into becoming a trustee. After being shown an expanse of empty land, the prospect, who was "Gamble of Procter and Gamble," asked Mrs. Be-

thune where this school was. She told him it was in her head, an idea," said Moore Gamble, and later John D. Rockefeller, became prime supporters of the college.

The story of Mrs. Bethune comes to life in the script written by a young black man, K. P. Waters. She is depicted first an 9-year-old Mary Jane McLeod, daughter of former slaves-turned-sharecroppers, picking cotton in Mayesville, S.C., instead of attending school, even pulling the plow when the family's mule died. She was the only one of the 17 children in her family to attend school, which she finally began at age 11. She taught the others to read in the evenings when they returned from the fields.

Not many people know that Mrs. Bethune's original ambition was to be a missionary in Africa, and she attended the Moody Bible Institute for that reason. However, she was rejected by the Presbyterian Mission Board and decided to return to the South to teach school. "It wasn't enough being a wife and mother," says narrator Waltye Resulala. "She saw that her people needed help and felt it was her duty. . . ."

The major problems faced by producers Jean Thornton and Thursa Thomas, who did most of the research, was in determining the facts of Mrs. Bethune's life. Information sources were scattered, and in some instances scarce, as is the case in much of black history.

Many of the photographs used, for example, were in poor condition, and had to be restored for the screen by the station's film technicians. Fortunately, Mary McLeon Bethune was known well enough by persons still living to enable the writer and producers to piece together an effective story.

The Bethune legacy to black people includes love, respect, hope and responsibility, and is an ongoing monument to this great black woman. Her will reads in part, ". . . My worldly possessions are few . . . my experiences have been rich. . . . I have distilled principles and policies. . . . Perhaps, in them there is something of value. . . ."

IN SUPPORT OF THE CHINESE NATIONALIST REGIME

Mr. GOLDWATER. Mr. President, I rise today to respectfully, but vigorously, disagree with my good friend from the State of Washington, Senator Jackson, on his recent statement to the effect that the United States should turn its attention away from the Chinese Nationalist regime on the island of Taiwan.

I realize that Senator JACKSON has only recently returned from Communist China where he was accorded the red carpet treatment and given the honor of a hospital bed chat with Premier Chou En-lai, the No. 2 man in the Communist government on the Chinese mainland.

Mr. President, I believe we do ourselves and the country a disservice when we go on these trips to foreign lands, take a fast look around, talk with some of the top leaders, and return with a conclusion of enormous importance.

Mr. President, I am certainly not unaware of Senator JACKSON's status as a possible candidate for the Democrat Presidential nomination. He is an old friend of mine, and I wish him well in his future endeavors. However, I am afraid that he might do irreparable harm at this time by downgrading our longtime and faithful ally on the island of Taiwan.

It is my feeling that the American people and the Chinese people, working together, can do important things for world peace, but this is a process that will take long and cautious diplomatic moves and conferences. It certainly cannot be brought about if the Nationalist Chinese believe we have turned our backs on them and cast our lot with the millions of Chinese under Communist domination on the mainland. It is my hope that Senator JACKSON will alter his position after he has had time to think through the full consequences of our moves in the Far East and does this in the quiet of his home surroundings.

COL. STEVE SKELTON, OF HARTWELL, GA.

Mr. TALMADGE. Mr. President, today I wish to pay tribute to a great Georgian and a great American, Col. Steve Skelton of Hartwell, Ga.

Colonel Skelton has made innumerable contributions to the people of Georgia during his long career as an attorney, former distinguished solicitor-general and as a public leader in many civic organizations. His career has been totally dedicated to the happiness and progress of the people of Georgia.

On July 4 Colonel Skelton celebrated his 96th birthday, and was paid tribute by WAIM–WCAC–FM radio stations in Anderson, S.C. I ask unanimous consent that a transcript of that broadcast be printed in the RECORD.

There being no objections, the transcript was ordered to be printed in the RECORD, as follows:

TRIBUTE TO COLONEL SKELTON

Today it is a genuine honor for Stations WAIM and WCAC-FM to pay tribute to a great Georgian and an American Statesman, Colonel Steve Skelton of Hartwell, Georgia.

Colonel Skelton has an outstanding record as an attorney, former distinguished solicitor-general, and public leader in everything that has been for the welfare, advancement and happiness of the people of GEORGIA and of this whole area of the South!

We extend to him a 21-gun salute . . . and greetings and million fold good wishes on his 96th Birthday, which he will be obsering on July 4th.

In this we are joined by thousands of his friends and admirers in his native state and in a wide area of the whole Southland—for he is well and favorably known and honored in far-flung areas for his Americanism, and leadership in the fields of law, good citizenship, cultural, religious and civic achievements and statesmanship.

An entire book could easily be written about this beloved citizen. He is a native of Hartwell, and his lovely wife and inspiration, who is 91 and very active, is a native of Laurens, South Carolina and before her marriage was Miss Caroline Nabors.

As Colonel Skelton approached his 96th Birthday, he gave expression to these timely thoughts:

"The moral fiber of our nation has recently rapidly degenerated."

"An over supply of legal loop-holes have been manufactured in legislative bodies and the legal profession at present is woefully lacking in tall timber."

"Our government, and the courts, legislative bodies, and law enforcement agencies at all levels are never any stronger than the people want them to be, and sometimes not that strong."

"Good citizenship in this nation is at a low ebb."

"If our nation falls, it will be from internal moral decay."

"As has been stated, 19 of the 21 great civilizations of the world have died, not from outside force, but from internal decay, and their average life has been 200 years. In 1976, the United States will reach its 200th birthday. What will our future be!

"If our nation is to survive, there must be an about face and quick adaptation of the principles of Christianity."

"The depth of our commitment as citizens, determines the height of our achievements."

For 35 years, Colonel Skelton has taught a class of men in the Hartwell First Baptist Church, where he and his family have been an active and constructive force for decades.

On behalf of the owner of these stations, Mr. Wilton E. Hall, and our entire staff of associates, we join today in saying: "Happy, Happy Birthday, Colonel Skelton! And congratulations to you and Mrs. Skelton and all of your fine family and relatives on the many good things you have accomplished.

May God bless each of you and keep you in his care, this day and always!

IN TRIBUTE: EARL WARREN

Mr. HATFIELD. Mr. President, I share with all my colleagues a sense of deep sorrow at the death last evening of former Chief Justice Earl Warren.

It is the legacy he leaves that serves as one measure of any person, and by this yardstick, Earl Warren will be classed as a great man. His legacy crosses the spectrum of American life, and touches nearly every aspect of our lives in 1974. His legacy lives within each individual, for it is in the area of individual rights that Earl Warren's feelings are reflected best. One need not agree with all of the Warren court decisions to recognize that it is a concern for the rights of the individual that framed many of them.

When a fitting memorial to Earl Warren is considered, I would suggest that everyone in the country all do our best to respect the individual rights that were so precious to him. How more fitting a tribute than one in stone would be a living memorial we all contributed to in the way we live. Respect for the rights of others, a recognition of people's dreams, a conscious effort to help others, and a humanitarian reaching out to help those less fortunate all were hallmarks of Earl Warren's legacy from his tenure on the Supreme Court. All would be worthy goals for us to reflect on again in our minds as we examine Earl Warren's contributions to American society.

Certainly some of the Court rulings

caused substantial problems in the way we had been living and in our activities. The Brown, the Miranda, the Gideon, the Baker cases all altered American society. All reflect a deep concern for the individual and his rights—again, a fundamental concern of the Warren court.

Mr. President, as we pause today, and in the next few days, to pay tribute to Earl Warren, it is a measure of the man's greatness that nothing we can say, or nothing that will be written, can equal the man. No tribute can equal the changes in our lives which he helped create. At a time when neither the executive nor the legislative branches were in the forefront of enlarging individual rights, it was the Warren court that moved to secure these rights. To many elements of American society, it is the Court whose actions touched their lives, and their hopes, the most.

In closing, I join with my colleagues in extending my sympathies to Mrs. Warren and the family at this time of personal sorrow.

I ask unanimous consent that an article describing Earl Warren's life, from this morning's Washington Post, be printed in the RECORD.

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

CHIEF JUSTICE WARREN: HIS COURT RESHAPED THE NATION

(By Alan Barth)

By nearly every standard that can be said to measure judicial stature, Earl Warren must be counted among the great chief justices of the United States—the greatest, in all probability, since John Marshall.

Like John Marshall, Earl Warren presided over the Supreme Court during a period of dramatic change in the character of American Life. The "Marshall court" at the inception of the Republic wrote upon a clean slate in giving vitality to the United States Constitution and in delineating for itself a decisive role as a shaper of the national destiny. The "Warren court" adapted the institutions of a developing society to the needs of a fully developed nation, a great military and economic power in a world made intimate by scientific and technological advances altogether beyond the imagination of the Constitution's framers.

It is apt to be misleading to designate a court by the name of a Chief Justice who is, after all, but *primus inter pares* among its members. But in the case of Earl Warren as in the case of John Marshall, the designation seems justified not alone as the mere indication of a time period but as a recognition of leadership and influence.

The court over which Warren presided was an extraordinarily vigorous one, replete with powerful personalities. He was surpassed by several of its members in legal learning, in felicity of expression, in depth of judicial perception and philosophy. As administrator of the court's affairs, however, he gave the disparate justices a measure of unity and a sure sense of the tremendous political role the court had to play in its time.

In ceremonies marking the conclusion of Warren's term as Chief Justice and the installation of Warren E. Burger as his successor, President Richard M. Nixon remarked: "Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change than any in our history."

A society once overwhelmingly rural in residence and agricultural in occupation had become predominantly urban and industrial. This shift was accompanied by a vast migration from small towns and villages into great metropolitan centers and brought with it a social upheaval entailing immense alterations in social values and immense problems of social adjustment. An important part of the population movement involved great numbers of Negroes uprooted by technological change from the Southern cotton fields where they had worked first as slaves and later as sharecroppers and who now found themselves penned in the decaying slums of inner cities wholly unequipped by reason of illiteracy and ignorance to compete for a livelihood in an advanced industrial economy.

These black Americans were clamoring for civil rights and for economic opportunity. Migration to the cities made the disproportionately rural representation in state legislatures seem altogether inequitable and anachronistic. Education, police authority, social institutions, media of communication, esthetic and moral values, even religion, were all undergoing dramatic changes. The law, indeed the whole relation of the state to the individual, had to change with them. And it was over that transformation of the American community that the Warren court presided.

"No decade in American history has brought to the Supreme Court such a diversity of deeply troublesome and controversial questions," this newspaper commented editorially on the 10th anniversary of Warren's appointment as Chief Justice. And a member of Congress remarked, not happily, that "our entire way of life in this country is being revised and remolded by the nine justices of the Supreme Court."

Earl Warren was born in Los Angeles, Calif., on March 19, 1891, the second child of a railroad worker named Methias H. Varran, brought to this country in infancy from Norway. The name was anglicized to "Matt Warren." Matt was not a man of much education but he was intensely interested in reading and in learning—for his children no less than for himself. The family fortunes were not resplendent. John D. Weaver, in a biography of Earl Warren, says that the boy once asked his father why he had no middle name. "Son," Matt Warren answered, "when you were born, we were too poor to enjoy any luxury of that kind."

But Matt Warren was industrious and provident, saving money and investing it shrewdly. He was determined that his children should have the education he had missed. He worked his way up on the Southern Pacific from a mechanic to a master car builder. In 1938, when Matt had retired from his railroad job and when his son, Earl, was district attorney of California's third largest county, the body of the father, then 73 years old, was found in the kitchen of his home, bludgeoned to death with a lead pipe. It was a case of robbery—evidently by someone who supposed the old man had concealed wealth on his premises. The murderer was never found.

Earl did odd jobs when he was young, working for a while as a call boy for the railroad. He did well enough in school but was more interested in sports than in study. He put himself through college and law school at the University of California.

Warren spent about three years in private practice after his graduation from law school and before he enlisted in the Army upon America's entry into the first world war. He saw no service overseas but he rose to the rank of second lieutenant. Following his discharge from the Army, he obtained an appointment as a deputy in the Alameda County district attorney's office and remained a public employee for all the rest of his working years until his retirement as Chief Justice of the United States.

Warren was elevated to the office of district attorney in 1925 and, in the course of 13 years in that post won a reputation as a crusading prosecutor, tough but compassionate and fair. "The only way the racketeers can get control in any community," he once said, "is by alliance with politics, and control of your public officials, your courts, your sheriff, your police chief, your district attorney, and other law enforcement agencies."

Earl Warren was a strict law and order man, known much more for his personal probity and prosecutorial skill than for any sociological pioneering. During Prohibition, he became a teetotaller, not out of any dislike of drinking but out of a disciplined sense of duty. "How can I drink bootleg liquor at a party on Sunday night," John Weaver quotes him as having said, "and then on Monday morning send my deputies to prosecute bootleggers?"

Politically, he was aligned with the right wing of the Republican Party in California. He was an ardent champion of states' rights. As attorney general he was vehement in his denunciation of Communist radicals and as governor vociferously supported the military decision, after the attack on Pearl Harbor, to remove all persons of Japanese ancestry from the West Coast and put them in detention centers in the interior of the country.

He grew prodigiously in office, however. In 1945, during his first term as governor, he became convinced that California needed a state program of prepaid medical insurance. The California Medical Association regarded this, of course, as "socialized medicine" and fought it ferociously. No doubt the sheer irrationality of its opposition served to move the governor into even more shocking forms of progressivism. He undertook the reorganization of the state's antiquated Department of Mental Hygiene, inaugurating a modernization of mental institutions which put California in the forefront in this field. He put through the legislature stringent legislation regulating lobbyists. He fought the petroleum interests to a standstill in obtaining enactment of an equitable highway development bill and in the face of bitter opposition from the private power lobby championed the Central Valley project for the public development of hydroelectric energy.

When Warren ran for a second term as governor of California in 1946, he did so on a record of legislation which extended enlightened and progressive help to the state's unemployed, handicapped, elderly and mentally ill. Moreover, the state was free of debt, and taxes had been cut by about 15 per cent. He won the nomination of both major parties and was resoundingly reelected—the second governor to serve a second term in a century of California experience.

A Democratic governor who served California some years later—Edmund G. (Pat) Brown—said of Earl Warren: "He was the best governor California ever had. He faced the problems of growth and social responsibility and met them head on. He felt the people of the state were in his care, and he cared for them."

Warren had by then, of course, become something of a national figure and certainly the outstanding Western Republican poli-

tician. Somewhat reluctantly, as a matter of party loyalty, he accepted the GOP nomination for the vice presidency in 1948 as the running mate of Gov. Thomas E. Dewey. They went down to defeat. It was the only election Warren ever lost. But Warren had a third term to serve in the gubernatorial mansion in Sacramento.

In 1952, Warren was a serious contender for the GOP presidential nomination at a convention in which Gen. Eisenhower and Sen. Taft were considered the frontrunners. The California delegation, including the state's junior senator, Richard M. Nixon, was pledged to the governor.

According to John D. Weaver, "Nixon was suspected by the governor's political tacticians of having made a deal to deliver to the general the secondary strength he would have had to demonstrate if he had failed to get the nomination on the first ballot." The first ballot nomination, in any case, went to Eisenhower, and the nomination for the vice presidency went to Nixon. Whatever the merits of the matter, an enduring coolness developed between Nixon and Warren.

In the final days of this third term as governor, Warren announced that he would not be a candidate for re-election. A few days after this announcement, in September, 1953, Fred M. Vinson, then Chief Justice of the United States, died. President Eisenhower promptly nominated Gov. Warren for that great office, remarking that he made the choice on the basis of the governor's "integrity, honesty, middle-of-the-road philosophy . . ."

Warren came to a court diminished in prestige and deeply divided not alone by ideological differences but by personal hostilities among its members. It was a measure of his qualities of leadership that the new Chief Justice managed, from the very outset of his tenure, to heal, or at least to bridge, these divisions. He won at once the warm regard as well as the respect of all his associates. The achievement contributed immeasurably to a restoration of the court's prestige and influence.

One of the great controveries of American history came before the court at the very beginning of Warren's chief justiceship; the question whether state-enforced segregation of Americans on the basis of race is constitutionally impermissible because it entails a denial of the equal protection of the laws.

Historically, the court had held that racial segregation was not unconstitutional provided the facilities afforded the two races were essentially equal. For more than a decade, however, the court had recognized in a series of decisions that the schools, hospitals and other public facilities provided for Negroes were, in fact, markedly inferior to those provided for white persons.

Brown v. Board of Education came before the court in Warren's first term. When it was decided on May 17, 1954, the opinion of the court, written by the new Chief Justice himself, had the unanimous concurrence of his associate justices and represented one of the great landmarks in American jurisprudence. "We conclude," Warren wrote, "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal . . ."

The ruling was soon applied, of course, and with continuing unanimity to fields other than public education. The unanimity of the court achieved under Warren's leadership was a testimonial to his judicial statesmanship and contributed significantly to the impact and effectiveness of the dramatic change in race relations required by the decision. That impact and effectiveness were diminished, however by the failure of the Eisenhower administration to give the court moral and political support. Massive resistance to the decision began to develop in the Southern states; and from that time forward the Chief Justice became the target of vicious attacks by demagogues and reactionaries, including even a campaign, sparked principally by the John Birch Society, for his impeachment.

A decade later, in 1964, the Chief Justice wrote opinions for the court in six cases decided simultaneously in which the residents of half a dozen states challenged the validity of apportionment in legislatures where sparsely populated rural districts enjoyed the same representation as much more populous urban districts. Under this arrangement, rural residents of the states wielded much more political power than city dwellers.

For a court divided this time 7 to 2, Warren held that this inequality violated the constitutional promise of equal protection. He ruled, moreover, that the requirement of population equality in election districts applied to both branches of bicameral state legislatures, rejecting any analogy between them and the national Congress where the federal Constitution provided for equal representation of states in the Senate regardless of their size or population.

"Legislatures," Warren wrote, "represent people, not acres or trees. Legislators are elected by voters, not farms or cities or economic interests . . . The weight of a citizen's vote cannot be made to depend on where he lives."

This decision was quite comparable in importance and in political impact to the school desegregation ruling and evoked an almost equal sense of outrage among those who viewed it as a judicial intrusion into the legislative domain. It confirmed the view of Warren's critics that he was an inveterate judicial activist. On the other hand, it corrected a political injustice and imbalance that, given the rural ascendency in state legislatures, had no real possibility of correction through legislative action.

The Warren court outraged conservative sensibilities in one additional area, the field of criminal law. Over a decade or more the court wrought a revolution in extending to defendants in state courts the protections guaranteed to them in federal courts by the Bill of Rights. The Chief Justice's most signal contribution in this process was in regard to the admissibility of confessions. A confession, no matter how reliable, must be excluded from a criminal prosecution, he ruled, if it were obtained by coercion, threat or trickery of any sort. "The abhorrence of society to the use of involuntary confessions," he wrote in Spano v. New York, decided in 1959, "does not turn alone on their inherent untrustworthiness. It also turns on the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves."

The strongly held views of the Chief Justice regarding the rights of persons charged with crime found its culmination in what was perhaps the most controversial of all his opinions, handed down in the Miranda case in 1966. The decision held that the police must warn any arrested person, before questioning him in connection with a crime, that he has a right to remain silent, that any statement he makes may be used against him and that he is entitled to consult an attorney (to be provided for him by the state if he cannot afford to hire one himself) before or during any interrogation. Omission of any of those requirements would make a confession inadmissible.

These procedural rights have been an immemorable part of the folklore of American justice. How far they were from observance in reality was attested by the tornado of indignation that the Warren opinion generated from law enforcement officers and district attorneys. It is perhaps profoundly significant, however, that the opinion came from a judge who had had long and ripe experience as a public prosecutor.

To Chief Justice Warren, Anthony Lewis remarked in a distinguished monograph, "justice consisted not of providing a fair mechanism of decision but of seeing that the right side, the good side, prevailed in the particular case . . . Often the framework of the argument seems ethical rather than legal . . ." This appraisal seems in large measure just as discerning. In a speech delivered in 1962, the Chief Justice spoke of law as floating "in a sea of ethics." In a profoundly conscientious sense, he thought of the Supreme Court as a force for "good."

The whole of his career was devoted to public service in an activist sense of the term. He believed, above all else, in righting wrong. His thinking was robust and healthy rather than subtle or sinuous; and it rested on elementary American values—confidence in the good sense of the people, in the utility of freedom, in the ultimate triumph of truth over error. "A prime function of government," he wrote in the only book he ever published—"A Republic, If You Can Keep It"—"has always been . . . to protect the weak against the strong."

Warren's devotion to the public service was marked by an impeccable personal integrity. It is perhaps unique among public men, and certainly unusual, that from the moment he entered public service in California, Earl Warren never took a dime from anyone for a speech, article or any other kind of private or public activity. And once he accepted appointment to the chief justiceship he never manifested the slightest interest in any political office or influence. His commitment to the court was all-embracing.

If his opinions were not particularly notable for elegance or eloquence, they were nevertheless soundly reasoned and made powerful by the feeling of decency and compassion that informed them. At least in the fields of politics and law enforcement, where he had rich experience, his views commanded great respect and influence.

As the leader of an embattled court engaged in adapting the law to new economic and political circumstances, moreover, he displayed a high degree of judicial statesmanship. He was a man of clear conviction and of granitic strength. Once he quit elective office for the bench, he became wholly indifferent to popular favor and to public excoriation. He will be counted, undoubtedly, as one of the titanic figures in the history of the Supreme Court.

Once he joined the court, the only major interruption in his work came when President Johnson persuaded him to become chairman of the commission to investigate the assassination of President Kennedy. The Chief Justice undertook that assignment reluctantly. He apparently believed that a member of the court should not engage in non-judicial activities, but had been convinced by President Johnson that his personal prestige and the prestige of his office was needed to calm public fears that the investigation would be a whitewash. The report of the commission did much to quash fears that the assassination was part of a large conspiracy.

After stepping down as Chief Justice in 1969, Warren remained active in judicial affairs, speaking largely on matters of judicial administration and working at his office in the Supreme Court building. He maintained his lifelong interest in sports and was a regular spectator at football games of the Washington Redskins.

In 1925, Warren married Nina Palmquist Meyers, the widow of a musician who had died when their son, James was three weeks old. Her mother had died when Nina was three years old, her father when she was 13; and she had been self-supporting ever since. James was adopted by his stepfather, and the family was enlarged in succeeding years by the birth of Virginia in 1928, Earl Jr. in 1930, Dorothy in 1931, Nina Elizabeth (known as Honey Bear) in 1933 and Robert in 1935. It was an extraordinarily close and loving family, retaining its sense of warm unity throughout the whole of Earl Warren's life.

CONCENTRATION OF STOCK MARKET INVESTMENTS BY LARGE FINANCIAL INSTITUTIONS

Mr. BENTSEN. Mr. President, recent event on our stock markets clearly demonstrate the adverse consequences to our Nation if large institutional investors such as banks, insurance companies, and other large managers of pension funds concentrate their investments in a small number of select stocks. Two of the stocks favored by institutional investors—McDonald's and Polaroid—suffered substantial declines in value during very short time periods of just a few hours.

These developments demonstrate the necessity of imposing reasonable limits on the amount of stock in any one company that pension managers such as banks and insurance companies may hold. Today more than 20 million Americans participate in private retirement plans and the great bulk of the assets in these plans is invested by large institutional investors. The retirement incomes of these 20 million Americans depend directly upon the safety of the pension investments. Excessive concentration of investments in only a few stocks jeopardizes the safety of these assets since a major decline in value of only 2 or 3 of these select stocks will substantially reduce the value of the pension assets.

These developments further demonstrate that our stock markets require the participation of a large number of individual buyers and sellers to help prevents volatile price fluctuations that result from uniform decisions by a small number of participants. The health of our stock markets depends upon widespread public participation. Yet it has been estimated that as many as 800,000 individual investors have left the stock market since 1972. In order to achieve the most efficient evaluation of stock prices and hence the most efficient allocation of our financial resources, our stock markets must have a multiplicity of decisionmakers—a large number of individual as well as institutional investors.

Just 1 year ago the Senate Finance Committee created the Financial Markets Subcommittee to study the tax-related problems of our stock markets and selected me as chairman. As a result of extensive hearings at which a wide range of witnesses testified—academic experts, corporate executives and leaders of the securities industry—I introduced legislation aimed at diversifying the billions of dollars of pension investments as well as encouraging greater individual investment in the stock market. This bill, S. 2842, is known as the "Stockholders Investment Act." It has been introduced in the House of Representatives as H.R. 13466. Earlier this year, the Financial Markets Subcommittee held hearings on my proposal and the bill is awaiting Finance Committee action as soon as the committee considers general tax legislation.

Mr. President, I would now like to briefly describe the developments concerning the stock of McDonald's and Polaroid.

On Wednesday, June 26, the value of a share of stock in McDonald's Corp.—the popular drive-in hamburger chain—declined in value by 12 percent. In just 1 day the stock dropped in value from $55.75 to $49 a share which resulted in a loss to shareholders of about $267 million. This rapid decline resulted from a recommendation by an institutional research firm that long-term holders start scaling down ownership of the stock.

An article in the Washington Star-News described the McDonald's development in the following terms:

> Investors dumped huge quantities of stock in McDonald's Corp. yesterday after a widely respected brokerage firm suggested that stockholders should begin scaling back holdings in the Nationwide hamburger chain.
>
> The deluge—267,000 shares of McDonald's were traded—was a classic example of the effect a sudden switch in recommendation can have when made by a brokerage firm with a large institutional clientele.
>
> It also is an example of the herd instinct of financial institutions—mutual funds, bank trust departments and the like—that buy and sell huge quantities of a stock simultaneously, while individuals watch their investment wither.

On Tuesday, July 2, the value of a share of stock in the Polaroid Corp., declined in value by nearly one-third. In just 1 day the price of a share of Polaroid dropped from 35⅝ to 24¼. This precipitious decline followed an announcement by the company of reduced earnings prospects. A Wall Street Journal article pointed out that—

> Since the start of the year, one of the largest bank trust departments, which owned 3.5 million shares, has lost an estimated $160 million on paper in Polaroid's decline. From the stock's high in 1973, the decline on paper of that one holding is more than $400 million.

Mr. President, these developments are important to all Americans because the health of our stock markets is of vital importance to our Nation. Although most Americans view our stock markets simply as a vehicle for investing money in the hope of making a profit, this overlooks the fact that our stock markets serve a much more important and basic function for our entire economy. They provide a source of equity capital to help industry raise money for expansion and modernization toward several ends:

To deliver useful products to the consumer at reasonable costs.

To create new jobs for our growing work force.

To effectively compete in a growing world market so that we can maintain a favorable balance of trade.

To pay the costs of meeting environmental standards.

To achieve reasonable energy and mineral self-sufficiency.

Our economy faces a huge demand for new capital in the years ahead and only with stock markets that function smoothly can we expect to meet that need. Capital requirements in the environmental area alone are enormous. The Council on Environmental Quality and the Environmental Protection Agency estimated in March 1972, that meeting pollution standards between 1972 and 1980 would cost industry some $26 billion.

Annual capital needs for all businesses for all purposes are expected to increase from $105 billion in 1973 to $233 billion in 1985, a gigantic rise of 120 percent.

However, both the declining number of individual investors and the tendency of large institutions to concentrate their investments in a small number of select stocks raise the prospects that American industry may not be able to raise anything approximating that figure.

These two trends are very disturbing because our economy cannot flourish solely on the basis of the health of a small number of glamour companies, nor can our economy survive without the participation of a large number of individual investors. Every large corporation depends upon thousands of small enterprises, as suppliers of components, as generators of ideas and products and as producers of income for their owners and shareholders who buy the products of large corporations.

Both individual investors and these smaller companies play an indispensable role in our economy. Small companies depend upon the smaller, noninstitutional investors for equity investment, and all companies, small and large—as well as the institutions themselves—depend upon the individual investor to supply liquidity depth and continuity to the market.

The importance of maintaining broadbased stock markets—with a multitude of participants—cannot be overestimated and it is essential that our tax laws be structured to encourage this diversity.

Without viable stock markets we will be unable to provide sufficient jobs for a growing work force and the American workers will be the loser. Without viable stock markets, we will be unable to pre-

vent shortages of scarce resources and manufactured goods and the American consumer will be the loser.

Mr. President, at this point in the RECORD I would like to print two newspaper articles explaining recent stock market developments. One of these articles was written by Mr. Stephen Aug in the June 25, 1974, issue of the Washington Star News and the other was written by Mr. Robert Metz in the July 3, 1974, issue of the New York Times. In addition, I would like to print a fact sheet describing S. 2842, my proposed "Stockholders Investment Act."

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

SELLOFF IN MCDONALD'S: FALLING ARCHES

(By Stephen M. Aug)

Investors dumped huge quantities of stock in McDonald's Corp. yesterday after a widely respected brokerage firm suggested that stockholders should "begin scaling back holdings" in the nationwide hamburger chain.

The deluge—267,000 shares of McDonald's were traded—was a classic example of the effect a sudden switch in recommendation can have when made by a brokerage firm with a large institutional clientele.

It also is an example of the herd instinct of financial institutions—mutual funds, bank trust departments and the like—that buy and sell huge quantities of a stock simultaneously, while individuals watch their investment wither.

In this case, the result of the trading was disastrous for McDonalds, which since it first sold shares to the public in 1965 has been a favorite of growth-oriented investors.

The huge sales yesterday—McDonald's was the most active stock on the Big Board, with about 7 percent of its 39 million shares changing hands—resulted in a paper loss to shareholders of about $267 million as the stock sank $6.75 to $49 a share.

The reason for the selloff was a report issued late Tuesday, after the New York Stock Exchange ended trading, by Baker, Weeks & Co., Inc., of New York.

The 25-page report concludes that there are a number of uncertainties about the future growth trend of McDonald's.

"We have become increasingly concerned with respect to current 'real growth' trends and the company's ability to implement further marketing innovations that will meaningfully expand existing store volumes in future periods," the report said.

It contends that McDonald's "is entering a transitional growth period during which earnings improvement will moderate, show greater sensitivity to economic conditions and inherently enjoy less visibility."

In view of such uncertainties, and of the stock's relatively high price in relation to McDonald's earnings, the report says, "we are no longer recommending new commitments and have removed the stock from our recommended list. Long-term holders should, in our judgment, begin scaling back holdings to reduce exposure to those uncertainties during this transitional period."

The relatively moderate language still spelled out SELL quite clearly to institutional portfolio managers.

Jon Masters, vice president and general counsel at Baker, Weeks, said the report was put in the mail Tuesday evening. But he added that the company had telephoned some clients it felt would be interested in acting promptly.

The results of the firm's phone calls were evident. In fact it was one hour and 28 minutes after the opening of trading on the Big Board yesterday before McDonald's stock could be traded because of an overnight accumulation of "sell" orders and not enough buyers.

When it did open, at 11:28 a.m. 27,900 shares were traded in one transaction, followed by another 2,500, all at $51.50, down $4.25 from Tuesday's close.

It was still about two hours before most investors found out why McDonald's stock had slumped.

Dow Jones News Service reported at 1:37 p.m.—by then McDonald's was trading down six points on a volume of 146,700 shares—that the reason for the activity was that "several analysts and money managers report that a major investors' advisory service pulled its buy recommendation on the issue. However, the report wasn't made public and officials of the company have not been available for comment . . ."

The first comment came from McDonald's (Baker, Weeks was not to issue one) at 1:49 p.m., when the company's president, Fred Turner, was quoted as saying the firm's sales so far had met expectations and he expects "the favorable trend to continue and expects another good year."

Eleven minutes later, Dow Jones said "McDonald's confirms negative report has caused stock decline." It then proceeded to quote Treasurer Boylan as identifying Baker, Weeks as the source and added he disagreed with the report.

As a result, an ordinary investor who owned McDonald's stock would not have discovered for four hours why the value of his investment was slipping away so rapidly.

On the other hand, probably every major institutional investor had the bad news available the night before—and could dispose of its shares early.

MARKET PLACE: PICTURE AWRY FOR POLAROID

(By Robert Metz)

When the Polaroid Corporation designed the SX-70 electronic camera, the battery powering this remarkable picture-making system was tucked into the individual film packages.

Unfortunately that limited use of the film pack to five months, the life of the battery, or less than half as long as the shelf life of film generally.

This meant that Polaroid had to tailor production to sales so that customers would get the film packs in fresh condition and thus have a reasonable time span in which to use the film.

It has been obvious for some time that the film packs were causing problems of one sort or another and on May 1 Polaroid began a new policy of allowing dealers to return aging, unsold film packs.

This is important because the SX-70 system is one of enormous significance to Polaroid. It was regarded by the company and Wall Street alike as a new dimension in amateur photography and one that could lead to immense rewards for Polaroid and its army of shareholders.

In the early SX-70 days enthusiasm was rampant. It seemed that at last Polaroid, a Wall Street favorite despite a lack of super growth in earnings, was on the right track.

Institutional analysts put out buy recommendations on Polaroid reflecting these high hopes and Polaroid shars reached 143½ in the summer of 1973. Since then, however, there has been one delay after another in the anticipated earnings growth that was to arise out of tht SX-70 system.

And on Monday of this week the company spoke of reduced earnings prospects commenting that "until production rates reach a larger fraction of the capacity for which the SX-70 plants are designed we can expect fluctuations in quarterly results."

The news was released after the close of trading on Monday. But it didn't take much imagination in this dread market to guess what would happen when trading resumed yesterday. Polaroid already dumped in great quantities over recent months, was hit again.

Polaroid trading was delayed until about 12:29 P.M. when 175,000 shares traded at 26¼. Before the day was over, Polaroid traded at 23⅝ and closed at 24¼, off 11⅜ from the previous trading level on the day's most active volume of 387,700 shares. It was a day's loss or nearly a third of its value.

Polaroid traders had thus wiped out nearly a decade of stock market gains—not to mention the fact that the Polaroid setback yesterday touched off a general selloff in the stock market that carried the Dow-Jones industrials below the 800 level, a psychological resistance point.

Brenda Landry, White Weld & Co.'s Polaroid analyst, sent a wire to clients saying the company's remark about possible earnings fluctuations was bad news indeed.

"We interpret this statement to imply that there is a fair possibility that unfavorable quarterly comparisons could extend into the second half of the year," the wire stated.

Miss Landry said she was tentatively "guesstimating" earnings for the current calendar year could fall below the $1.58 earned in 1973 and "possibly could fall between $1.10 and $1.50.

She thought that Polaroid would find the answers to the SX-70 problems in time and views improvements in the system as "important to the company's long-trm viability."

Henry Goldberg of the specialist firm bearing his name said that the firm, which handles Polaroid, had purchased "substantial quantities" of Polaroid shares at the opening. "We had put out at least three indications before the opening so that the public was on fair notice" (that the price would be considerably lower than before.)

FACT SHEET S. 2842, SENATOR LLOYD BENTSEN'S PROPOSED "STOCKHOLDERS INVESTMENT ACT OF 1973"

1. LIMITATIONS ON THE STOCK HOLDINGS OF PENSION MANAGERS

No pension fund could qualify for favorable tax treatment unless the assets of the fund were placed in the hands of a manager who invests no more than 5% of its aggregate discretionary pension assets in any one equity security and, in addition, who acquire no more than 10% of any equity security of any one company with respect to the aggregate discretionary pension accounts. This limitation would not apply retroactively. Managers of pension accounts would *not* be forced to dispose of current stock holdings to meet these limitations, but they could not acquire additional shares of any security in which the pension manager had reached the limitation.

If any manager of tax-exempt pension funds exceeds these limitations (for example, by purchasing an additional 1% of the total equity securities of a company in which it already holds 10%), a penalty tax equal to 5% of the excess holdings would be imposed on the manager by the Internal Revenue Service. In the event that the manager fails

to dispose of the excess holdings within 180 days, IRS will impose an additional penalty of 100% of the excess on the manager.

Excess holdings that result exclusively from fluctuations in market values will not be subject to a penalty tax. These limitations will not apply to investments in companies with a capital account of less than $25 million. These limitations apply only to pension plans and not profit-sharing plans.

Limits on institutional holdings are necessary to protect the more than 30 million private pension plan participants from excessive concentration of pension investments in only a few select stocks and to encourage greater institutional interest in well-managed small and medium-size companies. In addition, these limits would help prevent a small number of large institutional investors from achieving too much control over our economy.

2. VENTURE CAPITAL FROM PENSION FUNDS

Pension managers would be given leeway to invest 1% of the assets of any pension plan in companies with capital accounts of less than $25 million. This would be an exemption from any prudent man rule for 1% of the pension assets. However, the "leeway clause" would not relieve fiduciaries from any prohibitions against self-dealing or fraudulent transactions. The "leeway clause" would relieve a fiduciary from liability with respect to the *risk of an investment*.

This provision would facilitate the flow of pension investments to new and expanding smaller companies that are in great need of equity capital and which present a higher than normal risk but offer the possibility of a higher than normal return.

3. GRADUATED CAPITAL GAINS TAX

Under present law, the maximum capital gains rate is 35% without regard to the special minimum tax provisions or any other provision. This legislation would decrease the maximum rate annually over the holding period of a capital asset until the maximum rate was reduced to about 14% for assets held fifteen years. Capital losses would be provided comparable sliding-scale treatment over the holding period of the asset. The present six month holding period for capital gains treatment would be extended to twelve months. This would be phased in by one month per year.

This provision would help reduce the "lock-in" of long-term assets and provide greater liquidity in our capital markets. A graduated capital gains rate would also encourage the risk-taking spirit in America which has been so important to economic growth and the creation of new jobs.

4. LIBERALIZED CAPITAL LOSS TREATMENT

Today, if an individual's capital losses exceed his capital gains, he can deduct up to $1,000 against his ordinary income each year. This hasn't changed since 1942, yet per capital disposable income has risen over 400% since then. This bill would allow the individual to deduct up to $4,000 of capital losses against ordinary income. It would also allow a three-year carryback of capital losses against captial gains.

Liberalized loss treatment would encourage more risk investment which is so important in starting new businesses and creating new jobs. It would also encourage investors to take their losses, thus providing greater liquidity in our capital markets.

DEBUNKING DEFENSE MYTHS

Mr. GOLDWATER. Mr. President, once again we are getting into a debate over strategic forces and once again we are being subjected to all types of misconstruction, misinterpretation and at times I feel willful distortion. Appearing in the Air Force magazine of July 1974, is a very interesting editorial entitled "Debunking Defense Myths," which is based on a paper written by Albert Wohlstetter of the University of Chicago.

Dr. Wohlstetter is a former member of the Rand Corp., and is a highly respected individual in the field of defense studies. I ask unanimous consent that this editorial be printed in the RECORD.

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

DEBUNKING DEFENSE MYTHS

(By John L. Frisbee)

The debate over strategic forces, a subject that ought to be dealt with in cold logic, has generated more emotion than any other defense issue of recent times outside of the Vietnam War. Like all emotionally charged subjects, it has developed its own mythology. High in the pantheon of myths are two that invariably surface in any attack on US strategic defense policy, whether from Capitol Hill, the academic world, or the media.

The first myth is that the military always overestimates the threat to our security as a scare tactic to extort larger appropriations from the Congress.

The second is corollary to the first—namely, that US strategic forces, sized to match already overestimated opposing forces, touch off what former Secretary of Defense Robert S. McNamara labeled an "action-reaction phenomenon," with the USSR increasing its forces to match ours, and so on ad infinitum.

Through more than a decade of constant repetition, these two myths have become endowed with something approaching the sanctity of natural law. Without always being able to document specifically our position, Air Force Magazine has frequently questioned the validity of the myth of overestimation. And it always has seemed to us that if the "action-reaction phenomenon" has the inevitability attributed to it, it should work both ways. Its proponents generally apply it only to US actions that are said to trigger an arms race by stimulating a Soviet reaction. We can recall little talk of Soviet actions having a similar effect.

Now, Albert Wohlstetter of the University of Chicago has let most of the air out of these myths in a two-part article, "Is There a Strategic Arms Race?", the first part of it appearing in the current issue of Foreign Policy magazine. A former member of the RAND Corp., Dr. Wohlstetter is a respected veteran in the field of defense studies.

Dr. Wohlstetter's article is based on recently declassified information contained in the annual Posture Statements presented to Congress by successive Secretaries of Defense from 1962 to 1972. He has compared each Posture Statement's estimate of the number of missiles and bombers the Soviets were expected to have five years in the future, against the numbers actually deployed when that time arrived.

The estimates all included a range, from a predicted low to a predicted high. Out of a total of fifty-one estimates covering Soviet ICBMs, SLBMs, heavy bombers, and medium bombers, the low end of the range of estimates *never* exceeded the actual levels deployed by the USSR five years later. The mean between low and high estimates exceeded actual Soviet numbers only *twice in fifty-one times*, and high estimate surpassed actuality only *nine* times. For ICBMs alone, the low- and mid-range estimates *never* exceeded actual Soviet strength, and the high level was too high just *twice* in *eleven* years. This record clearly refutes charges that the military overestimates the threat for self-serving reasons.

How explain the consistent underestimation of future Soviet strategic capabilities? Dr. Wohlstetter thinks it was in part a reaction to the one gross overestimate of Soviet potential at the time of the "missile gap" of 1960-61, and in part the result of a misreading of Soviet intentions, based on the belief that their concept of deterrence is a mirror image of our own.

From his study of military history, Dr. Wohlstetter further concludes that the action-reaction phenomenon, which "has an aura of mechanical inevitability . . . is simply a portentous tautology." In real life, inaction by one side can just as well lead to action by the other. (We give as our own example the US decision to reduce our bomber force and hold the ICBM force to 1,054 missiles, which apparently encouraged the USSR to go all out for strategic superiority.) Equally plausible, action (or anticipated action) by one side can lead to inaction by the other in an action-inaction sequence. This sequence, Dr. Wohlstetter says, "was McNamara's chief argument against undertaking a thick ABM defense." In short, Mr. McNamara believed that an anticipated buildup of the Soviet missile force would make our proposed ABM defense ineffective, and do so at a relatively low cost to the USSR. Thus did the discoverer of the "inevitable" action-reaction phenomenon demonstrate his intellectual agility.

Widespread public acceptance of the myths that Dr. Wohlstetter has exposed no doubt has been a prime factor in the decline of US military power in relation to that of the USSR. Certainly a further reduction of this country's relative military strength based on continued repetition of these myths, would be a good deal more than merely unwise. It would be downright foolhardy.

Albert Wohlstetter has demonstrated conclusively that the military has *not* overestimated Soviet strategic force levels for selfish purposes. And he argues convincingly that maintaining a level of military strength appropriate to the threat *does not* lead inevitably to an arms race through a mythical action-reaction process.

These truths call for wide circulation as an antidote to what Dr. Wohlstetter calls "a kind of naive cynicism" on the part of the public. Thanks to him, the ammunition that can shoot down two dangerous myths is now at hand. Let's use it.

MENOMINEE INDIANS—SPIRIT OF SELF-DETERMINATION

Mr. PROXMIRE. Mr. President, in December 1973, the President signed into law the Menominee Restoration Act—a landmark reversal of the Federal Government's policy of terminating recognition and support for Indian tribes.

The Menominee Indians can be justifiably proud of their success in winning congressional recognition of Indian self-determination for survival as a unique cultural group.

Now that the Menominee are being restored to full Indian status, there is hope

that this spirited tribe will once again flourish on the land they have struggled so long to preserve. The Menominee have always had the will to sustain their heritage. Now they have the opportunity to preserve it always for their descendents in the ruggedly beautiful land of their ancestors.

The August 1974 edition of National Geographic presents an excellent portrait of the Menominee land, people and the spirit that binds them together. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the National Geographic, August 1974]

WISCONSIN'S MENOMINEES: INDIANS ON A SEESAW

(By Patricia Raymer)

The late August sun peered between darkening thunderclouds above the great green Wisconsin woods. My husband, Steve, and I heard the muted morning sounds and felt the wet earth beneath our boots. We sensed it in our bones—today, we were certain, would be *the* day. For the fourth misty morning in a row we waded into the woods with our Indian friends Sanome Sanapaw, his son, Joey, and Dude Valliere, to trap the black bear.

Sanome, stout and barrel-chested, set the pace as he lumbered through the ancient unaxed forest. Like his father before him, the 59-year-old Menominee had taught his sons all they needed to know about setting bear traps, tracing deer tracks, and hauling in a sturgeon bigger than a man.

August, we learned, was early for bear trapping. Winter-born cubs, only half-grown, were not yet meaty. But it was a lean summer on the wild Wolf River, long a source of trout and northern pike for the Menominees. Inflation hurt too, in this land of hard work and low incomes. And for the big Sanapaw family, summer supplies had run low.

As we hiked through pine and hemlock toward the traps, we nibbled on wild blackberries, plump as grapes, growing in the lush forest clearings, and wondered whether Mercilene Sanapaw's offering to Manitou, the Great Spirit, had been accepted. In the tradition of her great-great-great-grandfather, Menominee Chief Ah-Kenepoway, Mercilene—Sanome's wife—had ceremoniously made a tobacco offering near one of the traps the night before.

I followed the men through the waist-high ferns at a distance, because I sensed it went against tradition for a woman to join in the hunt. Almost before I knew it, they had reached a trap site, and from the whooping and hollering, I knew they had bagged a bear.

The Sanapaws, their relatives, and friends would eat well tonight. One swift shot from Joey's rifle and the animal was dead. As Joey hoisted the 75-pound carcass over his shoulder, I saw pride in his eyes. But I was sad, knowing that, like the bear, the Menominees were caught in a trap.

"FREEDOM" TAKES ITS TOLL

Lured by the promise of independence, the Menominees had surrendered their official status as Indians, and since 1961 had been struggling to survive without the economic support of the Federal Government. Now, deep in poverty, their culture eroding, they were fighting for a return to their old status. Neither they nor I realized last August that victory was only months away.

For the Sanapaws, as for most Menominees, the big problem last summer was not the white man's broken promises or forgotten treaties but the immediate practical one of getting food. The bear had solved the problem for that day—our last with them—and as the men readied it for dinner, I wandered off alone to gather blackberries for dessert.

As I plucked the ripe berries, I thought of our Menominee friends—the teachers, the sturdy millworkers, the quiet-eyed children with their ever-present ponies, the tribal elder too blind to weave any more sugar-scented sweet-grass baskets. They taught us the Indian way of life—and showed us they could not, would not, be absorbed into a white culture. Above all, the Menominees taught us that Indian land goes hand in hand with Indian culture, that it stands for the tribe, their tradition, their fundamental Indian rights, and that it cannot be shaved away without endangering their survival.

Within an hour I'd picked enough berries for two tartly luscious pies and a batch of fresh jam to spread on Sanome's homemade fry bread. Shedding my mackinaw, I began the long hike back toward the Sanapaw home.

OSHKOSH TREATY SHRANK DOMAIN

It had been a wet, chilly spring day when we first met the Sanapaws. Mercilene, Sanome, and their son Jerry were taking an elementary school class on a field trip. It was May, a time for gathering herbs and wading in the icy Wolf River.

Rambling along in a battered school bus, we came to Keshena Falls on the Wolf, where in 1854 Chiefs Oshkosh and Keshena had a fateful meeting with federal Indian agents. There, in the last of several major treaties that had already whittled away most of their aboriginal homeland—nine and a half million acres of dense forest stretching from Lake Michigan to central Wisconsin (map, page 231)—the Menominees agreed to retain only 275,000 acres. One final session, in 1856, reduced the reservation by another 40,000 acres. As part of the settlement for their once-vast domain, which the Menominees called Weesechosek, "A Good Place to Live," the chiefs and their followers were promised eternal government protection.

In 1954 Congress voted to withdraw that eternal protection and support, and in 1961 the vote became reality. The Menominees, then numbering 3,270, became partners in a dubious federal experiment in Indian self-government. They, together with several smaller tribes in the South and West, were officially "terminated"—reservation lands were turned over to the tribe to run without federal help or interference. Land that had been exempt from taxation became taxable; the Bureau of Indian Affairs discontinued all services.

Today the Menominees insist—and BIA officials agree—that the tribe never freely consented to termination. The consent vote, in which only 5 percent of the tribe took part, was tied to an eight-and-a-half-million-dollar claim against the Federal Government for mismanagement of their forest and mill. In short, Menominees believed they had to accept termination to receive their money.

Upon termination, the Menominee Reservation became the only Indian-run county east of the Mississippi. It remains—at least for the moment—Wisconsin's newest, smallest, and poorest county.

LOVE FOR THE LAND MADE THE DIFFERENCE

The Menominees faced a new and frightening way of life, involved with stocks, bonds, and corporate business deals. Because officials of the BIA had always handled the tribe's finances, few Menominees were equipped to take on the job of running their community. The tribal council was dissolved and replaced with a board of directors. Each Menominee became a stockholder in a corporation formed to manage tribal assets. The Menominees were no longer Indians in the eyes of the government.

In one respect at least, the Menominees looked after themselves prudently. Though financial headaches forced the other terminated tribes to sell virtually all their lands, the Menominees held fast to their territory. They knew the one thing that kept the tribe together was the land, and they meant to hang onto it. Last December Congress finally made their tiny county a reservation again.

It is a land full of meaning and mysteries. On that May bus ride with Mercilene, I tumbled out with her rambunctious group of seventh graders and we gathered round a worn brown rock surrounded by a log fence.

Mercilene spoke softly. "This rock, Spirit Rock," she began, "once stood six feet high. For years the Menominee people have come here to offer their tobacco to the spirits in hopes that they would look upon our tribe with kindness. The legend says that when the rock disintegrates, it will mark the end of the Menominee people."

Although the rock, a poor-quality granite, probably will crumble before long, I doubt that the spirit of the Menominees will die.

Jerry Sanapaw offered to take Steve and me to a sacred Menominee burial ground while the schoolchildren ran off to gather roots and herbs. We rode in his beat-up beige jalopy, traveling along a narrow, tree-canopied highway. Jerry's car slowed as it approached the old sawmill town of Neopit, one of only three communities in Menominee County. Children romped with a yapping mongrel along the road. We went through in a few minutes and into the woods again.

I remarked about the tough-guy reputation of Neopit's sawmill hands. Jerry felt it did not reflect true Menominee character. "We have always been a peaceful people. We have seldom been involved in wars with other tribes, because we always believed you could talk things out."

Jerry went on to explain that the Sanapaws, like their ancestors, are leisurely people. The land knows no eight-hour day or five-day week. Harvest and hunting become social times. Life is lived day by day, and each moment cherished for its own.

"We're a content people, content with our Indian ways, with the woods, with being close to nature," Jerry said.

Yet I sensed that uneasiness lurked behind his words. At 26 he does not seem content. Jerry fought in Viet Nam, like dozens of other young Menominees. Unlike many of his friends, though, he is a high-school graduate and has tried college studies.

Jerry is different in another way, too. Of the county's 2,600 inhabitants, most are either below the age of 18 or above 60. Many young people leave tribal lands for the promise of more opportunity in Milwaukee, Chicago, or Minneapolis. And why not?

The tribe's one source of employment is a 66-year-old, financially pinched lumber mill—one of the largest sawmill operations in the Midwest States. The outdated, steam-powered mill employs about 200 Menominees, and is the county's chief economic asset. Though profits are up, the tribal corporation, Menominee Enterprises, Inc., has borne a heavy tax burden, which gobbled up meager earnings during the period of termination. Instead of looking for work in the mill, Jerry helps an older brother with his private tree-trimming firm in a neighboring community.

OLD BURIAL RITES LIVE ON

Jerry, dark-eyed and muscular, wants to remain with his people. But he is superstitious about being too successful among them. "You know, my brother LeRoy, he died a year ago," Jerry recalled. "His bad luck came, I know, because he was better than the rest. He was an Indian dancer, winning awards, ribbons, recognition all over. When you're a Menominee you can't stand out, you can't be better off than your brothers."

We arrived at the small burial plot, its grass thick with wood ticks. Instead of gravestone markers, I saw long, low wooden huts covering the graves. I learned later of other burial grounds scattered in the high grass off the back roads.

"When an Indian dies," Jerry told me, "one of the family builds the hut. Then the body is carried out through the west window of the family home. The drums beat all night long as the family gathers to tell of all the good things the dead person did while alive. You know the spirits are listening and that the person is on the way to heaven, the place we Indians call the happy hunting ground."

In this land of the Menominees, where 90 percent of the tribe is nominally Catholic, Jerry's story seemed incredible. People had told me of the old medicine-lodge religion, and these huts in the thorny brush were proof that it had not died.

"For four days after a death," Jerry continued, pointing to an opening in the hut, "the family brings offering and puts them through this window, so the dead person doesn't get hungry on the journey."

At dusk, we returned to the Sanapaw home along the Wolf. Children played around the battered homestead. Some teased a caged pet coyote while others took turns riding the family pony.

Inside, Sanome prepared his specialties, fry bread and boiled Indian coffee.

"Survival, that's how we live," Sanome said. "It's been tough, very tough, since termination. When the Menominees were terminated, we had to buy our family land. Like others in the tribe we owned the home we built, but the land. . . ." He was silent. "The land"—quietly now—"the land belonged to everyone in common. This is the Indian way."

After termination the Sanapaws had to buy their property from the newly established tribal corporation at about $300 an acre, and then pay taxes on it. But Sanome said, "We just can't afford it."

A World War II veteran, Sanome supports his family with a pension plus earnings from a tourist-concession stand he runs.

"Over the years, I've worked about every job around," he told me. It wasn't hard to see in Sanome's ruddy face a strong millworker, a pulp-cutting woodsman, or a tough highway-construction laborer.

One of the nine Sanapaw children still lives at home, as do about a dozen of 35 grandchildren and some assorted relatives. Their wood-frame home, like half the homes in the county, has electricity, but the family must haul water from a hand-dug well nearby. Sleeping and eating space is at a premium.

FAMILY CLINGS TO WILD-RICE TRADITION

We sat down to dinner with about twenty members of the Sanapaw family. Because there were guests, Mercilene served up hearty portions of venison and wild rice to complement the usual dinner of boiled potatoes, grease, and fry bread.

"We harvested this rice last fall on the Wolf," Jerry said, waving toward a hand-fashioned rice boat in the backyard.

The Sanapaws are one of the few Menominee families still wild-ricing. Only a scattering of rice beds remains along the west branch of the Wolf. (Menominee means "people of the wild rice" in the old Algonquian tongue.)

In the past the Menominees believed that the Great Spirit had granted the tribe two foods to be their own forever—wild rice and maple sugar. But the Sanapaws are the only family still tapping sugar maples in the spring.

Over dinner, Mercilene talked of how she and Sanome tried to hand down the precious remnants of Menominee heritage to their youngsters. "You know, it's ironic," Mercilene said, looking much younger than her 61 years. "When I was five, I was sent off to a boarding school run by the BIA, not knowing a word of English, just Menominee. But they wouldn't let us speak Menominee. At night girls would huddle together and repeat the legends we knew, in Menominee and when the teachers found us, they'd punish us."

She laughed, but the humor never reached her voice. "Well, today I'm paid to teach Menominee traditions in the schools, to teach beadwork, and to take children on field trips, as we did today."

SECRET OF TRIBAL MEDICINE: BELIEVE

The colorful assortment of roots, herbs, leaves, and tree barks bundled in a corner of the kitchen spoke for the success of the day's harvest. There was crinkleroot, which could be preserved and used like horseradish to flavor meats and vegetables; blackberry root, to be made into a tea to treat diarrhea; and catnip, for babies' colic.

According to Mercilene, these remedies have no medicinal effect unless the user believes in their powers. In days gone by, herb doctors, or medicine men, learned from the Great Spirit the specific qualities of each plant, and only after offering tobacco to the spirits could they treat their patients.

Talk of the Great Spirit filled my mind as we left the Sanapaws that night. The forest seemed alive with legends, warriors in moccasins, medicine men praying over the campfires. But like the Menominees themselves, I could not forget the bitter realities of high taxes, poor health, and soaring unemployment that ate at the soul of this community.

What reassured me was that unlike many Indian tribes that have few natural resources, the Menominees have their woods. Ninety percent of their land is forest—pine, hemlock, maple, birch, and oak. "The trees are thick as hair on a dog's back," Menominee Enterprises forester Jim Heinz told us. "The tribe works the woods on a sustained-yield setup, cutting only the mature timber."

In his office overlooking the mill, Heinz mapped out a 15-year cutting plan with all the flash of a Pentagon general. "As long as we manage the woods intelligently," Heinz said, "the Menominees will have enough timber here for their grandchildren's grandchildren, and beyond."

Yet, ironically, it was the Menominees' success as woodsmen that led to most of their present-day problems. The Menominees were terminated because, by Indian standards, they were financially well off. Before 1961 the Menominee lumber-mill profits paid the government for most of the services of the Bureau of Indian Affairs—a hospital, schools, highways, and power plant. During most years federal aid to the Menominees was the lowest of any tribe in the nation.

BANK BALANCE TUMBLED AFTER TERMINATION

But with self-government, the Menominees' fortunes plunged. By 1972 the tribe's bank account had sunk from some $10,000,000 to $59,000. Where did it all go? Shortly after the termination act was passed in 1954, the Menominees elected to distribute nearly $5,000,000 in $1,500 payments to each of the 3,270 members of the tribe. That money was part of an $8,500,000 judgment granted the Menominees in 1951 for government mismanagement of their forest land. Legal fees took $900,000 of the award.

In 1955 more than $2,260,000 was distributed in $750 payments when the Bureau of Indian Affairs discovered that for 13 years it had erroneously been assigning to the tribe's general account certain funds that should have gone to individual Menominees for timber cut.

The $1,840,000 left in the account was eaten up by the financial burdens of getting a new county on its feet. Standards that had been good enough for a BIA sawmill were not good enough for the State of Wisconsin. The tribe had to spend $1,500,000 upgrading the old mill. Much of the rest went to revamp the tribe's electrical-power plant.

Worst of all, there was the new tax burden. Although the mill was clearing more than $500,000 most years, the bulk of it was used to pay property taxes on the tribe's forest land. Left without expansion capital, the Menominees were unable to increase mill profits or to diversify their business.

The Menominees were broke, but they refused to give up. Ada Deer made sure they didn't. A tough, aggressive, determined, and optimistic woman (page 242), this 37-year-old Menominee social worker and community organizer led the movement to make the Menominees Indians again.

One of a handful of Menominees to go from log cabin to college classroom to the "white man's world," Ada acts as the tribe's lobbyist, carrying the message of the Menominees not only to government officials but also to the nation on whirlwind speaking tours. Officially, she is the elected chairwoman of the Menominee stockholders.

VICTORY AT LAST FOR A MODERN WARRIOR

Beginning in June 1972 Ada camped out in Washington, D.C., determined to convince members of Congress that they should reverse the 1954 termination decision. By December 1973 she had won the battle. Under the congressional bill formulated by the Menominees and lawmakers, the services of the Bureau of Indian Affairs are being restored to the Menominees as the land—their precious link with the past and their hope for the future—returns to federal-trust status. Tribal land will again be tax-exempt, but the tribe will continue to control its government, mill, and forest. Those Menominees who paid for their acreage may give it back to the tribe to avoid taxation.

Termination was supposed to give Indians power over their lives and land, but it forced them to sell their property to make ends meet. Even the land-proud Menominees had to yield to a degree. To add much-needed tax dollars to the county treasury, the Menominees sold 5,000 acres of lakefront property to whites in search of a summer playground.

Today those white landowners live in a separate world. Ada and I drove past a summer-home development, with its man-made swimming beaches and electric hookups for camper trailers. "Selling this land was like selling your furniture to make house payments," Ada said. "Or like burning down your house to keep warm in a blizzard."

In the end tribal leaders realized that land sales would only prolong their financial woes.

The economic situation continued to worsen, until nearly half the tribe was collecting welfare and 40 percent of the families had incomes below the federal poverty level.

I asked Ada why the Menominees felt they must again seek aid from the Bureau of Indian Affairs—the often-criticized government agency that since 1834 has dominated every aspect of U.S. Indian life.

"Because there is no alternative, no other way to hold on to our land."

A former official of the Bureau of Indian Affairs seconded Ada's view: "The only thing worse than being an Indian under BIA control is being an Indian not under BIA control."

The Menominees think restoration can work, and the congressionally authorized Menominee Restoration Committee is now working out the details.

And the Menominees had President Nixon behind them. Signing the restoration bill, he said: "By restoring the Menominee Indian tribe to federal-trust status, the United States has at last made a clear reversal of a policy which was wrong, the policy of forcibly terminating Indian tribal status."

TERMINATION TAUGHT SOME LESSONS

There are Menominees who still have doubts about a return to the fold. "All my life BIA has been the fly in the ointment, and it's one thing I question about restoration," said Delores Boyd, director of the Child Development Center. "I certainly wouldn't want youngsters today to grow up feeling the Menominees are just getting handouts from the government. But is there any other way to save our land? Though termination was wrong, it did have some good effects. Ten years ago we believed whatever the white man told us. Termination made people a bit more demanding of their rights."

Mrs. Boyd took me on a tour of the rambling old Bureau of Indian Affairs school that the Menominees had turned into a child-care center. Eyeing the 90 children in her charge, she said: "I hope we can give our children the pride they need. The real aim of our program is to make the kids Indians, and to do something about the major health problems that can hold them back all their lives."

The old bureau hospital is closed now—turned into a courthouse after failing to meet modern standards. Two community-health nurses and a part-time National Health Service doctor bring medical care to the Menominees. Anemia, tuberculosis, and alcoholism are the major problems.

Indian teachers like Mrs. Boyd are being recruited and Indian culture is being emphasized in the primary grades, but the effort is dissipated further along. High-school students are bused to a neighboring county that has no Indian teachers and no Indians on its school board. Racial tensions have flared, and federal investigators have found discrimination. Under such conditions, more than 75 percent of the Menominees fail to graduate from high school and fewer than 4 percent see the inside of a college classroom.

Carol Dodge has helped organize a community school for high-school dropouts as the first step in gaining local control of all Menominee schools.

"Our pubic-school children just aren't given adequate backgrounds in the primary level," she complained. "They leave fifth grade two years below their level, and, well, they just can't compete."

Miss Dodge, a Menominee with a graduate degree in education, sees the community school as a stopgap measure, but a beginning. "We have to spend too much time re-teaching the basic skills," she told me. "In a few years these young people will be looking for jobs, and they can't even read or add."

TROUBLED BOYS GET ANOTHER CHANCE

One day Steve and I drove to Thunderbird Ranch, a rolling 40-acre farm 20 miles outside Menominee County, to see another social and educational program in action. For three years Thunderbird Ranch has been home to several dozen Menominee boys who, because of school and family problems, are branded "delinquents" and taken over as wards of the County Welfare Department.

Lou Hawpetoss, the director of the ranch, greeted us. "*Poso,*" he said, which means both hello and good-bye in Menominee, depending on the accent. In the fields half a dozen energetic 13-year-olds were riding bareback (page 240) as the sun set behind the gleaming, whitewashed farmhouse.

"These boys were at rock bottom," Lou said. "Most have records that could put them in jail for a long time. Many have only one parent, often an alcoholic. They'd all been kicked out of school in Shawano, and something had to be done."

Lou, 33, is a huge, robust, good-natured man in braids with a beaded headband. He hardly cuts the figure of the Chicago advertising executive he was before returning to "do something for my people." Today he is tutor, father figure, pal, and official guardian.

Adjusting his floppy felt hat Lou told us the boys' success story.

"We put them in a different school, away from the racial problem of Shawano. Here, they aren't automatically expected to fail, and they're developing a new self-image. Now most are getting B and C grades and learning a bit about small-scale farming at the same time. I wouldn't be surprised if one day—maybe 15 years from now—these kids were running a ranch for boys like themselves."

There are many Menominees like Hawpetoss, those who left the reservation in search of a better life, but were drawn back to their people by a sense of responsibility and a deep longing for home roots. Ted Boyd, 33-year-old vice-president of the Menominee corporation, spent 11 years in Milwaukee studying accounting and working as an accountant.

"I always wanted to come back here some day," Boyd said, "and I was lucky. My people neded someone with business experience. Many educated Menominees would like to come back, but there isn't much opportunity."

A NEW ERA DAWNS FOR MENOMINEES

As vice-president for financial affairs, Boyd has seen the Menominee economy seesaw. Corporation profits rose during the years Menominees sold the lakefront parcels of land. When land sales were halted in 1972, corporation net profit fell to zero. But by March 1973 profits were up, chiefly because of the lumber operation, and Boyd now detects a trend toward "recovery and improvement."

He told me, "I think our workers' attitude has improved because we are returning to reservation status. Now people really care and want to make it work."

My talk with Ted Boyd filled me with hope for our friends. As Steve and I took a final late-night walk through their land, our heads throbbed to the drums of an Indian powwow. The drums seemed to be saying that the fighting Menominee spirit and binding tribal ties would not be weakened.

At the county's edge, I look back and saw a sign I had casually passed many times before Somehow, tonight, it means much more. Its message was simple. Shining in the moonlight, it read: "Land of the Menominees—We'll make it!"

THE ROOT CAUSES OF OUR INFLATIONARY MALAISE

Mr. BROCK. Mr. President, today I would like to share with my colleagues an article by Irving Kristol in the June 13 edition of the Wall Street Journal.

With penetrating insight, Mr. Kristol has diagnosed the root causes of our present inflationary malaise. He points out that while capitalism is a revolutionary movement that emerged from the dissatisfaction with the old order, it was a moderate revolution. In recent times, this spirit of moderation has been lost. And it is this loss that has given birth to our present inflationary state.

However, Mr. Kristol is optimistic for the future. He sees the 1970's as a period in which we are slowly becoming disillusioned with the utopian promises of yesterday. He argues that reality is slowly taking hold; economists are no longer exclusively focusing on economic growth and the electorate no longer believes the extravagant promises made to it at regular intervals.

I commend Mr. Kristol's article to my colleagues and I ask unanimous consent that it be printed in the RECORD.

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

[From the Wall Street Journal, June 13, 1974]

INFLATION AND THE "DISMAL SCIENCE"

(By Irving Kristol)

Just about every thoughtful observer is agreed—indeed, has always agreed—that inflation is essentially a political phenomenon, created by the fiscal irresponsibility of government. Economic circumstances can raise the prices of some commodities (e.g., oil or domestic help), and a major crisis (e.g., war) can temporarily raise the prices of all commodities. But a general, enduring, and accelerating rise in the price level will only come about when government itself spends—or permits its citizens to spend—more money than there are resources available for purchase at stable prices.

All this is true enough, but as stated it is somewhat misleading because oversimplified. It encourages us to regard "politics" as a world apart, "politicians" as a breed apart, and allows us to blame it and them for our problems. This has its convenience, and might even be relatively true for pre-democratic or non-democratic societies. But in a democratic society such as ours, politics is not really a world apart, nor are politicians really much different from the rest of us. Just as—to cite F. Scott Fitzgerald—the rich are different from us in that they have more money, so politicians differ from us merely in that they have more power. The uses to which that money and power are put, however, are determined in a democracy by our common culture—by those beliefs about how things are, and those expectations as to how things ought to be, which we jointly share.

It is this culture, as it finds articulate expression in what we call "public opinion," but also as it finds tacit expression in the habits of everyday life, that ultimately governs in a democracy. And if inflation becomes an organic disorder of democracy, it can only be because it has deep cultural roots both in our way of life and our way of thinking about life.

MR. SOMMERS' ASSERTION

This, I think, is what Albert T. Sommers, the immensely shrewd chief economist of the National Industrial Conference Board, had in mind when he recently asserted that the explanation for our inflationary condition lay in a "profound historical shift in the social conditions and value systems of democratic capitalism." In the democratic countries, he went on to say, modern economic systems "are living in an explosion of expectations that carry the demands for output far beyond their finite resources. The

failure of our political system to contain the growth of social demands witin limits tolerable to the free market is the essential first cause of inflation in this society."

Quite right. Only, who incited this "explosion of expectations," and who transformed the "value systems of democratic capitalism" so as to make this explosion so difficult to contain? Well, oddly enough it is our economists themselves who have to shoulder some of he responsibility. True, it is mainly economists who today are most alarmed by inflation and are most vociferous in demanding that something be done about it. Nevertheless, ever since the end of World War II, economists have been as busy as anyone else in fueling that "revolution of rising expectations" which, *when divorced from the spirit of moderation*, gives birth to the inflationary state and its various disorders.

I have italicized that phrase—"when divorced from the spirit of moderation"—because it is so crucial. Capitalism itself emerges historically from dissatisfaction with the stationary society, and is intrinsically allied with *some kind* of revolution of rising expectations. It was such a revolution that brought capitalism into existence, and it is the satisfaction of increased expectations that has legitimated its existence until this day. But this was, from the outset, a moderate revolution that sought to satisfy moderate expectations. And what, above all, imposed a spirit of moderation on this continuing revolution was the science of economics—the "dismal science" as it came to be called, precisely because it set itself so firmly against the utopian extremism which all revolutions stir up, and because it kept insisting that there are no benefits without costs, that reality is so structured as to make hard choices inevitable, that a "free" lunch is pie in the sky. Up until the New Deal, politicians functioned within a climate of opinion shaped by "the dismal science." They didn't understand economics any better than they do today. But they were much more respectful of reality—and of the limits which reality inevitably imposes on our desires—than they are today.

Economics ceased being a "dismal science" with the rise of Keynesian theories during the Great Depression. But Keynes was no utopian, and his economics was originally conceived very much in a spirit of moderation. What Keynes said was that massive depressions were unnecessary and could be avoided by fairly simple governmental action which would help restore economic equilibrium. He anticipated that, once this was achieved, the capitalist system would resume its long-term rate of growth. That rate was, by our present standards, modest to the point of timidity in the U.S., it meant an average annual increase in GNP of perhaps 2.5%. Paltry though that statistic seems to us today, it meant a doubling of national income every thirty years or so—an achievement no previous economic system could even have imagined.

After World War II, the moderate optimism created by the Keynesian confidence that great depressions could be avoided became an immoderate and extravagant optimism. "Economic growth" replaced "economic stability" as the focus of attention, and economists began to assure us that growth rates of 5% or even 8% were possible, if only we did the right things—which, as it happens, turned out to be the inflationary things. These assurances seemed all the more plausible at the time because some nations—notably the Soviet Union, and West Germany—were indeed achieving such impressive rates of growth. There was even a great deal of chatter in respectable academic circles that, unless the United States could radically improve its performance, the Soviet economy would soon surpass it—and we were warned that all the "underdeveloped" nations (they had not yet been promoted to "developing" nations) would then promptly opt for communism. Those economists and social critics who were skeptical of this scenario were peremptorily informed that their thinking was out of date.

And so our present inflationary climate was born. The stock market boomed—at those projected rates of growth, you couldn't go wrong by buying common stock. Corporations plunged head over heels into debt—at those projected rates of growth, massive indebtedness seemed positively sensible, since the return on capital would easily cover repayment and leave a tidy profit besides. Individuals, too, began to go heavily into debt—what was wrong with pre-spending tomorrow's increased "guaranteed" income? And politicians began to pre-spend the "fiscal dividend" which the tax system, under these conditions of rapid and sustained economic growth, would pay out to the Treasury.

I vividly recall a dinner meeting, eight years ago, when a Washington official brought us the glad tidings that the major political problem facing the nation was how to spend that fiscal dividend (then estimated, I think, at $6 billion a year). When someone—not an economist—dared suggest that it was all just too good to be true and that life wasn't really like that, he was silenced by an uncomprehending stare.

And all of this took place in a decade when the media—television, especially—converted this nation into a vast echo chamber, in which fashionable opinions were first magnified and then "confirmed" through interminable repetition. Gradually it came to be believed that, in the immortal words of a 19th-Century utopian Socialist, "nothing is impossible for a government that *wants* the good of its citizens." As a matter of fact, this proposition doesn't even sound particularly utopian today—it sounds almost banal.

THE REALITY PRINCIPLE

The 1970s are slowly disillusioning us of all these fantasies, and it is pleasing to report that, just as the economists were the leaders of yesteryear's "revolution of rising expectations," so today they are the most eloquent in affirming the reality principle, in the traditional accents of their "dismal science." But such reversals of established opinion do not occur overnight, and bad habits are not so easily discarded. Corporation executives still feel compelled to promise their shareholders growth rates of at least 7% to 10%—though, if stock prices are any indicator, no one is believing them, which is a good thing. Politicians, too, still feel that they are required to come up with new and glittering promises to the electorate at frequent intervals. It seems clear that the electorate, which has more common sense than economists, corporate executives, or politicians, doesn't believe them either. The media naturally calls this disbelief "apathy" and "cynicism," and deplores it.

I suspect that, had it not been for the insanities of the Watergate Affair, we would be much further along the sobering-up process than we now are. Mr. Nixon's overwhelming majority in 1972 can be fairly interpreted as a vote for political and economic sobriety. Mr. Nixon may be discredited, but that majority is still out there, and is still a lot more sober than the politicians realize. But politicians are always suffering from cultural lag, and we shall have to give them some time to catch up. Meanwhile, it is to be hoped that our economists will stay "dismal" and thereby help revive the spirit of moderation which they had earlier helped to subvert.

(Mr. Kristol is Henry Luce Professor of Urban Values at New York University and co-editor of the quarterly The Public Interest. He is also a member of the Journal's Board of Contributors, four distinguished professors who contribute periodic articles reflecting a broad range of views.)

FEARS OF SUGAR GROWERS OF THE UNITED STATES

Mr. INOUYE. Mr. President, I wish to share with my colleagues an article in the July 3 New York Times entitled "Prosperous Sugar Growers Fear a Cloud," by Douglas A. Kneeland. This article provides some insight into the fears instilled in the sugar growers of this country by the failure of Congress to extend the Sugar Act.

The situation in California is similar to that which I find in Hawaii. While sugar farmers are currently enjoying high prosperity, the future is indeed dark without an extension of the Sugar Act. We too fear, as do the farmers of the Imperial Valley, that 5 to 10 years from now there will be no sugar industry in the United States.

Such a development would be disastrous for the sugar growers of Florida, Louisiana, California, the upper Midwest, Colorado, and other areas. In no place would it spell greater disaster, however, than in my own State of Hawaii where sugar is our predominant agricultural crop, providing twice the income which we now get from pineapple.

We have witnessed what has happened to our pineapple production as a result of lower cost foreign labor. The prospects of a similar transfer of production to foreign areas with lower labor costs is frightening to contemplate. The instability which would result in riches today and bankruptcy tomorrow would ill serve the needs of our Nation whether we speak of the producer, the labor, which is employed in that industry, or the consumer. The need to continue the Sugar Act must be recognized by the Congress.

I wish to share Mr. Kneeland's article with my colleagues and for that purpose request unanimous consent that it be printed in the RECORD.

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

PROSPEROUS SUGAR GROWERS FEAR A CLOUD

(By Douglas E. Kneeland)

EL CENTRO, CALIF.—Hoxsie Smith should be happy. He isn't. So should Fred Jenkins and John Borchard and Jack Fleming. They aren't.

Not that anyone ever expects farmers to be very happy, even the businessmen growers of the Imperial Valley with their air-conditioned pickups and downtown offices and their suburban-style homes in this dusty county seat of 21,000 or in Brawley, a smaller agricultural center a few miles north on Route 86.

But Messrs. Smith Jenkins, Borchard and Fleming raise a lot of sugar beets, and the price of sugar has risen to levels they never dared fantasize about.

In a supermarket here in El Centro sugar was up to $1.59 for a five-pound bag the other day, about twice what it was at the beginning of the year.

What is more, with the refined product that spews out of the area's Holly Sugar Corporation's Carlton plant selling to wholesalers for 30 cents a pound, it seems certain to cost housewives considerably more before long.

Messrs. Smith, Jenkins, Borchard and Fleming are among 200 growers who have a total of about 65,000 acres in sugar beets in the valley, making Imperial County the largest beet-sugar producing county in the country. Since they are paid under contract a percentage of the processors' selling price, they might be expected to be ecstatic.

WILL "RUIN" INDUSTRY

But they fear that there is a big, black cloud on the horizon. In fact, most of them seem to be convinced that Congress has already rained on their parade to prosperity by unexpectedly killing on June 5 the Sugar Act, ending among other things import quotas that had guaranteed them a large share of the American market for 40 years.

"We never had it so good, I won't kid you," said Hoxsie Smith, a heavy-set, florid man in his late middle years, as he sipped a martini on the rocks at the bar in the Airporter Inn's darkened lounge. "But we've been down some rough roads in the past, so we'll take it while we can get it."

Mr. Smith is a district president of the California Beet Growers Association, which represents almost all of the slightly more than 1,500 growers throughout the state who produce 30 per cent of the nation's beet sugar. And, like the other growers, he is worried about the demise of the Sugar Act.

"In the short run, it probably won't have very much effect," he said, "but in the long run, in my opinion, it's going to ruin the domestic industry."

The Sugar Act, which is now due to expire at the end of the year, establishes import quotas from 32 countries. The United States uses about 12 million tons a year and under the act, domestic cane and beet-sugar producers and processors are allocated about seven million tons, with the remainder being divided among the foreign producers. Beet sugar, which is indistinguishable from cane sugar, accounts for somewhat more than half the domestic production.

Processors are rigidly limited to their assigned share of sugar production. Therefore, they contract with growers for a stated supply for their mills and the farmer has no other outlet even if he wanted to increase his crop.

For years, this has kept the price of sugar relatively stable, since an adequate supply was guaranteed and an over-supply was prevented by the controls on imports and production.

FEAR OF FOREIGNERS

Now, however, there is a shortage on the world market. Demand has grown at a time when many countries had cut back on production. For the last four years, world consumption has exceeded the sugar produced, cutting inventories from about 20 million metric tons to about 15.5 million, or about 70 days' supply. Prices have accordingly risen on the world market and the domestic price has followed.

Without the controls provided by the Sugar Act, the normal assumption would be that domestic producers and processors would expand production to take advantage of the higher prices and seize a larger share of the United States market.

However, they fear that foreign countries, with cheaper labor and other lower production costs, will rush back into cane planting and flood the market, driving the price so low that American producers will no longer be able to compete.

"With a yo-yo sugar market," Mr. Smith declared, "it's unlikely anyone will go out and spend $40-million or $50-million for a new factory. And in sugar, we're limited by processing capacity."

Summer is really going to settle in soon in Imperial County. Lately daytime temperatures have been flirting with 114 degrees or so. And people in these parts say that means it will not be long before it starts to get hot.

120-DEGREE HEAT

By all odds this vast expanse of desert wedged into the southeastern corner of California along the Arizona and Mexican borders, where the temperature often exceeds 120 in July and August, should be uninhabitable.

But by tapping the waters of the Colorado River 50 miles to the east, farmers have created an oasis of about half a million irrigated acres in the table-flat Imperial Valley. With the rotation of crops and intensive year-round farming the valley has been developed into a huge agricultural factory whose output last year sold for almost half a billion dollars.

Just about everything from alfalfa to watermelons, including cotton and cattle, food and feed grains and an endless variety of garden vegetables, is grown here. For the most part, the farmers have prospered, but none is doing better this year than the sugar-beet grower.

Fred Jenkins, a rapid-talking baldish grower who majored in business law and accounting and minored in philosophy at Loyola University in Los Angeles before he moved here 25 years ago, has always had faith in the sugar beets. More than any other farmer in the valley, perhaps, he has concentrated on them. This year he has 1,700 acres.

27 TONS PER ACRE

Standing under the blistering sun the other day, he watched his mechanical digger rip the long white beets, which weigh about three pounds each, from the dusty soil and deposit them in a 25-ton truck.

From each acre, he expects to get about 27 tons of beets, over three tons of sugar when processed at the Holly Mill. Holly Mill handles 6,500 tons of beets a day from the beginning of the harvest in April until it ends Aug. 1, when the heat becomes so fierce it will rot the crop in the ground.

This will be the richest harvest ever for Fred Jenkins, who could be earning close to $50 a ton for much of his beet crop, or $1,350 an acre, compared with production costs of about $500 an acre. But he is too concerned with the future to enjoy it.

Like Messrs. Smith, Borchard and Fleming and the other growers, he wants Congress to give them back their Sugar Act.

"With no Sugar Act," he warned, "I'd say within five or 10 years you'll have no sugar industry in the United States."

HOW TO MIRV A COW

Mr. MATHIAS. Mr. President, we all have a haunting memory of last year's energy crisis and an uneasy feeling that it may happen again. Thoughtful Americans are beginning to worry about the potential effect of global shortages of metals vital to modern industrial economies. Few people are, however, seriously considering the impact of the growing worldwide scarcity of food. Many are lulled into complacency by the successes of the green revolution and are oblivious to the awe-inspiring growth of demand that has resulted from the world population explosion. On Sunday, July 7, 1974, Mr. James Reston explored this problem in a valuable column which I ask unanimous consent to have printed in the RECORD.

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

HOW TO MIRV A COW

(By James Reston)

During the worst of the oil crisis, Americans complained that the nations of the Middle East monopolized the world's oil reserves and created great hardship by charging the highest prices possible.

Now, with less publicity, the world is facing a food crisis and the main question this time is what the United States and Canada will do about it. For North America now controls a larger share of the world's exportable supplies of food grains than the Middle East does of oil.

The analogy, of course, is not precise, because the U.S. is not withholding grain from nations for political purposes, but the price of wheat, soybeans and corn has more than double in the last twenty months and the nations that need food the most are precisely those least able to pay for it.

This raises some hard political and even moral questions. As Lester Brown of the Overseas Development Council put it to the Rockefeller Commission on Critical Choices for Americans: Can we rely primarily on the marketplace to set the price and determine the distribution of so essential a commodity as food? And should Americans continue to consume as much fodder as they now do, most of us consuming more than we actually need?

"There is little doubt," Mr. Brown told the Rockefeller Commission, "but that a year from now we will see the largest food deficit of any region in history unfolding in Asia—a situation where political leaders in the more affluent countries, including the United States, may have to decide whether to throw up our hands and sort of cast Asia adrift . . . or go to consumers and ask the food equivalent of turning the thermostat down six degrees—that is, reducing consumption of, say, livestock products in order to free up many millions of tons of grain to move into Asia."

World demand for food because of rising population and marginal improvement of living standards in some countries is increasing by 30 million tons a year. In 1961, we had reserves amounting to 95 days of world food consumption. Now, despite very good crops in the major grain-producing countries last year, reserves are down to 27 days and declining by 10 million tons a year.

The U.S. farmers and the Department of Agriculture have probably made as great a contribution to world peace as the soldiers at the Pentagon or the diplomats at the State Department. Nobody can say they didn't do their part. In the last twenty years, they have increased corn production at a phenomenal rate. So great has been the demand for soybeans that one acre out of six in the U.S. is now planted to that crop, and U.S. soybean exports now bring in more money than all our high technology exports such as computers or jet aircraft.

Meanwhile, enormous progress has been made in increasing the production of poultry, eggs and milk. Mr. Brown notes that the average milk production of a cow in India today is about 600 pounds a year. In the U.S., it averages 10,000 pounds a year.

This, however, does not satisfy the Department of Agriculture experts. They want to know why a cow in the state of Washington produced 44,000 pounds of milk last year, and why the average American hen, even when tricked by controlled lighting, produces only 232 eggs a year, while the Japanese actually induced one hen to lay 365.

It is a particular disappointment in Washington that the scientists have not been able to produce multiple births in cattle. This is really, to use Henry Kissinger's term, the "conceptual breakthrough" the agricultural scientists are looking for. They would rather MIRV a cow than a missile, but so far they haven't managed to do it, and supply keeps running behind demand.

There are other reasons. The U.S. is running out of idle acres. Fertilizer is in short supply because of the rising price of oil and the increased demand. While the average

person in poor countries consumes about 400 pounds of grain a year, the average North American is now consuming nearly a ton of grain a year, about 100 pounds of it in the form of beer and whisky.

Also, while we are now putting much marginal land back into production in the U.S., we are also taking out of production about a million good acres a year for highways, shopping centers and golf courses.

It is true, of course, that the Malthusians had been predicting disaster in this race between people and food for a very long time, but the surplus of people and the shortages of water, land, energy and commonsense are beginning to catch up with us again.

The guess here is that the U.S. could make more friends and progress in the world by solving the food crisis than by fiddling with the missile crisis. But this will take some doing.

The rich world doesn't really believe in the coming food crisis any more than it believes in the oil crisis, but it will. One day we'll all be Weight Watchers, including Henry Kissinger, but not until the crisis is really much better understood.

THE DEPARTMENT OF LABOR HAS CUT NEIGHBORHOOD YOUTH CORPS SUMMER RECREATION FUNDS FOR BIG CITIES

Mr. HUMPHREY. Mr. President, I have long been a strong supporter in the development of the Neighborhood Youth Corps. Therefore, I was very disturbed to learn recently that this administration has cut the summer recreation and transportation funds of the Neighborhood Youth Corps to the largest 122 cities in the United States.

You have to watch this administration very closely. I was very pleased last May when the Senate Appropriations Committee took into account the new minimum hourly wage and the need for transportation and recreation in its supplemental appropriation for the Corps, over the objections of the U.S. Department of Labor. I thought the battle was over when the President signed the supplemental appropriation into law. I was hopeful there would be no new obstacles to sound funding of this program which has so successfully helped the poor youth of our large cities.

Now I learn that the Department of Labor has changed its program of allocating recreational funds through the Neighborhood Youth Corps, from the 122 largest urban areas to over 500 cities.

On the surface, this change in formula seems innocuous, but the result is that the large cities which are in dire need of this program and which have received the funds in the past, will face reductions of up to 50 percent for this summer.

The Department of Labor is subverting the purpose of the program. The money in the past has been used in a very responsible and successful manner. It has provided summer recreation programs for poor children too young to work but who have nothing to do in the central city. It has been used for arts and crafts, sports and playground activities. These funds have been used for trips outside the neighborhood for cultural and educational programs.

I want to commend Senator WARREN G. MAGNUSON, chairman of the Senate Appropriations Subcommittee on Labor, Health, Education and Welfare for reminding Secretary of Labor Peter Brennan that these funds are to be used for recreational programs for the poor children in our central cities. That is where there is a high concentration of poor youth.

Mr. President, I ask unanimous consent that an article on this topic by Bradley Graham, entitled, "Lack of U.S. Funds Cuts Big-City Recreation Programs," which appeared in the Washington Post, be printed in the RECORD.

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

[From the Washington Post, July 7, 1974]

LACK OF U.S. FUNDS CUTS BIG-CITY RECREATION PROGRAMS

(By Bradley Graham)

Many big cities are cutting back recreation programs this summer because allocated federal funds are going to smaller communities.

Big-city children aged 9 to 13 will find fewer city-sponsored games, field trips and camping opportunities.

A number of big-city administration started planning summer programs months ago based on assurances from Congress that the amount of money awarded this summer would match last year's figure.

But the Labor Department, in allocating the funds, has been accused of acting contrary to congressional intent, and the big cities are charging that the allocations are politically motivated.

"The impact (of the cutbacks) will be devastating," said Joe Davidson, commissioner of recreation for New York City. "Millions of kids are involved. We're going to fight. We're planning caravans to Washington. We'll bus the children there. Washington is going to hear about this one."

At issue is $17 million in summer recreation and transportation funding authorized by the Comprehensive Employment and Training Act. Last summer this money was apportioned among 122 cities. This year the Labor Department wants to spread it among 500.

The result: large cities that received most of the money in the past will face reductions of up to 50 per cent. For New York, Los Angeles, Chicago, Philadelphia, Detroit and elsewhere, this means losses of hundreds of thousands of dollars.

Washington was spared the cutbacks, and will be receiving $25,000 more recreational support money this summer.

The money, which provides summer recreation for poor children too young to work, pays for playground activities, sports, arts and crafts, trips outside the neighborhood, and other cultural and educational programs.

"Somebody is playing politics with the lives of people," said James Smith, Baltimore's special projects supervisor. "These young people are too important for us to play political games."

"They're not dummies over there in the Labor Department," added Loran Fraser, senior associate of the National Parks and Recreation Association. "They know that when they spread the money around, they have a good program. I'm sure there must be some political considerations."

But Labor Department officials denied politics was a factor. "It just seemed like a more equitable way of distributing the funds," said Jack Hashian, spokesman for the department's manpower program.

Some members of Congress, however, have charged the Labor Department with violating the intent of the congressional appropriation.

Sen. Warren G. Magnuson (D-Wash.), chairman of the Senate Labor-HEW Appropriations Subcommittee, wrote Labor Secretary Peter Brennan stating that equitable distribution was not the original purpose of the allocation.

"It was the clear intent of Congress . . . to allow cities which operated summer youth recreation and transportation programs last year to maintain them," Magnuson said.

The department replied that the intent of the legislation is vague. The vagueness apparently stems from a change in authorization acts that occurred during the year.

Last summer's recreation support money came from the Manpower Development and Training Act. But that act expires at the end of this month and the comprehensive Employment and Training Act will replace it.

The Labor Department contended the switch in legislation permits it to allocate the money differently.

"There's nothing in the new act which makes allowance for running the program as in previous years," said Hashian.

Magnuson disagreed. "If we had intended the money to be spread out among the more than 500 prime sponsors designated under CETA, we would have said so," he wrote Brennan.

A "prime sponsor" is any governmental entity of 100,000 population or more eligible to receive Training Act appropriations. The Labor Department is using this figure as a primary criterion in allocating the recreation money.

Magnuson said the recreation programs are to meet the needs especially of the major cities which have a high concentration of poor youth.

He added that if the programs were intended to be spread among the smaller communities, a much larger appropriation would have been authorized.

Reps. Dan Rostenkowski (D-Ill.) and Thomas P. O'Neill (D-Mass.) are circulating a petition also critical of the Labor Department's decision.

For the big cities, word of the cutbacks has come at the last minute. Many commitments to poverty agencies, small businesses and community groups within the cities have already been made.

"If we had known months ago, we could have tried other avenues," said Bob Crawford, commissioner of recreation in Philadelphia, where summer programs were slated to begin within two weeks.

The total amount of summer youth program money being allocated to the big cities is, in fact, up this summer over last.

The increase is due largely to more funding for jobs for the 14-to-22-year-old age group, however. And under CETA, money allocated for jobs cannot be redirected by localities into recreation activities.

CLEAN COMBUSTION RESEARCH AT ARGONNE

Mr. PERCY. Mr. President, the Argonne National Laboratory in Illinois is one of the most highly regarded centers of nuclear energy research in the United States. But Argonne's research is not limited to nuclear technology. This respected laboratory, which is directed by Dr. Robert G. Sachs, is also doing research and development into nonnuclear energy sources such as the clean uses of coal and oil.

I ask permission to print in the RECORD at the close of my remarks an explanation of a new technique being investigated at Argonne to burn high sulfur coal without polluting the atmosphere.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, this technique, known as fluidized bed combustion, has been proved effective in removing over 90 percent of the sulfur dioxide pollutant resulting from burning high sulfur coal. The same principle can be equally effective using high sulfur residual oil as fuel.

In the next few weeks, the Senate will have the opportunity to vote on S. 2744, sponsored by Senator RIBICOFF, myself, and other Senators. This bill, which has been reported by the Government Operations Committee, would establish two new Federal agencies. It would create an Energy Research and Development Administration—ERDA—to consolidate and redirect the Government's energy research and development activities—both nuclear and nonnuclear—which are now scattered among several departments and agencies. It would also create a Nuclear Safety and Licensing Commission—NSLC—which would devote its full time to the regulation of the nuclear industry. The present Atomic Energy Commission would be abolished and its functions divided between the two new agencies.

Under S. 2744, Argonne and the other national laboratories would be transferred to ERDA. In keeping with the spirit of S. 2744, which is designed to assure that no single energy technology will enjoy an unwarranted priority, it is encouraging that Argonne is conducting this important nonnuclear research.

EXHIBIT 1

FLUIDIZED BED COMBUSTION AT ARGONNE NATIONAL LABORATORY

Scientists and engineers at the U.S. Atomic Energy Commission's Argonne National Laboratory are investigating a technique to burn high sulfur coal without polluting the atmosphere.

The technique utilizes a "fluidized bed" to burn coal while absorbing the sulfur dioxide resulting from combustion. The fluidized-bed principle was originated by the petroleum and chemical industries to produce high-grade gasoline and chemical products. It was further developed by Argonne and other nuclear research organizations as an effective means of processing atomic fuels.

The fluidized-bed combustion investigations are being conducted by the Chemical Engineering Division of Argonne. The program is sponsored by the Environmental Protection Agency and the Office of Coal Research, Department of Interior. The Argonne studies have dealt primarily with the development of a pollution-free combustion process. Research into other phases of fluidized-bed combustion is being conducted by various industrial organizations and a large pilot plant is currently being constructed.

In the fluidized-bed system small particles of noncombustible material, such as ash or other refractory material, are held in a dense suspension by a stream of air passing upward through them. This fluidized-bed is heated to about 1600 degrees Fahrenheit and crushed coal is injected into it. As the coal mixes with the bed material it burns, perpetuating the heating cycle. A proportionate amount of powered limestone is also added to the bed. The limestone reacts with the sulfur dioxide released by the burning of the coal creating calcium sulfate, an inert substance, which is retained in the bed and discharged as a potentially useful byproduct. The process is continuous and readily controlled by varying the volume and velocity of the airstream and fuel feed.

The fluidized-bed combustion technique has been proved to be effective in the removal of over 90 percent of the sulfur dioxide pollutant resulting from burning coal with a high sulfur content. The fluidized-bed combustion principle can be equally effective using high-sulfur residual oil as fuel. In addition the superior heat transfer characteristics of the system are expected to allow plants to be smaller and more economical to construct. Steam generating tubes can be located directly in the combustion area. The constantly-moving particles of burning fuel surround the steam tubes, giving maximum heating efficiency with far fewer tubes than required for conventional systems.

A small scale fluidized-bed combustion system capable of operation at high pressures has been constructed by the Laboratory to determine experimentally the efficiency of the pollutant removal additives and to investigate system characteristics. Additional research is being undertaken to discover potential uses for the sulfated limestone byproduct materials and/or means for regenerating and recycling this additive. Other studies that are being conducted show that the emission of nitrogen oxides, another pollutant, can be limited by this combustion process.

With adequate funding for research and development, the fluidized-bed combustion process could become commercially viable by the end of this decade.

REPORT FROM VIETNAM

Mr. GOLDWATER. Mr. President, over the past several weeks I have placed in the RECORD six investigative reports on Vietnam by my legal assistant, Mr. J. Terry Emerson, who visited that country in late May of this year.

Mr. Emerson has now completed the final report of his study of Vietnam, in which he probes the fundamental subject of the U.S. commitment to the government and people of South Vietnam. The commitment does exist, and in this report its roots are traced back a quarter century through the administration of five Presidents from President Nixon to President Truman.

The commitment has been made with the concurrence of Congress in scores of military and foreign aid appropriations, and it has been sanctified with the blood of 46,000 Americans who died in combat and 304,000 Americans who were wounded in battle over the course of 11 years of U.S. military involvement in the Vietnam war.

Shall we fulfill the purpose of these honorable sacrifices by completing with financial assistance the task of restoring peace in an independent South Vietnam, or shall we accept the self-destructive urgings of historical revisionists who contend these great American sacrifices were made in vain? As Mr. Emerson writes, to ask the question is to answer it.

Mr. President, in order that this and all of the reports from Vietnam may be reprinted as a single paper, I ask unanimous consent that the complete eight part study, "Report From Vietnam," shall be printed in the RECORD at this point.

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

REPORT FROM VIETNAM

(By J. Terry Emerson, Legislative Assistant to U.S. Senator BARRY GOLDWATER)

INTRODUCTION

Ten professional staff aides to United States Senators and Congressmen, including myself, were invited to spend a week in South Vietnam to see the truth about the country for ourselves. Our host was the Vietnam Council on Foreign Relations, a private, nonprofit educational association dedicated to advancing objective and complete information about all aspects of life in South Vietnam. The membership of the Council consists primarily of Vietnamese private citizens, though many foreign friends of free Vietnam belong as well. Our schedule was arranged around our own requests.

We determined where we wished to go and whom we wished to see, and the Council made the appropriate arrangements for us.

Accordingly, the Council not only gave us the opportunity to meet with our own Embassy and nearly every Cabinet Minister of the Vietnam government, but with several local opposition leaders and writers also. This program enabled our group to see far beyond Saigon into simple farm hamlets accessible only by dirt roads and areas of the country extending from a Marine outpost near the 17th parallel to the rich rice-growing bowl of the Southern Mekong Delta.

All of our group had arrived by Sunday evening, May 26th. Our schedule of study began early Monday morning with a meeting at the office of the Minister of Information and Open Arms, Mr. Nha. From that hour on, our visit to South Vietnam was filled with meetings, briefings and field trips that lasted until at least 7 p.m. each day, followed by a late business dinner. On Friday, May 31, our last day of excursions, we did not begin our final work session (as it happens with the Minister of Social Planning) until 7 p.m. That morning we had departed our hotel at 6 a.m. to embark upon a day long tour of Military Region I.

Even meals were study oriented. For example, Mr. Cuong, Minister of Trade and Industry, capped a late supper which he hosted with a documentary film displaying the range of Vietnamese industries.

What follows is a summary of impressions and information gained from this extensive and highly concentrated visit to free Vietnam. Instant expertise may not be easy to come by, but surely no one could physically pound more territory and subject matter into their consciousness than our group crowded into these several 15 to 18 hour work days and surely we had learned more by critical investigations on the scene within Vietnam than we possibly could have had we never set foot on its soil.

I. CONFIDENCE IN MRI

"Ammunition. Ammunition is what we need," Lt. General Lam Quang Thi was telling the visiting group of Americans. We were eating a box lunch of Vietnamese chicken and French bread from Hue, sitting in a clearing not more than 800 yards from a company of Communist soldiers.

We were at a Republic of Vietnam outpost on Thach Han River, near the 17th parallel. In Easter of 1972, three divisions of North Vietnamese forces had crossed in the same area during a massive invasion which almost reached the imperial city of Hue, before being repelled.

We would have made a tempting target for a new attack, across the Cease-Fire line which separates the current Northern and Southern forces. Our group consisted of ten Americans, senior staff aides to U.S. Congressmen and Senators. The South Vietnamese party included our host, General Thi, Commanding General of Republic of Vietnam I Corps. Forward Headquarters, and

Brigadier General Bui The Lan, Commander of the lone division of South Vietnamese Marines.

Confidence filed the Republic forces. Confident the enemy would not attack us, although we were gathered in direct and open eye-shot of the Communist post. Confidence in their ability to defeat the enemy should he mount another major battle. The same determination and dedication to win for their country marked these military leaders as we had noticed in a week of visiting with free Vietnamese forces in three military regions.

Earlier that morning, we had rested briefly at a refugee resettlement village in Quang-Tri Province, about half-a-mile from Communist occupied territory. A narrow river separated us from contested ground. Yet, we sat with the two Generals at the river's edge, in a picnic-type area, enjoying a cool drink after visiting a refugee city and village being constructed by the military for the homeless victims of the 1972 Communist attack.

This was a major role of I Corps—rebuilding. This is why General Thi mentioned ammunition when we asked him what kind of help he needed most from the United States. Ammunition not for killing, but for protection. For making Quang-Tri Province secure for people to rebuild their lives in freedom.

I Corps intends to construct enough homes for 630,000 refugees by the end of this June. Last year there was not one single house standing in Quang Tri; homes are now rising on absolutely desolated lands. Trees, vegetation, buildings, everything had been wiped away from the face of the earth because of the 1972 invasion.

Now, out of the former barrenness, the new city of Quang-Tri is rising and innocent people are returning to decent homes with an opportunity of a happy survival.

Will these people, beautiful school children, dressed in the traditional white gown and black pants, young infants smiling shyly at their doorsteps, farmers working with the soil they love, will all these living faces we saw be given a chance of life as they enjoy it? Or will many of these same people be condemned to the peace of a living tomb, to be buried alive as thousands of their compatriots suffered in the Tet uprising?

Death or misery are the options the Communists offer to those whom they cannot manipulate. Will America condemn the people of South Vietnam to a life of slavery or the loss of all life, or are we willing to make the small financial sacrifice needed for only two or three more years so that the Vietnamese economy and military can truly be made capable of self-sufficiency?

This is the question which the South Vietnamese people are asking themselves in 1974. The way America answers it may determine not only the fate of South Vietnam, but whether Americans of future generations will look at themselves with pride or shame.

II. POLITICAL PRISONERS

There are not over 33,000 civilian prisoners of all types in the Republic of Vietnam. There are no remaining prisoner-of-war camps.

Charges of up to 200,00 "political" prisoners in South Vietnam are sheer fabrication—totally false, unproven hysteria, or intentional lies.

On May 30, we visited Con Son Island, home of the so-called "tiger cages." A now-defunct magazine had portrayed these isolation cells as underground pits, inhuman cages allegedly suffocating the spirit of civilian opponents of the government.

Actually, a photographer would have to strain his ingenuity in order to distort the conditions he was viewing. Taken in dark hours, from one flight above the true ground level, aimed into the center of the cell, away from the windows, waiting for the right mood of somberness by the prisoner, a journalist could have created a picture designed to shock.

But he would have had to have mounted a stairway nine to ten feet above the prison floor and to have ignored the ample window ventilation openings of the cell. He must also have stood close to the inside walled corners of the cell so as to avoid showing its true dimensions of almost five feet in width and eleven feet in depth.

Our study group easily moved ten people into the cell without nearly filling it. It was used and large enough for two or three persons, unlike the real isolation cells of the Communists. The Communist cells for South Vietnamese soldiers are oven-shaped structures, six feet long, three feet wide, and two and one-half feet high, made out of cement. Where cement block is not available, the North Vietnamese substitute bamboo, making an enclosure so small the isolated prisoner must crouch, never having enough room for standing or even stretching out.

The original Con Son isolation cells are no longer in use. The 5,400 civilian prisoners of Con Son Island are now in compounds, lines of cells surrounding large central yards lush with trees and plant life. The two South Vietnamese compounds we saw were far more attractive physically than one American-designed detention facility we visited.

The prisoners of Con Son Island engage in an active existence. Far from the mainland, this locale of tourist-quality scenery is virtually escape proof, though one prisoner at least has succeeded in fleeing it by boat.

Nevertheless, nearly all prisoners are trusted to move about daily outside their cells. Some illiterates attend reading classes; some work in the industry area, shaping handsome walking sticks or fashioning shell decorations which are sold for their own earnings they are allowed to keep.

Other prisoners engage in farming, planting and caring for the produce of seeds they are given by the government. Still others are permitted to fish, one boat leaving shore regularly with prisoners aboard to set nets.

These are not political prisoners, incarcerated because of making expressions of opposition to the government. Two-thirds of the prisoners on Con Son Island are civilians who have committed normal civilian crimes for which offenders are jailed in civilized societies around the globe. Another one-third of the prisoners are military persons who have committed civilian-type crimes.

Are there "political" prisoners held elsewhere in South Vietnam? Certainly, if a terrorist shells a village schoolhouse to intimidate local residents, and is apprehended, he is subjected to the civil processes and will be detained. But this is not a "political" prisoner, even if the marauder happens to be a VC.

The U.S. Embassy has canvassed the entire country-wide system of prisons, jails, and other detention facilities. The Red Cross has made over 195 visits to Republic of Vietnam prisoner installations. American penal specialists trained in such things have searched throughout the South Vietnamese detention system without finding shackles or other signs of cruelty.

Two American Embassy surveys of jails, detention centers, and prisons in South Vietnam prove beyond any reasonable doubt that the total of all civilian detainees of all types is about 35,000, close to the current South Vietnamese figure of 33,000.

Anti-Government activist Father Chan Tin charges there were 202,000 "political" prisoners allegedly held by the Republic of Vietnam. His statistic has been inserted into the Congressional Record as gospel.

This figure, however, exceeds by over a hundred fifty thousand the total capacity of all prisons and detention units in the entire Republic of Vietnam, including informal village lock-up stations. Even if the occupancy of these facilities did exceed their capacity in certain instances, it is impossible that the total number of prisoners could begin to approach 200,000, let alone the much higher total that must be projected as being imprisoned since Father Chan Tin's figure did not include what even he would recognize as offenders sentenced for common crimes. Significantly, one of our group who requested it was freely permitted to visit with Father Chan Tin and his recorded conversations should do much to dispel the falsity and unfounded exaggeration of most of Father Chan Tin's claims.

Using exhaustive methods of canvassing, the U.S. Embassy at Saigon has documented the total prisoner and detainee population being held in national prisons, provincial prisons, interrogation centers, and local lock-up stations as a *maximum* of 35,139. This statistic is backed up by the personal knowledge of American Public Safety Advisors who had been on the spot and is a figure that can be accepted as reliable.

This report can not end without a brief discussion of the South Vietnamese penal system. For unlike the persons under Communist rule, the citizens governed by the Republic of Vietnam enjoy an extensive program of political rights, including a true public trial and defense.

Once convicted and sentenced, a prisoner is ordinarily allowed outside in the open, some seven hours each day. As I observed at Con Son, prisoners in South Vietnam may farm, do craft work, or attend normal educational classes. Inmates are permitted to write letters regularly, receive gifts, and have a weekly visit from their relatives, except for at least four times a year at Con Son Island, which is far from the mainland.

In contrast, the objective observer should ask what is the treatment of Communist-held prisoners—the true political prisoners of Vietnam. How many Red Cross observers or outside inspectors have been allowed a thorough study inside Communist jails and prisons?

In twenty years, the Communists have kidnapped more than 70,000 South Vietnamese civilians. The names, addresses, and personal data about these individuals are identified in a book openly available for inspection. What is their plight today?

What efforts to relieve the human suffering of these documented victims of political terror are being made by the same groups who parrot unproven fabrications about the Republic of Vietnam?

How many of these captured 70,000 have been massacred? Or are being held in real concentration camps? Or are being forced to slave labor?

The true story of political prisoners is not to be found in the prison or detention system of South Vietnam. The real evidence of brutality is buried under the soil held by Communist soldiers or hidden from all impartial inspection by the secrecy of the Communist system.

III. AN OBSESSION FOR EDUCATION

"Who is it who has shortened your days on earth?
At three you went into class, at five you would come out
Your parents expected you for the evening meal . . .
It was Saturday, Sunday would be a day of rest.
Who would have thought your going away was forever?"

The above poem was read by an eleven year old Vietnamese school child who was honoring the memory of classmates who had been killed in a Viet Cong mortar attack on the Cai Lay Primary School on March 9 of this year. Communist gunners had fired an

82 mm mortar round as the children were lining up in the playground, preparing for afternoon lessons to start after a recreation period.

A single Chinese-made mortar round, of a special kind which has a very large killing zone as it explodes, caused the death of 45 small children instantly or at the hospital and wounded another 83. A tail section of the murder weapon, the Communist mortar shell, was found and identified by an International Commission of Control and Supervision Team (ICCS) at the site of the playground.

On May 4, the Communists repeated their massacre tactics by shelling Song Phu elementary school. This time three Communist mortar rounds killed at least eight children ages six to fourteen and left another 30 of them wounded. Indonesian and Iranian members of the ICCS have investigated the massacre, but the two Communist delegations, Poland and Hungary, have refused to look into the attack.

Of the three rounds that fell into this school, one exploded in the rear, in front of a grocery shop. That was where Nguyen Tien, the Deputy Principal, found his six year old girl. Her two legs were blown off and she was already dead. The shell that killed his daughter also killed three other boys.

At Song Phu, eleven of the children are still in the hospital. At Cai Lay, care is still being given to about 50 children who have shrapnel left in their legs and hands.

The attacks on these two primary schools are part of an extensive campaign of terrorists' tactics which the Communists have undertaken since the signing of the Paris Cease-Fire Agreement in January of 1973 in order to disrupt the stability of the South Vietnamese Government and to physically force villagers to come over to Communist-controlled areas. The dead school children are among the more than 2,300 civilians in South Vietnam who have been killed by the Communists after the cease fire went into effect.

But school goes on. Education is an obsession with the people of South Vietnam. If there is one impression that stands out from the many one gathers after an exhaustive tour of the Republic of South Vietnam, it is the truth that the people have a great thirst for knowledge.

Not only in sophisticated Saigon, but in every village and hamlet one visits in South Vietnam, he encounters scores of school children, easily identifiable in the case of girls because female students in South Vietnam wear a type of uniform, white blouse or dress over black pants. While traveling along dirt roads in the most distant village, one sees rows of these school children walking beside the road in contrast to their elders who are stooping in the wet farmlands which seem to stretch endlessly in the remote areas.

The achievement of the South Vietnamese Government in the field of education is nothing short of remarkable. In the current 1973–74 academic year, there are over three million children attending primary schools in South Vietnam, over one million pupils in High Schools, and over one hundred thousand in higher education.

The three million children in primary schools represent 90.4% of all children in the six to ten age group and the one million children in high schools constitute about 55% of all children from eleven to seventeen. The percentage of children starting school now that can expect to complete the twelfth grade of high school is seventy percent, based on present schooling trends.

The success of the Republic of Vietnam in the field of education is a major achievement for an under-developed nation. Its results stand very favorably in comparison with other free world undeveloped countries and its progress far out-shines its direct antagonist, North Vietnam, which, with 5 million more citizens than the South, has only about as many youngsters in school.

Twenty years ago, South Vietnam lacked even one indigenous university. Now, it has nearly twenty institutions of higher education, with a total student population exceeding one hundred thousand. Saigon University is the largest with over fifty thousand students, but several smaller, private universities have also started up in the last few years. The skills that can be learned in South Vietnam represent a spectrum from the humanities and social sciences to engineering, medicine and the law.

For a nation which has suffered continuous war on its own territory, which has much of its resources necessarily locked into the national effort of self-survival, and which is facing deliberate Communist attacks against school children and teachers, the people of South Vietnam have marked a tremendous development in education. The United States can be proud to assist the government and people of South Vietnam, who are making a dedicated effort to advance themselves into a Western-style society of highly educated, free-thinking citizens.

IV: A NEW LIFE IN SUOI NGHE

Suoi Nghe lies about 80 miles northeast of Saigon in a beautiful valley stretching to the nearby seacoast on one side and bordered by rolling mountains that revive childhood memories of my native West Virginia scenery. A comfortable breeze sweeps the lush farmland cleared from the thick, inland forest, in contrast to the more humid atmosphere at Saigon.

Suoi Nghe is one of 140 resettlement sites in South Vietnam in which some 550,000 refugees are being given an opportunity to establish a safe life of their choosing. If Suoi Nghe were situated on the east coast of the United States, it undoubtedly would have been developed as a city dwellers' retreat, part of a resort land boom campaign.

But Suoi Nghe is the home of eleven thousand refugees who have settled here since early 1972. In this village, the average homesite given to each family is 1,300 square meters, ample room for a family residence and some gardening. In addition, each family is provided one acre and a half for cultivation purposes. When the adjacent land is fully reclaimed from the forest, each family will be granted up to three hectares, or over seven acres, for farming.

The Government provides this land free of charge, without compensation, to the families who are resettled here and in other refugee villages and cities throughout the country. The individual family itself must volunteer a wish for resettlement and lists of approximately 5,000 such volunteers are compiled. Then four or five representatives of the people within the group accompany officials of the government to three or four possible locations in different provinces.

Once a location is finally selected with the agreement and participation of the people who wish to move there, the land itself is cleared and prepared with the assistance of the national government. Eventually, the various lots are determined upon and assigned to individual families who select the corresponding numbers.

For the first two years, each individual family is given a temporary title to their land. With this, they may borrow from the Agricultural Bank and begin cultivating their land. If they make a reasonable effort at working the land, their titles will be confirmed to them without cost by the Ministry of Agriculture at the end of the two-year period.

Anyone who loves the land would enjoy living at Suoi Nghe. To be let alone, with a chance to develop rich soil in a vibrant climate amidst a picturesque environment is a dream come true for many a pressure-driven, smog-bound city dweller. For nearly all the residents of Suoi Nghe, it is a way of life for which they would choose no replacement. Farming is the calling which these people want above all else.

Tragedy has filled the lives of hundreds of thousands of villagers in South Vietnam because of the Communist design for conquest. Of course, if the people submit passively to the Communist invaders and allow their lives to become manipulated by the whims of totalitarian despots, in other words if they are willing to submit to slavery, these refugees need not have left their original homes. But one of the remarkable facts about the war in Vietnam is that the refugees from battles have always run to the South Vietnamese side. Their clear vote is for life in the Republic of Vietnam and against Communism.

The Government of South Vietnam deserves applause for its success in properly handling the resettlement or return to home of over 550,000 persons in a period of some fifteen months. Of about 737,000 refugees who were in camps in 1972, there are now remaining in refugee centers fewer than 185,000. At least 40,000 of these unfortunates are new refugees who were created in 1974 as a result of Communist violations of the Cease-Fire Agreement.

The successful refugee program by the South Vietnamese Government is not only a tremendous humanitarian undertaking, but it has great economic importance as well to the stability of life in South Vietnam. The land reform program, which has accompanied the refugee resettlement project, has given approximately three million acres to one million families. This is a truly major achievement done in a bloodless way by a government who is concerned about its people. It stands in sharp contrast to the so-called Communist land reform, where the individual peasant only retains at best a tiny plot in his backyard.

The true land reform effort by the Republic of Vietnam has resulted in the intensive cultivation of rice lands. Even with the Communist cease-fire violations, South Vietnam is well on its way to resuming its natural status as being a rice surplus and exporting area.

In summary, the South Vietnamese Government is providing valuable services to its population and the people have demonstrated their will to be free from Communism. American assistance for a short while longer can guarantee that the residents whom I saw in Suoi Nghe will enjoy a continued opportunity to make their lives in freedom rather than slavery.

V: POLITICAL FREEDOM

One American participant in the free press seminar held in Saigon May 27 through May 31 was overheard to remark: "I don't know about censorship in Vietnam, but there is one thing I am very sure about and that is there is plenty of freedom of speech in this country." The five day series of events at which press freedom was thoroughly dissected coincided with the fact-finding visit to Vietnam of our group of ten staff members from U.S. Congressional offices.

The occasion of the media seminar was symbolic of the great extent of freedom of thought and expression which clearly exists in South Vietnam. The event was sponsored by the U.S. Information Service and held at the Vietnam-American Association Little Theater. All sessions were in both Vietnamese and English; posters announcing the seminar were distributed in various Saigon schools about two weeks ahead of the event. Journalist students and journalists themselves were fully alerted to the event at least a week ahead of time. The interested Vietnamese public was adequately informed about the schedule beforehand.

By the third day of the sessions, three hundred people attended, mostly Vietnamese students of journalism and newspapermen. At the seminar, the audience and panelists engaged in a free exchange of questions and ideas. Students were not afraid to complain about the situation of the press in South Vietnam and many Vietnamese newspapermen voiced complaints about difficulties they felt they encountered in their profession.

No one was locked up who complained. No one was thrown out of a job who criticized. No troops stormed the doors of schools or newspapers whose representatives challenged the government. In fact, the seminar was given extensive coverage in the fifteen Vietnamese language newspapers published daily in Saigon.

The press seminar reflects most of the elements about the press situation in South Vietnam. The sessions were made known to the public. Anyone could attend who wanted to do so. Reporters could write freely about what went on at the meetings. The local press widely covered the sessions. Reporters took the opportunity to demand more freedom than they now say they have.

In other words, the Saigon media seminar revealed the presence of an active and diverse press in South Vietnam. Of the fifteen daily newspapers published in the Vietnamese language at least three are oppositionist, five are generally independent, one is allied with the Catholic Church, three might be styled as sensationalist, and only the three remaining are pro-Government.

Do these papers have total, unbridled discretion to print whatever they choose? No, apparently not. But the Government does tolerate criticism. The Government does allow the printing and distribution of positions critical of its own administration. Government scandals, if and when they occur, and news about opposition political activities can be and are printed. Journalists can make a living who question the Government policies.

There are some wartime restrictions. I was told by one opposition columnist, who apparently is a follower of General "Big" Minh, that the Government can confiscate particular issues of papers. He even contended this might happen as often as once a week. He further charged that publishers or reporters who persist in disseminating the wrong kind of news can be taken to court, where they are subject to a possible fine or "tax."

But, when I asked him if the fines were so severe that they endangered the continued existence of a newspaper, he did not contend that this was a device for extinguishing unfriendly papers. The presence of fifteen Vietnamese daily newspapers of a wide variety of positions alone would refute this argument. Moreover, there is a special immunity granted to publishers or journalists who are Deputies or Senators in the Parliament. Nor did I learn of any documented instances in which opposition journalists are being jailed for the views they print.

Given wartime conditions, it is not unexpected that temporary restrictions are set concerning reports about the military defense effort and protecting the fundamental survival of the Republic. The significant factor is that an opposition can exist; the critic is not removed from his job or dispatched to a mental institution; and the opposition can pressure for improvements in the system. The Vietnamese public is highly literate and supports a variety of publications.

Newsstands are proliferate with papers, magazines, and books of all descriptions. The contrast between being in Saigon and in Moscow or Leningrad, the showcase of Communism, as this writer has been, is dramatic. Where one is starved for outside news in the Soviet Union and cannot find Free World publications in any language, not even in the major tourist hotels, the visitor to Saigon easily and quickly can purchase printed materials with which he is familiar, many of which will be critical of the Government of South Vietnam.

One of our group was able to locate or purchase a copy of the Paris Peace Accord, which some American politicians who have never visited Saigon charge is not available there, and the same individual even found some Communist writings for sale.

If the American critics of South Vietnam would only visit the country for themselves, and, in particular, compare the situation in the Republic of Vietnam with that in a Communist-governed society, which is the alternative that must be considered, he would readily see extensive and healthy signs of a strong, free press competing for the attention of an educated and inquisitive public.

When our Congressional staff delegation was in South Vietnam, we saw at least six opposition personalities. I wonder how many "opposition" persons one would be allowed to meet in a Communist society? Among the non-Government aligned individuals our group met, and enjoyed a long and free conversation with, are Senators Nguyen-Duy Tai and Tran Quang Thuan, both connected with the Buddhist faction; Duong Minh Kinh, a Catholic Independent Deputy of Parliament; Nguyen Huu Chung, a Deputy supporter of "Big" Minh, a former editor, and now a columnist for the Vietnamese newspapers, Dai Dan Toc and Dien Tin; Professor Nguyen Ngoc Huy, Chairman of the Progressive Party, allied with the Vietnamese Labor Union; and Tran Cuoc Buu, President of the Vietnamese "AFL–CIO," the Vietnam Labor Union.

One member of our party, who requested it, was able to arrange independent interviews with Madame Ngo Ba Than, a spokeswoman for the radical "Third Force," and Father Chan Tin, the anti-Government activist who has publicized the political prisoner attack against the Thieu Government.

The fact that our group was allowed to arrange visits with anybody in the country whom we desired to see, and to travel to any facility or location throughout the Government-controlled territory of South Vietnam that we wished, is proof in itself that South Vietnam is an open society. The Government does not hide the fact that it has its doubters. It is willing to meet them on the ground of an honest presentment of the truth.

Men and women of intelligence and good will differ in their interpretations of Government actions and the priorities they would set upon different goals. The opposition leaders in South Vietnam do want to change the position of the Government in many areas. But, one theme that comes through intensely from the varied message of the oppositionists in South Vietnam is their universal agreement that the Republic must survive against the challenge of the Communist invaders.

The oppositionists know of the terror and calamity that follow Communist rule. They are aware that over a million and a half refugees have fled from Communist tyranny either in the North or in Communist-occupied territory of the South. They know there would be no room for doubters such as themselves in a Communist ruled society. They know the press situation in South Vietnam today is a paradise compared with the stifling censorship that would accompany a Communist regime.

Opposition does exist today in South Vietnam and not only in the newspapers. I have mentioned some oppositionist or independent figures with whom our group met. In all there are nineteen Anti-Administration members in the Senate of Parliament, out of a total membership of sixty. In the Lower House, there are 58 oppositionists, and seven independents, among the 158 Members of the entire Chamber. These Deputies and Senators who oppose the Government are granted parliamentary immunity.

But the South Vietnamese Government claims that the convincing proof of its reliance upon, and acceptance by the general citizenry, is demonstrated by its action in dispensing arms to half a million local militiamen and a million members of the People's Self Defense Force, in addition to the 500,000 man regular Army. The Government asks, if it was widely unpopular with its own people, would it put into the hands of these same people the guns and ammunition which could be turned against it? Obviously, the Government trusts the people and the people regardless of any disagreements they may have with individual Government policies, support the Government against the Communist alternative and are making a deliberate choice to defend the Republic and regime which governs it from the disaster that would surely follow its collapse.

To understand the Vietnamese situation, Americans need only remember their own history, when in the aftermath of the War of Independence and the internal turmoil accompanying the French Revolution, the political followers of the most diametrically opposed philosophies, led by Thomas Jefferson and Alexander Hamilton, could agree among themselves that George Washington must remain at the helm or the Government would founder. The good sense of the American people caused them to fear that a total and irresponsible opposition to the new central Government headed by Washington would bring ruin to the American political experiment in popular self-rule.

As Americans of the Federalist period feared to cross the brink to the extreme opposition that would pull apart the solidarity of the central Government, so the divisive forces in South Vietnam recognize that the Government of their Republic is not yet so firmly established that they can risk attempting to topple the Government, or so weaken it that it could not govern. The opponents know that the greatest evil that could befall their country at the present time is the disappearance of the general Government without an acceptable alternative.

The oppositionists believe their country will stay together if they have the present Government, giving time for what they see as wise changes in policy to be made over future years, Indeed, much of the country, probably the majority, accepts the present Administration as their first choice, but what Americans must realize is that the failure of the opposition to muster enough strength to defeat the Thieu Government in elections or in the Parliament does not mean the people are prevented from doing so by a dictatorial military regime, but by their own sensible judgment that the destruction of the Present Government would be critically hazardous to the safety of the Republic.

Here, in the analogy with our own birthpangs as a young Republic, lies the secret of comprehending the political situation in South Vietnam. Where our emerging nation was threatened by Indian Warfare incited by the British and Spanish within our borders, by the continued British occupation of forts inside the American Northwest contrary to the peace settlement ending the Revoluntionary War, by the Spanish blockade of American trade on the Mississippi River, and by the intrigues of European nations to draw the United States into their wars, the Republic of Vietnam faces similar external threats that endanger the stability of self-government before the population has had time to solidify its unity as a free Republic

The Thieu Administration continues in office not because it is a dictatorship, but be-

cause it is the choice of the people not to risk the anarchy and eventual tragedy that would follow any other presently available alternative and because it is responsive enough to the basic needs of the people to hold onto their support. The issue in South Vietnam is whether tyranny from outside will prevail or whether a republican government shall be granted the right to govern.

VI. COMMUNIST CEASE-FIRE VIOLATIONS

The cruelest violation of the Paris Cease-Fire Agreement by the North Vietnamese and Viet Cong from the American standpoint is probably the blatant sabotage of United States efforts to account for the remaining United States military personnel and civilians who are listed as missing in action. Article 8(b) of the Vietnam Peace Agreement unequivocally provides that:

"(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhaumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

Despite this clear language, carefully separated from being conditioned on any other of the provisions of the Peace Agreement, the Communists have refused American requests to enter Communist-controlled territory to conduct searches of probable crash or grave sites. Most tragic of all, the Communists committed a cold-blooded attack on the last, unarmed American MIA search team that investigated a known crash site in territory of the Republic of Vietnam.

On December 15, 1973, a United States unit of the four party joint military team, which has the single responsibility of implementing the MIA article of the Peace Accord, was attacked immediately upon landing at a site where the team had conducted a publicized operation for the preceding two days. The American team leader raised his hands in the international sign of surrender and shouted in Vietnamese that the group was unarmed. He was killed almost instantly by the attackers. One of the South Vietnamese assisting in the search was also killed. Four other Americans and three Vietnamese were wounded.

The Communist attack on an openly announced, peaceful mission was a precursor of Communist shellings of innocent school children lined up for classes at Cai Lay on March 9, 1974, and Song Phu on May 4, 1974. These massacres, which resulted in the killing of more than 50 young school children and the wounding of over an additional 100 children, are discussed in detail in my Report III. The Communists have even been so flagrant as to shoot down a helicopter operated for the International Commission of Control and Supervision, causing the death of 9 passengers and crew members, including 4 ICCS delegation members.

Returning to the subject of Article 8(b) violations, the North Vietnamese and Viet Cong have not allowed official United States' teams to enter areas they control. Yet it is in these areas that some 95% of the known crash and grave sites are located. At the time of the signing of the Peace Agreement, the United States had listed more than 1900 Americans as being captured or missing. Since the signing, this list has been reduced to 1100. If these remaining Americans are to be accounted for, our Government must find some means for pressuring compliance by the Communist side with the terms of the Peace Accord.

One technique guaranteed to end all hope for American efforts to search for our missing in action, in this writer's opinion, is to walk away from South Vietnam entirely. By continuing to some extent American financial assistance to the economy and military capability of South Vietnam, the United States will visibly demonstrate its continued interest in the situation. So long as there is some American identity in South Vietnam, the Communists must be uncertain as to how great this aid will continue to be or how sudden it might be enlarged. This uncertainty will bring at least some influence to bear upon the Communists which they must reckon with in calculating how much they shall comply with the Paris Peace Agreement.

Except for one or two possibilities, I must regretfully report of learning of no new information that indicates that any of the listed MIA's are known to be still alive; but the possibility always exists and the United States government would not live up to its humanitarian heritage of caring for each individual as a valued creation of the Divine Being unless we persisted in our efforts to be certain what happened in the case of each and every one of these MIA's.

Continuing my report of the Communist violations of the Paris Agreement, it cannot go unnoticed that Communist terrorist actions against villagers and refugees have averaged almost 1,000 instances a month since the signing of the Agreement. If elementary principles of civilized society are not adequate to condemn these practices, Article 3(c) of the Paris Agreement provides that:

"(c) The regular forces of all services and arms and the irregular forces of the parties in South Vietnam shall stop all offensive activities against each other and shall strictly abide by the following stipulations:

"All acts of force on the ground, in the air, and on the sea shall be prohibited.

"All hostile acts, terrorism and reprisals by both sides will be banned."

In the face of this provision, the Communists have conducted a regular program of violence against civilians in government-held areas of South Vietnam. While in Vietnam for a one-week investigation, from May 26 to June 1, I visited a temporary refugee camp where villagers were awaiting the recovery of their homes by the South Vietnamese forces. Communist attackers had already been repulsed from the Village, but they were still bombarding it from a distance with artillery in order to prevent the population from returning and resuming normal lives. The sounds of the firings were distinctly heard at the refugee camp.

The Communists have violated the Cease-Fire Agreement by numerous military activities. Major Communist attacks have occurred against several South Vietnamese defense posts. Swollen with military aid from Communist nations, the Communists are firing mortars and artillery like fireworks against the South Vietnamese bases. On the other hand, I learned from the Commanders in three military regions of South Vietnam about the strict rationing of fuel and ammunition which is forced upon the armies of the Republic.

Since the Cease-Fire, there have been drastic reductions in materials, weapons, and ammunition for troops of the Republic of Vietnam. Even C-rations are in poor supply which causes losses to the enemy because the army cannot avoid ambushes by the Communists when its troops must stop at known water spots for the nourishment which could have been supplied by the absent C-rations. In sharp contrast with the stringent rationing and shortage of supplies by the South Vietnamese defenders, since the Cease-Fire, with no bombing, the Communists are now able to reinforce their armies in ten days instead of three to four months. Formerly at least half of these Communist reinforcements were lost in bombing.

American intelligence confirms Vietnamese reports that the Communists have brought in enormous quantities of ammunition, weapons and troops since the signing of the Cease-Fire. For example, the Communists now have at least two SAM missile sites located within the Republic of South Vietnam. At least fifteen SAM-2 and SAM-3 missile launchers have been installed below the 17th parallel after the Cease-Fire. Related to these sites are two Communist air fields which have been built since the Cease Fire, one of which is suitable for Communist MIG aircraft.

In MR I alone, the Communists have infiltrated after the Paris Agreement, some 87 tanks and 570 artillery pieces. In all, American intelligence evidence shows that the North Vietnamese have tripled the strength of their armor in the South since the Agreement by moving in, by various means, 400 new armored vehicles, mostly Soviet and Chinese built T-54, T-55, and PT-76 tanks. These tanks have been used in battle by Communist armies against the South Vietnamese troops in at least two military regions, MR I and MR II.

The Communists have also added numerous light artillery pieces, plus well over 100 heavy artillery, mostly Soviet and Chinese built 130mm and 122mm field guns. I was shown photographs of these field guns openly being pulled down the Communist supply route into the South.

I was also told by both United States and South Vietnamese experts of a very serious build-up in anti-aircraft artillery and devices by the North Vietnamese. The Communists have sent South more than 1,000 field artillery and anti-aircraft pieces. These include hand-held devices which radically change the picture in some areas of the South and create a situation which did not exist at the time of the 1972 offense by the Communists.

Moreover, the Communists have brought into the South new troops on the order of 120,000 men after the Cease Fire. These deployments have not only replaced the sick and wounded who were incapable of fighting, but resulted in a net increase of North Vietnamese forces in the South by approximately 50,000 troops. At the same time, the North Vietnamese have significantly improved their logistic system, especially the road network leading into the South and have replenished their depleted armament stock piles.

The ironic development to this observor is that the more the Communists violate the Cease-Fire Agreement, even to the extent of staging an attack on an American MIA recovery team, the more vocal becomes the resistance in the United States Congress to continuing the military and economic assistance which is required in order to fulfill our past commitments to enable the South Vietnamese to have a serious chance of defending their own homeland and building a new Republic.

This writer returned from a week's visit to South Vietnam convinced of the will and capacity of the people to establish their own style of freedom closely aligned with the American model. It would be a human tragedy of gigantic proportions if America would abandon the people who admire and seek to follow in our footsteps at the moment when they are so close to self-sufficiency, but still need infusions of financial assistance to bridge the gap between the previous major United States involvement and a self-reliant capability on the part of the South Vietnamese people to stand alone in their quest for freedom.

VII: THE UNITED STATES COMMITMENT

Why should the United States continue its financial support of the government and people of South Vietnam? One might as well ask, "Why does the United States support freedom?" Why does the United States value human life? Why should we honor our own

commitments? Why should we complete what we set out to do?

First and foremost, the United States owes an obligation to the memory and families of the 46,000 Americans who died in combat during the 11-year period of United States military participation in the Indo-China War. These Americans gave the full measure of service to their country. They and the 304,000 Americans wounded in battle over the same period did what was asked of them.

To what end did these human lives and disabled bodies make their sacrifices? To provide a great and lasting opportunity for their countrymen and for all mankind to survive in peace, or to serve as pawns moved by the transistory passions of a fleeting public opinion?

To ask the question is to answer it. The goal of the United States throughout its military participation in the Vietnam War was to build conditions in which a peace that will last could exist. It was an undertaking dedicated to deterring aggression before it reached our doorstep and, in the process, to support the quest of a people to govern themselves in freedom. If we are to put this purpose to the test, to determine whether the beliefs and policies which guided our government for over two decades are correct, we must consecrate the sacrifices and services of the millions of Americans who saw duty in Indo-China by following their efforts through to their logical end.

In other words, we must not assume that our Government under five Presidents has been wrong in supporting the goal of restoring peace and security in Southeast Asia. We must not accept blindly the urgings of historical revisionists who would write off the selfless service of millions of American servicemen and women as the dupes of Asian military regimes. Rather than to accept these negative and self-depreciating appraisals of American motives and actions, the country owes it to the American wounded and fallen in battle, and to their families, to give their sacrifices a chance to prove themselves.

By continuing with needed financial aid for only a few additional years after our fighting role has ended, the United States can assure that the results of past American sacrifices will be fixed. By stopping all aid now, or severely reducing it, we would be destroying nearly all chance of knowing if the stable peace for which so many Americans fought will come and endure. To fail to pursue the opportunities for peace which have been created by the honorable endeavors of millions of Americans will be to self-destruct these chances for a better world. America must recognize and reject these preachings of nihilism that would undermine the very peace the doubters profess to seek.

Second, the United States should continue its humanitarian, economic, and military assistance to South Vietnam because we have together made a commitment to freedom. This commitment began and continued with the concurrence of both the Executive and Congress.

All that those who question the existence of our commitment to the people of South Vietnam have to do is to survey our own history. The truth is the elected representatives of the American people in Congress have known about and have been personally involved in all the movements of basic national policy with respect to Southeast Asia from the late 1940's to date.

Critics of aid to South Vietnam overlook the fact that military assistance by the United States to Vietnam was begun by President Truman. In fact, by 1951, military aid alone amounted to more than half a billion dollars. During the following Administration of President Eisenhower, the United States ratified the SEATO Treaty, a document that was signed by two United States Senators, including the present majority leader, Senator Mansfield.

Laos, Cambodia, and Vietnam each came under the umbrella of protection which the treaty furnished by being named in a protocol which was signed on the same date as the treaty. In reporting the SEATO Treaty on January 25, 1955, the Senate Committee on Foreign Relations openly identified South Vietnam as one of the countries where Communist aggression would have to reckon with the United States. Five out of the six Senators who discussed the Treaty, prior to approval by the Senate of the Resolution of Ratification, specifically mentioned the preservation of an independent government in South Vietnam as a primary objective of the Treaty.

Senator George, the Chairman of the Foreign Relations Committee, expressed the mood of the entire American public when he explained the reasons for ratification of the SEATO Treaty, as follows:

"[T]he nations of the free world sustained a serious setback in Southeast Asia with the loss of Northern Vietnam to the Communists. The peril to the Southern area, the free territory of Vietnam, as well as to the remaining associated states, Laos and Cambodia, is serious, continuing, and unrelenting.

It is important that our Government should act promptly to give approval to this Treaty as an act of confidence in the determination of other governments in the area to defend their freedom, individual liberty, and independence. We should be proud to join with them in the cause of peace in this instrument of mutual trust and protection."

The nature of the United States' obligation under the SEATO Treaty was explained by Secretary of State Dulles to the Senate Committee, and by a signatory to the treaty, Senator Smith of New Jersey, to the Senate, as similar to the pledge of action made by President Monroe in 1823 when he served notice that the European colonial powers shall not encroach further on the Western Hemisphere. As every American schoolchild knows, the United States acted under the Monroe Doctrine to repulse foreign intervention in Latin America on several occasions, including an eight year war in Nicaragua from 1926 to 1933 which foiled the first attempt of Communism to infiltrate the Western Hemisphere.

In 1963, a Foreign Assistance Act requested by President Kennedy and providing both economic and military aid, stated the sense of Congress that assistance should be extended to Vietnam "to further the objectives of victory in the war against Communism." Prior to the Gulf of Tonkin Resolution, President Johnson requested and obtained from Congress an increase of $125,000,000 in military aid funds primarily for South Vietnam.

During debate in the Senate on the Tonkin Resolution, Senator Fulbright, then the Chairman of the Foreign Relations Committee, agreed in a colloquy with Senator Cooper that the Resolution gave the President "advance authority to take whatever action he may deem necessary respecting South Vietnam and its defense."

Pursuing this question, Senator Cooper asked: "Then looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this Resolution?" Again, Senator Fulbright agreed, saying: "That is the way I would interpret it."

Less than 9 months later, President Johnson sent to Congress a new request for a supplemental appropriation of $700 million solely related to the war in Vietnam. The money was approved by a vote of 408 to 7 in the House and 88 to 3 in the Senate. A year later, President Johnson submitted to Congress a 13.1 billion dollar supplemental appropriations request chiefly to meet the cost of military operations in South Vietnam. The bills implementing his request were the subject of nationally televised hearings by the Senate on United States policy in the war. Once again Congress resoundingly granted to the President all the funds for waging the war that he had sought.

The trail continues on and on, with Congress at each stage willing to appropriate the necessary funds to support the fight for freedom in Vietnam. Indeed, from 1966 through 1972, there were 145 votes taken in Congress on various proposals to restrict United States military involvement in the war and not one restriction was enacted contrary to the policy of the President. A *Congressional Quarterly* study concluded: "From 1965, when the first Vietnam supplemental was enacted, through the end of 1972, between 95 and 96% of the Members of Congress present and voting approved the war-related appropriations bills on final passage. . . ."

Then, on January 23, 1973, when President Nixon announced the Vietnam Peace Accord, he coupled his announcement of the end of United States military activities with an assurance that America did not settle for a peace that would betray our allies or that would end the war for us but continue it for the 50,000,000 people of Indo-China. President Nixon clearly pointed to what was expected by promising that, "We shall continue to aid South Vietnam. . . ." The text of the Cease-Fire Agreement itself anticipates the continuation of this assistance by expressly preserving the right to unlimited military replacement and economic aid for the Republic of Vietnam.

Surely a continuous flow of economic and military assistance, with the knowing and broad support of Congress, over the duration of nearly a quarter century and sanctified by the blood of American defenders, has raised a commitment by our country and people to join with the South Vietnamese people who are struggling to establish an independent Republic in freedom. However some Americans may view it who wish to ignore or forget their history, the credibility of the United States is at stake. The outside world of friends and possible enemies alike perceive the existence of this commitment and are watching to see how the United States will complete that commitment.

The way America pulls out of Vietnam is important to the way people perceive us in the rest of the world. Judgments as to our readiness to fulfill our world-wide network of agreements and commitments will be made by the leaders of nations around the globe based upon our readiness to complete the cause we started in Vietnam. Uncertainty of American intentions created by an abandonment of our assistance to Vietnam before the South Vietnamese have a strong capability of financial self-reliance might well enflame the eruption of a crisis that will be the harbinger of a conflict more serious than the world has ever known.

Equally important is how the American people will perceive ourselves. If we retain our sense of pride, we will know our commitment is not yet satisfied, as great as American sacrifices have been; and we may thereby internally weaken the future confidence and resolve of the greatest resource for human freedom and advancement which the world possesses, the will of the American people.

For if the United States totally abandons South Vietnam to the uneven contest of a small, developing nation standing alone against the on-slaught of a larger totalitarian regime supported by the world's two largest Communist states, we will in effect have created a modern-day sacrificial lamb on an alter of falsehoods, a false reading of America's commitment and of what will happen if we fail to meet that commitment.

The total refusal of the United States to provide adequate amounts of military, humanitarian, and economic aid to South Vietnam for the short while longer that is needed will probably be the most severe blow possible to the morale of the South Vietnamese people. This shattered morale, in turn, would likely be the very circumstance that would

tempt the Communists to make a major effort at take-over of the entire territory of South Vietnam. The horrible war and bloodshed that would follow would be directly on the hands not only of the Communist aggressors, but at least in a moral sense, on the hands too of the ally who had deserted another people at a time when our mutual commitment to freedom had almost run successfully.

Third, it is important for the American people to know that the government and people of South Vietnam are worthy of our support. The South Vietnamese people are able, highly literate, and industrious.

The people themselves are probably the greatest resource of Vietnam. They are energetic, adaptive, and constitute a labor force that is more disciplined and knowledgeable about modern technology than in other developing countries. This is true not only of industrial skills, but of agriculture as well, where the farmers have shown themselves ready to adopt new technology, by using, for example, miracle rice, which gives three times the usual production.

The government of South Vietnam is responsive to the needs of its people, and the land and the people offer the resources which will make the government a viable and stable force. I have discussed in earlier reports the major advances being made by South Vietnam in the field of caring for refugees, land reform, education, and political participation. To this, I can add that great potential exists for the further development of agriculture. This can occur both by increasing the cultivated area, which is now only about half the total available land and by improving current yields.

South Vietnam clearly has a capacity to be self-sufficient in the production of rice and, if it can find foreign markets, to resume its status as a rice exporter. The once principal export crop, rubber, could regain its prominence. There also is a possibility of self-sufficiency in sugar.

South Vietnam also has great untapped forestry and fishery resources. Frozen shrimp is already a major export commodity and with the development of cold storage facilities there is an enormous potential of processing frozen fish for export.

America should take note also of the possibility that South Vietnam will eventually become self-sufficient in oil production. Geological data points to the real promise of offshore oil deposits. In fact, four oil companies have already been granted exploration rights in the South Continental Shelf and more biddings will occur this year. Exxon, Mobile, Sunningdale, and Shell have signed multimillion dollar agreements. Drilling will start at any time and perhaps within the year oil will be pinpointed. Pumping could start no later than three years afterwards.

In all, South Vietnamese exports have reached a hundred million dollars, climbing from a base of only twelve million dollars in 1970. Exports as high as one hundred and sixty million dollars are projected for 1975. It is true that commercial imports currently total approximately nine hundred million dollars, but this must be balanced against the high potential of self sufficiency by South Vietnam in several fields. Over one-third of the import value could be eliminated once Vietnam regains its position of meeting its own needs for rice. Also, the gigantic effort of the government to curtail the import of expensive prestige items must be given due recognition.

For example imported sugar consumption has declined by more than 100% from 1970 to 1974. Even gasoline consumption has been reduced 30% recently. The government policy is to keep petroleum imports down to no more than one hundred and fifty million dollars a year until the country acquires its possible standing as an oil producer.

In short, South Vietnam is not facing mismanagement. It is not wasting valuable natural and financial resources, and it is not inducing its people to squander available resources on luxuries.

VIII: CONCLUSION

Vietnam has given rise to many myths. It is hoped that these reports have dispelled most of them. The people of South Vietnam are highly literate, skilled and devotedly anti-Communist, anti-totalitarian. The government of South Vietnam is responsive to the basic needs of the people. The Communist forces lack popular support in the South and the Viet Cong infra-structure has dwindled to such an extent that less than 20% of the Communist military units within South Vietnam are indigenous.

The bugaboo of the political prisoner issue has been exposed as sheer hysteria. The true story of some 70,000 political civilian prisoners lies hidden behind Communist lines. These reports also have revealed massive and cruel violations of the Cease-Fire Agreement by the Communists, including the armed attack on an American MIA recovery team and the massacre of young school children.

Evidence presented in these reports also put the lie to the preposterous new myth that the United States is providing eight to twenty nine times the amount of military aid to South Vietnam as the Soviet Union and China are providing to North Vietnam. Comparing apples with apples, that is hardware with hardware, Communist military aid to North Vietnam is only slightly less, if that, than the comparable level of United States military aid to South Vietnam.

Congressional critics of United States support for South Vietnam would compare estimates of hardware aid alone, such as weapons and ammunitions, by the Communists, with the total program of our aid to the South which includes not just the cost of hardware, but the cost of rations, clothing, transportation from the United States, training, and so forth. These same critics would calculate our program over the period *prior* to the conclusion of the Cease-Fire Agreement, a period when the war was still in full progress, while ignoring Communist shipments *since* the Cease-Fire which, as these reports have revealed, enabled North Vietnam to send illegally over 50,000 soldiers, 1,000 artillery and anti-aircraft pieces, 400 tanks and enormous stockpiles of ammunition to its invading forces in South Vietnam.

In summary, the myths about South Vietnam have sprung up like dragons teeth in the polemics of radicals and new isolationists. What these groups fail to realize is that there is a very real contest going on in the world between the forces of slavery, under the various hues of Communism, and the forces of Freedom. There is no higher priority that the American people can have than the cause of freedom, and continued support for the effort of the South Vietnamese people to create a free and independent Republic is part and parcel of our own quest for freedom at home and peace in the world.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the act of killing one's fellow man, whether in peace or in war, has troubled ethical thinkers, political leaders, and indeed all men since the days of Cain and Abel. The distinction between murder and justifiable self-defense has often been difficult to ascertain. The accelerating pace of technological and commercial change in the 20th century, with its accompanying growth in interdependency among both nations and individual citizens, has further obscured the moral dimensions of this distinction, while at the same time increasing its importance.

But no such difficulty confronts reasonable and just men when they consider the crime of genocide. The systematic extermination of ethnic, racial, or religious groups is clearly an outrage against all fundamental human values. It is clearly a crime against all mankind.

The International Convention on the Prevention and Punishment of the Crime of Genocide provides an international means for inhibiting and punishing those nations or individuals who plan or commit genocidal actions. The United States, through the ratification of this convention by the Members of this body, should join the more than 70 nations which have already made this ethical commitment against genocide. So long as we continue to fail to take such action we continue to neglect our moral obligations as responsible leaders of free men.

MR. REPUBLICAN: H. G. TAYLOR

Mr. PERCY. Mr. President, within both the Democrat and Republican Parties there are many unsung heroes who through the years have carried on the work our our two-party system and our two great parties. They are the precinct committee men and women, the county chairmen, the State central committeemen, the finance chairmen, who labor in the vineyards to keep the parties strong and vigorous.

I have been privileged to be the benefactor of the support, counsel, and assistance through the years of H. R. "Skinny" Taylor, who in Macon County, Ill., is known as Mr. Republican and who has served in that post for 26 years. I first knew him when he was president of the Illinois Republican County Chairmen's Association. His untiring service to the party and to the art of politics in this country in its best form has been recognized by his hometown newspaper, the Decatur Sunday Herald and Review and I ask unanimous consent that an article from their edition of April 14, 1974, be printed in the RECORD.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, I only regret that the CONGRESSIONAL RECORD does not have provision for the excellent full page of photographs taken by Herb Slodounik.

EXHIBIT 1

MR. REPUBLICAN: H. G. TAYLOR

(By Herb Slodounik)

H. G. "Skinny" Taylor is a Republican who has never run for public office but you can be sure he's either right behind the Republican who is or he's pushing him out in front.

In Macon County he's probably Mr. Republican but officially Taylor is chairman of the Macon County Republican Central Committee and has held that post for the last 26 years. In addition, he is a former president of the Illinois Republican County Chairmen's Association.

Why does "Skinny" do it? He answers simply: "I enjoy it, and I suppose it also satisfies my pride and ego."

And he adds, as if reading a thought,

"I've never been on a payroll although a lot of people think I am. I want to keep my independence and be in a position to tell what's wrong when it is."

Taylor says he's been offered jobs by every Republican governor and U.S. senator over the years but has declined. He is independently wealthy and recently sold his business, Decatur Warehouse. Now 65, he is semi-retired from business but certainly not politics.

But being active in politics also has its unsavory aspects.

"I get a lot of crackpot calls and anonymous letters. You have to take it all in stride."

Taylor also thinks of his role as performing a public service.

"It goes along with other things I've done such as being a past director of the Kiwanis Club, director of the association of county chairmen; deacon and elder of my church, and president of the Millikin Alumni Association."

One recent election day Taylor was up at 6 a.m. setting up booths at various polling places. Later on in the morning he went from precinct to precinct, checking on the progress of the voting.

Most of the polling is done in neighborhood garages and schools.

In one garage, remnants of a recent rummage sale was very much in evidence as merchandise on the walls still displayed price tags.

Two propane heaters blasted heat for the five women behind the tables awaiting the voters.

"Hello ladies," said Taylor.

"Hello, Mr. Taylor."

"How's the vote going?"

"I don't think we'll hit 90," said one woman.

"Ninety-five" quipped the woman next to her.

Taylor smiled. "Do you have a pool going on the voting?" he knowingly asked.

"Yes," they laughed.

At another polling place Taylor saw a woman he didn't recognize.

"You must be a Democrat," said Taylor. He was then introduced to Mrs. Karen Camp and before shaking her hand took off his hat.

Still grasping her hand, he then added jokingly, "But you're too pretty to be a Democrat."

She broke up laughing.

Later Taylor explained that he and his committeemen appoint the Republican judges and since he didn't know the lady she had to be a Democrat.

After making the rounds of the various precincts, it was evident that the voting was going to be light.

When it was totaled there were about 10,000 votes.

Taylor was upset. "The people will gripe and complain about the graft and corruption but they'll stay at home and not do a thing about it.

"If they don't vote they get what they deserve. Naturally I'd like them to vote Republican but the main thing is that they vote.

"Even if we lose, I'd rather lose big, as long as the people vote.

"And, you can quote me on that."

Taylor likes to talk about people he's brought into politics.

He takes credit for getting Sen. Charles Percy, then president of Bell & Howell, into politics.

"I made four trips to Bell & Howell to convince him to run for office.

"I convinced him it was also a patriotic thing to do.

"He felt the country had been good to him and he wanted to repay it by getting into public life."

Stay with Taylor for any length of time and he'll mention other people he's interested in politics: Even a current member of the Macon County Board who used to babysit for the Taylor boys—now attorneys.

After a while the inevitable question:

"Would you say people who gravitate around you tend to get into politics?"

The reply included a pause, a broad smile and . . . "yes, you might say that."

EARL WARREN

Mr. TUNNEY. Mr. President, Earl Warren has stepped into history.

Personally, and as a nation, we shall miss his quiet courage and his tenacious faith in our constitutional system.

In 1953, when he left California to become Chief Justice, he said:

> The Supreme Court is the interpreter and the defender of the Constitution. If through the years its work is well done, the home of every American will always be his castle, every human life will have dignity, and there will forever be but one law for all men.

In his 16 trail-blazing years on the court, he upheld those standards.

Under his leadership, the Court was in the vanguard of great social change: the Brown decision on school desegregation; the one-person one-vote rule to liberate legislatures into the hands of all the people; and the decisions to protect the rights of defendants in criminal cases.

White-maned, gentle, courteous, unfailingly considerate of others, nonetheless, he was tough, for burning deep beneath his tranquil exterior was a fire for reform and for justice.

In 1925, he became a racket-busting district attorney in Alameda County in California, then beginning in 1938, he served four terms as attorney general of California and then a similarly unprecedented three terms as Governor of my home State.

As Governor, he built more schools and hospitals than perhaps any other Governor in history.

He led reform in mental institutions, revamped the State's prison system to emphasize rehabilitation rather than mere incarceration, instituted child care centers for working parents.

Progressive, thoughtful, he worked within and beyond his own Republican Party to forge a dynamic coalition in California.

He carried the same qualities of leadership to the bench of the Nation's highest court, and he made the Court an instrument for vindicating the rights of all Americans, regardless of race.

He brought to fruition the true logic of the men who founded our Nation and who wrote the Constitution, unquestionably the greatest instrument of Government ever written.

By so doing, Mr. Warren rightfully will stand in history with James Madison, and Alexander Hamilton, and other authors of our Constitution, and with John Marshall and with Charles Evans Hughes and other giants of our Supreme Court.

Mr. Warren cared intensely about people, and his entire career in public service demonstrated this abiding concern.

Furthermore, he believed fervently in America.

He believed in her democracy and in the liberties and freedoms of her people.

And, to an extraordinary degree, he defended and defined those rights, and left a heritage of a stronger, more united America.

ENCOURAGEMENT FOR MR. KISSINGER

Mr. BROCK. Mr. President, I call my colleagues' attention to an article published in the Wall Street Journal entitled "Mr. Kissinger Fights Back." I am in total agreement with the views and opinions expressed in this editorial, and I ask unanimous consent that it be printed in the RECORD.

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

MR. KISSINGER FIGHTS BACK

About the same time Henry Kissinger was holding a press conference in Salzburg and threatening to resign, former Watergate prosecutor Archibald Cox was speaking to the Harvard Chapter of Phi Beta Kappa, warning that some of the leaks of Watergate material smack of the tactics used by Senator Joseph McCarthy in the 1950s.

We were struck by the counterpoint, and particularly so in the context of one widespread reaction to Mr. Kissinger's threat—that he was overreacting, that he was tired, even that he was petulant over the lack of celebration of his Middle Eastern exploits. We think the matter has an importance transcending any one personality, and that Mr. Kissinger's instinct was right; the charges against him deserved a serious and even extraordinary reaction.

The Senate Foreign Relations Committee, which has already been over the evidence once, is now reviewing the question of how deeply Mr. Kissinger was involved in wiretapping in 1969 and 1970, and in particular whether his testimony before the committee was accurate. We do not pretend to know the definitive truth. Perhaps Professor Kissinger concocted the whole plot and forced it down the throat of J. Edgar Hoover, John Ehrlichman and other squeamish types. But somehow we doubt it.

It seems to us more plausible that the operation arose much the way Mr. Kissinger testified. He admitted, after all, that his concern over security leaks was an important input into the decision, and that he and his staff provided the names of some of those tapped. Given this, we have trouble understanding the significance of the debate over what seems to be a question of the precise point in this ongoing program any one tap could be considered to have been "initiated."

Human nature being what it is, we assume that Mr. Kissinger's account, and for that matter Mr. Kissinger's memory, paints his own role in the best possible light. Similarly, we would expect that other agencies and individuals involved in the wiretapping program would be protecting their flanks, trying to diffuse responsibility as widely as possible. There would be any number of ways President Nixon could come to believe Mr. Kissinger asked for wiretaps, or that Mr. Kissinger's name could appear as the initiator in an FBI document. Perhaps the document has an "initiator" blank that needs to be filled in. No single piece of evidence is likely to be conclusive.

So you have conflicting accounts and conflicting memories about what almost certainly

was even at the time an ambiguous course of events. Assuming that the truth of the matter runs something along this line, it is the perfect raw material for the kind of process that disturbs Mr. Cox. For at the moment we are in the grip of an alchemy that seizes on any available ambiguity and presents it in the worst possible light. In this atmosphere a semantic argument can easily become an accusation of perjury.

The alchemy of course arises from the climate of the moment. Everyone naturally interprets new events in the light of experience, and our recent experience has been Watergate. So a Congressman reading the documents, or a reporter writing about them, sees the available material in this context, applying to it unconscious stereotypes evolved from a record of official dissembling. The application of such stereotypes often highlights an important part of reality, but typically at the cost of obscuring much else that is also true. An artificial order is imposed on an unordered reality.

When the stereotype of duplicity is applied to high officials it highlights some truth, but it also has an especially destructive potential. For the very purpose of high officials is to deal with questions that are both weighty and ambivalent. Even if miraculously there were no mistakes, there will always be ambiguities that can fit the theme of dishonesty. The stereotype can easily acquire an existence of its own, sooner or later carrying us beyond reality and obscuring more than it reveals.

Admittedly it is difficult to tell precisely where reality does end, and perhaps the charges against Mr. Kissinger do deserve more exploration. But of this we are quite sure: At some point a corrective will be necessary, and this cannot take place until someone like Mr. Kissinger starts to fight back.

HEALTH MANPOWER RESOURCES

Mr. INOUYE. Mr. President, I have become increasingly convinced that if we in the United States are to fulfill our dreams of providing truly comprehensive health care to every citizen, we must begin to take a long, hard look at our present utilization of our health manpower resources.

Every one of us is aware of the staggering increase in cost of providing health care; yet, few of us seem to be aware of the rich potential we possess if we would only seek to effectively utilize such skilled health personnel as our nurse practitioners and physician's assistants. These dedicated individuals are capable of performing many of the tasks that even today, we still insist must be done by much more expensive physicians.

Accordingly, I wish to now bring to my colleagues attention two articles recently written by Dr. Richard Smith of the University of Hawaii, in which he describes their MEDEX program. I believe that the ultimate fate of our Nation's health care depends upon the development of such innovative programs.

I request unanimous consent that these two articles be printed in the RECORD.

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

TOWARDS SOLVING THE "GREAT TRAINING ROBBERY"

(By Richard A. Smith, M.D., M.P.H)

THE CRIME

A large metropolitan medical center training 100 hospital aides over a three year period. Its own needs were for 25 such personnel. Thus, 75 hospital aides floundered around a large eastern city looking for jobs elsewhere. Many of those who were lucky enough to find employment had to go through another training program, since the employing institution considered its own training program for hospital aides a necessary prerequisite for employment. There were few preparations made for graduates and an inadequate receptive framework available to these newly trained health workers.

The thrust for space prestige stimulated many young men to enter fields related to the technologies of the space age. That was a decade ago. Now that priorities have changed, there are those who are creating the myth that space age technology can cure higher priority social ills. Engineers in the northwest and southwest are not prepetuators of this myth as they seek nonexistent jobs.

One of the most competent voice teachers in the United States developed a method of dissolving singers' modes by vocal exercises. Rather than submit their patients to laryngeal surgery, otolaryngologists often referred opera stars to this genius, whose exercise methods often made surgery unnecessary. He accomplished an unbelievable feat when he placed three of his students among the ten finalists of the Metropolitan Opera Scholarships a few years ago. In spite of the fact that he has trained some of the world's most acclaimed voices, he was dropped from the faculty of a major American university because he did not have a bachelor's degree.

Six months before their scheduled graduation, four nurses were dismissed from a large metropolitan school of nursing because of alleged political overactivism. They fought the dismissal and through the intercession of a governor and a mayor were reinstated one month before their scheduled graduation. They took their final examinations with the rest of their class and maintained their top four academic rankings by scoring the four highest grades on the final examination. However, school officials forced them to spend an additional five months in training before awarding them their degrees, because they were five months shy of the required time to be spent in training. In this instance, form took precedence over competence, time spent in a classroom being more important than knowledge gained in that classroom.

For a significant number of the more than 800,000 annual college graduates in America, a rude awakening greets the dawn of confronting the job market. Our credential-oriented society has not guaranteed them a job befitting their liberal arts baccalaureate. Perhaps there will be benefits accruing to the dual devaluation of the dollar and degree. Perhaps there will be more attention paid to education as a means to an end rather than education as an end in itself. This option should belong only to the student. An institution of learning has a moral obligation to promote education as a means to an end. (It should be stated here that education is being defined as training and development of knowledge and skills.)

Any number of early morning news and talk shows allow the television viewer to share news of a crime in education as a public service announcement pleads: "Mr. Employer, where are you? Many people trained for your jobs are awaiting your call."

As unemployment rises, education and training programs do not appear to diminish. In fact, they seem to be flourishing. Aspiration levels are elevated and achievement potential is lowered—a *potpourri* of social trouble is being brewed.

Time spent in a classroom is equated with education. Ivan Illich describes our society as being one that is "schooled" to confuse a diploma with competence.[1] Ivan Berg declares that educational credentials have become the new property in America. Further, he debates whether or not the credentials are important for doing the job—or just getting it?[2]

It is not only that "future shock" has caught us with our educational plants down, it has caught us promulgating yesterday's education today.[3] It has become complex now that the education planner has to consider a multisystems approach to his trade. Rather than being concerned with only educational machinery, the relevant planner must consider those other systems upon which education impinges and systems that impinge in return upon the educational system.

If *crime* can be defined as a wrongdoing that affects the whole public, then one can find an excellent description of the offense in Professor Berg's book *Education and Jobs: The Great Training Robbery*.

A THEORETICAL SOLUTION

Since my own knowledge of education has severe limitations and since even the surface problems that have been scratched are so complicated, the following is a description of an approach to only one small segment of the problem, which nonetheless may serve to stimulate the development of additional alternatives.

The manpower problem addressed is in those fields that have highly trained professionals in short supply at the top of an hour glass, and numerous performers of nonprofessional tasks at the bottom. The narrowed middle of the hour glass is devoid of manpower capable of performing some of the tasks performed by, but not requiring the sophisticated training and experience of, the highly skilled professional. This paraprofessional is desperately needed in some fields (e.g., law, medicine, dentistry, theology). He or she probably would not serve a useful purpose at this time in some other fields (e.g., professional athletics, nuclear physics, or aviation, navigation and air traffic control).

The development and utilization of paraprofessionals to the point where they can make a significant contribution in a field requires a total systems or global approach to the planning, implementation, and operation of a manpower program. The following elements of a theoretical model are offered as such an approach to solving some of the problems of manpower development alluded to in the anecdotes above.

1. The collaborative model

To obtain as much information as possible regarding the reasons the program will *not* work as well as reasons why it *must* work, groups with vested interests in seeing the field (law, medicine) become more efficient and/or responsive to societal needs should be brought together at the beginning. This would include those professionals at the top of the hourglass, whose control of the field should not be threatened. The major professional organization as well as organizations tangentially involved with the new paraprofessional should be brought into the group to work cooperatively rather than competitively towards common and urgent goals.

The final facet of the *collaborative model* should be a highly respected training institution (law school, medical school), which would serve three major functions. Primarily, it would provide quality academic input into a relatively short academic training phase. Secondly, it would provide program stability and overall certification of professional competence. Finally, the respected training institution would provide the necessary imagery to instill confidence in the paraprofessional's work as viewed by his employer (the highly trained professional) and the consumer of his services (the public).

2. The receptive framework

Without preparation of the milieu for a new arrival within a profession's operating system, progress may be impeded. For exam-

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Footnotes at end of article.

ple, training should be undertaken only after a needs assessment has identified a specific employment slot. Training people for nonexistent jobs or jobs that underutilize them should be looked upon as components of the great training robbery.

The highly trained professionals must be involved in the process of developing corresponding paraprofessionals. Only in this way can the former simultaneously learn how to delegate tasks to these new colleagues, tasks that heretofore had only been performed by lawyers, doctors, dentists, while the latter are being trained. The involvement of professionals assures their receptivity to the newcomer in their professional lives.

Legal aspects of the framework in which they are to work must be considered and worked out to the point of definitive legal status for the paraprofessional. Where applicable, malpractice insurance must be made available for him also.

In addition to preparing a receptive framework within the profession in which the paraprofessional will work, the larger community must also be prepared to accept him. The judicial system, hospitals, congregations, professional organizations, the lay public, service organizations, *et al.*, must be contacted and prepared to receive the paraprofessional as an adjunct to improve the delivery of specific services. Community psychiatrists are especially adept in this and other aspects of developing the necessary receptive framework.

Often mysterious, and thus neglected, is the matter of imagery. This is a critical facet for acceptance of paraprofessionals. It entails an appreciation of the variations of image perceptions, developing and guiding the desired imagery, and understanding how media affect those images. It requires skills in the fields of communications, which specialists such as community psychiatrists and others can best bring to bear on breaking down barriers to change.

3. Professional involvement

Recognition of the need for change within one's field of endeavor is the first step of leadership towards that change. Important to the success of the change process is involvement by professionals in the process. If professionals themselves act as change agents, development of innovations such as paraprofessionals are skewed to succeed. If their involvement takes the form of performing job/task analyses, they can be certain that training can be directed toward development of paraprofessional skills that will be used on the job.

If the professional participates in the selection of the trainee whom he will ultimately hire as a paraprofessional, not only is the professional going to be extremely careful in the selection process, he is also going to have an interest in seeing to it that his selection decision demonstrates good judgment.

In situations where the bulk of the paraprofessional's training occurs on the job with his potential employer, the vested interest of the trainer will insure higher quality than if the trainee is one of several preceptees of uncertain destination rotating through an office. Further, preceptorships that follow relatively short courses of academic preparation also place minimal additional responsibilities on already overburdened professional schools.

Professional involvement also serves the dual function of stimulating professionals to delegate some of their tasks as well as training them how to share responsibilities and be comfortable with the delegation. Increasing the "effective demand" for paraprofessionals will depend upon increasing professional involvement.

4. Competency-based training

If it can be hypothesized that competency is more important than diplomas or degrees at the mid-level of the hour glass, development and deployment of his new breed called the paraprofessional can be approached rapidly. For our purposes, competency-based training is directed towards the competent performance of tasks dictated by a job/tasks analysis. It also takes into consideration competencies developed previously in other employment or training settings.

Using the approach of a short, intensive academic training phase to provide the necessary knowledge foundation in the professional discipline, and a longer period of on-the-job training in a preceptorship with a professional, provides the trainee with an opportunity to develop pragmatic competencies. This is contrasted with a totally academic route, which often consumes a significant percentage of time while the trainee gains interesting but non-functional knowledge. Competency-based training is geared to meet today's identifiable needs. Preparation for meeting needs to be identified at some time in the future should be the responsibility of a built-in program of continuing professional development. (See the sixth element below.)

5. Deployment system

Unless a training institution is developing manpower solely for its own needs, it usually has no actively expressed concern for effective utilization of its graduates. Rather, the trend is to develop and maintain education programs because that is felt by many to be the function of an educational institution. There is some attention paid to national needs assessments. However, little attempt is made to assess local needs. Educational programs thus continue in many instances to promote education as an end in itself.

In order to direct educational programs towards realistic needs, those developing the theoretical model suggested for paraprofessionals could and should build in a system to deploy graduates into geographic areas of need. This can be accomplished by implementing a training program that actively involves professionals in the selection, training, and employment of the paraprofessionals. Those professionals who, by virtue of their recognized need for help, agree in advance not only to train paraprofessionals but also to employ them when they graduate, will initiate a socialization process, which, in many instances, will insure the paraprofessional remaining geographically in his training site as his place of employment. Thus, where the new manpower will work can be predetermined in most instances.

Not to be overlooked is the fact that this model also leads to the identification of specific jobs and positions for employment before an individual begins his training. No one should dispute the merits of such an approach to meet certain goals. What can be questioned is why we are not using this modality on a large scale now.

6. Continuing professional development

Once a competency-based training program is set into motion, it becomes obvious that if the program is to remain viable and relevant to a rapidly changing society, a mechanism must be included to promote the professional growth of the paraprofessional. Thus, in addition to filling in gaps in knowledge identified by the paraprofessional himself and his professional employer, a planned and executed program of continuing education should be a significant responsibility of the training institution and/or other elements of the collaborative model. It is the promotion of the paraprofessional's education as a dynamic continuum that allows competent (and perhaps non-degreed) personnel to extend the capacity of professionals to meet the staggering needs of our society.

A WORKING MODEL

Application of the theoretical model described is not as difficult as it might appear initially. The basic requirements for its application in any field are that there is a need for paraprofessionals and that there are some professionals in the field who want to do something about that need. The development of the MEDEX Program is a response to such a need in the field of medicine.

The MEDEX demonstration program at the University of Washington in Seattle has demonstrated the capabilities of nonphysicians performing at the paraphysician level (performing some of the tasks heretofore performed only by physicians). It should be emphasized that the tasks these medex are performing under the supervision of physicians are not the delicate and profound responsibilities requiring broad theoretical and practice training. Rather they are tasks heretofore performed by physicians that do not require the physician's extensive educational background and intricate decision-making abilities (e.g., suturing minor lacerations, taking histories, performing specific parts of physical examinations, making nursing home visits, assisting at surgery).[4 5 6]

To take advantage of the training and experience of former military medical corpsmen (which may total up to 2,000 hours of formal medical training and 2 to 20 years of patient-care experience at an advanced or independent-duty level), the MEDEX Program has taken a sizable public investment in the defense system's medical care operation and adapted it to the civilian medical care setting.[7]

Physician/preceptors of the medex state that these highly skilled professionals are demonstrating ability significantly to increase physician productivity and medical care accessibility while maintaining or improving the quality of medical care provided to patients in the physician's practices. Initial evaluation studies confirm that physicians who have a medex working with them are able to handle 50.2 per cent more patients than when they were without the services of this paraprofessional.[8] There has been almost universal patient acceptance of the medex, and indications are that programs of this type hold promise in assisting the medical profession to meet the demands that will challenge us in the years to come.

The role of organized medicine (the Washington State Medical Association) in stimulating and supporting the development of the *collaborative* model with the University of Washington School of Medicine and private practitioners has demonstrated that those groups with the strongest interests in patient care can enhance their abilities to provide medical services by cooperative efforts such as MEDEX. This cooperation has led to additional significant input by the state's hospital and pharmaceutical associations.

These elements of the collaborative model in concert have produced the necessary *receptive framework* required for the new health professional called a medex. The legal basis as well as professional and nonprofessional acceptance are the critical components of this receptive framework. The necessary legal structure is developed or being developed in a number of states. Malpractice coverage for these new professionals has been obtained without difficulty. Another aspect that has posed few problems has been payment for services by third-party carriers. These potential problems appear to be minimized by having a program in operation (as opposed to a program still in the planning stages) request necessary changes within a collaborative framework. Variations on this type of operational model are thus suggested to develop and deploy appropriately skilled physician support manpower.

Problems of professional identity, status,

Footnotes at end of article.

and mobility should be anticipated with the development of new categories of manpower. These problems were considered in the development of MEDEX. Although a medex is a physician's assistant generically, we have avoided calling him a physician's assistant, as the phrase connotes nothing of the individual's training, skills, or competence. Now that the functional analysis of the MEDEX Program is completed, a medex has been shown to be a health professional who can perform certain parts of physical examinations, take histories, apply and remove casts, interpret laboratory results over the telephone, suture minor lacerations. The word "medex" is short, has two quickly pronounced syllables, and is appropriately used as a title when this professional is addressed by patients as well as other professionals. In settings where medex are working physicians, the medex title is synonymous with a certain level of performance in the practice setting under the supervision of a physician.

The use of blue jackets instead of the doctor's white has aided in the establishment of a distinct identity for the medex in the university training phase as well as in the private practice settings in the state of Washington.

Although it remains to be verified by evaluation of the MEDEX Program, the single most important criterion for selection of former military corpsmen to be trained as medex appears to be their past performance in the medical care setting. A second important criterion, which is more difficult to evaluate, is the applicant's knowledge of his limitations and his willingness to work within them. Other criteria used in medex selection were judgment, potential for learning, and motivation. Also to be evaluated with large numbers of trainees are tests of manual dexterity, which may be more related to performance than the standard screening tests often administered (e.g., intelligence quotient, General Aptitude Test Battery, Kuier, Strong). It is probable that all of these criteria for selecting former military corpsmen will not be applicable in the selection of trainees in other categories. However, they should be borne in mind.

Before a training program is initiated, a needs assessment of the community to be served should be completed. This assessment should then be followed by a task analysis of "what is to be done" by the trainee upon graduation. There will be learning materials common to all programs in the same categorical cell. However, there will be specific course work peculiar to each community, learning that makes the training relevant and more usable in the practice setting.

The three-month university training phase of medex emphasizes areas in which they have had the least amount of exposure in the military, i.e., pediatrics, chronic diseases, and the psychodynamics of civilian medicine, in addition to history taking and physical examinations. This is followed by on-the-job training consisting of a twelve-month preceptorship with the physician who will ultimately employ the medex. The preceptorship provides immediate assistance to the preceptor, which continually increases with time in training. Thus, as the trainee is increasing in productivity, he is learning relevant skills that will definitely be used in the practice setting.

The shorter the time lag between the first participation in the total process (the selection of the trainees) and the arrival of the trainee to begin his on-the-job training, the higher will be the interest of the preceptor. If the preceptor/employer has to wait for a long academic program (e.g., two years) to be completed, he may lose interest in training and/or employing a paraprofessional.

Academic training programs can be shortened if the trainee learns only those basic tasks that will be required of him in his job. If gaps in his knowledge are identified in changing job settings, the educational institution should be prepared to augment his training. Thus, paraphysicians can be trained according to the specific competencies required of them. This *competency-based training* calls for establishing a training program directed towards the development of specific competencies. The training program also must consider the student's knowledge and skills upon entry based on prior training and experience. Duplication of previous skills development is wasteful and discouraging to the trainee.

Training for the sake of training, or training simply because a gross statement of need is made, is training in a vacuum. In medical education, specifically in the allied health fields, training should be undertaken when needs assessments and tasks analyses validate the demands of specific settings (if this is possible). If this can be accomplished, the potential users of paraphysicians can be involved in a manner that not only relates the training to performance, but also gives them a vested interest in the training program (and thus in its success).

The MEDEX concept encourages *practitioner involvement* not only to assure placement of medex, but also to relate training received during the university training phase to the specific tasks the medex will perform once in their work setting. The physicians who had agreed to train and supervise medex helped develop a list of tasks that they wanted the new paraprofessional to perform in practice. Physicians' interviews of corpsmen candidates were the crucial factors in the final selection of the trainees. Physician-preceptors ranked their preference of medex (as the medex ranked the preceptors) whom they wanted to train and subsequently employ. In addition to involving university faculty in the three-month initial training period preceding the twelve-month preceptorship, this approach utilizes a large, almost untapped source of medical education: the practicing physician.

By selecting physicians in areas of need to be preceptors, this method of training gives rise to a *deployment system* that allows the program to send assistance where it is most needed. Thus, MEDEX is a technique that concerns itself with maldistribution of health manpower and does something constructive about it.

The final element of MEDEX is *continuing medical education*. Two-day-long seminars and workshops are held periodically during the preceptorship. Following the end of the fifteen-month training program, such classes will continue to be held under the guidance of state medical associations.

Some of the problems that have been successfully faced include getting hospitals to change traditional policies to allow the medex to work with his physician, unbased concern of other health professionals that medex would take over some jobs they were already performing, and formation of the identity of a new health professional. The success in solving many of these problems and the over-all development of MEDEX is attributed to the pioneering leadership exhibited by the greater health profession actively concerned with patient care.[9]

The MEDEX Demonstration Program originated at the University of Washington in Seattle. The MEDEX Program at the University of North Dakota School of Medicine has medex in North Dakota, South Dakota, Wisconsin, and northern Minnesota. In February 1972, the Dartmouth Medical School MEDEX Program trainees finished preceptorships and are now employed by overworked general practitioners in New Hampshire, Maine, Vermont, Massachusetts, Connecticut, and Rhode Island. The Department of Health, Education and Welfare's National Center for Health Services Research and Development has also funded a replication of this program at the University of Alabama (for medex in Alabama, Mississippi, Tennessee, South Carolina, and Georgia) and at the Charles Drew Postgraduate Medical School/University of California at Los Angeles. The University of Utah School of Medicine deployed its first class of medex in September 1971. Approximately 200 medex are working with physicians in 27 states. Additional MEDEX programs are in the final planning stages at four other medical schools.

The basic elements of the MEDEX Program (collaborative model, receptive framework, deployment system, competency-based training program, practitioner involvement, and continuing education) have provided new perspectives in health as well as a technological tool for strengthening the delivery of health services. This tool can be used not only to train former military corpsmen to be medex, but can also be used for training new types of needed health manpower who may or may not have had previous medical training. It is possible now to adapt the concept's techniques of training and deployment of health personnel to the existing needs and available resources in many geographic locations.

DISCUSSION

I must confess a bit of serendipity. The working model of MEDEX was developed through an operations approach described elsewhere as global community health.[10] The MEDEX model was developed before the theory behind it evolved, which is not the usual course of events. Nevertheless, one led to the other even though the order may have been reversed.

It must be acknowledged that Ivar Berg's *Education and Jobs: The Great Training Robbery* was the primary stimulus to explore the MEDEX approach for possible application to other disciplines. Inquiries about the process of MEDEX from fields other than medicine led to the development of the theoretical model.[11] Now that the concept has been proven valid, it remains for professionals to determine its applicability in other fields that are attempting honestly to meet the needs of the society we serve.

SUMMARY

A theoretical model is described that is designed to meet manpower needs in professions top heavy with highly skilled professionals. This situation usually leaves a void of mid-level manpower that potentially could increase the efficiency and productivity of that profession. Application of the theoretical model has been attempted and has proven so successful that broader application is suggested for professions that desire to train and deploy paraprofessional manpower appropriately.

FOOTNOTES

[1] Illich, I.: Deschooling Society. New York, Harper and Row, 1970, pp. 1–24.

[2] Berg, I.: Education and Jobs—the Great Training Robbery. New York, Praeger, 1970, pp. 183–190.

[3] Toffler, A.: Future Shock. New York, Random House, 1971.

[4] Ross, S. and Kupferberg, H.: Parade Magazine. May 23, 1971, pp. 20–23.

[5] Estes, J.: Life 68:67–70, June 12, 1970.

[6] Bornemeir, W.: Reader's Digest 97:103–107, July 1970.

[7] Smith, R.: J.A.M.A. 211:1843–1845, March 16, 1970.

[8] Smith, R.: Anderson, J. and Okimoto, J.: Northwest Med. 70:701–706, October 1971.

[9] Smith, R., Bassett, G. and Markarian, C.: J.A.M.A. 217:1362–1367, September 6, 1971.

[10] Smith, R. and Banta, J.: Amer. J. of Pub. Health 59:1713–1719, September 1969.

[11] Personal communications.

[12] The MEDEX Program at the University of Washington was supported by Public Health Service research grant 1 R18 HS00558–01 from the National Center for Health Services Research and Development, Health Services and Mental Health Administration, DHEW. The program is jointly sponsored by the University of Washington and the Washington State Medical Education and Research Foundation (Washington State Medical Association).

MEDICAL ALLIANCE—MEDEX

(By Richard A. Smith) *

A technology aimed at helping to solve the growing worldwide crisis in health manpower has been developed and successfully applied in the United States of America under varying geographical conditions. Medex† (these are new providers of primary health care services) is now deployed in thirty States, including remote areas of Alaska. In addition, medex are being trained to provide primary health services to some of the most remote populations in the world in the vast Pacific expanse known as Micronesia. The image of such health services being provided only by physicians is being changed in America.

MEDEX is a systematic way of increasing health services to a large number of people in a relatively short time. The concept is derived from analyses of health-manpower development in numerous countries, including the United States. Its basic elements can be applied with relatively little capital investment. It can then be continued until the desired level of medical-care accessibility is reached, with modest maintenance expenditure. MEDEX has characteristics which make it adaptable (as opposed to transplanable) into many areas. It uses only the human and fiscal resources available and trains health manpower according to the specific needs of a community or country. Medex are integrated into existing health systems by extending the reach of physicians, rather than by substituting for them. In the United States the recruits are former medical corpsmen and nurses; in Micronesia they are former nurses and health assistants. Individuals with or without previous health backgrounds can be trained to become physician extenders when the MEDEX concept is applied to enhance the delivery of health services in various countries.

MEDEX has developed over the four years since the demonstration programme was initiated at the University of Washington in Seattle. Since then, eight additional American medical schools (serving as regional training centers) have begun training and deploying medex into areas where health services were hard to secure. The reasons for emergence of this kind of system were partly stated last year at the First International Conference on Education in the Health Sciences. Dr. Bror Rexed, head of the Swedish health system, described some of the pressures and are bound to produce change in the "scenario of medicine of the future"—among them, increasing cost, expansion of demand for ambulatory care, and introduction of new technology.[1] Prof. Isador Gordon has pointed up the problems of trying to train only traditional categories of health professionals. In his view, present efforts to meet the global crisis in health care solely by training more physicans are likely to fail.[2]

It is against the background described by Rexed and Gordon that MEDEX has been developed. The programme is also a response to the call by Fendall and others to take much of the stored knowledge reaped by basic research and apply it to the staggering health needs of many nations.[3] Using applied research methods, a flexible system to increase primary health services has been devised which has six basic elements, adaptable as dictated by local needs and resources.[4] These six basic elements of MEDEX are described below.

1. COLLABORATIVE MODEL

To obtain as much information as possible regarding the reasons a programme will *not* work, as well as reasons why it *must* work, groups with a vested interest in seeing the health field become more efficient and responsive to social needs are brought together at the beginning. This includes professionals at the top of the medical hierarchy, whose control should not be threatened. Major professional organisations, as well as organisations only tangentially involved with the new paraprofessional, are also brought into the group. They are encouraged to work cooperatively rather than competitively towards common and urgent goals. An essential facet of the collaborative model must be a respected medical training institution (preferably a medical school or teaching hospital). This serves three major purposes. First, it ensures good teaching during the relatively short academic-training phase. Second, it gives the programme stability and permits certification of professional competence. Third, it provides the sort of credibility absolutely necessary to instil confidence in the medex's work, in the eyes of both employer/supervisor (the highly trained doctor) and consumer (the public). These collaborative elements are given the opportunity to establish programme policy, especially if medex are going to work in "supervised remote practices" at considerable distances from physicians to whom they are responsible.

2. RECEPTIVE FRAMEWORK

Creation of a new health professional demands careful preparation of the milieu in which he will work, to encourage acceptance by the medical profession, by other health personnel, by patients, and by supporting systems such as hospitals, the legal profession, and insurance companies. All groups and systems affected are contacted and are prepared for the arrival of the medex. Community preparation is of paramount importance, and here the skills developed by community psychiatry are particularly useful. Overcoming cultural barriers will in many instances make the difference between success and failure. Building an acceptable image and acquiring a special identity are difficult obstacles MEDEX seems to have hurdled. The importance of these cannot be overestimated in contemporary health-manpower programmes. Legally, too, the status of the medex needs to be clearly defined. Where applicable, malpractice insurance must be made available.

3. PROFESSIONAL INVOLVEMENT

Recognising the need for change in any endeavour is the first step towards that change. Important to a successful outcome, where paraprofessionals are concerned, is leadership by professionals. If doctors act as the agents of change, innovations such as MEDEX are skewed to succeed. Because physicians are involved from the beginning of the programme they are receptive to the newcomers. Their involvement includes participation in job/task analyses to ensure that training is directed toward paraprofessional skills that will be used on the job. The physician also participates in the selection and training of the trainee whom he will ultimately hire or supervise as a medex. This personal involvement tends to make the physician more careful about selection; and he is anxious, too, that his selection decision should demonstrate good judgment. Involvement helps to stimulate medical practitioners to delegate some of their tasks, as well as train them to share responsibilities and be comfortable with the delegation. If the "effective demand" for medex is to increase, this will depend upon increasing physician involvement.

4. COMPETENCY-BASED TRAINING

If the emphasis at the mid-level of the medical hierarchy is placed on development of competence to perform specific tasks, rather than on accumulation of diplomas or degrees, medex can be produced and deployed rapidly. An assessment is completed before the start of training in order to document the community's health-service needs. Then task analysis is done to determine what the trainee will be doing upon graduation. The programme also takes into account the student's previous training and experience on entry, so as to avoid wasteful and discouraging retraining. If, for example, the individual is a nurse, a former military medical corpsman, or a health assistant, much basic material can be left out of the curriculum.

From analysis of data accumulated during the needs assessment and task analysis, and by taking into account the students' entry-level skills, a curriculum emphasising the primary needs of the community is laid down which makes the training relevant to the practice setting. The academic training programme can be shortened if the trainee learns only those skills which will be required of him in his job. Training people for nonexistent jobs or jobs which underutilise them is avoided.

These steps are linked to today's identifiable needs. Preparation for meeting future needs should be in the hands of an integrated programme of continuing professional education (see the sixth element below).

5. DEPLOYMENT SYSTEM

In order to direct training programmes toward realistic requirements, MEDEX has a built-in system to deploy graduates into areas of need. This is accomplished in part by involving physicians in the selection, training, and employment/supervision of these new paraprofessionals. Such physicians should be selected, whenever possible, from among primary-care physicians working in or near areas of need. They should agree to assist in the training and subsequently in supervision of the new manpower. After an intensive academic (didactic) training phase in a medical school or teaching hospital, medex trainees are integrated into the office, clinic, and hospital environment quickly, by having the bulk of their remaining training (preceptorship) take place on the job, in surroundings similar to their future work situations.

This model of training means that an individual knows where and for whom he will be working before he begins his training.

6. CONTINUING PROFESSIONAL DEVELOPMENT

For a MEDEX programme to remain relevant to a rapidly changing society, a mechanism is included to promote professional growth of the medex. Thus, in addition to

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*Formerly director of the MEDEX Program at the University of Washington in Seattle (1969–72).

†MEDEX is derived from the French words. MÉDecin EXtension, meaning an extension of the physician. Two words with identical spelling but different meaning are distinguished in this paper by use of capital letters; MEDEX refers to the programme or to the concept of this new technology; medex (used both for the singular and for the plural) refers to this new paraprofessional, and is also used as a title.

Footnotes at end of article.

filling gaps in knowledge identified by the trainee himself and his professional employer/supervisor, a planned programme of continuing education is regarded as an essential responsibility of the training institution and/or other elements of the collaborative model. It is promotion of the medex's education as a dynamic continuum that allows competent (and perhaps non-degreed) personnel to extend the capacity of physicians to meet the needs of societies.[5-7]

Each of these six elements reflects the designing-out of specific problems encountered in health-manpower programmes in various countries. Competency-based training is a considerable departure from the traditional training of health professionals.

Newer training technologies such as algorithms and video-tape packages substantially reduce the time needed to train these new professionals. A short (three-month) but intensive didactic training phase is followed by a nine-month preceptorship training phase. Building upon the previous competencies of medical corpsmen, nurses, or health assistants, competency-based training does not waste time by teaching inappropriate material. Rather, it assists individuals to acquire additional skills dictated by analysis of the jobs to be performed. For students with no previous health background, the training is longer.

The MEDEX approach is producing individuals who already are increasing physician efficiency (measured by patient visits and hours spent in practice) by 75–125%.[8] In "supervised remote practices" medex alone may adequately handle 80% or more of the problems in an outpatient clinic.[9,10] This is possible because these new paraprofessionals perform many of the routine, repetitive medical tasks that have hitherto been the sole domain of the physician but which do not require the sophisticated training and experience of a fully trained doctor. Medex are taught which patients require the physician's more intricate and profound diagnostic and therapeutic skills.[11]

By far the most important elements in MEDEX as a tool for enhancing and expanding delivery of health services is the building of the receptive framework. Two usually neglected facets—community preparation and imagery of the medex—require the skills of the emerging sphere of community psychiatry. To augment the public's perception of the providers of primary health services requires the development of a new identity. Creation of an image of a competent primary-health-care professional, working within his/her limitations, requires skills in group dynamics and communications not usually considered important in health-manpower development. Further, the invention of a bisyllabic title and form of address (*Medex* Jones, *Medex* Guernet) has aided in the creation of a new and distinct nonpejorative identity which Fendall[12] and Kesic[13] regard as essential if health-man power development is to progress.

The MEDEX system is now being adapted to multiple socioeconomic, cultural, and geographical settings. Medex is being adopted by medical-care systems in highly industrialised as well as less developed settings. Taking advantage of advances in task analysis, competency-based training, and community psychiatry, this approach to the training and deployment of physician extenders into areas of need is one of the most encouraging developments in health manpower in recent decades.

FOOTNOTES

[1] *Am. med. News*, Jan. 22, 1973, p. 12.

[2] *Time*, Sept. 20, 1973, p. 59.

[3] Fendall, N. R. E. *Bull. N.Y. Acad. Med.* 1973, 48, 1291.

[4] Sewell, J. Q. *F. Ind. med. Prof.* 1970, 17, 7727.

[5] Smith, R. A. Unpublished.

[6] Wilson, W. M., Castle, C. H. *Rocky Mount. med F.* 1972, 69, 53.

[7] Smith, R. A., et al *F. Am. med. Ass.* 1971, 217, 1362.

[8] Smith, R. A., Anderson, J. R., Okimoro, J. T. *Northwest Med.* 1971, 70, 701.

[9] McKenzie-Pollock, J. S. Unpublished.

[10] Pearson, C. A. Proceedings of Symposium on Priorities in National Health Planning, University of Ibadan, Nigeria, Jan. 21–24, 1973.

[11] Brosseau, J. D. *Hlth Serv. Wld*, 1973, 8, 16019.

[12] Fendall, N. R. E. *Israel F. med. Sci.* 1968, 4, 416.

[13] Kesic, B. *Boln Of. sanit. pan-am* 1966, p. 3.

FORMER CHIEF JUSTICE EARL WARREN

Mr. DOLE. Mr. President, the death of Earl Warren marks the passing of one of the foremost public figures of recent American history.

While earning lasting prominence as one of the most influential men to serve as Chief Justice of the United States, he had already built a nationally recognized reputation in public life in his native State of California before coming to the Supreme Court in 1953. Republican nominee for Vice President in 1948, three-term Governor of California, State attorney general, and Alameda County prosecutor, he was a man of politics, an administrator, and citizen who gave his entire life to public service. But above all he was a man of absolutely unquestioned personal integrity and unshakable committment to the public good as he saw it.

Of course, Earl Warren will chiefly be remembered for his 16 years as Chief Justice and his leadership in shaping some of the most dramatic changes in American society that have ever been set in motion over so short a period. School desegregation, legislative apportionment, the balance between police authority and individual rights and a host of other vital issues were dealt with the "Warren Court" in important and often highly controversial decisions that frequently bore the unmistakable stamp of the Chief Justice's leadership.

The Senator from Kansas is one of those who often found himself in substantial disagreement with the Court's decisions over that period. Far too often the majority exceeded the bounds of what many Americans viewed as reasonable and prudent judicial policymaking—particularly in the area of criminals' rights. However, these disagreements and concerns were always with the underlying philosophy of the Court and its Chief Justice, and never were the motives, integrity or sincerity of those decisions questioned—even by their most vigorous critics.

As administrator, politician, and jurist, Earl Warren will long be recognized as one of the major figures of the Supreme Court and the highest tradition of public service in America. The Nation mourns his passing, not because everyone always agreed with his views and decisions, but because he was a man of honor and great achievement who served America faithfully throughout a long and distinguished life.

RODERICK MACLEISH—THE ELMER DAVIS MEMORIAL LECTURE OF 1974

Mr. KENNEDY. Mr. President, at the end of April, Mr. Roderick MacLeish, the distinguished journalist, author, and longtime observer of the political scene, delivered the Elmer Davis Memorial Lecture at the Columbia Graduate School of Journalism.

In the course of his address, entitled "News, Importance and Reality; An Inquiry Into the Ways That Journalism Thinks," Mr. MacLeish deals with an issue of timely importance—the power that journalists, particularly those in television, have gained over the world's vision of itself.

Speaking with clarity and eloquence, he challenges the conformity to the collective definition of what is news, what is important, and what is reality. By redefining these terms, he presents us with a sound alternative to our world and insists that a broader range of possibilities exists within the definitions of news, importance, and reality—these terms, he says, can be better defined in terms of what is critical to human lives.

Mr. MacLeish has grasped an important insight into human experience and his address provides a significant contribution to our own understanding. As he states, in speaking of the profession of journalism:

> In our confusion of events with facts and facts with truth we limit ourselves and, as a consequence, we limit our fellow citizens. . . .
>
> The true sum of human affairs is everything that takes place within human affairs. Since we propose ourselves as the relaters of those affairs to the human community, we must endeavor to grasp as much as we can. We cannot encompass it all, but it is more than we now say it is. Watergate, war, international economics, the politics of the City of New York and the fate of the latest kidnap victim are all news, all important, all real.
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> But out there also, sparrows are falling, dreamers dream and a computer is trying to reduce St. Thomas Aquinas's five demonstrations of God's reality to immutable numbers. If we liberate our minds, pursue our educations until we die, and thereby admit ourselves to a broader range of possibilities within the definitions of news, importance and reality, then we will do better. What we do is to hold a mirror to the world's face and the reflection is broader than we now think."

Mr. MacLeish issues a challenge to everyone to understand the reality of our onrushing society and world. I believe his lecture will be of interest to all of us in the Senate, and I ask unanimous consent that it be printed in the RECORD.

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

NEWS, IMPORTANCE AND REALITY: AN INQUIRY INTO THE WAYS THAT JOURNALISM THINKS

(By Roderick MacLeish)

I am honored, indeed, to be this year's lecturer in the Elmer Davis Memorial series. The sense of honor is not abstract but is, rather, specific for three reasons. First, to speak at a forum dedicated to the memory of Elmer Davis is to participate in the annual

celebration of the best that our trade has produced. In honoring Mr. Davis, we do honor to ourselves. Second, I stand here in association with distinguished colleagues—Louis Lyons, Eric Sevareid and David Brinkley. Samuel Johnson once encountered George the Third in a bookshop and chatted with him. That evening the great doctor wrote in his journal, "It does a man good to be spoken to by his Monarch." The principle can be altered to read: "It does a man good to speak where his betters have spoken." Third, it is a great honor indeed to be, at my age, on the young side of a generation gap. All of those who stood at this podium before me were friends and intimates of Elmer Davis, his contemporaries give or take a decade or two. But not me. I am something new in the Elmer Davis Memorial lecture series. I was Mr. Davis' copy boy. I was in awe of him as I ripped the AP "A" wire for him in the newsroom of the American Broadcasting Company in 1947 or thereabouts; I recognized him for what he was each time I brought him coffee—he took it black with sugar. I was glad, with the true elation of the servitor, when, during the 1948 Democratic convention, I was dispatched to Philadelphia on a train to deliver some papers to Mr. Davis. But I was not his intimate. I was his squire. I admired him, even loved him. But from a respectful distance.

Now we are come to the early middle age of the broadcast news business which Elmer Davis helped to nurture through its puberty. Like all adults, the broadcast news business is caught between the assaults of the world upon it and the knowledge of its own frailties. It has assumed a mature dimension in our national affairs but that does not, necessarily, mean that it has achieved a stable or incontrovertible dimension in our affairs. Maturity, as a state of being, is an arrival at a certain chronological milestone; we are mature as much for the number of years we have lived as for the recognitions and realizations we have achieved.

I wonder what Mr. Davis would have made of our present state of maturity. In the process of being an exemplary practitioner of our trade, he established many of its perimeters. The most notable of them were defensive perimeters. Elmer Davis—along with Edward R. Murrow—made that great insistence which held that we too were the beneficiaries of the First Amendment, that "press", in the epochs after Marconi, had to mean those who *spoke* their perceptions of the world as well as those who wrote such perceptions and had them printed on paper. It was a landmark of civility, the application of a great ideal to the evolving process of time. Unlike Wordsworth's exalted view of the French Revolution, it was not bliss in that dawn of the new era of communication to be alive; to be young, as broadcasting news was, was hardly heaven. In the hands of authority which distrusted us and a public which sometimes could not make a qualitative distinction between the values of the A. and P. Gypsies and Elmer Davis, establishing the constitutional principle all over again could, sometimes be hell. And often it was.

That battle for our rights is durable. It will never go away simply because Constitutions that are written for the ages must be re-interpreted in each new age and there are always severe personages of authority who are willing to rid themselves of the nuisance we represent by that very process of constitutional re-interpretation. That is our endless struggle. But it is not what is most important about us as we proceed in our maturity.

Much has changed since Mr. Davis sat down nightly before a microphone at the WMAL-Evening Star studios in Washington or in studio 2B in New York City and delivered himself of literate notions that would have done credit to Addison and Steele. The largest single change lies not in the static quality of that power which opposes our trade. The largest change is in the power that we, ourselves have gained over the world's vision of itself. To define and have people accept your definitions is vast power indeed. In that magic by which we select significance from the tide of human affairs and hand it back to a human community confused by the multiplicity of its own life and time, we are the very zephyrs of a reality which our fellow citizens largely see through the office of our trade. Like some secular priesthood we hold before our American brethren the mitre of a supposed truth. Seeing us, seeing our arrangement of facts, notions and nuances projected into the national evening, the public is asked to accept our awesome declaration: "This is what is, this is the tidy meaning of the world's vast and disorderly life." That is, indeed, an awesome thing to do, it amounts to a staggering assumption about ourselves, our way of thinking, our wit and the world in which we deal.

Given the awesome dimension of our assumption, it is fair to ask a question about the minds which so perceive the times to such a heavily responsible end. How do we think? By what intellectual means do we arrive at those definitions of news, importance and reality which we project upon the country as its main source of information about itself and the world?

That question is vast, obvious and crucial. To begin with the simplest part of the answer—it seems to me that we in journalism are still adherents of the scientific method, that system of thought in which problems are perceived through the evident data that surrounds them, in which answers are sought by experimentation that leads to tangible proof.

There's nothing wrong in thinking that way—men have been engaged upon inquiry using forms of the scientific method since Aristotle at least. But is such a means of thinking adequate to an age of breathtaking discovery, of dazzling scientific innovation, of supposition whose premise would change the very nature of man's view of himself?

Put the question in another way, in two parts; do we in journalism portray the world in anything like the full dimension of its contemporary reality, a reality which includes possibilities? And, if we don't, can we portray the world in such broad dimension?

I do not pose the question or even set up the problem in order to denigrate modern journalism, television or any other. TV news is, obviously, the best part of television. Its' services to American history—especially right now—are incalculable. Rather, one poses the question in order to see if we cannot perform with even more telling and civilizing effect, the function which we now do so well.

The answer to the question about how we define news, importance and reality begins with a problem of evolution. Nobody knows where journalism really began. It is hard to say precisely because nobody can agree on a definition of what journalism really is. In our time we have come up with a limited definition, it seems to me.

Was the unknown, pre-historic genius who illuminated the walls of a French cave at Lescaux with wondrous pictures of the primitive hunt—was that Boticelli of the post-Neanderthal age a journalist? Not by our contemporary definition. We maintain—by practice if not by admission—that journalism must base itself on specific, unusual events. If the hunt celebrated by that dawning human mind contains the same tension and the same yearning for order as our own minds—well, that, we feel, doesn't concern us any longer. Besides, the event portrayed was normal.

Was Thucydides a journalist, was he engaged in our profession when he set down for eternity the pain and meaning of the Peloponnesian war? He wrote long after that event, he wrote with abstraction which dissolved time and wrought universality out of action and happenstance. So, by our contemporary definition of journalism, we must strip our great Athenian brother of the title of our calling. We maintain—again, by practice if not by admission—that journalism is the setting down of what just happened and then forgetting it, by and large, in the pursuit of what is going to happen next.

Was Fyodor Dostoyevsky a journalist? No, especially not him, we protest. We look into the pages of his masterpiece, "The Brothers Karamazov" and we see the structure of a multi-tiered human existence that makes us shudder. Of the tragedy-stalked brothers, Ivan the political obsessive is acceptable—we've seen him before, we can translate Ivan into a thousand prototypes of our own time from Pierre Poujade and George Wallace to any other passionate searcher among the stars and old ideas for that central truth of the cosmos which will make all other truths fall into place. Another brother, Dmitri, is acceptable. He is power, especially power gone wrong in his obsessions. God knows and so does every contemporary practitioner of political journalism in Washington know, about the hunger for power gone wrong. Even Smerdyakov, the fourth, least and bastard brother of the house of Karamazov is acceptable to the modern journalist. By hanging himself in the wash house Smerdyakov became the alienated outsider—familiar enough. But Alyosha, who was ultimately the centerpiece of the Brothers Karamazov, automatically disqualifies his creator, Dostoyevsky, as a journalist. Alyosha was preoccupied with the most enduring of human problems—he was indeed the ultimate nineteenth century literary symbol of that incessant yearning for (and anguish over) the half-suspected joke and tyrant of the human condition—God. He who writes about God as a practical matter is no journalist; God can't be deduced by the scientific method, he cannot, therefore, be computed in the sum of late twentieth century affairs and, besides, you can't videotape God. Ergo, Dostoyevsky was not a journalist. Such is the tyranny of our definition of ourselves.

I do not give you these examples to bedevil you, to make you sigh with the tedious hair-splittings of the half-educated. Rather, I offer them as argument to those two questions: are we successful in the process by which we select those events that we broadcast as essential reality each evening? And, if not, are we equipped to be successful?

What we do share in common with the prehistoric genius of Lescaux, Thucydides and Fyodor Dostoyevsky is one fact; like them, we are the practitioners of a craft. Or, it used to be a craft. A craft is basically, a solitary occupation whose means and ends are contained within itself. You may need specialized tools and training to practice a craft, but you don't need anybody else—unless the other people involved with you are, themselves, of the status of tool or teacher.

Journalism was, fundamentally, a craft wherever its beginning began. It was, basically, the business of one man or woman observing an event and writing it down so that others might know of the event.

There are several implications to the fact that journalism was, once, a craft; one person arrived at the definition of the event, the event was conveyed to others through one, self-sufficient medium, the written word. The recipients of the written account had to make a leap of faith in order to accept it. They had to assume that the person who wrote for their enlightenment was neither an idiot, a drunk or a liar and that he was doing the best he could to translate

a real event into a view of it that was not hopelessly warped by his opinion.

The craft was not infallible and, of course, journalism in that simpler era did not conform completely to the definition of craft. An editor had to permit the solitary writer to perform his task; the result was then edited and printed. But, by and large, craft it was.

Now, with the advent of radio, television, the weekly newsmagazines and other such marvels of technology that are the conveyers of word about events, journalism's fundamental nature has changed.

The craft is gone. It has been replaced by institutional group endeavors, especially in television. And when you adapt the simplicities of a craft to the complexities of institutions, you court trouble.

You court trouble, simply, because groups of people think in less flexible ways than individuals. Because of the natural tensions and disagreements within groups, the tendancy is to set fixed definitions of the group's function for the convenience of those who labor at the function within the group itself. Everybody, in other words, comes to a point where they do things in the same way so as to co-ordinate the various activities of the function. Originality, imagination and intuition are often the victims.

This is demonstrated as our great craft with its tradition of solitude and subjectivity becomes institutionalized in the new art form of television news.

In looking at two weeks' logs of the three great television news programs—those of A.B.C., N.B.C. and C.B.S.—one finds a remarkably similar pattern in the selection and ranking of each day's events. During two weeks in February each of the news programs contained an average of fifteen stories. Seven out of the first ten were the same on all three programs. Two great newspapers—the New York Times and The Washington Post—were studied over the same two week period. Fifty percent of the events seen by their editors as worthy of inclusion on the front pages of both were the same. Local stories in two cities tended to dissipate the uniformity of the mix. The selection process that went on at the two leading news magazines over the same two weeks showed a similar conformity to the collective definitions of what's news, what's important, what's reality.

There is nothing wrong in that uniformity of judgement by this country's top editors. It simply illustrates the commonality of definitions that inevitably overtakes institutions.

But if looked at from another perspective—from the perspective of the news consumer in general and the television news consumer in particular—the limitations on definitions of what's news, important and reality disturb one. I choose network television news here not because we of the group broadcast trade believe ourselves to be beyond journalistic sin—God knows, and so do we, that that is not true. One mentions network news here simply because it is the American public's most important single source of information. Some fifty million people sit down every evening as light leaves our landscape and look into that delphic square for a reveiw of mankind's passage since the previous evening.

And it is our definition of what, in that passage, is most important, that worries me. I think we've got trouble.

We've got trouble with our definition of news . . . which is another way of saying that we've got trouble with our concept of what's important to the lives of our fellow citizens. We've also got trouble with our vision of what's real.

For one thing, we seem to confuse events and facts. This is evident not only in television news, but in most modern news judgments. An event takes place—something involving violence or governments, or something that is a new chapter of a previous happening or something involving someone of great power, fame or celebration. The event triggers us to action. We gather what facts we can about the event, but the event is, to our way of thinking, a fact in itself.

The peril in that assumption is obvious; non-events—facts with no event connected to them—become non-news. For example, an event occurred long ago, in the early and middle nineteen fifties. New drugs that were the spin-off from the development of histamines became a critical factor in the treatment of schizophrenia. The advent of the new drugs was duly noted in the specialized journals available to, but unbought by, the general public. It was noted in those newspapers and magazines which venture into specialization and do a laudable job of popularizing. Today, the success of the new drug treatment for schizophrenia is more and more manifest. Yet no single contemporary event draws that historic fact to the notice of journalism; no action provides us with a take-off point from which to tell the public the important news that schizophrenia, which will strike one out of every one hundred Americans sometimes during his lifetime, is now far more susceptible to cure than it used to be. That is a fact. But because of its lack of a catalytic event, it is a fact that is largely unknown to the general public because those of us in broadcasting especially, have too narrow a definition of news, importance and reality—and because we confuse events with facts.

There is another peril in the confusion of events and facts; an event can turn a bit of trivia into a fact when it really does not warrant such category—or at least not the category of important fact. There is a relief to our lives—of sorts anyway—in gossip. It is good entertainment, it is psyche-soothing, it helps us to feel that the humdrum of our own lives is morally superior to the lives of those celebrated folk who fall off bridges, take lovers publicly, sue each other in court or hold dinner parties for their pet alligators. Yet the importance of whether Mr. and Mrs. Richard Burton are living with each other this week or whether they are living with other parties—is limited. The Burtons, however, are an event, a continuous one. Being an event, they become important facts. A dubious proposition.

The second problem with the way we think about news, importance and reality is that we confuse facts with truth. Truth—that elusive condition of mind and being which, for centuries, has fled just out of reach of the panting ranks of lawyers, philosophers, journalists and other people who spend their time messing around with absolute—is often more than a collection of facts. Truth is sometimes less than a sum of facts. And occasionally facts are missing altogether from the anatomy of truth. It is true—because our tradition holds it to be true—that selflessness is a virtue. The chronicle of our species recounts innumerable, factual examples of that truth. But there are absolutely no facts to add up to the truth itself.

We persist, nonetheless, in believing that facts and truth are, somehow, the same thing. And that gets us into even more trouble . . . including our tendancy to create truths out of the facts that we gather in the pursuit of journalism. How many of us have sat in courtrooms or stood outside in the corridors swearing to each other that that creature in the dock is guilty because the following eighteen facts prove it? And how many times have we, subsequently, watched the jury come in and announce that creature's innocence? A jury's decision is the law's way of proclaiming a truth. Hence, by announcing the defendant's innocence, the jury makes him innocent. The truth that the rest of us had been operating on goes marching backward off a cliff of our own making and we are left with a handful of useless facts.

The only reason for afflicting you with this tiresome bit of metophysic is to suggest that we don't really define news, importance and reality in a very satisfactory way. We report events. We assemble facts. But in doing that we sharply limit the world's vision of what may be true, or what may be possible.

Let us, once again, approach this equation about news from its consuming end. Let us ask that question—it is really a series of questions—which may illuminate the trouble with contemporary journalism's answer; what is important to people's lives? What is important to most people's lives? What is important to all people's lives?

Well, the last question is the key one. Very few things are important to all lives everywhere, but death is surely one of them. Let us, for a moment, examine, journalism's treatment of death.

What do we convey to our fellow diers about that eternal conundrum which hangs as a supreme qualification over our mortal assumptions? Well, we talk about kidney and heart transplants, super drugs, pills, lotions, arcs of the surgeon's knife and other wondrous replacements of dead organs with live ones. In ritual duty we employ medical reporters and commentators who invest their days in the pursuit of that which medicine and the chemical arts can do to prolong life and banish its pain. We engage our audiences in the moral problems of physical death, televising news stories about hospitals which permit hopelessly flawed infants to die, about the profound dilemma of whether or when to cut off life support for the irredeemably maimed. But our threnody as we address man's universal dilemma, is limited to the problem of physical death, of the staving-off, of the possibility of adding a few years to life when death is, after all, inevitable. These are facts and we report them. But we do not ask the broader questions; is the cessation of the body really death? Must we die? Indeed, do we die?

Man has always wondered. From that first primate to raise its head from the gravel of Leakey's pit in east-central Africa and feel the wondrous stirrings of that divine sense of "I am" which distinguishes us from all else that lives—from that first articulation of self until this evening of April 25, 1974, the question has proceeded with the wonder at life itself; must I die? Is death what our distinguished colleague Cy Sulzberger of the New York Times called him—our brother? Is he an inseperable part of ourselves? That's another way of asking whether our physical and provable selves are all of ourselves.

The supreme question.

But, I suspect, journalism is too embarassed to ask it. Or, perhaps, we consider it beyond us, or a question too frivolous in its abstraction to be raised in the general flow of really important events—Watergate, scandal, wars and the partings and re-arrivings of Mr. and Mrs. Burton. Besides, we tell ourselves, nobody has any facts.

Until recently, as western civilization reckons its time, death was considered a two-fold matter. It had to do with the body, yes. But it also had to do with elements of ourselves, time and space that were insusceptible to proof or precise definition . . . the spirit, or dimensions beyond the familiar world. Journalism doesn't venture into such realms comfortably. They violate the standard procedures of the scientific method.

Yet science, in this, is way ahead of us. Ten years ago there were only two reputable educational institutions conducting systematic studies of that vast panorama of the inexplicable known as parapsychology. Today there are over ninety of them, some pursuing their inquiries with the assistance of federal grants.

In contrast to that gesture of serious intent on the part of science, that investment in the possible as reality, look at the treatment rendered the subject of psychic phenomenon, parapsychology or whatever you want to call it in a cover story put out by one of the important news magazines recently.

Reporters were marshalled and rushed out in search of what's going on. Editors rolled up their sleeves, the date came gushing in, the rewrite men pounded their r achines and then, suddenly, it seems, the magazine fell into a fit of embarassment. What the hell, it seemed to be asking itself, am I doing bothering with this stuff? It does not conform to my definition of what's real. The cover story that was finally produced dealt largely with the considerable amount of fakery and foolishness that is a part of the serious pursuit of parapsychological explanation. It was as if news magazine, seventy years ago, had started out to do a piece on the theories and experiments of those two bicycle mechanics from Ohio named Orville and Wilbur Wright and ended up publishing one hundred and eleven reasons why their damned machine would never get off the ground.

Obviously, the story was written that way because parapsychology at the moment is richer in possibilities than facts. Possibilities—however important they may be to the lives of people to whom we speak—are, by our habits of thought, relegated to the basement of journalism.

Perhaps the sleep labs are better examples of the real which we consider unreal. At universities in Scotland and the United States—indeed, in a Brooklyn hospital not five miles from where we sit tonight—science is hovering on the threshold of the last total wilderness accessible to man's redeeming curiosity—the inner terrain of his own mind. Unlike space, the terra of the human unconscious is really incognito. There are no maps. Unlike space which became a fact that enthralled us through a series of events starting with the Russian sputnik, the deep probe of man's unconscious with the tools and measuring devices of hard science has no events to proclaim its significance. To date there are also few facts which explain what goes on there.

And yet each of our lives is driven, shaped, and made wretched or glad by what happens in that unknown country. These olympic achievements of the human intellect which we reverse as culture, invention and artistry have their origins in that shadowed world. And now science—investigative science, not the speculations of Freuds, Jungs and Adlers—begins its voyage into that mysterious neighborhood of the human structure. In laboratories where it is forever night, where human minds busy themselves with the epic journey through the chartless landscape of sleep—science watches, records and, from its evidence, raises further questions.

The questions themselves postulate excitement and hope for every human life; they may even promise that further freedom which is better understanding of the self. Science now asks—is there something out there, something beyond the ken of our concious lives and intellects, which only the sleeper, unshackled as he is from the rhythm of the upper world, can perceive? Who dreams my dreams? What do I really say to myself when I close down the tyranny of my days and speak, asleep, in the timeless certitudes of archetype, myth and legend—those holistic jottings with which man has always mapped his true voyages and wanderings? Wha+ is that enigmatic gift which thunders in my unconscious, creating truth and realization which seem to come from nowhere? We call it intuition, but we don't know what it is. The facts of its creations lie before us—the volcano of Beethoven's torrential genius, the fact that Joann Sebastian Bach really was, in his exaltations, a witness to the miracle of Christ; the cosmic sanity of "King Lear" which erupted from so deep a level of Shakespeare's mind that it is entirely possible that he, himself, did not understand it.

All of that now lies before the possibilities of science. The possibilities themselves stagger the imagination and may wrench human experience around onto a new direction.

Not a bad news story—if news, importance and reality are better defined in terms of what's critical to human lives.

My argument is this: magic is abroad in the late twentieth century world—if magic is the doing of what we could not, heretofore, do, of knowing what was, before, unknown. There is magic in science, in the new revelations of art. Above all, the most daring of intellects are now, as never before, releasing themselves from the rigid and pristine proprieties of thought and ways of thinking. Truths which can assist us all in the entry upon a new renaissance of individual and social being swirl from the dust of this ancient world as our time treads the roads that man has always walked. In our stumblings there may be actual progress toward a new civility; the laboratories which create the immense possibilities of megadeath, also seek those new dimensions of our reality which will make for megalife. In terms of our new self-knowldege, the old question of who watches as the sparrow falls takes on a fresh validity.

We do not report much of the coming renaissance because of the skepticism which naturally rises from our fidelity to the scientific method. That is not to say that what we do report is not news, importance and reality. It is. And we report it well. But it is only a limited portion of what's going on, of what's important to the lives and visions to which we speak. In our confusion of events with facts and facts with truth we limit ourselves and, as a consequence, we limit our fellow citizens who, as the evening closes down the day, turn on the television set to get a reckoning of where we are now.

We really must liberate ourselves from the tyranny of events, from the thralldom of facts. Use events, base reportage on facts, yes, by all means. But use more. Look farther. Open the mind to possibility as news, to uneventful importance.

We must be arrogant enough to say, "There are things which are of vast importance to our lives. I cannot demonstrate them. But they may be true." Had other craftsmen not done that, we would never have known of the wondrous life that our brothers in time lived outside the caves of Lescaux, of how the hope and rage so familiar in the world's affairs are not all that new because they were seen long ago in the Peloponnesian war; of how man himself is the sum of the possibilities and damnation that wrapped the lives of the Brothers Karamazov. All of those beings and things are really parts of what we are now, of where the world is now. They were created to instruct us and to make us wonder because three great craftsmen who were better journalists than most of us may ever hope to be, set them down in great love that we might know of great events.

Henry Adams, who had the annoying habit of speaking of himself in the third person, wrote this of his obsession: "He graduated from Harvard College and spent the rest of his life in search of an education."

We laugh at that, it mocks the attempt to formalize the adventure of learning. But, as a prescription to our calling, there's something in it. None of us is really fit for that calling unless, upon graduation from Harvard, this esteemed institution or anywhere else, he spends the rest of his life in search of an education, in attuning himself to as much of the reality around us as his mind can absorb.

The true sum of human affairs is everything that takes place within human affairs. Since we propose ourselves as the relaters of those affairs to the human community, we must endeavor to grasp as much as we can. We cannot encompass it all, but it is more than we now say it is. Watergate, war, international economics, the politics of the City of New York and the fate of the latest kidnap victim are all news, all important, all real.

But out there also, sparrows are falling, dreamers dream and a computer is trying to reduce St. Thomas Aquinas's five demonstrations of God's reality to immutable numbers. If we liberate our minds, pursue our educations until we die and thereby, admit ourselves to a broader range of possibilities within the definitions of news, importance and reality, then we will do what we do better. What we do is to hold a mirror to the world's face and the reflection is broader than we now think.

That broadening is imperative to us if we are to faithfully serve the genius of the excellent profession of journalism.

The oldest cry of all echoes loudly in our dying century.

"Where am I now?" It pleads to know "What's going on?"

That is a statement of the earthly traveller's eternal problem and, as of now, we are not adequate to the reassuring business of offering an answer.

The genius of our calling demands that, in our own enlightenment, we become more adequate.

Because we are almost all that the traveler has.

EXPORT-IMPORT BANK RESPONDS TO CHANGING MARKET CONDITIONS

Mr. PACKWOOD. Mr. President, yesterday the Chairman of the Export-Import Bank, Bill Casey, announced the decision by the Board of Directors of the Bank to place future credit extensions by the Bank on a floating basis.

The proposal essentially will provide that future loans will be made at a rate of between 7 percent and 8½ percent. The Bank's former policy was to extend their portion of the direct credit on a flat 7-percent basis.

Another change that has been operating for the last couple of months has to do with the portion of a transaction that Eximbank will finance directly. Under present policy, the Bank will vary its participation in a transaction between 30 and 45 percent of the cost of American goods being exported. Coupled with this variable participation ratio will be continued urging by the Bank for private financial institutions to furnish credit on their own without an Eximbank credit guarantee.

Each of these factors will vary according to the precise needs of the specific transaction. The Bank's Board of Directors will apply their considerable knowledge and expertise on a case-by-case basis to determine the appropriate mix of interest rate, participation ratio, and term of the credit.

Frankly, Mr. President, I have some reservations as to the wisdom of the Bank's stated policy change. I fear that the increased interest rate, potentially coupled with a declining share of the total financing package, will lead to a substantial reduction in the ability of

American producers to meet the competition they face from foreign producers who receive a much more generous financial support package from their official export credit agencies. Time will tell on that point.

Nevertheless, I am impressed by the Bank's continuing willingness and ability to adapt their policies to reflect changing conditions in the marketplace for goods and credit. It is this flexibility that insures that the Bank will continue to operate in the dynamic and imaginative manner it has in the past.

Above all, I should think that the Bank's action yesterday, coupled with their unblemished record of the past, should be sufficient proof to dissuade critics from sponsoring legislation or amendments to legislation that would rob the Bank of the badly needed flexibility they presently have. To do so will result inevitably in the development of a moribund, unimaginative, stick-in-the-mud agency of which we frankly have entirely too many in the Federal Establishment today.

As the day draws closer when the Senate will be debating legislation to extend and amend the Export-Import Bank Act, I would sincerely urge my colleagues to study the record of the Bank very closely. Upon doing so, I am convinced that they will conclude, as have I, that there are very few agencies in the Federal Government that are more deserving of the continued support of the Congress than is the Export-Import Bank.

I BELIEVE IN AMERICA—BY BISHOP LOUIS E. GELINEAU

Mr. PASTORE. Mr. President, on July 4, 1974—at the town of Bristol's Fourth of July celebration—the Most Reverend Louis E. Gelineau, bishop of the Roman Catholic Diocese of Providence, R.I., delivered the principal speech which I should like to share with all the readers of the CONGRESSIONAL RECORD.

For this reason, I ask unanimous consent that the bishop's address be printed in the RECORD at this point.

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

I BELIEVE IN AMERICA

My dear friends . . . for my theme today, I have chosen the words of a man beloved by men of all faiths for his devotion to the ideals of this great Nation, in war and peace: the late Francis Cardinal Spellman of New York. During the dark days of World War Two, Cardinal Spellman, then Archbishop Spellman of New York wrote an American creed. I would like to share some of his words with you today as we celebrate the birthday of this great Nation:

"I believe in America. In her high destiny under God to stand before the people of the earth as a shining example of unselfish devotion to the ideals that have, under God, made us a great Nation; the Christian ideal of liberty in harmonious unity, 'builded' of respect for God's image in man, and every man's right to life, liberty and happiness. . . . I believe in America. Because I believe in God . . . I am confident of his merciful forgiveness of our national sins and his awareness of our national virtues . . . believing in God's providence, I am confident that this fair land . . . shall never lose its initial consecration to the common fatherhood of God, so that we and our children's children shall live in peace and harmony among ourselves and with our neighbors. . . ."

"Blessed is the nation whose God is the Lord" . . . thus the Bible tells us. Our great Nation was founded by people who sought to have the freedom to worship God as they wished. Our very purpose of national existence is set forth in the Pledge of Allegiance as "one nation under God". To be sure, this country has always sought to maintain a separation of institutional church and government of the secular society.

This separation has, no doubt, been healthy for all concerned. But yet, today, we are faced with a time of change, an age of uncertainty, distrust, and apathy in our Nation. At a time when, on the one hand, we should rejoice that the glimmer of peace has been seen in other lands, so long torn by the ravages of war, we see our own country beset by sinister growths of deceit, a slow cancer which eats away at our faith in government and its chosen administrators.

The forces of evil are portrayed daily in the mass media: kidnapping, extortion, political wrongdoing, the loss of moral values in general. Are we still, then, a nation under God.

As we pause today to remember those fearless men who rose up against tyranny to set forth the principles of democratic freedom, we must ask ourselves, "Have we lived up to their dream?" "How have we as Americans treated the heritage left us by our forefathers who, in the interest of liberty and justice, formed the American Nation?"

Sadly, for many of us, the traditional concepts of those early days are gone. The refuge we once found in family and other community relationships is a fading concept.

The technology of our urbanized society, with mass transit and instantaneous communications, have changed the scope of our lives beyond our control. Many of the old ethics and values held so dear are threatened by new ones. It seems, today that everyone wants to "do his or her own thing."

In other words, self expression and individualism at all costs: at the expense of the familiar disciplines of family, school, church and community.

Perhaps the basic ethic of the "new morality" is that the individual owes little or nothing to either traditional authority or values. Rather, one's only obligation is to his or her own desires.

For example, I call your attention to a recent story in the press about the flourishing new business of producing college theses and term papers, available for sale to the thousands of students who practice cheating.

Wholesale cheating in college examinations has left many schools to the abandonment of any pretense of an honor system. And what of the lessening of sexual values on the part of many young people today? Perhaps the greatest threat of all is the lessening of the value of the family unit, mother and father, husband and wife, parent and child.

The concept of the home, held for centuries as the most sacred of all human relationships, is threatened so very seriously today.

Equally dangerous is the tendency of so many of us to sit by the side of the road and heap self-criticism upon our Nation, its leaders and our way of life. Many would say: "Religion is irrelevant" . . . "Democracy is a sham" . . . "America is materialistic, racist, and selfish." There is nothing wrong, of course with criticism, provided it is well directed and well balanced.

It may be, however, that in our concern for the present and its problems . . . the uncertain peace in the Middle East, inflation, Watergate, and so on . . . that we are losing a proper perspective of history.

This is not the first time that our Nation has been beset by problems which, at first glance, seem to be insurmountable. Through the mirror of history, we can see "how far we have to go," balanced against the satisfaction of seeing "how far we have come" along the path of human struggle and progress.

But one thing stands above all: Our forefathers have given us a faith: A faith in the concept of a form of government and free enterprise which has made this Nation the envy of so many other nations in the world.

Strong men have given their lives, made great sacrifices, to bring us to this point in time. Their heritage of freedom under God is passed down to us today with a duty and obligation to see that our Nation continues to grow and prosper, not so much in terms of wealth, but in terms of moral strength and ideals.

This concept of freedom under God cannot survive as a mere intellectual expression. We must seek to rediscover the faith of our fathers: A dynamic and witnessing faith in God, His justice, His wisdom and His love, which is imperative, not only for our time, but for all ages. Freedom under God is not permanently secured. It is maintained only with great personal responsibility and dedication. It is only one generation away from extinction at all times.

It must be won, understood, guarded and enriched in each age. We must renew our confidence in our values of America, and we must put this confidence to work to destroy the creeping apathy which would devour us.

We must do battle with those forces which, if unchecked, would bring this Nation to ruin. Do power groups have vested interests in our Government? Is our crime rate too high, our moral value too low? In our zeal to protect the rights of the accused, have we compromised the rights of the innocent? These are the issues to which we must address ourselves in the light of God's mercy, and wisdom. We must seek his guidance in their solution. But we must not expect that he will lead us.

His guidance and love will be there, as it has always been, but it is up to us to rekindle the fires of faith and hope that are so sorely needed today. There are those who say that this country is headed down the road to ruin. That is not the case. We have in our hands the power to shape history, and shape it we *must*, into a spirit which will turn the apathy of today into the strength and vitality of a society which embodies pride in Government, trust in one's fellows, and most of all, hope in God.

How shall we overturn those seeds of indifference? By getting involved. Getting involved in a movement of decency, honor and character, directed against those forces which have turned against our Nation's heritage.

Voice your determination to others. Let them know what you stand for. The basic will is still burning beneath the surface of our tarnished society. Thoughtful people will come forward. The late President Harry S. Truman once said, "We must hold fast to our heritage as free men. We must renew our confidence in one another, our tolerance, our sense of being neighbors; fellow citizens, our ultimate strength lies not alone in arms, but in the sense of moral values and moral truths that give meaning and vitality to the purposes of free people. These values are our strength, and our indomitable determination."

Yes, my dear friends, if we are to keep America as the country we have loved and cherished, we must work as one people. Work, not for the material pleasures which we all enjoy, to be sure; but work for a spirit of unity and faith, a spirit of community, a spirit of love.

If we are to foster a renewed sense of freedom under God, then we must couple this sense of freedom with a strong sense of religious faith. A strong faith will serve to remove the spirit of apathy and timidity with which we view the world around us. A strong faith in God will transform us from a mood of indifference into a life of active conviction.

Let us seek within this life to foster social justice for all men, enlarge the hopes of our youth, dissolve fear, and seek to develop the untapped resources of our democracy with a faith in those concepts which freedom was fought for and founded in America.

With a unity of purpose and a renewed faith in God, we can eradicate the forces of self-interest, materialism, and faithlessness from our Government, our communities, our daily business life, and our families, and in short, whenever and wherever we detect the influences of those forces of evil.

Here in Rhode Island we are at the edge of new developments which, we hope, will bring new prosperity and security to our State. Rhode Island has been traditionally a place of religious and political freedom. Our fathers gave us much in terms of heritage and values which we may execute today in search of a better world, a more stable society.

Let us seek to emulate those courageous men and women who walked so long ago upon the ground on which we stand today. May their courage stand as an inspiration for us in the future as we seek to revitalize our American spirit, to renew our heritage as "one Nation under God, indivisible with liberty and justice for all." With pride in the accomplishments of the past, with determination to correct our failings, and with hope for a bright future, each of us can take part in this Nation's birthday, as the Nation today might say: "I am the Nation".

I was born on July 4, 1776, and the Declaration of Independence is my birth certificate. The bloodlines of the world run in my veins, because I offered freedom to the oppressed. I am many things, and many people. I am the Nation.

I am over 250 million living souls and the ghost of millions who have lived and died for me.

I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard round the world. I am Washington, Jefferson and Patrick Henry. I am John Paul Jones, the Green Mountain Boys and Davy Crockett. I am Lee and Grant and Abe Lincoln.

I remember the Alamo, the "Maine" and Pearl Harbor. When freedom called, I answered and stayed until it was over, over there. I left my heroic dead in Flanders Fields, on the Rock at Corregidor, on the bleak slopes of Korea and in the steaming jungle of Vietnam.

I am the Brooklyn Bridge, the wheat fields of Kansas and the granite hills of Vermont. I am the coalfields of the Virginias and Pennsylvania, the fertile lands of the West, the Golden Gate and the Grand Canyon. I am Independence Hall, the "Monitor" and the "Merrimac."

I am big. I sprawl from the Atlantic to the Pacific . . . My arms reach out to embrace Alaska and Hawaii . . . 3 million square miles throbbing with industry. I am more than 5 million farms. I am forest, field, mountain and desert. I am quiet villages . . . and cities that never sleep.

You can look at me and see Ben Franklin walking down the streets of Philadelphia with his breadloaf under his arm. You can see Betsy Ross with her needle. You can see the lights of Christmas, and hear the strains of "Auld Lang Syne" as the calendar turns.

I am Babe Ruth and the World Series. I am 13,000 schools and colleges; and 320,000 churches where my people worship God as they think best. I am a ballot dropped in a box, the roar of a crowd in a stadium and the voice of a choir in a cathedral. I am an editorial in a newspaper and a letter to a Congressman.

I am Eli Whitney and Stephen Foster. I am Tom Edison, Albert Einstein and Billy Graham. I am Horace Greeley, Will Rogers and the Wright brothers. I am George Washington Carver, Daniel Webster and Jonas Salk.

I am Longfellow, Harriet Beecher Stowe, Walt Whitman and Thomas Paine.

Yes, I am the Nation and these are the things that I am. I was conceived in freedom and, God willing, in freedom I will spend the rest of my days.

May I possess always the integrity, the courage and the strength to keep myself unshackled, to remain a citadel of freedom and a beacon of hope to the world.

This is my wish, my goal, my prayer in this year of 1974 . . . one hundred and ninety-eight years after I was born.

CAPTIVE NATIONS WEEK

Mr. BUCKLEY. Mr. President, since Public Law 86–90 was passed in 1959, the third week in July has been set aside as Captive Nations Weeks, dedicated to the commemoration of the fate of the millions of people denied basic human rights by Communist oppression. It so happens that this year the Government of the United States can help to alleviate the suffering of those in Eastern Europe who are now under Communist control.

The 35-nation Conference of Security and Cooperation in Europe, which opened in Helsinki nearly 1½ years ago, presents a unique opportunity for our Nation to help the captive nations.

The difficult—but basic—question confronting the 35 nations at the conference is this: Is it possible to establish a permanent structure for long-term cooperation and security among the nations of Europe without at the same time agreeing to the principle of self-determination for the peoples of Eastern Europe? In short, has not the time come for a candid and full discussion of the fate of the Captive Nations?

The Western nations, including our own, have agreed in principle that freedom of information and a free exchange of views are absolutely necessary to any lasting policy of security in Europe. It is at this point we come upon what might be called the chicken-and-egg problem: does freedom of information come about only from a previous lifting of political repression, or does the lifting of such repression come as a result of an evolutionary process begun by increased freedom of information? There are solid arguments on both sides. One thing, however, is clear: freedom of information and political freedom are directly and irrevocably linked. You cannot demand one without implicitly accepting the inevitability of the other. Perhaps at this point it might be useful to introduce into the RECORD remarks made by Western foreign ministers at the Helsinki talks held 1 year ago. To list only a few:

France's Foreign Minister Jobert stated:

> We believe that peace is achieved by the exchange of ideas and goods, by free circulation movement of individuals, as well as by their free self-determination.

British Foreign Secretary Douglas Home said:

> If our Conference is to be about people, and about trust, then it is essential that we should do something to remove the barriers which inhibit the movement of people, the exchange of information and ideas.

V'est Germany's Foreign Minister Scheel said:

> Who does not observe everywhere in Europe today the urge for more contacts, more information, more meetings? People wish to partake at long last in their daily lives of the fruits of detente, to feel these fruits with their hands. . . . We must make it clear that detente implies an improvement in human contacts. The inviolability of frontiers only assumes its full meaning if frontiers do not disrupt natural ties, and if it is possible to maintain and establish contacts across frontiers.

The then-Secretary of State William Rogers stated at that time:

> Of paramount importance (are) . . . human contacts, the freer dissemination of information and the broadening of cultural and educational cooperation. . . .

Mr. President, there is an aphorism that states a logical truth: he who says "A" must say "B." Anyone who states that freedom of information and the free exchange of ideas are necessary to security must logically conclude that such freedom is linked to an even more basic freedom: the freedom of self-determination of the peoples and the nations of Eastern Europe. Inexorably, the idea of freedom for the Captive Nations has become not merely a desirable idea but a realistic necessity for world peace and security.

When we discover that all of the Western nations have stated, through their foreign ministers, that freedom of information is absolutely necessary to avoid war—then the time has come to face the fact that such freedom—and thus the safety of hundredss of mililons of human beings—depends upon acceptance of the universally recognized right of each nation to choose its own path, to determine its own goals, and to exchange its own ideas and information—not the ideological dogmas of the group who happens to be holding power—with other nations.

The time has come, in short, to recognize the inescapable logic of the Western position as demonstrated in the Helsinki talks. There can be no security without freedom of information and ideas. There can be no freedom of information and ideas without a lifting of the internal repression in the captive nations. There can be no lifting of the internal repression without an acknowledgment on the part of all the signatories of the Helsinki talks that self-determination is a legitimate and necessary goal.

Mr. President, we in the West have, in effect, said "A." The time has come, I believe, to say "B." I therefore propose that in the Conference of Security and Cooperation in Europe, our own Nation lead the way in making it clear to the Soviet Union that there can be no true détente, no real security unless the issue of self-determination for the captive nations is frankly, fully, and

openly discussed as a legitimate concern of the conferees. The people of the captive nations and the security of the world deserve no less.

ALBERTA KING—A TRIBUTE

Mr. CRANSTON. Mr. President, in the past I believe most of us thought of Alberta King simply as the mother of one of our greatest champions of civil rights, Martin Luther King, Jr. Now, when her tragic death focuses our tardy thoughts on Alberta King, the woman, we realize the impact that her life of quiet inspiration had on her son, her husband, and the entire civil rights movement.

Martin Luther King, Jr., was—in his own terms—a drum major for justice, for peace, and for righteousness. But the orchestration which inspired him during those hard, weary years came from a deeper source, to whom his mother was a devoted witness.

There can be no greater sorrow in the life of any parent than to bury his or her child. At the time of Martin Luther King's death, I am sure Alberta King reflected upon her son's accomplishments, goals, and dreams for a world of peaceful coexistence. For Alberta King, her son was gone. But the work to which he devoted his life remained to be completed.

The highest human instincts have a life of their own—a momentum beyond physical laws which the faith of Alberta King exemplified. As Dag Hammarskjold so poignantly expressed:

Keep alive the incentive to push on further, that pain in the soul which drives us beyond ourselves.

Now Alberta King is gone. Dr. Martin Luther King, Sr., is left to preach about love, peace, and brotherhood in the Ebenezer Baptist Church. And the cause lives on. None of us should rest until we have achieved those goals for which mother and son labored so passionately.

THE DEATH OF DEL WEBB

Mr. FANNIN. Mr. President, Arizona and America lost a great citizen in the passing of Del E. Webb.

Del Webb was one of the most remarkable men I have had the good fortune to know.

Beginning as a carpenter in Phoenix in 1928, Del Webb built one of the Nation's largest construction companies. His life was affirmation that the American dream can and does come true, that hard work, dedication, and perseverance do have awesome rewards.

His secret of success was simple: he observed the needs of the people in Arizona and around our country, and he provided the product to meet these needs. He provided the homes, the offices, and other facilities which are necessary for the people.

Even in his affiliation with organized baseball he gave our Nation what we needed: an enormously successful team to respect and admire. It is not surprising to those of us who knew him that Del Webb was a principal owner of the New York Yankees during the postwar period when that team was at the pinnacle.

Mr. President, Del Webb has passed on but there are many monuments to him across this country. Last week the Arizona Republic and the Phoenix Gazette had editorials paying tribute to this great man, and I ask that these editorials be printed in the RECORD.

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

[From the Arizona Republic, July 5, 1974]

THE DEL WEBB STORY

Del Webb, who died yesterday at the age of 75, was a man who walked with kings but never lost the common touch. His biography in "Who's Who in the West" reports that he was a carpenter in Fresno from 1917 to 1926 and in Phoenix during 1927 and 1928. Not many tycoons are likely to recall such humble beginnings.

Webb also was proud of the fact that he played professional baseball to augment his income from 1916 through 1926. After a stay in the hospital he combined the technical skill of a carpenter with the competitive drive of a baseball player and went into business as a building contractor. The rest is history.

He built great resort hotels, planned and constructed fine office buildings, was part owner of the New York Yankees baseball team, erected employe housing at the Houston space center. His company became a multimillion-dollar corporation, listed in the New York Stock Exchange.

But nothing in his career, he told the Phoenix Rotary Club in 1973, gave him more satisfaction than creating the retirement community of Sun City.

"When residents who have come to Sun City tell me how happy they are to live there, to play golf and to enjoy the Arizona sunshine, it makes me feel good," he said.

Now boasting a population of 30,000, Sun City may well provide a "new way of life" for 100,000 retirees in the decades ahead. The current investment in Sun City totals $500 million, and the spendable income of Sun Citians is estimated at $175 million a year. The benefits to Arizona's economy are obvious.

Del Webb was a personal friend of President Franklin D. Roosevelt and hobnobbed with business magnates, governors and members of Congress. He knew scores of prominent athletes. He was a Democratic Party member, who took a keen interest in politics.

But his main interest was in people. Whether they lived in the White House, spent their time on a baseball diamond, or bought his houses in Sun City wasn't really important. What they thought and how they reacted was important to Webb.

The Del Webb Corp. has had its ups and downs. Once Webb was asked to contribute to a local museum.

"Last year we were on our backs," he answered. "This year we are on our knees. Next year we will be on our feet. Come and see me then."

The solicitor returned a year later and received a substantial contribution from a man who knew a city needs museums and schools and hospitals as well as hotels and apartment houses and office buildings. It is to his credit that Del Webb helped Phoenix acquire both.

DEL E. WEBB BUILDING GIANT

"I just apply baseball to business and it works."

That was the explanation once given by Del E. Webb for his remarkable success as a builder and entrepreneur.

Considering that Webb, who died July 4, quit school at 16 to work as a carpenter and to play semi-professional ball on weekends, his testimony to the value of team sport experience is an impressive one.

But, of course, there is more to the Webb success story than that.

For one thing, Webb caught the wave of Arizona's phenomenal growth and made the most of it. At the age of 25, after an injury and illness forced him to give up baseball, he moved to Phoenix and got a job as a carpenter with a small contractor.

The contractor left Webb in the lurch. Webb took over completing construction of a small grocery store and thus, in 1928, was founded the Del E. Webb Construction Co., today one of the nation's largest construction firms.

His interest in baseball and golf, along with his farflung business activities, made Webb a national and even international business figure.

As far as Arizona is concerned, Webb's renown is centered mainly on his development of Sun City, the community for "lively adult living" now numbering about 32,000 residents and destined to grow to more than 50,000.

With the creation of Sun City, Webb set a pattern and an image for Arizona as a people-magnet state, drawing new residents from far and wide.

Arizona's great growth hasn't just happened by accident. It has been in large measure the result of vigorous promotion of the area as a wonderful place to live, and a great share of that promotion must be attributed to the modern pioneering efforts of this building giant.

In accordance with his instructions, Webb's ashes are to be spread over Arizona. They will not begin to make the impact, even symbolically, that the legacy of Webb's economic and social contributions will continue to make on Arizona for years to come.

THE DEATH OF FORMER SENATOR ERNEST GRUENING

Mr. KENNEDY. Mr. President, it was with great sadness that I learned just before the recess, of the death of my dear friend and former colleague, Ernest Henry Gruening. Although the disease of cancer finally ended Ernest Gruening's vigorous life, he exemplified until the very end the lines of Dylan Thomas he loved so much:

Do not go gentle into that good night,
Old age should burn and rave at close of day,
Rage, rage against the dying of the light.

However it was throughout his dynamic and forceful life, not just at the end, that he raged. The quality I admired most about Ernest Gruening was his spirit of genuine enthusiasm, loyal dedication, and personal involvement in every principle he fought for and every matter he dealt with since the beginning of his career as a reporter for the Boston Herald.

As I think back on all of his achievements here in the Senate, it strikes me how much ahead of his time he was. Although the social mores and values of our country have undergone a change, there was a time when it was not in vogue to support social justice and the rights of minorities; or to attack large private power interests; or to pursue the cause of population control and the rights of women; or to oppose the war in Vietnam. Yet, Ernest Gruening, some-

times without the aid of one other Senator, fought for the causes in which he believed. He symbolizes the man Thoreau spoke of when he said:

If a man does not keep pace with his companions, perhaps it is because he hears a different drummer. Let him step to the music he hears, however measured or far away.

And the music to which Ernest Gruening stepped was the wisdom and knowledge a few years would bring.

Ernest Henry Gruening was a man of principles. On March 10, 1964, in protest against the U.S. intervention in Vietnam, he declared:

I consider the life of one American boy worth more than this putrid mess. I consider every additional life that is sacrificed in this forlorn venture a tragedy. Someday—not distant—if this sacrificing continues, it will be denounced as a crime.

In the next few years, Senator Gruening's prescience was vindicated as more and more Americans began to comprehend the horrible reality of the war.

During his passionate liaison with Alaska, Ernest Gruening led the fight for her statehood. He was instrumental in the expansion of air transportation in and throughout Alaska, and also in the development of the Alcan Highway. As one of her first two Senators, Ernest Gruening demonstrated his captivation with Alaska by vigorously supporting every endeavor that would strengthen and advance his beloved adopted State.

Since the time I first met Ernest Gruening, I have admired and respected him as an able and determined man. He knew what he wanted and he pursued his ideal in a persistent manner. He was never one to lower his standards or to compromise his principles. "For," as Adlai Stevenson once said, "it is often easier to fight for principles than to live up to them." Ernest Henry Gruening embodied both of these abilities. We shall be the poorer without him.

To his wife, Dorothy, and his son, Huntington Sanders, I offer my deepest sympathies.

Mr. President, I ask unanimous consent that the obituary of June 27 and the editorial of June 28 which appeared in the Washington Post, and Senator Gruening's first major Senate speech on the war, of March 10, 1964, may be printed in the RECORD.

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

ERNEST HENRY GRUENING

For its rich variety and vigorous dedication to principle, few careers in American public life compare with that of former Sen. Ernest H. Gruening, the Alaska Democrat who died on Wednesday at the age of 87. He is best remembered for his vigorous advocacy of statehood for Alaska and for his early opposition to American involvement in the war in Indochina. He and former Senator Wayne Morse were twice the sole opponents of crucial Senate action that helped move this nation further into that tragic conflict.

The vigorous and active later years of his life exemplified the lines of Dylan Thomas that he loved so much: "Old age should burn and rave at close of day." Yet they were only the continuation of a career always remarkable for its versatility and for the fidelity it revealed to certain ideas. Born in New York City, Mr. Gruening went on to Harvard with the intention of following the footsteps of his father into medical practice. He finished medical school, but gave up his internship for a chance to become a journalist. He wrote criticism and editorials before becoming, at age 27, managing editor of the Boston Traveler. One of his contributions to American journalism in that job was to change the policy of designating the race of persons in the news. His was one of the first major metropolitan newspapers to take that step. He moved on to The Nation magazine, reported on the Mexican war and eventually became director of the new Division of Territories and Island Possessions in 1935.

That was the beginning of his love affair with Alaska, to the development of which he made incalculable contributions. As the appointed governor, he was instrumental in the development of the Alcan Highway, and he ran afoul of the absentee exploiters of Alaska's resources by subjecting them to taxation.

He worked for statehood after the Alaskans elected him as unofficial "senator," a capacity in which he lobbied vigorously. When that battle was finally won in 1958, he went home and was elected one of Alaska's first two senators. He worked for the statehood of Hawaii and was proud of the day the Senate took that vote. It was his opposition to the war in Vietnam that marked the last of his Senate service. He opposed our involvement in the war at every opportunity. His party turned him out in the primary of 1968, but Mr. Gruening continued to speak out on the war, on the need for population control and on the key political issues of the moment. His was a rare, determined and consistent life, full of the spirit that keeps people young at any age.

[From the Washington Post, June 27, 1974]

SENATOR ERNEST GRUENING, FATHER OF ALASKA STATEHOOD

(By Jules Witcover)

Ernest H. Gruening, generally regarded as the father of Alaska statehood, one of its first two U.S. senators and among the earliest and strongest voices raised in the Senate against the Vietnam war, died yesterday evening at 87.

Sen. Gruening died at 6:20 p.m. at Doctors Hospital, where he had been undergoing treatment for cancer.

In a career that started with formal training to be a doctor, Sen. Gruening was in turn a newspaper reporter and editor, magazine editor, foreign correspondent, author, historian, publicist, diplomat, territorial governor and lobbyist before entering the Senate in 1959.

In his two terms, he was one of the Senate's most outspoken liberals, a pioneer in the fields of birth and world population control, and one of its two most steadfast and bitter foes of U.S. intervention in Vietnam.

He was probably best known for his vote, along with fellow Democratic Sen. Wayne Morse of Oregon, against the Gulf of Tonkin resolution of August, 1964, that President Lyndon B. Johnson used as blanket authorization to escalate U.S. involvement in Southeast Asia.

Ten months earlier, in October, 1963, he criticized on the Senate floor the "sheer hypocrisy" of sending 12,000 U.S. troops into Vietnam and calling them "technicians." On March 10, 1964, he made the first major Senate speech calling on the United States to get out of Vietnam. In it, he decried the loss of American lives "in seeking vainly in this remote jungle to shore up self-serving corrupt dynasts or their self-imposed successors," and declared:

"I consider the life of one American boy worth more than this putrid mess. I consider every additional life that is sacrificed in this forlorn venture a tragedy. Some day—not distant—if this sacrificing continues, it will be denounced as a crime."

To the last, Ernest Gruening was an outspoken battler for the causes he espoused and an uncompromising critic of his political foes.

From his bed at Doctors Hospital in early June, he followed the progress of the impeachment inquiry against President Nixon in the daily newspapers and discussed it vigorously and with a sense of outrage with callers. He insisted not only that the President should be impeached, but that he should be convicted of high crimes and misdemeanors, thrown out of office, then prosecuted as a citizen, convicted again and put in jail as an example that American justice still worked.

He embraced and lived the admonition of the Welsh poet, Dylan Thomas, that the elderly not let their lives trickle out meaninglessly and obediently:

"Do not go gentle into that good night,
"Old age should burn and rave at close of day;
"Rage, rage against the dying of the light."

Ernest Henry Gruening raged in his youth, his middle age and at the close of his days in as varied a public career as any man who ever sat in the United States Senate. His colleague and friend, Sen. Hubert H. Humphrey, once called him "the 20th century Benjamin Franklin," but he might have compared him to the versatile Thomas Jefferson as well.

Born in New York City on Feb. 6, 1887, to Emil Gruening, a prominent eye and ear surgeon, and Phebe Fridenberg Gruening, he attended local schools and then Harvard, planning to follow his father into medicine. He received a bachelor of arts degree in 1907 and then entered Harvard medical school.

But a doctor's life did not appeal to him; he was already a young man of broad interests in public affairs, literature and people, and those interests, and some of his friends, pulled him inexorably toward the newspaper business.

His best friend, Earl Derr Biggers, later the author of the Charlie Chan detective stories, was drama critic for the Boston Traveler, and on nights when there was more than one opening, Biggers asked Sen. Gruening to review one for him.

While still attending medical school, Sen. Gruening took a job on the Boston American for $15 a week, giving up an internship at the Boston City Hospital. On his father's advice, he later went back and finished school, receiving his doctor of medicine degree in 1912, but he never practiced—nor regretted not having done so.

In 1913, he joined the Boston Herald as a reporter, rewrite man and copy editor, and a year later, after the Herald was absorbed by the Boston Traveler, became an editorial writer and then the Traveler's managing editor at the age of 27.

His championing of social justice and the rights of minorities was manifested in one of his first directives to the staff. He ordered that identification of individuals by race be dropped unless "it is of particular and special interest and when the story is manifestly incomplete and inaccurate if the color of the person involved is concealed." The Traveler became one of the first metropolitan newspapers in the country to adopt such a policy.

Sen. Gruening also clamped down on a practice of granting favorable theater reviews in return for advertising. Later when he moved to the Boston Journal as managing editor, he successfully fought efforts by major advertisers in the city to control the paper's editorial contents.

When the United States entered World War I in 1917, Sen. Gruening came to Washington to help organize the bureau of im-

ports of the War Trade Board. After a brief time as managing editor of the New York Tribune, he enlisted in the Army, rejecting a medical commission and instead went to field artillery officers' training at Camp Zachary Taylor, Ky., where he was a candidate for an Army commission when the war ended.

Next he became business manager of the Spanish language newspaper La Prensa for a year, helping to convert it from a weekly to a daily, and then in 1920 became managing editor of The Nation, where he recruited such writers as H. L. Mencken, Dorothy Canfield, Sinclair Lewis, Willa Cather and Theodore Dreiser.

At The Nation, Sen. Gruening wrote articles and editorials attacking U.S. military intervention in Haiti, the Dominican Republic and Nicaragua, helping to trigger a Senate investigation in which he was invited and agreed to participate on the scene.

He also wrote articles critical of U.S. policy in Mexico, where 10 years of revolution had brought much foreign exploitation and internal political turmoil.

In 1923, he resigned from the magazine and went to Mexico on a reporting assignment for Collier's Weekly and The Nation. From that experience and extensive reading, he wrote "Mexico and Its Heritage," published in 1928 and called by the New York Herald Tribune "the most vigorous, useful, and comprehensive picture yet made of the complex present-day conditions below the Rio Grande."

In 1963, he received the Order of the Aztec Eagle, the Mexican government's highest decoration, for the book, which the then Mexican ambassador to the United States, Antonio Carrillo Flores, called "the best book written by a non-Mexican about my country."

Meanwhile, Sen. Gruening continued freelance writing, taking time out in 1924 to serve as director of national publicly for the presidential campaign of the progressive candidate, Robert LaFollette of Wisconsin.

In 1927, he helped found and became the first editor of the Portland, Maine, Evening News, and in five years built it into a crusading liberal newspaper. His major battle fought and won there was the blocking of a private power empire's effort to reverse longtime Maine policy and export the state's water power. Later he wrote a book attacking private-power interests, "The Public Pays," published by Vanguard Press in 1931.

In 1933 Senator Gruening returned to the editorship of the The Nation, making regular trips to Washington to report on the New Deal of the new President, Franklin D. Roosevelt. Aware of Sen. Gruening's experience in Latin America, Roosevelt appointed him an adviser to the U.S. delegation at the Seventh Inter-American Conference in Montevideo at which the FDR "Good Neighbor" policy long sought by Sen. Gruening was formulated.

After a brief and contentious tenure as editor of the New York Post, in which he fought with the owner over suppressed stories, Sen. Gruening received a second appointment from FDR, one that was destined to have the greatest impact on his life and on his role in American political affairs. He was named director of a new Division of Territories and Island Possessions in the Department of the Interior, with jurisdiction over Hawaii and a host of small Pacific Islands, Puerto Rico the Virgin Islands and Alaska.

After more than a year of concentrating his attentions on the severe poverty problem in Puerto Rico, Sen. Gruening made his first trip to Alaska in 1936. He became immediately enamored of the place, but was struck by its inaccessibility.

He pioneered in expanding air transportation to and throughout Alaska and in the eventual construction of the Alcan Highway, linking the territory through Canada with the United States, or "the lower 48" as it was called in Alaska.

Throughout his tenure, Sen. Gruening was involved in a running battle with Secretary of the Interior Harold L. Ickes, but in 1939, apparently against Ickes' wishes, Roosevelt appointed him governor of Alaska. He immediately won approval of a new system of taxation that outraged absentee exploiters of the territory's raw materials, particularly the large salmon industry, but helped launch development of improved school and public services.

He successfully waged a campaign against discrimination against native Alaskans in eating places throughout the territory, and throughout World War II oversaw the influx of military and governmental installations that in 1945 provided the base and population for a postwar boom.

Sen. Gruening served nearly 14 years as territorial governor and capped his tenure as leader of the fight for Alaskan statehood. He personally sought to educate editors, members of Congress and fellow governors about the territory's readiness for statehood—its citizens approved a referendum in 1946—and spoke and wrote extensively about Alaska.

In 1954, his book, "The State of Alaska," chronicled the territory's history since its discovery in 1741, and in 1956 the voters of Alaska, to nudge Congress, elected him unofficial "senator" to lobby for statehood in Washington.

Sen. Gruening undertook the assignment with vigor and conviction, bombarding congressmen and senators with statistics and other information about Alaska and arguing that it had great growth potential that needed statehood to realize. He persuaded Edna Ferber to write a novel about Alaska, called "Ice Palace," that later was called by Clifton Fadiman "the Uncle Tom's Cabin for Alaska." In June, 1958, Congress voted statehood.

Two months later, Sen. Gruening was nominated in the Democratic primary to be one of the new state's first two senators, and he won in the fall, beating Republican Mike Stepovich. He was an indefatigable campaigner, as one voter found out when he told the candidate that "I'd sooner vote for the devil."

Sen. Gruening replied, "You know, he'd be a tough guy to beat. But if he decides not to run, do you suppose you could switch to me?"

The voter eyed him for a moment, then said, "Why you SOB, I might vote for you yet."

Even before he entered the Senate, Sen. Gruening had also been a staunch advocate of Hawaiian statehood, and he continued the effort there. He was on the Senate floor in March, 1959, when the Senate voted to make Hawaii the 50th state.

In two terms in the Senate, Sen. Gruening compiled a strong liberal and civil rights voting record, generally aligning himself with Northern Democrats, and was a leader in pressing for expanded federal research into birth control methods, an interest he pursued after he left the Senate.

But it was his outspoken early stand against the war in Vietnam that highlighted his Senate service. He and Morse were the only senators to vote against appropriations bills for Vietnam in 1965, as well as casting their lonely votes against the Gulf of Tonkin resolution.

Sen. Gruening continued his opposition to the war in the Senate until he lost the Democratic primary in 1968 in his bid for a third term, and thereafter as a private citizen. He backed and campaigned for Sen George McGovern (D-S.D.) in the New Hampshire primary of 1972 and later in the general campaign against President Nixon.

In his last years, Sen. Gruening pursued the cause of population control and of the rights of women, testifying on the abortion issue before a Senate subcommittee in 1974. He also appeared on television shows, calling for the impeachment of Mr. Nixon.

In his autobiography, "Many Battles," published in late 1973, Sen. Gruening wrote: "Whatever his part in Watergate, Nixon's undeniable guilt has been his attempted and partly successful subversion of our free society into a police state . . . I intend to devote my remaining years, however few they may be, to exposing this sinister subversion, to alerting my fellow countrymen, and to trying to help restore the America that has been and has served us so well."

Sen. Gruening is survived by his wife, the former Dorothy E. Smith, of the home, 7926 West Beach Dr. NW., and a son, Huntington Sanders Gruening, of Federal Way, Wash. Two other sons, Ernest J. and Peter Brown, are deceased.

THE UNITED STATES SHOULD GET OUT OF VIETNAM

Mr. GRUENING. Mr. President, the mess in Vietnam was inherited by President Johnson.

Over 10 years ago, after a careful study of the situation in Indochina, a report was made to the Senate outlining the following conditions for success in that troubled area of the world:

"The basic problem which confronts all three governments and particularly that of Vietnam is to put down firm roots in their respective populations. They will be able to do so only if they evolve in accord with popular sentiment and they deal competently with such basic problems as illiteracy, public health, excesive population in the deltas, inequities in labor, and land tenure, and village and agricultural improvements. Finally, it is essential that there be a constant rising of the ethical standards of government and a determination to use the armies, now in the process of formation, strictly for national rather than private purposes. Failure in these fundamental responsibilities of self-government will result in the achievement of the shadow rather than the substance of independence. It could also mean the rapid reduction of the three nations to chaos and the subsequent intrusion of some new form of foreign domination from close at hand."

The date of that report was October 27, 1953, over 10 years ago.

The person making the report was our very able and distinguished majority leader, the Senator from Montana [Mr. MANSFIELD], whose knowledge of that area of the world is most extensive. With respect to South Vietnam, the recommendations of the Senator from Montana, were prophetic, but they went unheeded.

History shows that the major causes of the deterioration, not only of the U.S. position, but also of the position of the South Vietnamese governments, have been actions by the South Vietnamese government contrary to the advice offered by the distinguished majority leader 10 years ago.

The war in South Vietnam is not and never has been a U.S. war. It is and must remain a fight to be fought and won by the people of South Vietnam themselves. The will to fight and win must come from the spirit of the South Vietnamese. The United States cannot instill that will in them.

For 14 years now the United States has helped the South Vietnamese with men, money, and material in generous amounts. I ask unanimous consent that there be printed at this point in my remarks a table showing the amounts of aid loaned or granted for this area over the years.

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

U.S. MILITARY AND ECONOMIC AID TO LAOS, CAMBODIA, AND SOUTH VIETNAM, FISCAL YEARS 1954 TO 1963, INCLUSIVE

[In millions of dollars]

Year	Laos	Cambodia	South Vietnam
1954			0.1
1955	40.9	38.2	325.8
1956	76.5	70.8	383.6
1957	48.7	55.3	391.6
1958	36.9	36.1	242.0
1959	32.6	29.6	249.0
1960	55.5	26.0	251.4
1961	64.2	28.1	209.6
1962	64.1	39.9	287.2
1963	36.8	29.2	208.1

Mr. GRUENING. Why have these been unavailing in bringing security to South Vietnam from the Communist-led attacks of the Vietcong? As Sam Castan, Look senior editor, wrote on January 28, 1964:

"But in spite of our noble intent, our massive aid and all the small acts of selfless heroism our men have performed in its behalf, South Vietnam's path to peace is cluttered by the debris of mistakes that America either made or endorsed."

I ask unanimous consent that the entire article by Mr. Castan entitled "Vietnam's Two Wars" be printed in full in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. GRUENING. It is to the past then, rather than to the events of recent days and months, that we must look for the answer to the "why" of the present dilemma of the United States in South Vietnam.

When President Eisenhower took office in January 1953, the war in Indochina was not going well. It was a French war, fought with French troops as well as the troops of Laos, Cambodia, and Vietnam. U.S. military and economic aid had been going to the French in ever-increasing amounts as the drain of maintaining a fighting force of a quarter of a million men and of supporting three Indochinese national armies numbering 120,000 men increased.

In reviewing the situation on January 27, 1953—6 days after taking office—Secretary of State John Foster Dulles stated:

"Now the Soviet Russians are making a drive to get Japan, not only through what they are doing in northern areas of the islands and in Korea, but also through what they are doing in Indochina. If they could get this peninsula of Indochina, Siam, Burma, Malaya, they would have what is called the rice bowl of Asia. That's the area from which the great peoples of Asia, great countries of Asia, such as Japan and India, get in large measure, their food. And you can see that if the Soviet Union had control of the rice bowl of Asia, that would be another weapon which would tend to expand their control into Japan and into India. That is a growing danger and it is not only a bad situation because of the threat in the Asian countries that I refer to but also because the French who are doing much of the fighting there are making great effort and that effort subtracts just that much from the capacity of their building a European army and making the contribution which otherwise they could be expected to make."

In terms of fighting men, France was there as the only major power on the scene because the three countries had been and were French colonies. While they had been given independence in 1949, the independence was with respect to internal affairs only. They were still within the French Union and France had an obligation to them to help fight the Communist-supported internal fighting they faced.

But the long supply lines and the fierce fighting continued to sap French strength.

Then came the tragic events at Dienbienphu in March 1954. The Communists under Ho Chi Minh attacked that fortress in force.

Those were the days of brinkmanship, of massive retaliation and of the domino theory—policies proclaimed by Secretary of State John Foster Dulles.

While the fighting was taking place, Gen. Paul Ely, French chief of staff, flew to Washington to inform the Eisenhower administration that the French could not hold out much longer and needed direct U.S. intervention.

This request precipitated a behind the scenes struggle at the highest levels of Government circles both here in Washington and in London.

While General Ely was still in town, Secretary of State Dulles held a news conference in which he stated that what military aid was given to France was a military matter and that "if there are further requests of that kind that are made, I have no doubt that our military or defense people will attempt to meet them."

I ask unanimous consent that the text of Secretary Dulles' news conference on March 23, 1954, be printed in full in the RECORD, at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. GRUENING. Mr. Fletcher Knebel, well-known Washington correspondent, in an article in Look on February 8, 1955, gave a forceful account of maneuverings in high places in Washington and London in those fateful, early days of 1954 when the United States stood on the brink of an all-out invasion of Vietnam.

According to Mr. Knebel, Adm. Arthur W. Radford, then Chairman of the Joint Chiefs of Staff, advocated an immediate airstrike from carriers; Gen. Matthew B. Ridgway, Army Chief of Staff, was opposed since he believed that such a strike could lead to all-out intervention; Admiral Carney, Chief of Naval Operations, and Gen. Nathan F. Twining, Air Force Chief of Staff, felt that, while an airstrike might help the French at Dienbienphu, more force would be needed to win the fight in Vietnam.

President Eisenhower, according to Knebel, agreed with Admiral Radford on two conditions: That the United States be joined in the action by other allies; namely, Great Britain; and that congressional approval be obtained for the action. Since neither condition could be met, the United States moved back safely from the brink.

I ask unanimous consent that that portion of Mr. Knebel's article dealing with Indochina be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. GRUENING. Dienbienphu fell on May 7, 1954.

At Geneva on July 21, 1954, delegates from Great Britain and the U.S.S.R., France, the United States, Communist China, Cambodia, Laos, Vietnam, and Vietminh came to a settlement to resolve the fighting in Vietnam. The main provisions of the agreement concerning Vietnam were as follows:

First. Vietnam was to be partitioned along the 17th parallel into North and South Vietnam.

Second. Regulations were imposed on foreign military personnel and on increased armaments.

Third. Countrywide elections, leading to the reunification of North and South Vietnam, were to be held by July 20, 1956.

Fourth. An International Control Commission—ICC—was to be established to supervise the implementation of the agreements.

The United States was not a signatory of the agreement, but issued a statement, unilaterally, stating that—

"It (1) will refrain from the threat or the use of force to disturb the Geneva Agreements; (2) would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security," and (3) shall continue to seek to achieve unity through free elections, supervised by the U.N. to insure that they are conducted fairly."

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

Mr. GRUENING. I yield with pleasure.

Mr. MORSE. I may say to the Senator from Alaska that I had planned to sit through every word of his speech. I had expected it would come earlier this afternoon. Unfortunately, I must go to an official conference. I assure the Senator from Alaska that I have read every word of his speech. I would have the RECORD today show that the senior Senator from Oregon thinks this is one of the great speeches in this session of the Congress on foreign policy. I associate myself with every word of the speech.

I am awaiting my Government's answer to it. In my judgment, there is no answer to the Senator's speech. There is no justification for killing a single American boy in South Vietnam. It is about time the American people awakened to what is going on in South Vietnam and recognized that South Vietnam is beyond the perimeter of American defense. There is no justification for murdering a single American boy in South Vietnam, for the issue has now become one of murder.

Everyone knows that if we got into a war with Russia or Red China it would be a nuclear war, not a conventional war. I do not know what we are doing over there with a conventional program.

Furthermore, as the Senator pointed out, where are our alleged allies in South Vietnam? In contrast with South Korea, where are our friends there? So long as we are willing to pay 99 percent of the bill and spill American blood, they will be satisfied.

If my Government wants to make this an issue across the land, I am willing to have it become an issue; but I do not intend to vote for a single dollar for operations in South Vietnam or to give support to the American Secretary of Defense who is bespeaking American foreign policy with no right to do so.

South Vietnam is not worth the life of a single American boy. I say to my administration that I have no intention of giving any support whatsoever to continuing the cost in blood and money for operations in South Vietnam that cannot be justified on the ground of American defense or on any other ground.

The Senator from Alaska has set forth the issue in his speech in terms so unanswerable that the American people have a right to say to the administration, "What is your answer?" I wait for the answer.

Mr. GRUENING. I thank the Senator for his helpful comment.

Within 2 months, on September 8, 1954, the Governments of Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom, and the United States signed a collective security pact at Manila, known as the Southeast Asia Collective Defense Treaty. Laos, Cambodia, and Vietnam were not parties to this treaty, but by a simultaneous protocol to the treaty all the parties to the original treaty agreed to include the territories of those three nations in the territory protected by the treaty from "armed attack and counter subversive activi-

ties directed from without against their territorial integrity and political stability."

The United States made it clear to all the signatories that the type of aggression it considered itself bound to prevent was Communist aggression. As Secretary of State Dulles explained it:

"We stipulated on behalf of the United States, however, that the only armed attack in that area which we would regard as necessarily dangerous to our peace and security would be a Communist armed attack."

In his address to the Nation on September 15, 1954, explaining the action taken at Manila, Secretary Dulles first reiterated his concept of the domino theory of possible events in southeast Asia in the following words:

"Any significant expansion of the Communist world, would, indeed, be a danger to the United States, because international communism thinks in terms of ultimately using its power position against the United States. Therefore, we could honestly say, using the words that President Monroe used in proclaiming his Doctrine, that Communist armed aggression in southeast Asia would, in fact, endanger our peace and security and call for counteraction on our part."

Secretary of State Dulles had explained the domino theory at an earlier news conference on May 11, 1954, in the following words: Asked if the plan for collective security could succeed if one or more of its segments were lost to the Communists, Secretary Dulles replied:

"The situation in that area, as we found it, was that it was subject to the so-called domino theory. You mean that if one went, another would go? We are trying to change it so that would not be the case. That is the whole theory of collective security. You generally have a whole series of countries which can be picked up one by one. That is the whole theory of the North Atlantic Treaty. As the nations come together, then the domino theory, so-called, ceases to apply. And what we are trying to do is create a situation in southeast Asia where the domino situation will not apply. And while I see it has been said that I felt that southeast Asia could be secured even without perhaps Vietnam, Laos, and Cambodia, I do not want for a minute to underestimate the importance of those countries nor do I want for a minute to give the impression that we believe that they are going to be lost or that we have given up trying to prevent their being lost. On the contrary, we recognize that they are extremely important and that the problem of saying southeast Asia is far more difficult if they are lost. But I do not want to give the impression, either, that if events that we could not control and which we do not anticipate should lead to their being lost, that we would consider the whole situation hopeless, and we would give up in despair. We do not give up in despair. Also, we do not give up Vietnam, Laos, or Cambodia."

In his nationwide address on September 15, 1954, on the Southeast Asia Treaty, Secretary of State Dulles also expounded his massive retaliation theories of how to contain communism anywhere in the world, anytime, at the least cost:

"We considered at Manila how to implement the treaty. One possibility was to create a joint military force. However, I explained that the U.S. responsibilities were so vast and so far flung that we believed that we would serve best, not by earmarking forces for particular areas of the Far East, but by developing the deterrent of mobile striking power, plus strategically placed reserves.

"This viewpoint was accepted. Thus, the treaty will not require us to make material changes in our military plans. These plans already call for our maintaining at all times powerful naval and air forces in the Western Pacific capable of striking at any aggressor by means and at places of our choosing. The deterrent power we thus create can protect many, as effectively as it protects one."

I ask unanimous consent that a summary of events in Vietnam from the time of the Geneva agreements as prepared by the Library of Congress be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

Mr. GRUENING. Mr. President, by January 1, 1955, U.S. aid began to flow directly to South Vietnam and on February 12, 1955, a U.S. military assistance advisory group took over the training of the South Vietnamese army. Previously, U.S. aid had been given through France.

In October 1955, the Eisenhower administration picked Ngo Dinh Diem to rule South Vietnam.

There may be some room for disagreement as to whether Diem was a poor choice for the job to begin with or whether, after having come to power, the thirst for more and more power on his part and on the part of his many relatives, whom he placed in high governmental posts, became insatiable.

Seven months before the former emperor, Bao Dai, was deposed on October 23, 1955, in a national referendum in which Diem received 98 percent of the votes, Diem met and greatly impressed Secretary of State Dulles. In a nationwide broadcast on March 8, 1955, Secretary Dulles said:

"I was much impressed by Prime Minister Diem. He is a true patriot, dedicated to independence and to the enjoyment by his people of political and religious freedoms. He now has a program for agricultural reform. If it is effectively executed, it will both assist in the resettlement of the refugees and provide his country with a sounder agricultural system. I am convinced that his Government deserves the support which the United States is giving to help to create an efficient, loyal military force and sounder economic conditions."

Ngo Dinh Diem ruled South Vietnam from October 23, 1955, until the coup of November 2, 1963, deposed him. As the guerrilla fighting intensified through the years, so did the mismanagement and corruption of the Diem government. It became increasingly oppressive, trampling the rights of individuals and ignoring the necessity for economic reforms to benefit the people.

There is no room for disagreement concerning the fact that the United States condoned or ignored actions by Diem and his ruling relatives calculated to antagonize the people on whose support any stable South Vietnamese Government must rest—or fall.

As Jerry A. Rose stated in the New Republic on October 12, 1963:

"For some reason, diplomats, soldiers in the field, and politicians in Washington are unable to grasp the importance of the people. While forever raising wet fingers to the wind of public opinion in the United States, the policymakers appear to operate on the belief that Asian people have no opinions, and even if they did have an opinion, it would carry no weight. A good Gallup poll would easily disprove the former proposition, and history has proved time and again the fallacy of the latter."

I ask unanimous consent to have Mr. Rose's article entitled "Dead End in Vietnam" be printed in full in the RECORD at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. GRUENING. The recent spate of optimistic announcements from the Pentagon on how well the war in South Vietnam is going—despite contrary reports from trained observers on the scene—only carries on a tradition begun in the earliest days of U.S. participation in the fighting in Vietnam.

Thus, in July 1956, in the face of continued Vietcong sabotage and virulent propaganda, Vice President Nixon addressing the first Constituent Assembly of South Vietnam, stated that "the militant march of communism has been halted." But by the middle of the next year, Vietcong guerrilla bands stepped up their attacks, bombing U.S., MAAG and USIS installations and attacking settlements near Saigon.

Mr. Nixon's overoptimistic statement in July 1956 is on a par with his statement in October 1960, when he stated:

"As far as Indochina was concerned, I stated over and over again that it was essential during that period that the United States make it clear that we would not tolerate Indochina falling under Communist domination. Now, as a result of our taking the strong stand that we did, the civil war there was ended, and today we do have a strong free bastion there."

Vietcong guerrilla activities, reinforced by arms and men from North Vietnam, increased greatly during Diem's regime.

So did corruption and the oppression of the people.

As Castan states in his article already referred to:

"To his [Diem's] personal credit, he allegedly managed, again with American aid, to amass a personal fortune of some $50 million during the same period. Diem changed—too slowly for our then Ambassador Frederick J. Nolting, an intimate friend of both Diem and his charming sister-in-law, Mme. Ngo Dinh Nhu, to notice. Too slowly for Gen. Paul D. Harkins, boss of our military-assistance command, to notice. No one, in fact, noticed until we found that we had been duped into complicity, and were compounding by assent the mistakes of Diem and his family."

In the face of increasingly serious guerrilla activity, the so-called strategic hamlet plan was instituted in 1961. It was copied from Malaya, but served only to make it easier for the guerrillas to capture arms and supplies. It was a failure also as a means of isolating Diem's opponents.

Two accounts illustrate the hows and the whys of the failure of the strategic hamlet plan:

The first is related in the article before referred to by Castan:

Plei Ia Miah, one of the hamlets, is an example. "The soldiers forced us out of our huts," said the village chief, shortly before the November coup d'etat, "and told us that a fortified village was ready for us in the valley. 'Can we take our land?' we asked. Two men refused to leave our ancestral home and were shot. It took us 60 days to march here. We have no land to farm, and if the Government doesn't give us food soon, we'll have to sell the pigs and buffalo we brought with us. The Vietcong come at night for our weapons. We give them the weapons. Why should we die for weapons?"

The second is from a Reporter article by Bernard Fall in the October 24, 1963, issue. I ask unanimous consent to have the article printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 6.)

Mr. GRUENING. Reading from the Fall article:

"There is not one plantation that has not been attacked or partly pillaged several times by the Vietcong during the past 5 years, and which has not seen several of its French personnel kidnaped and held for ransom or killed. During the Indochina war, the plantations had been allowed to arm themselves and maintained militia forces at their own expense. When Ngo Dinh Diem came to

power he ordered all plantations disarmed and they thus became military liabilities.

"The plantation managers now keep in business by closing their eyes to the Vietcong emissaries who come to the workers' villages and exact tribute; they silently pay millions of piasters of ransom to the Vietcong—and as much again to bribe South Vietnamese authorities to allow them to operate. Here and there, the Saigon-controlled press announces that a French plantation was fined tens of millions of piasters (a million dollars or more) for 'economic violations.' Everybody knows what that means, and business goes on as usual."

The oppression of the people by Diem's secret police was intensified.

In the summer of 1963, Diem turned on the Buddhists and the students, with wholesale arrests and imprisonments.

And yet all through these years from 1955 to the November 1963 coup, Diem was shoreed up and kept in office with billions of American dollars and as at present as many as 17,000 American troops. The people of South Vietnam knew this. The United States won no friends and influenced no Vietnamese people when Buddhist priests were driven off to concentration camps in AID vehicles by Diem's secret police, who were paid by U.S. funds.

In the light of Diem's long years of corrupt and repressive rule, the two coups in Vietnam last year should have come as no surprise to anyone. The surprise lies in the fact that they did not occur sooner.

As I have said, the roots of the present dilemma of the United States reach back to 1955 and to the years of condoning corruption, misrule, and repression. Diem lost whatever support he had from the people through the use of U.S. money and U.S. arms

Where do we turn now for our solution in South Vietnam?

The United States must start with one basic truth which should be constantly reiterated: the fight in South Vietnam can be won only by the South Vietnamese. Even if the United States would or could, the fight in South Vietnam cannot be won by making of that country a colony of the United States. The French tried and failed even though they used a quarter of a million troops.

The question is this. After 20 bloody years of conflict, have the people of South Vietnam and the Government of South Vietnam the will and the capacity to fight to win? Putting it in other terms. Mr. President, has the present Government of South Vietnam the ability and the stability to wage the fight or is it obliged to look over its shoulder constantly in fear of another coup?

If there is no heart to fight in the people of South Vietnam, the sooner we face that fact the better off we shall be. Since a victory in South Vietnam can come only through a victory by the South Vietnamese themselves, if the people and the Government do not want to continue the fight in a manner conducive to victory, it is contrary to the best interests of the United States to remain there.

Some urge stepped-up military activity on the part of the United States, including caarrying the war to North Vietnam. Even disregarding—which we should not—the grave possibility of drawing Red China into the fray in a Korean-type engagement, there are serious drawbacks to such a course of action. The first is the unwillingness of the South Vietnamese to follow such a course of action. The second, of course, is the fact that this is not solely an engagement between South and North Vietnamese. South Vietnamese are fighting South Vietnamese in a country divided within itself.

A comparison with Korea is not appropriate. There we had South Koreans who had the will to fight and win. And secondly, South Korea was not a country divided withn itself.

And finally, there is one important difference between the situation as it exists in Vietnam and the situation as it existed in Korea. This is a difference which many people who are urging an escalation of U.S. armed effort in South Vietnam conveniently do not mention. In Vietnam we are alone—in Korea we were in there as part of a United Nations effort.

Fighting side by side with American troops in Korea were troops from Australia, Belgium, Britain, Canada, Colombia, Ethiopia, France, Greece, Luxembourg, the Netherlands, New Zealand, the Philippines, South Africa, Thailand, and Turkey.

Where are our allies in South Vietnam?

The 1954 Southeast Asia Collective Defense Treaty was signed by eight nations—Australia, France, New Zealand, Pakistan, the Republic of the Philippines, Thailand, the United Kingdom, and the United States.

We do not read in the headlines about the officers and men of the other signatory countries being killed in the jungles of South Vietnam. We do not read about them because they are not there. Over 200 Americans have been killed in South Vietnam, 115 of them in direct combat. The United States is all alone in the fight there and the prospects are that it will continue to fight alone there.

To give my colleagues some idea of the confusion prevailing in South Vietnam in the military command there and of the conditions under which U.S. troops are fighting, I ask unanimous consent that an article in the Washington Daily News by Jim Lucas on March 6, 1964, be printed in full at the conclusion of my remarks.

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

(See exhibit 7.)

Mr. GRUENING. Mr. President, describing the "Spoils for Generals" after the most recent coup by Maj. Gen. Nguyen Khanh, Time magazine for February 14, 1964, stated:

"It is far from certain that all the military are behind him. But he has rewarded his chief collaborators handsomely. Maj. Gen. Tran Thien Khiem, whose III Corps troops arrested former Junta Boss General Duong Van (Big) Minh, got the No. 2 military job as Defense Minister and Commander in Chief. But among the ranks of Khanh's new, expanded, 53-man junta (8 major generals, 9 brigadier generals, 25 colonels, 10 lieutenant colonels, 1 major), there was endless wrangling over the lesser spoils. Many a junior officer was disgusted."

The theory has been advanced that the Untied States has no alternative but to remain in South Vietnam regardless of the course of action followed by the people and the government of South Vietnam. This theory follows the line that if we pulled our support out of South Vietnam now, it would quickly be taken over by the Vietcong who in turn would be controlled by North Vietnam which in turn would be controlled by Red China. The theory then continues that if this happens then Cambodia and Laos would also fall "like a row of dominoes" to Red China. This is a continuance 10 years later of Secretary Dulles' domino theory.

Recent actions on the part of Cambodia in seeking its own neutralization cast considerable doubt on this theory. Cambodia, the middle domino, fell out of its own accord. The $300 million we have spent there was totally wasted. Moreover Cambodia action took the United States by surprise. We were ill informed. How well informed are we in this whole area? The repeated optimistic statements of our officials in the past have been promptly refuted by events.

The distinguished majority leader [Mr. MANSFIELD], on Monday, March 2, stated:

"I think the best thing our country can do is reassess its foreign policy insofar as it is possible to do so, face up to the realities of today, and not depend so much on the wishes of yesterday."

In no area of our foreign policy is such a reassessment of our foreign policy needed than with respect to the policy we are pursuing in Vietnam.

The United States should no longer permit the dead hand of past mistakes to guide the course of our future actions in South Vietnam.

President Johnson, by virtue of the fact that his control of U.S. foreign policy is so recent, is in the best possible position to make the reassessment of our foreign policy suggested by Senator MANSFIELD and not permit himself to be bound by a past made by his predecessors. The domino theory is not President Johnson's—it is a theory advanced by Secretary of State Dulles during the Eisenhower administration and, as in the case of Cambodia, already proven fallacious.

A few days ago, the senior Senator from Montana (Mr. MANSFIELD) took an enlightened stand with respect to the attempt by the President of France to put forth a solution for the deteriorating situation in South Vietnam. He stated:

"It seems to me most glib to make light of the admittedly unsatisfactory situation in Laos or the unhappy state of our relations with Cambodia as a basis for any offhand rejection of De Gaulle's essay at a new approach to Indochina and southeast Asia."

I commend the majority leader for his statesmanlike approach to an admittedly difficult situation and join him in his statements on this subject. His statement of February 19, 1964, should be carefully studied in any reevaluation of our foreign policy in Indochina.

I also wish to commend my able colleague, Senator BARTLETT, for his excellent analysis of the Vietnam situation a few weeks ago and for his plea for less rigidity in our policy in Indochina; he stated:

"It is important, however, in our Asian policies, that we strive to achieve flexibility, flexibility which our policies in recent years have failed to have. We cannot allow ourselves to be frozen forever with a rigid policy hoary with age. In Asia as elsewhere we must be willing to discuss anything with anybody who is willing to discuss in a rational and responsible manner. We are the greatest power on earth and we have no need to fear Red China and no need to fear negotiations."

I also wish to commend the able senior Senator from Oregon [Mr. MORSE] for his splendid speech last week on this same topic. Senator MORSE pointed out cogently that—

"American unilateral participation in the war in South Vietnam cannot be justified and will not be justified in American history * * * we have always considered Southeast Asia to be beyond the perimeter of U.S. defense. Southeast Asia is not essential to U.S. defense. Southeast Asia may very well be essential to the defense of some of our allies, but where are they? They ran out on us."

And more pointedly, in response to a question from Senator ELLENDER what Senator MORSE would advise we should do in South Vietnam, Senator MORSE answered with his usual forthrightness:

"We should never have gone in. We should never have stayed in. We should get out."

And Senator ELLENDER seconded that clear—and in my judgment thoroughly correct and realistic counsel—by saying:

"I have been advocating such a course of action. After my last visit there, I again stated that we should never have gone in there and that we should get out. My advice was never heeded. That is my advice today."

Had this advice of Senator ELLENDER given some time ago, now repeated by him and reaffirmed by Senator MORSE been heeded 200

precious American lives would not have been lost. These are far more important than the billions of dollars we have now wasted in seeking vainly in this remote jungle to shore up selfserving corrupt dynasts or their self-imposed successors and a people that has conclusively demonstrated that it has no will to save itself.

I consider the life of one American worth more than this putrid mess. I consider that every additional life that is sacrificed in this forlorn venture a tragedy. Some day—not distant—if this sacrificing continues, it will be denounced as a crime.

I would ask my colleagues and indeed American fathers and mothers this question:

"If your drafted son is sent to Vietnam and is killed there would you feel that he had died for our country?"

I can answer that question for myself. I would feel very definitely that he had not died for our country, but had been mistakenly sacrificed in behalf of an inherited folly.

Let us do a little hard rethinking. Must the United States be expected to jump into every fracas all over the world, to go it all alone, at the cost of our youngsters' lives, and stay in blindly and stubbornly when a decade of bitter experience has shown us that the expenditure of blood and treasure has resulted in failure?

Shall we not, if taught anything by this tragic experience, consider that of the three alternatives: First, to continue this bloody and wanton stalemate; second, to go in "all out" for a full-scale invasion and the certain sacrifice of far more lives and a scarcely less doubtful outcome; or, third, to pull out with the knowledge that the game was not worth the candle.

This last is the best of these choices.

In the event of determining on that last and least unhappy alternative, we shall no doubt be told by some that the United States will lose face in Asia.

I doubt whether we should lose face, whatever that may mean. But if it be so interpreted by some whose opinion should give us small concern, I say better to lose face than to lose the life of another American boy, or a score, or another 200 of them, doomed in varying numbers as long as we stay on.

President Johnson, let me repeat, inherited this mess. It was not of his making. As he approaches the difficult task of making the necessarily hard decisions with respect to the problems in South Vietnam, problems created long before he was President, he should feel no compunction to act in such a way as to justify past actions, past decisions and past mistakes. He should feel entirely free to act in such a manner and to make such decisions as are calculated best to serve the interests of the United States and the free world—a world changed greatly from the time President Eisenhower and Secretary Dulles initiated our southeast Asia policies.

Would South Vietnam go Communist if we get out? Probably, but it will doubtless do so in any event. What would the loss of a million men, or 2 million, or 5 million matter to the jam-packed nation of 700 million that is mainland China, that can and will unconcernedly pour its cannon fodder into an adjacent, long-coveted area, and peopled with its fellow Asiatics. Their lives mean nothing to their own bloody rulers who have liquidated vast numbers of their own. But our American boys' lives would mean everything to our own Government and people if sacrificed in a cause in which we should never have engaged.

Of course, it is a source of regret whenever a new political entity appears to be falling behind the Iron or Bamboo Curtain. But why should we persist in seeking to prevent what is ultimately inevitable, in impossible terrain, for a people who care not, in the most distant spot on the globe. It makes no sense.

Moreover there is considerable question whether South Vietnam, even if overrun by the indigenous Vietcong, or by the North Vietnamese, will not constitute another problem for Peiping as it was for the French, as it has been for the United States. It might well prove an aggravation of Red China's considerable internal troubles.

But surely we have no business there any longer, if indeed we ever had.

The time has come to reverse our policy of undertaking to defend areas such as South Vietnam, whose people are so reluctant to fend for themselves. Let us keep on, by all means, supplying them with arms. Let us continue to give them the means if they wish to use them. But not our men.

The time has come to cease the useless and senseless losses of American lives in an area not essential to the security of the United States.

Only yesterday the report came in of two more American fighting men killed in Vietnam.

Last Wednesday the report was made that three American officers had been killed there. Part of the UPI story reads as follows:

"Two U.S. officers were killed yesterday in separate battles with the Vietcong, military sources reported. A U.S. Navy officer was killed yesterday in a helicopter crash.

"'One of the Army officers died as he attempted to rally Government paratroopers for an assault on a Communist position near the Cambodian border.

"There were few details on the death of the other Army officer. Reports reaching Saigon said he was killed in a battle at Trung Lap village 27 miles northwest of Saigon."

It is obvious from this story, as it has been for some time now, that the United States so-called training mission is actually engaged in fighting the Vietcong in a war which the South Vietnamese are themselves reluctant to fight.

I urge the President to take steps to disengage the United States immediately from this engagement.

All our military should immediately be relieved of combat assignments. All military dependents should be returned home at once. A return of the troops to our own shores should begin.

I also urge the President to go to the American people and explain in detail how the United States got involved in Vietnam; when we got involved in Vietnam, and why we are getting out of there.

I sincerely hope that President Johnson will heed the advice of our distinguished majority leader, Mr. MANSFIELD, and others in this body, as knowledgeable as Senators MORSE, ELLENDER, and other reassess the Dulles doctrine of seeking to engage communism on its own grounds—12,000 miles away—and bring our boys home.

This is a fight which is not our fight into which we should not have gotten in the first place. The time to get out is now before the further loss of American lives.

Let us get out of Vietnam on as good terms as possible—but let us get out.

President Johnson is in an excellent position to reverse the previous unsuccessful policies in Vietnam which did not make

(Exhibits omitted.)

AN INNOVATIVE APPROACH TO THE DEBATE SURROUNDING NATIONAL HEALTH INSURANCE

Mr. BROCK. Mr. President, on June 19, 1974, I introduced the Medical Expense Tax Credit Act, S. 3670, which I believe is an innovative approach in the debate surrounding national health insurance. Yesterday, I was privileged to testify before the House Ways and Means Committee regarding my bill, and I ask unanimous consent that this testimony be printed as part of the RECORD.

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

REMARKS BY SENATOR BILL BROCK

Mr. Chairman and Members of the Committee:

You have been holding hearings on this subject since April 24, and I am sure that by now you have heard enough expert background testimony to make anything I could add redundant. Thus, I intend to present this morning more of a concept than a finished bill, but one that seems to have been overlooked in the other bills. Because I intend to talk more of concepts than of specifics, let me begin my testimony with first some general thoughts, then, second, some specific criteria that I set for myself in addressing the problem of excessive health costs for a family. Although we often talk about health care, delivery systems, extending life expectancies and the like, what we are really talking about is two items, first, "insurance," and second, "what role the government should play in health care." These are the basic questions, yet we seem to forget what both of these mean in the deeper, more philosophical sense.

What is "insurance" all about? Insurance, almost by definition is something that people buy to protect themselves against risk. The greater the risk, the greater the need for insurance. Therefore, for any given dollar amount or item, the greatest risk should be taken care of first. Our plan should assist in a family situation which can wipe out savings, affect future earnings capacity, or which is simply not within their means.

"What is the proper role of government?" In our free enterprise society, the proper role of government is to protect people against those unforseeable events or catastrophes that will affect their way of life in a major way. We have a tradition of this. We have National Disaster Insurance. We grant the President emergency powers during natural disasters such as floods, fires and tornadoes. We also have a social insurance tradition of helping people when they need help. In other words, the proper role of government, by tradition, is, again to protect people against those situations with which they cannot deal.

I set down four criteria for guidelines that I wanted my bill to meet:

1. Simplicity.—I realize that this can be, and is, a terribly, complex question, but our approach simply must be understandable to every citizen. My desire took on more urgency after trying to read the complexities, intricacies, exceptions, etc. of some of the bills now proposed.

2. Equitable.—I wanted a bill that would be fair to all Americans, whether they are poor, elderly, middle American, and, yes, even the more affluent, for they too can face financial ruin. I am, naturally, most concerned about those who cannot afford proper care, but any attempt to achieve equity for those people by actually having discriminatory sections against others will work against our ultimate objective. All too often, our taxpayers are asked to shoulder a new burden without receiving equal protection.

3. Easily administratible.—I agree with those who testify that too much of the health care dollar goes into administration, yet I have not seen any bills that will actually cut administration costs. Many will shift this burden, but not minimize it. In short, I wanted something that would either use

existing procedures or even simplify and reduce them.

4. Efficiency.—Our bill must be one the average family can afford. They simply cannot stand more shocks in this day of double-digit inflation.

I am proposing that we add only four lines to the present Internal Revenue Service form in order to give each citizen a tax credit, or direct refund, to cover excessive health care costs. These four lines are:

Line 1. Eligible medical expenses—now clearly defined by IRS.

Line 2. The deductible—I propose we protect against those medical costs which exceed 15% of IRS adjusted gross income, minus the personal ($750) exemption.

Line 3. The difference between lines One and Two, if any.

Line 4. A copayment multiplier which establishes the tax credit or refund. I would ask we refund 85% of all excess medical expenses.

Let me give you an example. Assume a family of four with a $9,000 income having health care expenses of $2,000. Their modified IRS adjusted gross would be $6,000; that is $9,000 minus $3,000—(four times $750).

Line 1: Eligible medical expenses	$2,000
Line 2: 15% (deductible) of income	900
Line 3: Difference	1,100
Line 4: Tax credit or refund (Line 3 multiplied by .85)	935

Does this plan answer my four criteria? I think so.

First, on simplicity, it applies to everyone, requires no forms, no regulatory authority, and no administrative machinery. Too, this approach deals only with those instances where an individual family faces disaster, and leaves the remainder free of forms or controls, or unnecessary costs.

Second, this plan is fair. All are treated alike. My plan does not put the elderly and the poor into separate sections, which could be discriminatory, nor does it burden them. We should remember that welfare payments, social security payments, disability payments, and the like, are not even considered income, so immediately, the elderly and the poor would be eligible for benefits, or what would probably be in their case a "negative income tax" for health care payments. Equally covered would be the working poor, middle income families, etc.

Third, the administration of this plan appears obvious. Already about 180 million Americans are covered by the IRS form, and all could and can use the form. And, we should remember that if you look at average family income and average medical expenses, the great majority of Americans would never use the plan, although they would have the assurance they could do so if faced with medical costs that could ruin their lives.

Fourth, and finally, the efficiency is also self-evident. We would be buying a program to cover only those emergency, or even chronic, situations which can ruin the family, but not to pay those items which can be met by the family on its own. Anything more simply adds to costs without increasing benefits, and places a basically strong and free system in jeopardy.

Since I opened on a philosophical note, let me end on the same vein. Whatever plan is passed, I think that the maximum family burden is really what we are arguing about in many cases, should be based on a percentage of income. Using arbitrary deductible figures are too high for many, and obviously too low for others. By using a percentage of income, we can bridge this "comprehensive-catastrophic" debate, especially if it is based on IRS adjusted gross minus the family deductibles. The poor and elderly would automatically be covered and our middle class would pay "manageable" costs.

Finally, this approach allows us to proceed with caution in other areas now covered by Medicare and Medicaid. HEW has commissioned a study of various plans, many, incidentally, using a percentage of income, such as I propose, that will be completed in 1979. In my estimation, 1979 is not that far away when major decisions such as health care are being considered. The wrong decision can effect not only our physical health, but the economic health of this country.

THE DEATH OF CHIEF JUSTICE WARREN

Mr. BAYH. Mr. President, today the Nation is greatly saddened by the loss of one of the most distinguished figures in modern American government, Earl Warren. Few in public life could match the diversity and devotion of his service to the American people. His career of public service began over 50 years ago as a district attorney in California. Subsequently he served as the attorney general of that State, and from 1943 to 1953 as its Governor. Appointed as Chief Justice of the United States by President Eisenhower, he headed our highest court for 16 years. By any standard one can apply his place in history will be that of one of the great Chief Justices—perhaps second only to the first man to hold that office, John Marshall.

I will honor his memory for what I regard as his two greatest accomplishments—his timely and essential leadership in casting into history the racist concept of "separate but equal," and his great vigilance in protecting and preserving our personal liberties. As to the former, he deserves virtually single-handed credit for taking the Nation around that sharp corner that marked the turning point of racial justice. As to the latter, perhaps only present circumstances have brought home to us the value and importance of what he did to protect civil liberties.

He lived a full and long life. I know he departed from us with a justifiable pride in having given his full measure in devoted service to his countrymen.

LEAD SHOT FOR WATERFOWL HUNTING

Mr. DOMENICI. Mr. President, my friend and colleague, Senator JAMES MCCLURE, has been active in trying to get the Interior Department to stay an order that could ultimately end the use of all lead shot for waterfowl hunting in this Nation. Officials in my home State of New Mexico report that they are fully capable of dealing with this problem, if one exists, and that they are actively investigating its extent. I have always been, as has Senator MCCLURE, an advocate of local government. Since this problem is primarily one that local game and fish authorities are involved in, I believe that their input is essential before any action is taken by the Interior Department.

Surely it is not to much to ask that a Government agency hear all sides of an argument before it acts? Senator MCCLURE's proposal—that Congress consider all sides of this controversy before definitive action is taken—is reasonable and prudent. We must stop jumping to conclusions before we have all the facts.

I am pleased that "Petersen's Hunting" of June 1974 has editorially endorsed Senator MCCLURE's approach. I ask unanimous consent that the editorial from this magazine be printed in the RECORD.

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

EDITORIAL

Attention hunters—There is someone in Washington who cares. The following is a press release received from the office of United States Senator James A. McClure (R-Idaho).

WASHINGTON, D.C.—U.S. Senator James A. McClure has introduced a bill to place a freeze on any decision to ban lead shot for hunting "until the Congress has an opportunity to hear the evidence and takes legislative action on the issue."

"The Interior Department is very close to issuing an order that could ultimately end the use of lead shot for waterfowl hunting across the nation," the Idaho Republican said, "and nowhere in the process of making these new regulations have there been either public hearings or consultations with the Congress."

"I am sick and tired of seeing bureaucrats make arbitrary decisions in a vacuum. They may go through a ritual of filing environmental impact statements with the bare trappings of public input, but what the American people want or need has nothing to do with the end result," McClure said.

"In this case, the Bureau of Sport Fisheries is locked to an idea without sufficient scientific evidence or expert opinion on all sides of the issue to warrant a fair decision. Certainly there is evidence of waterfowl kills from lead poisoning through shot ingested in feeding, but there is ample evidence that a ban of lead shot without a suitable alternative is no answer at all," McClure said.

The Senator continued, "In fact, there is much scientific weight to show that the alternative steel or iron shot that will be ordered by Interior as a replacement will bring about more needless waterfowl mortality than any now attributed to lead poisoning."

He said that under his bill the Secretary of the Interior would be prohibited from issuing any order banning or replacing lead shot until the proper committees of the Congress can weigh both the practical and scientific arguments on all sides and for all alternatives.

"As it is now, we will be seeing a totally one-sided decision from bureaucrats who care nothing about hunters, and worse, understand nothing of the real contributions our hunters make to conservation," McClure added.

It is gratifying indeed to see someone with authority finally getting into the act on the question of steel shot. It seems that common sense is not going to be forgotten after all. All too often decisions are made on questions such as this without taking into consideration all the possible alternatives. And as we all know, once a change of this magnitude is on the books it is almost impossible to reverse. We are not trying to imply that there isn't a lead poisoning problem or that steel shot may not be the answer. Rather, we need all the data it is possible to obtain, more time and more studies to insure the correct decision.

Throughout our great and glorious history, the United States has had the tendency to make one mistake over and over; we recognize a potential problem and immediately go to work on a solution, with little thought given to the long-term effect. And conservation is usually the area that suffers most.

Just because we had to feed the railroad workers didn't mean we had to almost wipe out the entire species of the buffalo. Now, 20 years later, we've finally realized the disastrous effects of DDT.

As hunters we have a responsibility to all wildlife, waterfowl included. This responsibility goes well beyond today's hunt. But includes the hunts to be enjoyed by our sons and grandsons as well.

What will the effects of steel shot be in 20 years? Could the crippling loss of waterfowl eliminate the birds as we know them today? Is the problem of lead poisoning exclusively that of lead shot? Or is lead poisoning a product of our polluting the air and water as well? If we were to eliminate lead shot tomorrow, how many birds would we save and where? Compare this number with the number of birds that will die from crippling with steel shot. When we have taken the time to seek out the answers to these and many more questions we can then make the right decision; but only then.

Senator, we applaud your forethought and action. And as the hunters of America you have our full support on your proposal to "not run off half-cocked" but take the time to look into the problem and make the best decision possible for all concerned—wildlife and hunter.

THE DEATH OF FORMER CHIEF JUSTICE EARL WARREN

Mr. CRANSTON. Mr. President, I'm deeply saddened by the passing of former Chief Justice Earl Warren, a great and sage man and a personal friend upon whom I frequently relied for advise and counsel over the years. A distinguished former Governor of my State he represented all that is best in the progressiveness and bipartisanship of California politics.

He also reflected all that is best in justice, compassion, and understanding of his fellow man.

Chief Justice Earl Warren was many times the subject of controversy. But that was to be expected; change is often the occasion for controversy.

Some people who disagreed with the Warren Court's decisions on segregation, the rights of the accused, freedom of speech, freedom of press, and freedom of religion, expressed their disagreement in personal attacks on its Chief Justice. But Justice Warren withstood those attacks and remained undaunted by the rhetoric of his critics. He consistently stood for the ideals which he believed represented the true spirit of America.

I am sure that history will find that his judgment was correct. Earl Warren will be remembered as a great Chief Justice.

What concerns me today is whether we and those who come after us will have the good sense to realize the greatness of Earl Warren's legacy to America and to act upon that legacy while we still have time.

In an era of doubt and confusion and turmoil, Earl Warren reaffirmed the dignity and the worth of the individual and insisted that every citizen, no matter what his color or what his status in life, is entitled to the equal protection of our laws. That concept is the very essence of law and order—and justice. Without it, we would be without true law, true order, true justice.

In an era of bigness and computer banks, of nuclear bombs and urban tension, at a time when some of the fearful predictions of Kafka, Orwell, and Huxley appear to be coming the Earl Warren returned America to the sources of its greatness: her Constitution and her Bill of Rights.

Earl Warren had a clear, majestic vision of his country's history and its Constitution. He was a good, a decent, a compassionate man in an age when such virtues are sadly lacking. He reaffirmed the dignity of the individual human being and urged us to realize the long unrealized American ideal of equal rights for every individual, under law.

I hope historians will say that America heard the message, that the Civil Rights, Housing, and Economic Opportunity Acts of the sixties were expanded and strengthened by equally imaginative programs in the seventies and eighties. And that America and Americans grew together in spiritual greatness in the years that followed; that individual liberty and the promise of equality were fulfilled by a growing spirit of fraternity in the land.

I hope this is what history will say. But that, of course, depends upon what we do to confirm the magnificient vision of America which Earl Warren held out to us.

LEADERSHIP, THE FORGOTTEN JOB OF MANAGING

Mr. BROCK. Mr. President, today I would like to submit for the RECORD an interview conducted by Floyd Lawrence with Lemuel R. Boulware that recently appeared in Industry Week of April 15, 1974.

I firmly feel that the present managers of American business must acknowledge their leadership responsibilities. As Mr. Boulware has stated:

> The management requirement today clearly has expanded from the purely economic—from mere metal cutting and paper shuffling—to leadership in a fundamentally political sense.

Managers, along with all citizens, should take cognizance of their leadership responsibilities in community, State, and national affairs. Leadership is a resource that must be developed and utilized in all its dimensions if we are to meet the challenges of the last half of the 20th century.

Mr. President, I ask unanimous consent to have the interview printed in the RECORD.

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

[From Industry Week, Apr. 15, 1974]

LEADERSHIP, THE FORGOTTEN JOB OF MANAGING

(An interview with Lemuel R. Boulware)

(By Floyd G. Lawrence)

"Nothing in wrong with American business except management failure to step up today's leadership responsibility.

"The management requirement today clearly has expanded from the purely economic—from mere 'metal cutting and paper shuffling'—to leadership in a fundamentally political sense.

"While management has failed to grasp this concept over the years, the union officials like Walter Reuther embraced it right from the beginning. They say that the way to take charge of institutions like government and business is not directly but through people. That is, not by working on the few at the top but through exercising leadership in influencing the many at the grass roots.

"That's why business is now in the deepest trouble ever with the public and its political representatives."

Lemuel R. Boulware relaxes in the living room of his oceanfront Florida winter retirement home. Operations vice chairman of the War Production Board during World War II with a business career behind him that included the posts of public accountant, purchasing agent, comptroller, factory manager, marketing manager, and then general manager successively for three companies, Mr. Boulware certainly has earned retirement.

But Mr. Boulware at 79, though retired, remains untiring.

DO RIGHT VOLUNTARILY

In two recent books, *The Truth About Boulwarism—Trying to Do Right Voluntarily* and *What You Can Do About Inflation, Unemployment, Productivity, Profit, and Collective Bargaining*, Mr. Boulware has set forth lucidly his continuing grave concern "that if we continue as we are going, we cannot last long as a free people because we are increasingly becoming unfit to be free.

"Freedom is based absolutely upon people knowing what is the right thing to do in the individual and the common interest and, at the same time, being willing to do that voluntarily. We have no 'inalienable rights' not subject within the hour to a change of public opinion. So there is no security except in an economicaly enlightened sovereign majority.

"Yet, as the decisions the public must make become more complex, we know the economics of freedom less well. Through the media, educators, union officials, clergymen, and government representatives, the public is being led increasingly to think and act contrary to its own interests.

"The resulting contrived hostility to business in general and to profit in particular is preventing business from being as useful as it otherwise could be in solving the very problems for which it is being blamed.

"Nor is business alone threatened by this sustained attack. Inescapably in the same deepening trouble are all private property and all personal freedom. The present spread of misinformation is damaging not just some few 'fat cats' for what is erroneously assumed to be the benefit of the many; rather, the majority is really damaging itself.

PROMISES, PROMISES

"This illiteracy means that in the political processes of government and of unions each candidate must promise his constituents something for nothing. Unless he is actually stupid he knows these are promises he cannot fulfill.

"So through our own ignorance we really are forcing too many of our representatives to be liars. Then, in effect, we too often elect the biggest liar.

"Now this means that the problem must be attacked at the grass roots. For when you try, as some major business association do, to influence those in political office directly, you are simply making those few politicians who are sympathetic uncomfortable. They may very well agree with what you say. But they cannot vote for things that are not good politics back home.

"So if you want to influence a politician, you should start with the public and then go to [the politician] to tell him what you

are doing back home to build up support for your position. You outline the issue clearly and why it is important to his constituents. And then you show him that as the support you are building materializes he can be a leader by joining in.

"Union officials early recognized this process and its opportunity. They go to the public with persuasion to achieve political power not only over business but also over government and the public itself. Business management, in contrast, has never taken anything like due note of this public persuasion process. Instead, it has continued to narrowly define its scope as one of striving to improve excellence in technological, financial, and commercial activities.

UNEQUALS DON'T "BARGAIN"

"The most obvious evidence of this is in collective bargaining. To serve its presumed purpose, bargaining would have to be between equals and would be concerned with economic and working-condition equity. But the so-called collective bargaining process has been allowed to degenerate to almost solely a political process.

"After typical negotiations [that result] in wage increases far in excess of the productivity improvement to pay them and with restrictive work practices and other costs damaging to the future employment of the union members and the survival of the company, what does the company spokesman so often say?

"He says, 'This was an equitable settlement, a settlement good for everybody.' It is intolerable—and completely unnecessary—that the corporate official should feel thus forced to be so untruthful.

"But what he's really doing, if he has thought about it, is recognizing that he has just been part of a political process. Because a union negotiation has become a political matter which will not respond to economic consideration and reasoned procedures.

"Any settlement reached *must* lie within what the public—of which the employees are simply a part—rightly or wrongly judges to be equitable. And in that circumstance the business negotiators are in no position going in to stand out against the unrealistic expectations of the employees and the related public.

"But, by the same token, neither are the union negotiators except within a very narrow range. For they, too, are caught up in their own whirlwind of misinformation and false expectations.

"So while the union officials have largely created it—and no matter how much some might come to prefer a sounder settlement when they have examined the facts—they will remain limited in what they can do in a constructive direction until doing so becomes 'good politics' with the constituents.

BARGAINING IS NOT

"Responsible citizens in and out of management must begin to understand that such a settlement is *not the result* of what happens at the bargaining table *but what happens prior to sitting down at the bargaining table.*

"The only way on this earth that management can change what happens at the bargaining table is by frankly and honestly working long and hard in advance to present the facts that will change the economic understanding and the expectations of the employees and the public.

"That communication has got to reach every employee and the public to be fully effective. And it has got to explain clearly what makes jobs, what makes the most jobs for the most people, what makes real job security and the best and steadiest jobs.

"Moreover, it has got to make clear just what makes pay raises possible and who pays them. I think this is still one of the biggest problems—having people understand that business is an organization of people brought together to do things for each other, that not stockholders but consumers pay wage increases, and that profits are not the source of inflation but of jobs.

"Because management has neglected its job of correcting the misrepresentations in this area, the public has come to feel exactly the opposite: that profits are the inflationary factor and that wage increase, unmatched by productivity increases, are simply helping the employees 'catch up.'

"And these misconceptions have continued so long without a management voice being raised that the public has come to feel not only that the union cause is just but that business is so strong and the union so weak that any means is justified.

"That same principle of neglected grass roots effort on the part of management applies elsewhere, of course. Some in industry think the media is antibusiness and antienterprise in its coverage because it's hiring the wrong people or because it's poorly led. And they think if they simply talk to the media people they can change that.

"That's wrong. The media won't change, and, in fact, *the media can't change* until the listening, viewing and reading public is ready to welcome or even demand that change.

"You don't change the media. You change the market, and the media will change itself. Right now that market demands wishful thinking and phony scapegoats. And whether or not the editors and commentators believe what they communicate is irrelevant. They're communicating what their market wants.

"Or look at our educational system. It's politicized in the same way. And can you really think of anything less sophisticated than businessmen contributing money derived from business and private enterprise to colleges and universities doing absolutely everything they can to undermine business and private enterprise?

"Businessmen are supposed to be aware of return on investment. Well, what kind of return on investment is suicide?

"If you ask a businessman about it, he'll contend that he's supporting freedom of education. But freedom of education means all points of view must be considered and private enterprise is seldom if ever mentioned except in derision. And it's important to understand why.

"Even that minority of educators who might like to make their teaching more constructive and factual don't dare risk their jobs and their futures by offending powerfully placed people. They can't change until others have made it possible for them to change by creating a demand for sound education by students and by those paying the education bill.

"Until that happens, our educational system will go right on teaching students what they already wrongly believe is the truth.

MARKET FOR ENLIGHTENMENT

"Polls show that public disillusionment is growing, not only with business, but with unions and government and nearly all institutions in our society. People are aware that something is seriously wrong. And that awareness constitutes a market for enlightenment.

"What I'm suggesting is that if we would only adopt in the private enterprise selling area what we have known for years in the product selling area we could serve that market for enlightenment. For business can respond to what customers like or dislike about products even though it works with most customers at a distance.

"Yet, in contrast, every businessman has direct contact with investors, with customers, with employees, with suppliers, and with neighbors in the plant community.

"He sees them. He knows them. He talks to them. And they are in a position to ask questions, to understand, to know, and to respect him. They are the grass roots that control our institutions, as Walter Reuther so well understood.

"The broadside approach simply won't work. There are too many national organizations today 'studying the problem.' And their usefulness is in question, not only because of lack of results, but also because they're giving managers the false impression that someone else can do for them what they can do only for themselves.

"Investors, customers, suppliers, employees, and neighbors in the plant community are the first people upon whom the businessman must look as *his* market—that special market which is his alone and to which he has wide-open access and to which only he is at all likely to supply the needed enlightenment in time.

"Nobody else can do it. Nobody else will do it."

For additional reading

The Truth About Boulwarism—Trying to Do Right Voluntarily, published by Bureau of National Affairs, 1231 25th St. NW., Washington, D.C. 20037, cloth cover $7.50, paperback $2.85 postpaid.

What You Can Do About Inflation, Unemployment, Productivity, Profit and Collective Bargaining, published by Loeffler & Co., Box 9622, San Diego, Calif. 92109, paperback $1.35 postpaid.

CHIEF JUSTICE EARL WARREN

Mr. HUMPHREY. Mr. President, I rise to pay tribute to the late former Chief Justice Earl Warren. This great man will be missed by his friends and by his country.

His 16-year tenure as Chief Justice was marked by courageous decisions which reinforced this Nation's commitment to equal justice under the law for all Americans. America was changed by the decisions rendered by the Supreme Court under Earl Warren—and I believe that it was changed for the better. This quiet and strong man's contribution to our system of justice will long be remembered.

Earl Warren's role as Chief Justice was one that certainly strengthened the prestige and public regard for the Supreme Court. President Eisenhower's appointment of Earl Warren as Chief Justice in 1953 led to a judicial career marked by a resolve to right wrong, to protect the weak, and to strengthen the American commitment to individual liberty and equality. The landmark decisions he wrote will serve as monuments to an American jurisprudence of the highest calibre. In the Brown against Board of Education decision in 1954, and later decisions on one-man-one-vote, the rights of arrested suspects, and on many other decisions, Earl Warren's role in adapting the law of the land to a fast-changing America was preeminent.

These decisions which had such a tremendous impact on American life reflected the thinking of Chief Justice Warren that the Supreme Court was a force for good. Indeed it was, and Earl Warren's integrity and commitment to the Court were integral parts of this force.

The decisions rendered by the Warren Court generated great controversy. But Chief Justice Warren never waivered—

he became wholly indifferent to popular favor or political influence. He was a leader. Not in the political sense. But he led by his wisdom, by his integrity, and by his commitment to justice. I am personally saddened by his passing and the realization that our Nation will no longer benefit from his wise counsel and high ethics.

I ask unanimous consent that two articles, one from the Washington Post, the other from the Washington Star, reviewing the life and work of Earl Warren be printed in the RECORD.

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

[From the Washington Post, July 10, 1974]

EARL WARREN DIES AT 83

(By Martin Weil)

Earl Warren, 83, the retired Chief Justice of the United States, who presided over the Supreme Court in an era of landmark decisions and great social change, died of cardiac arrest at 8:10 o'clock last night at Georgetown University Hospital.

In 1954, early in his 16-year tenure, Mr. Warren wrote for a unanimous court the Brown vs. Board of Education opinion, which struck down segregation in the public schools and led to the end of legally sanctioned segregation elsewhere.

In what has been described as another revolution in American jurisprudence, Mr. Warren led the court in enlarging the rights of criminal suspects, particularly by extending to the state courts the constitutional protection guaranteed in the federal courts.

Of all his decisions, Mr. Warren was said to have considered most important the "one-man, one-vote" ruling that required district lines for congressional and state elections be drawn to give city-dwellers representation equal to that of rural residents, who had often been dominant.

In a statement issued last night, President Nixon described himself as "deeply saddened" by the death of Mr. Warren, whose service to the nation, he said "will continue to shape the course of Americn life for generations to come and will reflect the highest purposes of America forever."

In a career in public life that began in 1920 with service as deputy district attorney in Alameda County, Calif., Mr. Warren served successively as district attorney, state attorney general and from 1943 to 1953 as governor of California. He also ran for Vice President on the Republican ticket headed by Thomas E. Dewey that was defeated in 1948.

He "gave each task his full energy and ability," Mr. Nixon said last night. "Much honor was paid him and he gave much honor in return."

Mr. Warren, who also headed the commission that investigated the assasssination of President Kennedy, was also described by Mr. Nixon as "one of the nation's finest public servants . . . a man to whom the public trust was a sacred trust" and who "fulfilled his duty as he saw it."

Warren E. Burger, the present Chief Justice, called his predecessor's contributions "large indeed," both as Chief Justice and in his earlier posts, and said his life "epitomized the American dream."

Burger also said that Mr. Warren—who continued to live in Washington, at the Sherator-Park Hotel—had been "constantly available for consultation on the growing problems of the federal courts and his wise counsel was invaluable . . ."

Associate Justice Thurgood Marshall called Mr. Warren "one of the greatest chief justices . . . ever . . ."

Funeral arrangements were not available last night.

Mr. Warren had suffered from longstanding coronary artery disease and severe angina pectoris, according to hospital statement. After being a patient at Georgetown from May 24 to June 2, he was readmitted to the hospital July 2.

Although the diagnosis of congestive heart failure and coronary insufficiency announced by the hospital implied that his heart was failing to pump enough blood to his bulky 6-foot-one body, he appeared recently to be improving, according to his secretary.

Death came after "a very sudden turn for the worse," the secretary, Margaret McHugh, who had worked for Mr. Warren since 1953, said last night.

She said that his wife Nina, and their youngest daughter, Mrs. Stuart Brien, were with Mr. Warren in his private room on the hospital's sixth floor when he died.

Both, she said, had been paying him a routine evening visit. "There was no time to call anybody else," she added. "This was all very sudden."

A Supreme Court spokesman said that Justices William O. Douglas and William J. Brennan had visited Mr. Warren during the afternoon and stayed until 5:30 p.m.

Of all the opinions he handed down in the years between his appointment in 1953 and retirement in 1969, perhaps the most controversial was the Miranda decision, requiring that prior to questioning, arrested suspects receive a detailed description of their rights.

In criminal law, among the specific safeguards extended to defendants in state courts were the right to be secure against "unreasonable searches" and the right to counsel.

In addition the court under Mr. Warren ruled out certain religious exercises, including prayers in public schools, set liberal standards for obscenity, and restricted the power of the federal loyalty apparatus.

Specific decisions that helped bring about the social revolution initiated by the Brown ruling were those that struck at discrimination in voting, in marriage laws, in the use of public parks, airports and bus terminals and in housing sales and rentals.

[From the Washington Star-News, July 10, 1974]

FROM GENTLE PREMISES, DECISIVE RULINGS

(By Lyle Denniston)

Earl Warren started humbly and finished strong.

His life was like that. And so were his 16 years as chief justice of the United States.

From origins that were pathetic if not deprived, he came to know ultimate power at the very core of American government.

And from gentle, almost apologetic premises he read in the Constitution, he came to develop and use a decisive authority that changed American public life.

Kindly, he had long seemed to be grandfather to Everyman. He chose, determinedly, to avoid spectacle. And yet he came close to dominating personally an entire era in United States history.

He had been so prominent for 16 years, from 1953 to 1969, that in the five years of his retirement, he had seemed almost to have vanished. He kept his silence, mostly, even as the Supreme Court—after him—moved swiftly, sometimes eagerly, away from his approach to the law.

Paradox regularly seemed to pursue him. He was accused, often, of being arrogant, dangerous—or even subversive, an enemy of the Middle Class.

Still, he apparently never used his judicial power in a way that he did not feel most Americans, down deep, would agree with if they had been in his place.

A simple man, unspoiled by the sophistication of daring ideas that "his" court routinely embraced, Earl Warren's contribution was also his problem: He was a mild but committed revolutionary on behalf of the simplest virtues of American constitutionalism. That earned him both enmity and admiration. Few who watched him stayed neutral about what they saw.

Through his Supreme Court years, Warren spoke—as a preacher, not an evangelist—of human dignity, sovereign citizenship, the good life, fair play, the integrity of truth, freedom of will, society's right to maintain its moral fiber, freedom of ideas, the solidarity of marriage.

The Constitution, Warren always felt, embraced those ideas. And he considered it the Supreme Court's job to "enforce"—and that was his word—the Constitution.

Warren often said that if lawyers brought deep and novel controversies to the court, there was no choice but to hear and decide them. And, in his time, lawyers lost any hesitancy that remained to take the "hard cases" to the highest tribunal.

If the court ever was inclined to start fresh in one or another area of the law, a case or cases would be there to provide the occasion. And the court, with Warren at its head, often was so inclined.

The succession of landmark—sometimes even revolutionary—decisions that resulted made it inevitable that Warren would be compared with John Marshall, almost every historian's nominee for the greatest chief justice.

As Marshall and his court had helped found a nation, constitutionally, Warren and his court helped make it over in a much more complicated age, using much the same Constitution.

The likeness of the two best-known chief justices was even closer. Both came from poor beginnings, both rose—sometimes by harsh partisanship—through politics, both had a keep sense of how far they could press judicial power, both ultimately appeared to grow beyond their pasts.

But the change that came over Warren seemed the more profound. Although Richard Nixon once referred to him as "our great Republican chief justice," the more typical reaction from the GOP probably was the one voiced by President Dwight Eisenhower. His appointment of Warren to the court, "Ike" said, was "the biggest damned-fool mistake I ever made."

Warren had come out of the "liberal" wing of the GOP—the wing that brought Eisenhower into presidential politics. Warren himself helped give the nomination to Eisenhower in 1952 when, as governor of California, he led his delegation to the general's side on key test votes. Four years earlier, the "Liberal" GOP had put Warren on its national ticket as the party's vice presidential nominee.

His own background in public life had been distinctly that of a moderate. As a district attorney and as California's attorney general, he had been an aggressive prosecutor—some said to avenge the never-solved bludgeoning murder of his father. But he also was considered fair, and he insisted he was "nauseated" whenever a jury would find the accused guilty after he had prosecuted.

Regularly supported by labor and liberals in a succession of landslide political victories, Warren's career seemed to contain only one real lapse from moderation: His demands for isolation and confinement of Japanese-Americans during World War II. "If the Japs are released," he said, "no one will be able to tell a saboteur from any other Jap."

But, after his decade and a half as chief justice, his political and philosophical past seemed beside the point. The catalog of that court's truly historic decisions, most expanding civil rights and liberties, was long enough to unsettle anyone who expected the Californian to be a moderate as a judge.

From the court during his years, there emerged such nearly revolutionary cases as these:

Brown v. Board of Education, outlawing racial segregation in public schools.

Baker v. Carr and Reynolds v. Sims, the "one-man, one-vote" decisions that equalized representation and led to wide expansion of voting rights.

Gideon v. Wainwright and Miranda v. Arizona, guaranteeing the right to a lawyer to accused persons.

Yates v. United States, limiting federal power to prosecute or punish suspected "subversives."

Engel v. Vitale, barring prayer in public schools.

Roth v. United States, limiting prosecution of "obscene" publications or films.

The list goes on, touching nearly every sensitive question aggravating the national government between the presidencies of Harry Truman and Richard Nixon.

Many of the most important rulings were not the personal work of Warren. His approach, and the way he cast his vote and wrote his opinions, were so nearly like the work of the court as a whole that the public found it easy to call the tribunal the "Warren court."

Many have assumed that the signs of his outward mastery of the court reflected an internal reality. But Warren, in fact, never was much more than one of nine.

On many key cases, the most that he brought to bear was a vote. Many of the constitutional and legal theories that the court put into reality in his 16 years there were the creations of others. He did endorse most of them, to be sure.

But there is a distinct Warren mark in the 50 volumes of United States Reports which formally record the cases of the 1953–69 period.

These "Warrenisms" are ideas or premises that, apparently, were brought into the court's judging process mainly or wholly by Warren.

Some of the more significant are these doctrines:

That citizenship cannot be taken away.

That the mere right to cast a ballot is not enough to assure the equality of the vote.

That equality may turn upon merely the state of mind.

That the mere presence of authority can be menacing to a free person.

That a man's actions can turn innocent ideas into criminality.

Fundamentally, each of these is a variation of Warren's basic theory about the rights of a free citizen in the public order. As he has put them into the court's case results, each has become a kind of "civil right"—a legal guarantee for the individual as he comes face to face with authority, public or private.

It is a virtual certainty that Warren never thought of them as making up a philosophical "system." He spoke disparagingly of judges who followed a "metaphysical point of view."

Moreover, some of the "Warren doctrines" are, in some ways, contradictory. Most of them do not take into account fine distinctions, and thus they have been able to serve Warren in reaching sometimes opposite conclusions.

But they may be considered kinds of dogma for the Warren court, since each became the guide for a whole series of rulings in particular cases. They were more than precedents, because precedents usually are confined within separate branches of the law, while the Warrenisms came to have quite wide utility.

Probably the central theme of Warren's dogma is that involving citizenship—the view that, once gained by birth or by decree, citizenship cannot be wiped out by anyone except the citizen acting voluntarily. Warren wrote in 1958: "Citizenship is man's basic right for it is nothing less than the right to have rights."

Thus, it became the key to much that he and his colleagues did in defining the duties and opportunities of Americans. Of course, the theory did its most direct service in invalidating a series of laws that made loss of citizenship the price of wartime desertion, voting in a foreign election, or staying too long abroad.

But for Warren himself, the citizenship doctrine lay beneath much that he did in the field of voting rights—including the reapportionment of state legislative districts, and the opening of the ballot to minor-party or independent candidates.

The electoral status of Americans, the chief justice repeatedly said, has to do with "the attributes of citizenship."

His basic statement of it, in a famous dissent in the "Perez case" in 1958, shows that Warren was pursuing a simple theory of American civics:

"This government was born of its citizens, it maintains itself in a continuing relationship with them and, in my judgment, it is without power to sever the relationship that gives rise to its existence. . . . The people who created this government endowed it with broad powers. They created a sovereign state with power to function as a sovereignty. But the citizens themselves are sovereign, and their citizenship is not subject to the general powers of their government."

This was the best clue available to Warren's view of the priorities when a citizen and the government—any unit of government—come into a clash. When the citizen arrives at the point of clash, Warren saw him as the possessor not only of basic "human dignity" but as the holder of a wide range of rights and guarantees.

That explained some of the philosophy behind his many rulings in favor of better treatment of citizens holding Communist views or having a Communist membership in their past and about the posture of the citizen as he faces accusations before any tribunal: A congressional committee, or merely a squad of police interrogators.

Of course, there was a clear and distinct link between the Warren view of citizenship and his view about the right to vote.

While he was not solely, or even predominantly, the source of pressure to bring the court more deeply into the machinery of politics, once the justices were in it, he became dominant. And so did his theories of citizenship and the voting right.

He repeated, in virtually every voting case, that the "dilution" of the vote by any means—racial discrimination, unequal districting, whatever—not only was wrong, but also might take away the claim of "legitimacy" of representative government.

As Warren saw it, those were anything but abstract notions. He repeatedly insisted that the citizen, as the ultimate sovereign, had to be able to conclude that the practical procedures of government work not only well but fairly. He said that this assurance of "fairness' or "equal treatment" was basic, because it was the key to citizen confidence.

In this, of course, he borrowed somewhat from another of his theories: Having rights in America means more than having formal rights; it also means believing in one's own mind that those rights will be respected in fact.

Warren's classic use of that theory came in the school desegregation ruling in 1954. Black children in the South and in some border states, he conceded, had been treated equally in terms of buildings, teacher salaries, and other such "tangible" factors. That would have satisfied the court's old standards, Warren commented.

But he went on to conclude that equality simply could not exist for blacks who were kept separate, by law and custom, from whites.

Applying current "psychological knowledge," he wrote that to separate school children from others of similar age and qualifications "soley because of their race" gave them "a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

That notion—that one's mental attitude about his status could have constitutional significance—was, at the least, a theoretical breakthrough at that time. Over the years after that, it came to be a working principle of the Warren court's racial discrimination cases.

It became common, in cases affecting such widely varied matters as mixed marriage, buying or renting housing, or running for political office, for the court's opinions to condemn the "badge of inferiority" fastened on American blacks by segregation and discrimination.

When such an opinion was written by the chief justice, it usually would include some variation of his underlying theory about individualism. Expressions like "the worth of the person" or "human dignity" would phrase the idea, so basic as to be assumed without labored argument. For any lawyer who had sought to exalt authority or custom or necessity over those qualities, the burden was monumental.

Indeed, there was a certain impatience in Warren's opinions when he dealt with blunt claims to authority over the individual. He seldom, if ever, stood prepared to assume that authority had priority. Of course, he did not always vote to overturn claims to governmental power. But his apparent tendency was to begin with doubts that power had compelling presumptions in its favor.

As the contests between government and individual came before the court, there was already a claim of abuse of power. Otherwise, no controversy would have risen to the court's level.

Passing upon the claimed abuses term after term, Warren seemed to attach increasing prominence to his theory that the mere presence of governmental authority might be expected to overwhelm the individual. He applied that doctrine most tellingly in a long series of rulings on congressional or executive branch probes into the lives of persons suspect of disloyalty or "subversion."

In 1957, he condemned the loyalty investigations on the ground that they were "a broad-scale intrusion into the lives and affairs of private citizens." He came very close, on that occasion, to putting the House Un-American Activities Committee out of business.

He felt the same, and said so, about loyalty review boards sitting throughout the government in the 1950s, and about Red-hunters in state and local government.

As Warren insisted, then and since, he was not condemning the nation's basic eagerness to survive. As far as he could determine, that was never the issue. Rather, the question was whether the individual and his rights had been put aside in easy assumptions about the source and nature of the "national security" threat.

To Warren, the contest between authority and the individual was no contest. Authority had to be surrounded by safeguards and "neutral" devices to make the contest equal. That conviction, somewhat alerted, lay beneath the court's controversial rulings on police questioning of suspects at the stationhouse.

To be sure, the suspect in custody had no "right" to the activities that police were interested in probing. But he had a right, as

Warren saw it, to have the contest between police authority and his own will made more nearly equal.

His reputation, and that of "his" court, of course, was that the court was so insistent upon it notions of fairness and equality that it would allow virtually no criminal conviction to stand.

But, for all of Warren's seeming reluctance to endorse any conviction, he was prepared to accept—on the basis of a theory that seemed almost exclusively his—the punishment of those who were "plainly engaged in the commercial exploitation of the morbid and shameful craving" for dirty firms, books and magazines.

In 1957, he spelled out the theory which, nine years later, was to be the basis of the court's first ruling upholding an obscenity conviction. "The conduct of the defendant," he wrote in 1957, "is the central issue, not the obscenity of a book or picture."

Publications or films which could, on their own, pass the court's legal tests, Warren said, could be converted into terms of criminality by the actions of their distributor or promoter.

It was, in fact, the most complicated of Warren's basic theoretical contributions. Firmly opposed to checks upon ideas or "expression," and absolutely opposed to "book-burning," as he called it, he nonetheless was prepared to have books, publications and films take on the elements of criminal liability if their purveyors were willing to give them label by exploiting them in the "smut market."

By a further puzzle of reasoning, that became a "civil right," because it left the publications and movies free from the direct reach of the censor, and left the individual who wished to obtain them or the one who wished to avoid them the option to do so.

The net result of his own contributions, and of the way he cast his vote most of the time over 16 years, was that Warren ended his service classified as a "liberal."

That apparently did not bother him. In an interview he granted to Alden Whitman of the New York Times, for publication upon his death, Warren conceded that his views had changed because he saw things "in a different light."

He commented:

"No man can sit on the court over 16 years and remain parochial, for he must look out over all the United States. I do not see how a man could be on the court and not change his views substantially over a period of years."

If Warren was parochial at all while he was chief justice, it was in his almost complete absorption in the court's work in deciding cases. He showed almost no interest in running the federal judiciary, and actually avoided purposefully any involvement in the work of lawyers' associations. So far as is known, he never yielded to the temptation of some justices to spend time advising presidents.

But Warren did step out of his judicial role once, and he seemed later to regret it deeply. He served as chairman of the commission that investigated the assassination of President John F. Kennedy in 1963.

"The only reason I undertook the commission," Warren said in the interview for the Times, "was the gravity of the situation . . . But it isn't a good thing for a justice to undertake such duties."

Throughout his life, Warren also kept a strong religious faith. He read from the Bible daily, often at bedtime.

Much of his personal life was simple and unsophisticated. He loved professional sports and fishing and hunting. In Washington society, he was an eager party-goer, but never seemed an intimate with the fashionable set.

Apparently, his closest friend was Warren Olney, whom he named U.S. courts administrator. But he also had close associations with the late Drew Pearson, a columnist, and with Ben Sweig, owner of the Fairmount Hotel in San Francisco.

His wife of nearly 50 years, Nina Palmquist Meyers, was a constant companion of his in public life. After he became chief justice, she regularly sat in the front row of the Supreme Court's VIP section.

She survives him. There are six children—five born to the Warrens—Virginia, Earl Jr., Dorothy, Nina Elizabeth and Robert—and his wife's son by a former marriage, James Meyers, whom Warren adopted.

LAWRENCE LUNT, A PRISONER IN CUBA SINCE 1965

Mr. DOMINICK. Mr. President, for some time now, I have been working with a number of my colleagues in the Senate and the House, and with members of the family of Lawrence Lunt in an effort to persuade the Cuban Government to return Mr. Lunt, a prisoner in Cuba since 1965.

Until recently, the details of our efforts and those of the State Department had not been publicly discussed. During these months, the most hopeful sign that some progress was being made was an indication by the Cubans—given on three separate occasions—that they would be willing to exchange Mr. Lunt for one of their own men, a military officer being held by the Portugese. The first indication of a willingness to exchange the men came in the form of a pledge by Fidel Castro to Pope Paul 3 years ago.

The recent change of governments in Lisbon has resulted in pressures from some groups within Portugal to return the Cuban officer without regard for the commitment of the government in Havana to release Mr. Lunt. In the wake of demonstrations in the streets of Lisbon, the Lunt case became public knowledge, both here and in Europe.

It is my hope that the government in Havana will live up to its promise to exchange Lawrence Lunt for the officer held by the Portuguese and I join his family and friends in urging that a message be conveyed to the Cuban government that any failure to honor their previous commitment would be regarded as a breach of faith and an indication that they are not worthy to be considered a member of the international community.

Mr. President, an article by Benjamin Welles in the June 9 edition of the Washington Post contains a detailed account of the Lunt case. In order that my colleagues may have a better understanding of the situation of Mr. Lunt, I ask unanimous consent that the news account be printed in the RECORD.

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

[From the Washington Post, June 9, 1974]

POPE, CASTRO AND A PRISONER SWAP

(By Benjamin Welles)

A pledge by Fidel Castro to Pope Paul VI could well rank as one of the rarest of modern diplomatic commitments, especially when it concerns freeing an alleged CIA agent.

Nonetheless, just such a promise made by the Cuban premier to the Holy See three years ago and repeated to the Belgian government six months ago is the key to intensive, behind-the-scene negotiations involving the U.S., Cuba, Portugal, Belgium, the Vatican and possibly guerrillas of the armed independence movement in Portuguese Guinea-Bissau.

The object of this unpublicized maneuver is Lawrence K. Lunt, an American, now 50, who has spent the last nine years in various Cuban jails.

Born in Massachusetts, Lunt drifted out West as a young man and became a ranchhand. One of his cowboy friends at the time was Sam Steiger, now a conservative Republican congressman from Arizona.

Lunt served in the U.S. Air Force in World War II and Korea. In time, after marrying a Belgian girl, he settled down in Cuba to raise cattle in the Pinar del Rio province. Partly because of his marriage to a non-American, partly because expansion of the cattle industry had been a goal of successive Cuban governments, Lunt was allowed to remain on after Castro came to power.

The Cubans later claimed that during a family visit to Washington in 1961 he was recruited by the CIA to collect political-military-social information about conditions in the island.

Whatever happened—the evidence is conflicting—and despite warnings from family and friends that life in Cuba was becoming increasingly risky for Americans, Lunt went back.

In June, 1963, he was arrested on charges of espionage and of harboring at his ranch counterrevolutionaries; e.g. persons seeking to leave Cuba. During his trial after six months of harsh interrogation, Lunt displayed what some called reckless bullheadedness, others, raw courage.

His case coincided with the nadir in U.S.-Cuban relations: a time when Castro feared for his life. Castro also was claiming that the CIA might try again to overthrow his government. The U.S. landings in the nearby Dominican Republic early in the year had stimulated Castro's phobia about U.S. plans to crush him.

So, in 1966, Lunt received the unusually severe sentence of 30 years in jail. He will be 71 when his term ends in 1996, unless he is released before then.

For six years after the sentence, Lunt's Belgian wife, Beatrice; his brother, Dr. John Lunt of Littleton, Colo., and his sister, Mrs. Donaldson Magill of Washington, struggled against a slack U.S. bureaucracy, defeatist in the face of Castro's severity. In 1971, came the first glimmer of hope.

In response to the pleas of the family, Pope Paul sent a private diplomatic message to Castro urging "benevolence" for Lunt. The papal appeal initially was successful.

OFFER REJECTED

Within weeks, the Cuban government, in an aide-memoire to the Vatican, agreed to free Lunt. The price: release from Portuguese imprisonment of one Pedro Rodriguez Peralta, a Cuban army captain. Rodriguez (whom the Portuguese call Peralta, his mother's family name) is now 34, an avowed Communist proud of his mission and a close friend of Castro.

He was wounded and captured by Portuguese troops in November, 1969, while accompanying armed militants of the PAIGC independence movement in Portuguese Guinea-Bissau.

Cuba's offer to the Pope—Lunt for Rodriguez—apparently fell on deaf ears in the Portuguese capital. The then premier, Marcel Caetano, an ultra-conservative trained in the rigid Salazar school, coldly rejected "unofficial" hints by the Americans, the Belgians and the Vatican that he set free Rodriguez, a Cuban army officer and acknowledged Communist caught stirring up dissidence in Portugal's war-wracked African territories.

"What benefit would this be to Portugal?" Caetano is said to have demanded. "We re-

lease a foreign Communist, tried and sentenced by our courts, for an American imprisoned in Cuba on charges of spying? No!"

In fact, so strongly did Caetano and his ministers feel about the Rodriguez affair that they had the initial light sentence imposed by the Portuguese army in Guinea—18 months and a small fine—set aside. A new trial was held in Lisbon and Rodriguez' sentence was increased to 10 years.

In retrospect, Caetano's obduracy appears to have stemmed, in part, from the cool relations between Washington and Lisbon. Portugal felt ill treated; it had allowed the U.S. to help build vital air bases during World War II in the Azores and to use them since in return for minimal economic aid.

But, as a charter NATO ally, portugal resented strictures about her "colonialist" policies in Africa—especially from the U.S., whose own racial problems seemed far from solved. Feeling dangerously isolated, on the one hand, form its traditional Western friends, Portugal hesitated about expelling the U.S. from the Azores. But on the other hand, characteristically, it draped itself in a mantle of offended dignity.

Given this hurt prid and with the continuing need for the Azores very much in mind, the State Department tended to look the other way. Only when prodded did it even mumble under its breath to Portugal about the Lunt case. So months passed.

AMNESTY DECREED

Gradually, however, Caetano's feeling of isolation began eating away at his initial inflexibility. Last October, for instance, during the Arab-Israel Yom Kippur war, Portugal, alone of the NATO allies, let the U.S. use its territory to fly through arms for the hard-pressed Israelis. After the war, at Secretary of State Kissinger's suggestion, the U.S. publicly thanked Portugal for having allowed the C-130s and C-5As to refuel in the Azores.

On April 25, everything changed. Caetano's regime was dismissed by a military junta led by Gen. Antonio de Spinola, a former troop commander in Guinea-Bissau. Mario Soares, a young Portuguese socialist, flew back from exile in France to become foreign minister.

One of Soare's first acts was to fly to London and begin negotiating a cease-fire with delegates of the same PAIGC movement with whom Rodriguez had been captured. It is virtually certain that the fate of Rodriguez was at least a topic of discussion. He was the PAIGC's comrade-in-arms.

As Soares was confering in London and various junta chiefs in Portugal were pledging "self-determination" for Portugal's African territories, an amnesty issued by Spinola's provisional government decreed that all Portuguese "political" prisoners jailed by preceding regimes were to be freed.

In Cuban eyes the situation now swung around 180 degrees. Under the amnesty, Rodriguez, who had four operations on his wounded arm while in Portuguese custody, could expect shortly to be released. With each passing day there seemed less reason to honor the pledge made to the Pope and to others.

It was at this point that the Cuban foreign ministry informed the Belgian government and the Vatican that the deal was off. No longer, said the Cubans, did they feel any need to adhere to their 1971 undertaking; in fact they were now seeking Capt. Rodriguez' "unconditional" release because, they added significantly, they felt on "very good" terms with the new revolutionary government in Portugal.

The Cubans appear to have misread Spinola. Those acquainted with his policies say that while the provisional government intends to be liberal—there are, after all, two communists in the cabinet—it will still continue backing NATO and, especially, it will seek closer ties with the U.S.

Spinola, for instance, has blocked the release of Rodriguez despite protests by Portuguese leftists and by the Cubans. He has noted that Rodriguez hardly fits the category of a Portuguese "political" prisoner. In a highly significant move he has also, within the past few days, called in the Cuban charge d'affaires for a private talk. His colleagues have told U.S. officials that U.S. and Belgian "interests" in the case will not be ignored.

Speculation in Lisbon now suggests that Spinola told the Cuban charge d'affaires of his personal interest in the Lunt-Rodriguez case and that he is now waiting to see whether the Cuban government intends to honor an offer it made voluntarily in 1971.

The Cubans have reacted both legally and politically. As counsel for Rodriguez they have engaged Manoel Joao da Palma Carlos, a left-leaning attorney who, by singular coincidence, happens to be a brother of the new moderate prime minister Adelino da Palma Carlos.

More important, Portuguese—or Cuban—leaks to the local press have led to headlines accusing the U.S. of "meddling" in Portugal's affairs. Crowds have been demonstrating before the Lisbon military hospital where Rodriguez is being held and have been demanding the "unilateral release of Comrade Peralta."

CONGRESSMEN ACTIVE

Interest in Lunt's case is now beginning to surface in Congress. Rep. Steiger has been urging the White House to intervene. Lunt's elderly mother is gravely ill in Colorado and Sen. Peter Dominick (R-Colo.) has enlisted the support of a non-partisan group of senators including several who favor better ties with Cuba, to press for Lunt's release.

"Castro not only promised the Pope in 1971 that he would exchange Lunt for Rodriguez," said one source familiar with the case "but this promise was repeated to Lunt's wife that same year when she visited Cuba by Maj. Manuel Pineiro, Castro's intelligence chief. It was repeated for the third time last December by Cuban President Dorticos to the retiring Belgian ambassador."

State Department and CIA officials decline to discuss the case publicly; each hints that it's the other's responsibility. And with the Azores negotiations still in limbo as the Spinola regime tackles more immediate problems, the Lunt case conceivably could get sidetracked.

Nonetheless, the Spinola government unlike past Portuguese governments, seems intent on ending its isolation, winning back old friends and particularly closing the gap with the U.S.

Spinola and his colleagues are said to be well aware that current agitation for Rodriguez' release—unilaterally—may signify a mounting challenge from the left to his untested regime.

It is a challenge that Castro is almost certainly watching and one which, if allowed to succeed, could have far reaching repercussions in Portugal's huge, rich and increasingly confused African territories.

Spinola and his aides recently have begun stressing the "sanctity" of international obligations; Castro's pledge to the Pope is, in their view, an undertaking that should be fulfilled. They have made it known through private channels that Rodriguez will only be released in exchange for Lunt.

Among the myriad problems confronting Spinola, the exchange of Capt. Pedro Rodriguez Peralta, Cuban army, for Lawrence K. Lunt, U.S. civilian, may well have more political significance than meets the eye.

THE SELLER'S RIGHTS

Mr. BROCK. Mr. President, as an integral part of the necessity for public protection agencies, we need to remain aware of the seller's rights, as well as those more frequently emphasized consumer demands. The situation which has developed with Marlin Toy Products Inc., is a prime example of this need, as cited in a Washington Post commentary by Nicholas von Hoffman.

Two of their products designated as unsafe by the Consumer Product Safety Commission in 1972 were modified acceptably and put back on the market in 1973, but the Commission failed to remove these products from the banned toy list. The subsequent results were devastating to the Marlin Toy Co., and left them in a defenseless position.

I ask unanimous consent that Mr. Hoffman's pertinent article be printed in the RECORD for the benefit of my colleagues.

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

CAVEAT EMPTOR—AND VENDOR TOO

(By Nicholas von Hoffman)

You might say that politically what they did was like mugging Marcus Welby or evicting The Waltons. Can you imagine an agency of government that would put a toy factory out of business when it was owned by a widow and located near Beaver Dam, Wisc., the mythical small town we all left for the sins and disappointments of the big city?

Ideally Marlin Toy Products, Inc., of Horicon, Wisc., should also have elves working for it instead of the 85 humans company vice president Ed Sohmers says it had before the Consumer Products Safety Commission went into action. Marlin's troubles date from November 1972 when the government informed it that its "Butterfly Flutter Ball" and its "Birdie Ball," both products it had been selling with success and safety for a number of years, were hazardous to children because they contained little plastic pellets infants might choke on if the transparent balls were broken apart.

Marlin took both off the market, swallowed their losses, redesigned the toys without pellets, submitted the modified balls to the commission, which found them acceptable, and then proceeded to market them. The commission, however, failed to remove the products from its new list of banned toys so that the 1973 season was a jolly wipe-out for Marlin.

All last fall Sohmers wrote letters beseeching the commission to rectify the mistake so that stores would stock the toys but the most he could get was a letter saying the mislisting "resulted from an editorial error and will be corrected on the next issue of the list."

Subsequently commission chairman Richard Simpson said he thought that should have been enough but hundreds of thousands of banned toy lists had gone out. Some state consumer agencies had put the toys on *their* lists. Birdie Ball and Butterfly Ball even got dishonorable mentions on the radio.

Yet the government which demands that companies send out letters and telegrams notifying their customers of errors and defects won't do the same thing when it booboos. Had the commission done so Ed Sohmers might not now be saying. "This is going to cost us $600,000 and for our sized business that's death . . . I can't tell you the effect of laying off 85 people in a small town . . . Damn it, I hate to close the doors on these people. Me? I can always get by robbing liquor stores, but not some of the others . . ."

"We wanted justice so we went to the Justice Department but they said 'we only prosecute people,'" says Sohmers who now understands that you may not sue the gov-

ernment for damages unless Congress passes a law allowing you to. No one would introduce such a bill until the Beaver Dam Citizen broke the story and Sen. Helms, the North Caroline right winger, interested himself in the case.

Recently bills have been introduced in both houses but for all this loss and aggravation Marlin isn't your ordinary tale of yawning bureaucratic indifference. The commission has a far better reputation than most commissions around here. Simpson admits the mistake and says his forces are at least willing to consider recommending passage of the law that will allow Marlin to sue. Any other office in this town and they would have said, "Tough luck, Birdie Ball, we're infallible."

Marlin shows that it's not so easy to protect the public, even if you are one of those rare ones who wants to. Simpson, for instance, says it's possible that the toys shouldn't have been put on the list in the first place. The regulations themselves are ambiguous unsusceptible to precise understanding. What does it mean that a toy shouldn't have "sharp" edges? What's sharp? Beyond that no regulation can protect a small child left alone by parents who don't love it wisely enough to watch over it.

This case shouldn't be used as an argument to abolish the commission. In an era when even children's toys are made of exotic materials and by the most advanced technologies no lay person can be an informed buyer without help. Now the question is how can the public administration learn to protect the buyer and the seller too.

U.N.: OUT OF THE VALLEY

Mr. McGEE. Mr. President, in a recent column which appeared in the Washington Post, writer Stephen Rosenfeld once again demonstrated his unique grasp of international affairs.

In his column entitled "U.N.: 'Out of the Valley,'" he demonstrates the increasing necessity of the world community to rely upon the United Nations in dealing with economic and political problems which pose serious threats to international stability.

Mr. Rosenfeld discusses the role of the United Nations in the latest Middle East conflict; the role of the U.N. in the Iran-Iraq border dispute; the role of the U.N. in mobilizing action on the development, sea resources, population, food, and energy fronts.

In essence, he sets out in a very thoughtful manner, the advances being scored by the United Nations. Mr. Rosenfeld's column adds a refreshing new dimension to the oft-times short-sighted debates we witnesses in the Congress on the efficacy of a strong U.S. participation in the U.N.

I ask unanimous consent that the column be printed in the RECORD.

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

U.N.: OUT OF THE VALLEY

(By Stephen S. Rosenfeld)

UNITED NATIONS.—Secretary General Kurt Waldheim, confident and assertive in his third year on the 38th floor, is pleased to report that the United Nations is now quite fully seized of what he regards as the three big problems on the international agenda, the Mideast, world poverty and "decolonization in southern Africa."

He sees Henry Kissinger regularly, talks with him often and admires the Secretary of State's Mideast prowess—though, he adds, making a balancing gesture with his hands, "the Russians play their role." At the same time, he wants Americans to know that in the Mideast, American bilateral diplomacy is complemented by the multilateral efforts of the UN.

The UN has successfully provided peacekeeping forces on the Israeli-Syrian and Israeli-Egyptian lines: no one else could. In "a turning point in the history of peacekeeping," the "East bloc" has furnished manpower (Polish logistical units) and political support for UN peacekeeping for the first time. NATO (Canadian units) is represented too. The Israelis, previously scornful of the UN, now find it useful, as do the Arabs. "They both want a UN umbrella. They find our forces fair and our political role acceptable."

Waldheim stresses, though, that the road ahead will be long and hard: the Arabs insist on retrieving all lost territory, the Israelis on retaining some of it. In respect to the Palestinians, who are "crucial," he says, "various ideas have been ventilated, such as an independent state. There is the question of who should represent the Palestinians. These questions must be clarified." This should be done before the Geneva conference resumes—not until sometimes in the fall, Waldheim figures.

He pauses to point out that, virtually unremarked in this country, a shooting-hot border dispute between Iran and Iraq was quietly cooled in March by his special representative, Mexican diplomat Luis Weckmann-Munoz, who got the two sides to agree that much of their difficulty lay in decades-old difference in their border maps.

Waldheim acknowledges that he and the world organization have been steadily tugged in recent years toward dealing with the economic concerns which create the basic dilemmas of most of the UN's membership.

So the UN and Waldheim, personally, are into development, sea resources, population, food, energy—though, in truth, it is a bit jarring to see someone as suave and pinstriped as Waldheim waxing over the world's poor.

He concedes that the recent special session of the General Assembly—the first such session (of six) devoted to the economic-social area—took a "political approach." That means, in American translation, the United States and other Western states took a rhetorical beating. But Waldheim is satisfied that machinery was created and momentum achieved to focus the UN more effectively on producing a "new economic order," and in a spirit more of consensus than confrontation.

The special session's emergency-aid campaign for the countries most in duress—"mostly from high energy prices"—has gotten started with a Common Market pledge conditioned on yet-to-come American and Arab pledges. The $3 billion emergency goal can include bilateral as well as multilateral aid. Waldheim notes: "We will coordinate."

Conceding that Americans may not see it that way, Waldheim cites as the third big UN concern African decolonization, which he describes as the "Portuguese territories, Namibia, Rhodesia, et cetera"— the "et cetera" I took to mean South Africa, toughest nut of all.

From Portuguese Foreign Minister Manuel Seares last week he got the "firm impression" that Lisbon is sincerely moving to respect UN appeals for negotiations, self-determination and independence for its African colonies. Portugal is asking for local referendums, which the "liberation movement" want to skip, but Waldheim is "confident that can be worked out . . . through of course we have to see that it is really done."

Waldheim is plainly hopeful to convert the UN's recent activities—in Mideast peacekeeping and in providing a forum for global economic collaboration—into American esteem for the world body. He says: "We're getting out of the valley we were in for a number of years when the Western public said about us, 'They have debates but where are the deeds'?" He is, of course, right.

EARL WARREN

Mr. BROOKE. Mr. President, the passing of Earl Warren fills us all with great sorrow. Few individuals have so profoundly affected the course of American history.

In a succession of public posts, Earl Warren demonstrated consistently the wisdom and foresight that made him one of America's finest national leaders.

During his 16 year tenure as Chief Justice, the Supreme Court handed down some of the most important decisions in the history of our country. These landmark rulings reflected the Warren court's reverence for the civil liberties of all Americans.

The Nation will sorely miss the leadership of Earl Warren, especially in these most difficult times. But Americans can be proud that our country produced a man who was so right for his time and whose accomplishments will continue to serve as a beacon for future generations.

MRS. KING AND CHIEF JUSTICE WARREN

Mr. HART. Mr. President, within the past 10 days two persons who understood and joined the battle to eliminate discrimination from our society died.

Mrs. Martin Luther King, Sr., black, wife, mother, deeply involved in church work and the civil rights movement in the South, knew first-hand the cruel effects and despair bred of racial discrimination.

Former Chief Justice Earl Warren, white, among the politically elite and powerful, came to appreciate why a nation which would be free must be free for all its citizens.

Though they approached the problem from different situations and in different ways, they shared the goal and the faith that peaceful change through law can correct the flaw which has been with our Nation from its beginning.

Only time will tell what if any lasting changes will result from the efforts of Mrs. King and her family and from the Supreme Court decisions reached during Mr. Warren's term as Chief Justice.

But if at this point we can only guess and hope that their work will live after them, Mrs. King and Mr. Warren did leave us a message to help us through the present.

In his book, Mr. Warren said that in a republic "a prime function of government has always been to protect the weak against the strong." If we remember that, we can move toward the type of society which Mr. Warren believed is called for by our Constitution.

In his remarks at his wife's funeral, the Reverend King said:

I knew I was going to be strong enough to stand here today. I'm not going to quit, I'm not going to let nothing stop me . . . So, "Bunch," Im going to miss you. You know that . . . I know one thing, you're resting. You were tired, I am, I'm tired. Let him come back, he can't do nothing but kill this old broken body . . . we shall overcome. It is in my heart, and it's in my soul, and I really believe we shall overcome.

If each of us can be strong enough to stand fast for the ideals of equality in these difficult times, if each of us, like the Kings, refuse to quit in face of setbacks, disappointments and even tragedies, then indeed our country may yet reach that mountaintop where the accidents of birth are no longer a standard of judgment.

We should be grateful to Mrs. King and Chief Justice Warren for their efforts to move us toward that summit.

LET US DECENTRALIZE OUR GOVERNMENT

Mr. BROCK. Mr. President, in my 12 years of elected office I have seen many of our Founding Fathers' principles of government simply go by the boards. A matter of special concern to me has been the number of regulatory agencies that are accountable only to the executive branch of Government.

Mr. President, I think it is time to put some teeth in all the calls to decentralize our Government. We must remember that this is supposedly a democracy, and lawmakers are answerable to the people, and the people only.

Mr. Howard Philips, in an article in the Federal Times, has recommended to Congress different ways to remedy this situation, and return us from technocracy to democracy. I strongly recommend this article to my colleagues, and ask unanimous consent that it be printed in the RECORD in its entirety.

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

ISSUE: TECHNOLOGY OF DEMOCRACY

(By Howard Phillips)

In his first inaugural address, President Thomas Jefferson observed, "Sometimes it is said that man cannot be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him?"

In setting forth "the essential principles of our government" which "ought to shape its administration," Jefferson prominently included "absolute acquiescence in the decisions of the majority, the vital principle of republics, from which is no appeal but to force, the vital principle and immediate parent of despotism."

Surely there is no clearer test of how well democracy survives in America in 1974 than to measure the extent to which "we, the people" are to control the operations of our government and the uses to which our taxes are put through the electoral process.

The measure is accountability. To whom do our institutions respond? To the general interest, expressed by means of free elections, or to special interests, which have established themselves as the principal constituencies of Executive Branch decision-makers and legislative authorizing committees alike. As Congress considers the question of budget reform, it should also face the corollary issue of *political* accountability for subsidized programs. The two matters are inescapably intertwined.

As a seventh grade student, I was first warned by a wise teacher of the Latin language that America was threatened by technocracy—the rule of experts. At that tender age I tended to discount that warning, even as I failed to fully comprehend its meaning. Now, after several years in Washington, including four as an official of the Executive Branch, its meaning is all too plain.

Important decisions of national policy and programmatic priority are too often decided in anonymity by men and women whose values and biases, however enlightened, structurally bypass control by the electorate.

Nowhere is this more true than in the social agencies, where decisions about whom to fund, which regulations to draft, which rules to enforce and which priorities to put forward cannot help being rooted in the preferences and values of those who draft and "sign off" on the bureaucratic documents which, taken together, come to shape and constitute agency, departmental and national policy.

Truly, as former Sen. Eugene McCarthy once said, "operations is policy." Furthermore, the decisions made by bureaucrats tend to become irremediable, under the prevailing political philosophy of "once funded, forever funded"—once placed in print, never to be erased, save by specific, precise, overt legislative corrective.

Indeed, the federal establishment has become so large, and the visibility of its working components so low, that decisions of the first magnitude are made each day in a manner which escapes press attention and limits the possibility of effective political response.

Both Congress and the President have too few tools to control the bureaucratic behemoth which decades of inattention to the issue of accountability have allowed to grow to its present size.

The Nixon administration has, with some hesitation and uncertainty, sought to confront the problem through such tools as managing by objective, revenue sharing, and governmental reorganization.

I applaud the President's stated goal of returning "power to the people," "reversing the flow of power," "returning power to elected officials at the local level" and creating new opportunities for citizen participation in decision making, yet must lament his corollary failure to surround himself with men and women sufficiently well-equipped to understand and advance those stated goals, and his failure to insist that the policies and programs of his government correspond to the social values and political objectives with which he effectively identified himself during the 1972 campaign.

All of these failures diminish the capacity for accountability of Mr. Nixon's government. From a technical standpoint I believe this administration has advanced governmental management techniques. In that sense it is a success. Its failure derives from treating the management and budget process as inherently neutral, in terms of values.

Budget-making is anything but neutral, from a policy standpoint. Neither is good management policy-neutral.

Yet Mr. Nixon has essentially turned over responsibility for management and budget-making in the domestic policy area to civil servants whose political values and social beliefs more closely parallel those of John F. Kennedy and George McGovern than of the 1972-model Nixon who won support from 62 percent of the electorate.

Moreover, missing from the budget process are sufficient opportunities for assessment of (a) the worth of a program, in its own right, even without respect to competing priorities, and (b) assessment, within statutorily permissible range, of its consistency with the overall philosophy and objectives of the administration in power. If elections are to mean something, this kind of policy analysis must take its place side by side with assessments of cost-effectiveness and PPBS.

The latter are necessarily policy-neutral. They are not designed to measure whether the government is advancing results consistent with the democratically-expressed will of the people.

With respect to proposals for a more effective legislative branch role in budget control my views are similar. Of course, Congress should play a greater role—its failure to be effective is its own fault. But if Congress deals only with budget control in the sense of setting its own ceiling or even in the sense of assigning resources within that ceiling, it will still fall short of its duty to the voting public.

It will still be only tangentially effective in making public policy accountable to the legislative will.

Here are a few of my own tentative recommendations for Congress:

First, adopt Senator Brock's idea of zero-based budgeting, reassessing program authorizations at least once each three years.

Second, get away from the whole system of composite appropriations, wherein congressmen often feel constrained to support the "bad" in order to secure the "good."

Let's have item by item decisions in Congress as well as in the Executive Branch. The item veto as part of that process, might strengthen Congress far more than the Presidency, particularly if item overrides can be by majority vote.

Third, Congress should reduce the power of the regulatory agencies and, wherever practical close them down. These are, after all, law making bodies. One argument for their independence and unchecked authority has been "freedom from politics," but haven't we simply replaced small "d" democratic politics with bureaucratic, special interest-representation politics?

Finally, in regard to accountability generally, let us work to reduce the impact of well-organized, vocal special interests, which thrive in the rarefied Washington atmosphere where the appearance of their popular strength is magnified many times by access to the media, physical presence in legislative and administrative corridors, and concentration of other lobbying resources.

Let us advance the *general* interest by reducing the size of bureaucracy, reprivatizing governmental functions, and dispersing power back to the people—through lower taxes, more authority to elected officials, and by *structurally* encouraging greater visibility for the decisions which are made.

Moreover, let us be honest enough to admit that civil service has in many cases become an excuse for preserving in power persons whose beliefs run directly counter to the policies supported by the people at the ballot boxes.

Only if we say, in the words of Carl Sandburg—and pre-Watergate Nixon—"The People, Yes" can we again become worthy of the political heritage left us by men like Thomas Jefferson.

To cite Jefferson once more:

"The same political parties which now agitate the U.S. have existed thro' all time. Whether the power of the people, or that of the "artistoi" (elite) should prevail, were questions which kept the states of Greece and Rome in eternal convulsions."

That is the issue today: Technocracy or Democracy.

EARL WARREN

Mr. MONDALE. Mr. President, it was with great sorrow that I learned of the death last evening of former Chief Justice Earl Warren. Although his passing marks an extremely sad event for all of us who count themselves among his ad-

mirers, we all can know for certain that Earl Warren was a man whose deeds will have effects that will continue long after his death.

Mr. Chief Justice Warren was a man who loved America, who believed in the viability of its institutions, and who had a deep respect for its Constitution. He presided over the Supreme Court for 16 important years. During his tenure, the Court took the first steps toward guaranteeing every American true equality of opportunity—in education, in employment, in the use of public facilities, in all of the attributes of citizenship. Chief Justice Warren was one of the acknowledged leaders in the struggle for equality. He never waivered in his belief that the 14th amendment means equality for all Americans.

When asked what was the most important issue resolved during his years as Chief Justice, Earl Warren always replied that the decisions guaranteeing every qualified voter an equal vote would surely stand as the most important. Beginning with the Court's decision in Baker against Carr, holding reapportionment questions justiciable, the so-called Warren Court enshrined the principle of "one man, one vote" in our legal firmament. The reapportionment decisions will surely stand as a lasting memorial to the work of Earl Warren and to the principle of equal political participation.

One could say many complimentary things about Chief Justice Warren. One could compose a seemingly endless list of the landmark opinions that bore his name. One could quote at length his eloquent and farsighted thoughts on the nature of our constitutional system, the permanence of our institutions, and the American people, who he loved. I think that one of the best ways to remember Earl Warren is through one of the last speeches which he gave before his fatal illness disabled him.

Chief Justice Warren delivered the commencement speech at Morehouse College in Atlanta, Ga., on May 21, 1974. He touched upon many subjects, but his comments on two subjects deserve special mention.

He spoke of the political process and about citizen participation in that process. He said:

> Everyone, no matter how humble, can have some influence on American life, and one never knows when his acts as an individual might have profound effects.

This is what Earl Warren deeply believed and what the decisions issued by the Supreme Court during his tenure as Chief Justice will forever protect.

He also reflected upon recent political events and reactions to some of the recent scandals at the highest levels of government. He said:

> The sponsors fail to recognize that the conditions they recoil against do not flow from public officials following constitutional procedures, but, on the contrary, from circumventing them. As a result, they ignore the old truism that we do not tear down good buildings merely because they have been occupied by bad tenants.

Mr. Chief Justice Warren resisted attempts to tamper with our constitutional system, because he understood its theory, marveled at its flexibility, and respected its endurance.

Many will miss Mr. Chief Justice Earl Warren. But, many will long continue to be the beneficiaries of his important work.

Mr. President, I ask unanimous consent that Earl Warren's speech at Morehouse College be printed in the RECORD.

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

ADDRESS DELIVERED BY THE HONORABLE EARL WARREN

It is not unusual on occasions of this kind to tell graduates of our colleges that they are emerging into a bright new world, vibrant with opportunities for them, or that they are entering a world of chaos and destruction destined for imminent Doom's Day.

In an effort to escape either of these conclusions, I would like to soften those approaches, and merely point out for your serious consideration that while I trust there will be ample opportunity for each of you to carve out a life of satisfaction during your half century or more of active years that our Nation is passing through troubled waters at the present time, and how we emerge from them depends upon us—you, me, all of us.

The scandal, compendiously referred to as Watergate, has shaken the faith of people, not only in the individuals involved, but also in the procedures which brought them to their high stations. Many people are so shocked by the disclosures that they are distrustful of all persons in public life and, what is even worse, they are becoming doubtful about the institutions upon which we have relied for so long to bring about the freedom which was promulgated in the Declaration of Independence two centuries ago.

As a result, there are movements at the present time to alter our governmental structure in a variety of ways. It has been urged in some quarters that because of the scandal in the White House and the charges of criminal conduct against members of the Cabinet, including two Attorneys General, that the Department of Justice be taken from the Executive Branch to be placed in an independent agency under the supervision of the Congress. A similar suggestion has been made concerning the Federal Bureau of Investigation because of the derelictions of a recent Director.

Also, because the Vice President has recently resigned in disgrace and been disbarred by his State Supreme Court that the office be abolished, and succession to the Presidency be transferred either to the Speaker of the House, the President of the Senate, or to some member of the Cabinet.

These are all changes of constitutional dimension born of the cynicism which follows from derelictions in the highest echelons of Government. But they are dangerous suggestions because in time of discord and confusion, such as we are experiencing today, we are not in a situation conducive to a careful appraisal either of the need for the changes or of the consequences which might flow from them.

The sponsors fail to recognize that the conditions they recoil against do not flow from public officials following constitutional procedures, but, on the contrary, from circumventing them. As a result, they ignore the old truism that we do not tear down good buildings merely because they have been occupied by bad tenants.

The Supreme Court of the United States has not escaped from such suggestions. There is no proposal to abolish the Court, but under the guise of helping to relieve it of its workload, there is a suggestion that a new court between it and the present lower federal courts be established to which would be delegated important parts of the jurisdiction of the Supreme Court, thus eliminating the free access of even the poorest or most underprivileged person in America to its jurisdiction.

The proposal does not even contemplate a regular court of permanent tenure or of fixed jurisdiction, but one of rotation of circuit judges for a short period of time on a voluntary basis and with a fluctuating jurisdiction.

There is not time here today to discuss this proposal further than to say that it is now weaving its way through the American Bar Association to give it the appearance of a consensus which it does not deserve because in fact not one lawyer in a hundred has even heard of it.

The proposal should challenge the interest of every person who believes that the Supreme Court was intended to be and should always remain the last forum to which all Americans have free access for the adjudication of their constitutional rights.

I submit to you that in troubled times such as those we are now experiencing that there is danger of some such half-baked ideas finding their way into the law unless people like yourselves will give time and personal attention to the affairs of Government on all its levels. I refer to you specifically because Government will mean more to you than the rest of us for the simple reason that you will live longer under it than those of us who are older.

The great virtue of our Government is that people can do something about it. They elect our representatives on all levels of Government, our Mayors, our Legislators, our Governors, and our President. Where they have made a mistake, they can rectify it in a subsequent election.

I know that because of the complexity of our governmental affairs many people believe that any effort they might make would be inconsequential, but such is not the case. Everyone, no matter how humble, can have some influence on American life, and one never knows when his acts as an individual might have profound effects.

Let me give you an example of current history. As you will remember, less than two years ago when the political burglars broke into the Watergate offices during the Presidential campaign, they were armed not only with burglary tools but also with crisp hundred dollars bills from illegal funds to buy their way out of any trap they might fall into. They were detected by an humble night watchman who was not susceptible to bribery. He did his duty, and his action caused all of them to be arrested, tried and convicted of the burglary. Had he not been faithful to duty, they would have gone on their way, and the entire Watergate investigation in all probability would never have been heard of. Thus, this plain citizen triggered a chain of disclosures which has greatly changed the history of the United States.

Let me give you another example in a different context. A number of years ago in my State of California in an election for Congress, the two candidates tied. Neither side claimed that there was any irregularity in the election, and not being willing to undertake the expense and the uncertainty of a recount both agreed to follow the statute provided for such occasions, and drew straws to determine who would be entitled to the office.

Many voters, of course, did not vote in the election, and the moral of this story is that if any one person who stayed at home on that occasion had voted his vote alone would have elected a Congressman.

There are a myriad of instances where one individual has profoundly changed the course of history, and under our system it will always be possible.

I believe it is appropriate to mention the importance to American life of actions of individuals in this company because Morehouse College has been in the forefront of preparing students for such responsibilities for more than a century. Coming into existence only three years after the greatest holocaust in American history, only two years after slavery was abolished, and one year before the great Fourteenth Amendment to the United States Constitution was adopted, it has prepared the underprivileged and oppressed for their rightful position in American life in accordance with the resounding words of that declaration:

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

It has been a task far more difficult than that undertaken by most American colleges and universities, but judged by its graduates it has succeeded in establishing itself among the prestigious institutions of higher learning in the Nation. Through the near century of restricted application of the due process and equal protection clauses of that Article and particularly during the last half century under the perfidious "separate but equal" it kept alive the spark of human dignity and the hope for a brighter day until it saw a rift in the clouds through *Brown* v. *Board of Education*.

Men who were in the same status at Morehouse as you are in today helped mightily to bring about that result. There were many of them, but I mention only two of them because they were my friends for many years, Dr. James M. Nabrit, Jr., one of the lawyers in that great case, and Dr. Mordecai Johnson, distinguished educator and civil liberitarian.

Life has changed greatly and for the better for many people since that time, but the struggle, of necessity, goes on here and with conscience stricken citizens throughout the Nation. While a goal of equality has not yet been achieved, we can look forward to the day when the rights of all Americans will be equated, and we can with honesty and pride fulfill our pledge of "One Nation, under God, indivisible, with liberty and justice for all."

We are only part way up the mountain we have essayed to climb. We must not falter in the face or recalcitrance born of race prejudice. Many forms of this resistance have been overcome, but the one which is still pervasive and perhaps the most insidious of all is the one to the effect that race discrimination cannot be overcome by law, but, on the contrary, only in the hearts and minds of people. This euphemism is a false creedo. While race prejudice, like hatred, bigotry, acquisitiveness and cruelty, cannot be eliminated by law from the inner sanctums of the mind, the infliction of any of them upon others can be and must be eliminated if the plural society we have proudly established in America is to have the tranquility its high purpose justifies.

In this work, the help of each of you who are graduating today is called for, and I commend you to it along with my best wishes for your continued success and happiness.

DEATH OF SENATOR ERNEST GRUENING

Mr. BROOKE. Mr. President, the playwright Webster once wrote:

Integrity of life is fame's best friend, which nobly, beyond death, shall crown the end.

So it is with Ernest H. Gruening, whose life—both public and private—was marked by that quality of penetrating sincerity which we call integrity. He never turned away from the great public issues of his time. In everything he upheld the cause of the oppressed and the deprived, and served tirelessly the larger good.

In these troubled and sometimes discouraging days it is heartening to recall the achievements of his life and the inspiring example of his dedicated, courageous service. It reaffirms for us all that basic faith in the possibilities of man which is at the heart of our democratic system.

An indefatigable campaigner, outspoken in his views, good humored in his style, Senator Ernest Gruening compiled a progressive voting record, especially in the area of civil rights. Never one to shy away from controversy, he took vigorous stands on such issues as abortion, birth control, women's rights, and, above all, the war in Southeast Asia, which he forthrightly opposed. His vote was one of two to be cast in 1964 against the Gulf of Tonkin resolution.

More recently, Senator Gruening spoke out with characteristic vigor regarding the Watergate investigations and the impeachment issue. His autobiography, called, fittingly enough, "Many Battles," appeared in 1973.

Ernest Gruening believed in the viability of the democratic system because he believed in the intelligence and good sense of the electorate. He was fearless in his advocacy of what he held to be right, yet respectful of dissent and open to criticism. He earned the respect of men and women in both parties, and retained the love of the people of Alaska. It has been said that he "established the basis of—our—civilized life" in Alaska, where he will always be remembered as one of the great men of this century.

But it is here in the Halls of the Congress that he will be best remembered by his colleagues and perhaps by the Nation, too, for his steadfast commitment to conscience during a deeply unpopular war and in a deeply troubled time. I extend to his widow and son my heartfelt sympathy in their—and the Nation's loss, a loss which is the more grievous in these days of trial for our country. Yet, I know that they, even as we, will find consolation and strength in the memory of his character and achievements. He will be numbered among the great Members of this body, not least for helping to reaffirm our faith in democracy and in the integrity of public service.

ENVIRONMENTAL LAW: THE CONGRESS, THE COURTS, OR THE EXECUTIVE

Mr. MUSKIE. Mr. President, in the rapidly evolving field of environmental law, one of the most controversial issues concerns the respective roles of legislative, executive, and judicial branches of Government in environmental decisionmaking. There is one school of thought that advocates a very active role in environmental decisionmaking for the Federal judiciary. Many States have enacted legislation which provides a statutory base for such judicial, and thereby ad hoc, decisionmaking.

Similar legislation is pending before the Congress. This concept of judicial establishment of the character of environmental quality on a case-by-case basis is drawn from our common law, Anglo-Saxon tradition. The proponents of this school of thought would specifically extend the authority of the Federal district courts to decide environmental issues on a common law or "reasonable man" basis.

Historically, we have enacted statutes which grant broad discretion to executive agencies to engage in environmental decisionmaking through promulgation and implementation of regulations with only the most general goals and policies to guide them. More recently, however, Congress has provided specific guidance for executive agencies as to the nature of environmental quality improvement mechanisms, specific procedures, and more rigorous duties in the Clean Air Act and the Federal Water Pollution Control Act.

These new statutes also provide specific judicial review provisions which set both the duration and scope of the Federal courts' authority to determine if environmental decisions conform to the instructions of Congress. Similarly, these environmental statutes have extended concepts of enforceability to provide, in addition to agency action, citizen access to the courts.

These subjects are complicated, and the attendant controversy has generated a great deal of heat with precious little light. In a recent conference on environmental law at Airlie House sponsored by the American Bar Association, Eliot R. Cutler delivered a cogent statement concerning the respective authority of the three branches of Government in environmental decisionmaking. I think Mr. Cutler has penetrated the oftentimes academic rhetoric and focused on the reality of the three branches of Government, their capability and their limitations. To those interested in the current dynamics in the field of environmental law, I commend Mr. Cutler's comments. I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF ELIOT R. CUTLER

Federal agency decision makers with environmental responsibilities have discovered the hidden truth which Lincoln forgot to mention. It is, in fact, possible to please *none* of the people *all* of the time.

No one is satisfied with the performance of adminstrative agencies in the area of environmental protection. For example, the mission agencies may for the most part com-

ply with NEPA's *procedural* requirements, but that act has brought few *substantive* changes to those agencies' views of their missions. And the Environmental Protection Agency may respond on its own to the specific directives of the Clean Air Act, but it has tackled the Clean Air Act problems of non-degradation, transportation controls, and complex source regulation only in response to court orders.

Do these patterns of glacial change in the mission agencies and reluctant creativity in EPA suggest that the administrative process is inherently inadequate and that we must look increasingly to the judicial process for the development of environmental law? I think not. We should examine the judicial competence in this area with some skepticism, but that is the reponsibility of the afternoon panel. Assuming, however, for the purposes of this discussion, that the courts are *not* fully competent to solve the myriad dilemmas of developing environmental law, I would like to take a more positive view of the agencies' potential role in this area. Can we postpone sounding the alarm and calling for the full assistance of the courts in developing, as opposed to enforcing, environmental law?

I think there are some ways to improve the administrative agencies' capacity to deal with environmental issue, and there are some important reasons for pursuing that course as an alternative to abandoning the agencies in favor of increased reliance on the courts.

First, however, I would urge that we beg the question a bit and enlarge somewhat our institutional frame of reference. Neither the courts nor the administrative agencies operate independently of the Congress. Some agencies may be more insulated than others from legislative direction and control, but the facts of life are that both the agencies and the courts depend on the Congress for the definition of their authority and responsibilities and for the enlargement or limitation of their powers. The nature of the legislative decisions to be implemented by the courts or by the agencies can vary from the general (i.e., the arguably substantive rights in NEPA) to the specific (i.e., the automotive emissions standards established by the Clean Air Act).

Indeed, the extent to which the quality of the agencies' performance depends upon the quality of the legislative decisions was illustrated by the reluctance of the EPA to establish transportation control and complex source regulations under the Clean Air Act and by the shortcomings in the rules which were finally issued by the agency.

Although the ultimate issue of EPA's authority to establish these regulations is being litigated at the present time, it is apparent that the Congress recognized when it passed the Clean Air Act that some authority to implement and enforce land use and transportation controls would be necessary if the primary ambient air quality standards were to be achieved and maintained.

But the act itself says no more than that, and the legislative history is of little help in spelling out what form these controls should take. EPA was reluctant to venture into this uncharted area, and the Natural Resources Defense Council was forced to obtain a court order requiring, in effect, that the Agency promulgate the necessary regulations.

The rules which have been promulgated predictably have provoked a storm of protest from affected industries, states, and cities and towns, since they threaten many localities with stringent restrictions on economic growth and on the use of automobiles. The quality of those regulations, to say the least, has been questioned.

In fact, there are persuasive reasons for giving the legislative-administrative process a chance to work.

Traditionally in America, we have committed to the special wisdom of legislatures the task of resolving basic social, economic, and political conflicts.

The more fundamental are the values at stake (so long as they are not constitutionally protected), the less removed from politics should be the resolutions of conflicts among them. These democratic notions have particular relevance in the development of a body of environmental law, where the conflicts to be resolved are seldom simple and straightforward, but rather cut across a seamless web of basic social economic, and political values.

The fact that decisions about these matters require the weighing of conflicting values is, for one practitioner of environmental law, the reason why "the weigher should be a court, a generalist, rather than an administrative agency whose outlook is organically developmental and provincial." But ultimately the same argument which favors courts over agencies should also favor Congress *and* the agencies over the courts.

The resolutions of these conflicts ought to be made by popularly elected and politically responsible legislators.

Right now, however, many of these conflicts have not—by and large—been resolved by the Congress. This lack of resolution, along with grossly inadequate funding, are the principal reasons for many of the shortcomings of agency decision-making in the environmental area.

The Clean Air Act at once offers the best example of how the relationship between Congress and the agencies *can* work in this area, and a good example of why it often *does not* work.

In enacting the Clean Air Act, the Congress determined that the nation required ambient air quality protective of public health. In many respects, the statutory guidance on this point is so detailed that EPA is left little room for the exercise of discretion.

The Congress made a number of decisions which bore such far-reaching political, social, and economic consequences that only it among the branches of government was likely to assert the authority to do so. For example, no court or administrative agency acting on its own would have excluded considerations of economic and technologcial feasibility and required that ambient air quality standards be set *solely* on the basis of public health.

The Act also recognized that specific, detailed standards and regulations to cover a multitude of parties and activities must be prescribed and enforced in order to achieve and maintain the required ambient air quality standards.

As far as automotive emissions were concerned, the Congress gave EPA little discretion; if any change other than a one-year extension from the requirements set forth in the Act was necessary, the Congress retained the authority and responsibility to make that change. This decision was appropriate, given both the economic and social impact of the 90% reduction in emissions which the act required, on the one hand, and the consequences of delay in those reductions on the other hand.

But the Congress did not legislate so specifically with respect to transportation and land-use controls. The Act gave the Agency little guidance as to what kinds of controls would be appropriate or acceptable. Yet the economic and social impact of these regulations potentially is even greater than the impact of the automotive emissions requirements.

At the same time, the Agency is faced with a serious shortage of data regarding the health effects of pollutants and the ways in which automobile use and growth patterns affect the concentrations of those pollutants. To a large extent, this shortage of data—and manpower—is due to the fact that appropriations for the Agency have not kept pace with the demands made upon it.

But could the courts have done a better job, could they have resolved the conflicts more equitably, could they have better implemented the legislative intent? Could the courts have come up with better transportation control plans or indirect source regulations, given the meager legislative guidance? Would they have tried?

I doubt it.

These comments apply in much the same way to the development-oriented, mission agencies as they do to the regulatory agency.

Yes, many agencies tend to favor development interests—but only so far as they are allowed to do so by the statutes under which they function. Specific, substantive statutory guidance—analogous to some of the provisions of the Clean Air Act—can reform and restrict the substance of Agency decision-making. Section 4(f) of the Highway Act and the Water Pollution Control Act restrictions on Agency licensing activities are two examples.

But *procedural* guidelines, or even arguably substantive guidelines when phrased in the broad, general terms of NEPA Section 101, will not and have not reformed the substance of Agency decision-making.

And although there may be "law to apply" in Section 101 of NEPA, can the courts define and apply that vague rhetoric more consistently, more effectively, and more equitably than the agencies? Will they try?

Again, I have real doubts.

So I don't believe that we ought to give up on the legislative-administrative partnership before we fully test its potential. And that potential will not be tested fully until the Congress provides precise, legislative definitions of the substantive policies which it expects the agencies to implement.

That is not an impossible task. The Congress has demonstrated that it is capable of making the necessary kinds of difficult public policy decisions in parts of the Clean Air Act, the Water Pollution Control Act, and other similar "standards-setting" statutes.

Few other areas of public policy require the balancing of conflicting interests and the consideration of trade-offs in such agonizing detail, but those requirements should not be an excuse for deferring to the courts. Congress ought to define the substance of environmental policy through detailed descriptions of operative principles and specific standards on the basis of which agencies can act and courts—where necessary—can adjudicate.

I am not talking about procedural guidelines here, or even procedural guidelines phrased as substantive instructions, with an invitation to the courts to substitute their wisdom.

I am suggesting that the Congress make the important public policy decisions by issuing substantive, detailed instructions to the agencies, and by requiring that Agency decisions be made strictly according to those instructions . . . with respect to every program or agency which has an essentially unregulated environmental impact.

One set of general instructions, by definition will not be sufficient. Different considerations must be applied in dealing with different elements of environmental quality; the policy considerations that support the provisions of the Clean Air Act would not

have been correctly applied to cope with the problems of water pollution. On the contrary, detailed policy decisions must be made and precise, substantive instructions for the protection of environmental quality must be issued for every program and/or every agency which has an environmental impact unregulated by existing statutes, criteria, and standards. These legislative decisions should form the basis for the rules and regulations that have been missing in the pattern of environmental law and that the courts have been asked to create.

The practical problems associated with the enactment of these laws should not be understated. Obviously, the organic statutes authorizing specific programs or controlling specific agencies could be amended, or a series of new laws could be enacted to provide the criteria and standards for the programs and agencies affecting each sphere of environmental concern. The jurisdiction divisions among House and Senate committees clearly pose a serious obstacle to any meaningful effort in this area, and a successful effort will require either jurisdictional changes or accommodations by many committees with respect to their jurisdictional prerogatives. The unresolved problems associated with committee jurisdiction, along with the quality of the laws which the Congress writes, should be two central concerns of any serious attempt to revitalize the legislative-administrative partnership and to improve the way it works. It may be a less glamourous battle than those that can be fought, and perhaps won, in the courts, but winning that battle could well have a more lasting and salutary impact upon the quality of environmental law than any number of victories in court.

ACCOMPLISHMENTS OF GEORGE C. HAYWARD

Mr. TAFT. Mr. President, my home city in Cincinnati has for many years been in the forefront of sound metropolitan planning which has recently arrived at a consummation in the downtown area that has made the city one of the envies of the Nation. As much responsible as any man for the planning and implementation of the plan is George C. Hayward. George is about to retire from active participation in this area and his feats have been commented on favorably in the press on this occasion.

I ask unanimous consent that a copy of an article reviewing his accomplishments be printed in the RECORD.

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

CITY SKYLINE A MONUMENT TO RETIRING MASTER PLANNER

(By Sheryl Bills)

George C. Hayward came to Cincinnati for the first time in 1945 and the Queen City has been the better for it.

Hayward is a city planner by profession and he was one of two principal planners who drew Cincinnati's famed 1948 Master Plan.

He is not what is referred to in some circles as a "phony" planner—one who dreams theoretical "pie in the sky" dreams which are too impractical to come true.

He is, rather, a realistic planner proven by the fact that Cincinnatians today are using, walking and driving on and benefiting from many of the fruits of his thinking.

In an interview at the Cincinnati Club recently, Hayward called Cincinnati's 1948 Master Plan the "most complete, up-to-date, comprehensive and most realized" master plan of any large city in the nation. And he was quick to point out that it is recognized as such all over the world.

Typical of his quiet, behind-the-scenes manner, however, he was just as quick to shun credit for the plan's success.

Instead he chose to attribute the success to a number of other influences:

The natural aptitude and appreciation of the citzenry of Cincinnati for planning.

The force of persons who saw ways to accomplish the plan's recommendations.

The creation of the Citizens Development Committee (for which Hayward returned to Cincinnati in 1948 to serve as executive secretary for 18 years). The committee, Hayward said, worked to implement the plan as a "continuing, quiet, hard hitting group who knew its effectiveness came from submerging its identity"—description also befitting Hayward himself.

The kind of city administration which encompasses a professional city manager and career personnel who can work across political differences.

This is not to say, of course, that all was smooth sailing in the fulfillment of the plan.

But, all told, with a few revisions and only two major exceptions, the 1948 Master Plan IS Cincinnati as the city was set forth on paper 25 years ago.

And now, at 65 and after 25 years of continuous service to the Queen City and a record to which he can boast "mission accomplished," George Hayward is retiring.

His retirement, actually from the Greater Cincinnati Chamber of Commerce where he has been group executive of community affairs and director of planning and development since the 1968 merger of the Citizens Development Committee with the Chamber, is more in body than in spirit, however.

Perhaps it's not even in body.

"They're going to provide a desk for me at the Chamber and pay me $1 or $2 a year," Hayward said with his always easy grin.

He will continue to be active in affairs mostly of a civic nature and specifically as secretary of the Bicentennial Commission.

Hayward's long in coming "spare" time will be devoted to "things around the house which have been waiting for 15 years." The house, designed by Hayward, is a contemporary tri-level in Mt. Washington overlooking both Lunken Airport and the Ohio River.

He will also spend more time on his second love in life—music.

An accomplished violinist, trombonist (he worked his way through the University of Michigan blowing the trombone), pianist and organist, Hayward says his favorite music is "all kinds of music" and he wonders aloud whether he should have become a professional musician.

In teaching piano and organ to 15 students, among them Joseph B. Hall, developer and former president of Kroger's, and Paul Rottmueller, advertising manager for Cincinnati Magazine, he insists upon exposure to popular as well as classical compositions—"so they can at least play 'Happy Birthday' to their mothers."

Father of two sons, grandfather of three and a natty dresser, Hayward also has a dream for the future.

The dream is to see a new master plan for Cincinnati that will pick up where the '48 plan stopped—and you can bet that if the plan begins to evolve Hayward will be in there prompting as persuasively and persistently as ever before.

A native of Richmond, Ind., who has lived and worked in cities across the nation as diverse as Flint, Mich., and Washington, D.C., Hayward was quoted in 1960 as saying "Cincinnati is the best."

He still believes that and, when asked why, he rattles off a list of reasons with unhesitating conviction.

"It's honestly the scenic setting of Cincinnati," he begins, "it's the kind of people with their civic consciousness, their successful livelihood pursuits and their cultural appreciation; it's that Cincinnati saw fit to reform its government along the best available lines and it's the diversification not only of industry but also of the kind of people and their likes. Then it's a revival of desire and ways to get things accomplished and a good, active, effective Chamber. . . ."

A COMMUNIST "NEUTRAL" VIEWS THE SUMMIT

Mr. HARTKE. Mr. President, I should like to bring to the attention of my colleagues the unique role Romania plays in international affairs. It is one of the few East European countries which has managed to remain free of Moscow's foreign policy dictates, while at the same time developing closer economic and political ties with the United States.

I have at an earlier date introduced legislation which would provide Romania with "most-favored-nation treatment" in her economic dealings with our country. Poland and Yugoslavia already have most-favored-nation status with us. It seems only logical that the same status ought to be offered to the Romanians.

Mr. President, I ask unanimous consent that an article which appeared in the U.S. News & World Report of July 8, 1974, describing Romanian President Ceausescu's views on the Moscow summit, be printed in the RECORD.

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

ROMANIA'S PRESIDENT CEAUSESCU SPEAKS OUT—A COMMUNIST "NEUTRAL" VIEWS THE SUMMIT

ON DÉTENTE

The Rumanian President sees it as a policy shaped, not by individual leaders, but by powerful international forces. There is, in his view, a growing desire by people everywhere for "a policy of co-operation" that would not be affected basically by a change in leadership either in the U.S. or the Soviet Union. "Individuals have their role to the extent that they understand the people's aspirations and the changes occurring in the world. . . . But no one can halt these trends."

Russia, Mr. Ceausescu stresses, is anxious to promote *détente* "for its own interests" as well as for "reasons of socialist principle." Why? "Because the Soviet Union wants to create conditions for a general program of more-rapid economic development, for building a communist society and for a general policy of world peace."

The Rumanian President leaves no doubt that improved Soviet-American relations benefit his own country, making possible closer links "between Rumania and Western countries and nations all over the world."

THE NIXON-BREZHNEV SUMMIT

Top-level meetings between leaders of the superpowers and the agreements negotiated in their first two encounters are welcomed. It is hoped that the latest round of meetings in Russia will produce further understandings that will expand collaboration between the U.S. and the Soviet Union. "These talks," the Rumanian President adds, "should contribute to the progress of *détente* in keeping with the interest of all countries to develop freely and independently."

THE ARMS RACE

Mr. Ceausescu argues that both the Western and the Communist alliances are building up their military strength. On the one hand: "NATO member countries are adopting a series of measures to intensify arming." On the other hand: "It is only natural" that the Warsaw Pact countries "should take cor-

responding steps to strengthen their defenses."

This ongoing arms race, he warns, poses a "permanent danger" for *détente*. Therefore, he suggests, "measures are urgently necessary for the reduction of armaments, disarmament—first of all, nuclear disarmament—and for the abolition of military blocs."

U.S. TROOPS IN EUROPE

The Rumanian President favors the withdrawal not only of American but of foreign forces from "the territory of other nations." He feels their presence to be "a permanent source of insecurity for all countries. That is why the withdrawal of troops of the U.S. and of other countries from Europe can only help *détente* and contribute to strengthened security and lead to better and more co-operative relations between nations."

TRADE WITH THE UNITED STATES

President Ceausescu complains that the failure by Washington so far to grant most-favored-nation treatment for Rumanian exports is a major obstacle to expanding commerce between the two countries. "It's obvious," he says, "that duties which sometimes amount to 50 per cent of a product's value render satisfactory trade impossible."

Stressing the importance to his country of getting these restrictions eliminated, the Rumanian leader makes this forecast: "We would like the United States to have an important place in Rumania's international relations. With most-favored-nation status, I think our trade with the U.S. could reach 800 million to 1 billion dollars annually within a few years—more than four times its present level."

American credits, in his view, would not "play a very important role" in raising trade to such a level. "We want balanced trade and to have the balance of payments in equilibrium, not to trade on credit."

If restrictions were eliminated, the Rumanian President believes, his country could increase its exports to the United States of such things as chemicals, tractors, textiles, footwear, furniture and steel products.

U.S. INVESTMENT IN RUMANIA

It's still very modest—with only two joint companies established so far by American firms and Rumanian state enterprises. But Mr. Ceausescu reports that "negotiations are under way with other American firms that could lead to the establishment of other joint ventures" in the months ahead. Foreign investors are limited by law to a maximum of 49 per cent share in any enterprise. Is that a deterrent? The Rumanian President doesn't think so.

"Actually, 49 per cent offers a good groundwork for collaboration. In the final analysis participation percentage is not all that important. Management procedures are firmly established so that no problem can arise for those with whom we are setting up joint companies."

ON FREEDOM OF EMIGRATION

Mr. Ceausescu rejects categorically a view in the U.S. Congress that American trade and credit concessions should be tied to freedom of emigration, as in the case of Russia. He maintains that such proposals can only "limit the possibilities for expanding economic relations and slow down the process of improving international relations. In my opinion, it will be necessary to abandon such attitudes completely." But he adds that "questions of emigration can find a solution" within the policy of *détente*.

PRIVACY FOR STUDENT RECORDS

Mr. PERCY. Mr. President, I have received a letter from Warren Cheston, chancellor of the University of Illinois at Chicago Circle. Chancellor Cheston enclosed with his letter a copy of his policy statement concerning the release of information pertaining to student records. These guidelines, which are to be followed by all staff and faculty members at this Illinois University, are an excellent example of what we hope to accomplish on a broader scale with our privacy bill, S. 3418. Mr. President, I ask unanimous consent that Chancellor Cheston's report be printed in the RECORD.

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

CHANCELLOR'S REPORT

For some time, many faculty, students, and staff have identified the need for a policy on the release of student information. Such a policy, if it is to be effective, should be known to everyone and applied uniformly. The Office of the Dean of Student Affairs has taken the initiative in developing such a policy through widespread consultation with many groups of students, faculty, and staff over a period of eighteen months. The statement below was concurred in by the Student Advisory Committee to the Chancellor and approved as campus policy by the Executive Committee. Any exceptions to uniform and consistent application of this policy must be approved in advance by those campus officers authorized to grant those exceptions indicated in the policy statement.

POLICY ON THE RELEASE OF INFORMATION PERTAINING TO STUDENTS

As custodian of student records, the University assumes an implicit trust. This trust involves recognition that student records, both academic and personal, are confidential to the student and the institution and are accumulated by the institution in order to facilitate its operation in the best interests of its students. Accordingly, the University will use extreme care and concern in recording and disseminating information about students by exercising professional discretion at all times. Student records will be released only to appropriate college or University authorities within the University, except for items of public information or where the student or former student has given his or her formal written consent to the external release of records. Requests for information on a student's personal records, beliefs, or associations will not be honored when the principle of confidentiality is challenged.

The need for educational institutions to make information about students available for research purposes is recognized. In releasing data for research, however, the University will take great care to protect the identity of individual students. Under no circumstances will the University abdicate the responsibility it bears to its students to keep their records confidential. Before submitting information from student records to researchers from outside the University, the University will remove any identifying information on students whose records are involved unless the University has obtained from each student a formal written consent to the release of their records . . .

The primary concern is that students know what information University personnel may release about them. Aside from a minimum number of items that are considered public information (as defined in 1, below), University personnel will not release information without specific written authorization from the student indicating the kind of information to be released and to whom it may be released. Where a student record contains public information generated by a source other than the University, such as a court arrest record, the University will not release that information. No information about students will be released by nonacademic staff members or student employees, either in writing or over the telephone, without specific authorization to do so from supervisory professional staff.

The following are guidelines that relate to the interpretation of the above statements of policy:

1. The student's name, dates of attendance, degrees earned, major field of study, honors earned, and any information available in a public directory, such as an address and telephone number, are considered public information and will be furnished to anyone who demonstrates a legitimate "need to know" without the written authorization of the student involved. With the exception of student addresses and telephone numbers, which are published in a directory that is available to the public, great care will be taken to identify originators of telephone requests for information about students. Where possible, these requests should be submitted in writing.

2. Disciplinary records are for intramural use and will not be made available to persons outside the University except on formal written request of the student involved or when state or federal laws require release of such information. Even in cases of intra-institutional use, disciplinary records should be released only by the Dean of Student Affairs and then only to personnel in the University who, in his opinion, require the information in order to properly discharge their official duties. The only exception to the above will occur when disciplinary action against a student results in "Disciplinary Suspension" or "Disciplinary Dismissal"; in such a case an appropriate notation will appear on the transcript as long as the disciplinary action remains in force.

3. With the exception of information considered to be public, information from student records will not be sent to prospective employers in the private or public sector or to educational institutions without the formal written consent of the student involved. Written reports for prospective employers and educational institutions will normally be released only by the Director of Admissions and Records or the Dean of Student Affairs, and information of a derogatory nature will be handled with extreme care.

4. A government agency may routinely obtain only that information which is classified as public information, regardless of the purpose for which it is requested. Any other information must be obtained by subpoena or written release from the student. In such cases, the Director of Admissions and Records will release information to government agencies.

5. Grades are considered confidential and are reported only to the student unless release is otherwise authorized under the terms of the foregoing policy. The only exceptions occur when the parent or guardian of a minor student (one under the age of eighteen) requests a copy of his son's or daughter's grades. The grades are to be released in such cases by the Director of Admissions and Records.

6. Questions requiring judgments about a student's academic achievement will not be answered unless the particular University employee has been named by the student as a personal reference. The inquirer who needs academic information should ask the student to authorize the release of his academic records.

7. A University employee will refuse to answer questions about a student asked by extra-University agencies or persons if such questions require personal judgments (such as the student's leadership ability, his adjustment to University life, and like queries) unless the particular employee has been specifically named by the student as a personal reference.

8. Where a specific University officer has been named as having primary responsibility for releasing certain kinds of informa-

tion about students, he or she will designate in writing those persons who may release information under the responsibility vested in said University officer.

9. Class schedules will not be released to unauthorized personnel within or outside the University. If a student must be located in case of an emergency, the Office of the Dean of Student Affairs or the Office of Admissions and Records will take responsibility for contacting the student by telephone or by mail or by a note to the student in class conveying the information that someone is trying to reach him or her. The student may then respond appropriately.

10. Generally, all University records pertaining to an individual student are subject to review by the student, with exceptions as exemplified below:

A. Psychiatric records may be reviewed solely at the discretion of the psychiatrist.

B. Medical records may be reviewed only in the presence of the attending physician or the Director of the Health Service.

C. Subjective evaluations maintained by a faculty member or counselor in his or her private file and used solely for professional purposes need not be available to students.

D. Information about the student which the University has obtained with the guarantee of the confidentiality of this information shall not be reviewed by the student.

These exceptions are not inclusive. Any questions about the release of information to students should be referred to the Legal Counsel.

11. The University's records are subject to subpoena, and the University will respond to subpoena for such. Upon issuance of a subpoena, the student is notified by the party at whose instance it is issued. All subpoenas of student records served upon the University will be referred immediately to the University Legal Counsel who will then instruct the chief administrative officer of the department holding the records to respond accordingly. The Legal Counsel will transmit a copy of the subpoena to the Dean of Student Affairs who will attempt to notify the student that a subpoena has been served upon the University and that the University is responding to it. Upon request the Dean will also advise the student of his right to seek legal assistance.

SENATOR RANDOLPH HONORED BY AMERICAN LIBRARY ASSOCIATION'S ROUND TABLE ON LIBRARY SERVICE TO THE BLIND

Mr. MANSFIELD. Mr. President, the 93d annual conference of the American Library Association is underway in New York City, with 10,000 library representatives from across the Nation present. At a special awards luncheon today, the ALA's Round Table on Library Service to the Blind presented its coveted Francis Joseph Campbell Award to my distinguished colleague, Senator JENNINGS RANDOLPH of West Virginia.

I have, on several occasions, spoken of the long and dedicated service to the Nation's handicapped performed by the senior Senator from West Virginia. As chairman of the Senate Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, he has been actively involved in producing legislation to benefit this Nation's 12 million handicapped persons. In recognition of his work, particularly on behalf of the visually handicapped, the Round Table named him the 1974 recipient of its highest honor. The Francis Joseph Campbell Award was named for the noted blind educator of the 19th century.

It was, I am sure, particularly pleasing to Senator RANDOLPH that the presentation was made by a fellow West Virginian, Mrs. Hortenzia S. Rapking of the West Virginia Library Commission. Other West Virginians present were:

Elliott R. Horton of the Morgantown Public Library; Mrs. Regina Weaver of the Brooke High School Library; Nancy Jo Canterbury, program specialist of library services for the West Virginia Department of Education; Joanne Vance Muchoney, Judy K. Rule, and James Fields of the Cabell County Public Library; Dorothy S. Muse of the Carnegie Public Library at Parkersburg; Nick Winowich of the Kanawha County Public Library; and Fred Glazer of the West Virginia Library Commission.

Mr. President, Senator RANDOLPH's remarks in accepting the award explains the operations of the library services for the blind and the legislation on which these services are based. I ask unanimous consent that Senator RANDOLPH's speech, together with the Round Table on Library Service to the Blind's citation and a copy of the program be printed in the RECORD.

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

LIBRARIANS COMMENDED BY SENATOR RANDOLPH FOR SERVICE TO THE BLIND

I am grateful and honored to receive the Francis Joseph Campbell Award. I share it with each of you who have worked together over the years to bring new knowledge and hope to our Nation's blind and physically handicapped.

Library service to the blind and physically handicapped is not only a humanitarian program, it is a vital effort to assure that those unable to read and communicate in a normal manner will not be denied the advantages of library services.

This work involves many thousands of dedicated persons at the Federal, State and local government levels, and religious and volunteer organizations throughout the country.

Volunteers, in fact, have played an indispensable role in library services for the blind for more than a hundred years. Today, more than two dozen philanthropic and nonprofit organizations continue to augment the national program in valuable ways.

In service to blind persons, volunteers have been an active factor in making communities aware of library needs and resources. The contribution of such organizations as the Telephone Pioneers of America, in tape-recording needed materials, and in repairing and maintaining the talking-book machines, assumes increasing significance as the program expands. The National Multiple Sclerosis Society took on the initial distribution of the phonographs to eligible persons, and gave instruction in their use. These voluntary efforts have greatly reduced the cost of the talking books program and relieved State agencies of an enormous workload.

The Library of Congress, through its Division for the Blind and Physically Handicapped, provides overall administration and guidance. But it is at the local levels of government, in the regional and subregional libraries, where the necessary labor is done in finding and accommodating those disabled people who need these special services.

The Division for the Blind and Physically Handicapped maintains close liaison and carries forward cooperative projects with such organizations as Recording for the Blind, Science for the Blind, the National Braille Association, the Hadley School for the Blind, and others active in producing and/or circulating reading materials. Valuable assistance is provided by professional organizations such as the American Library Association's Round Table on Library Services to the Blind, the American Association of Workers for the Blind, and the Association for Education of the Visually Handicapped.

It is important, I feel, that we retrace some of the significant legislative landmarks which have brought us to this day, beginning 43 years ago when President Hoover signed the Pratt-Smoot Act.

Three years later, the basic legislation was amended to include talking book service at no cost to the readers. In 1952, the Act was further amended to delete the word "adult," thus permitting service to both adults and minors. In 1962, Public Law 87-765 established a National lending library of musical scores and texts in the Division for the Blind.

Finally, in 1966, Congress recognized the fact that many handicapped people who are not legally blind are unable to read conventional print because of a variety of physical and visual handicaps. With passage of Public Law 89-522, the reading program was expanded to include the severely handicapped. So the challenge has grown from a potential reading audience of 500,000 to an estimated two million or more handicapped persons who could benefit from these library services.

I commend the American Library Association for its leadership in selection and distribution of reading materials for the blind. In developing and adopting the Standards for Library Services for the Blind and Physically Handicapped, the Association has accepted a major educational role of great importance to a relatively small segment of our society.

The following quotation from the "Standards" illustrates the dedication of librarians across the Nation in this important work:

"Responsibility for blind and . . . handicapped readers does not stop at Federal and State levels. Every kind of library should make a special effort to include blind and handicapped people in all the services provided for sighted persons. It is the aim of these principles and standards to provide a guide for librarians, trustees, government officials, and interested citizens, that they may evaluate the library services now rendered to the blind and handicapped, and plan wisely for wider and more effective service."

The challenge you have accepted brings sunshine into the hearts of millions of our citizens and promises a brighter tomorrow for millions more to come.

THE ROUND TABLE ON LIBRARY SERVICE TO THE BLIND OF THE AMERICAN LIBRARY ASSOCIATION PRESENTS THE FRANCIS JOSEPH CAMPBELL CITATION IN THE YEAR 1974 TO JENNINGS RANDOLPH

Few members of the United States Congress can match Senator Jennings Randolph's dedicated efforts on behalf of the handicapped person. Since the enactment of the Randolph-Sheppard Act in 1936, Jennings Randolph has been an outspoken advocate for the development and continued financial support of programs to serve the handicapped. His legislative expertise, combined with a knowledge and sensitivity of the needs of the handicapped, has given this country an established national policy of equal services for the handicapped.

It is with gratitude and sincere appreciation that we of the library profession honor Jennings Randolph with this award.

FRANCIS JOSEPH CAMPBELL LUNCHEON

Trianon Ball Room, New York Hilton.

Presiding, Mona Werner, Chairman, Round Table on Library Service to the Blind. Introduction of Guests.

Introduction of Harold Krents by Katherine Prescott, Chairman-Elect.

An Address by Harold Krents. Author—To Race the Wind.

Presentation of the Francis Joseph Campbell Citation and Medal to Jennings Randolph. Presentor—Hortenzia S. Rapking, Chairman of the Award Luncheon.

This program was designed and produced by the West Virginia Library Commission.

The Francis Joseph Campbell Citation and Medal is awarded this year to Jennings Randolph.

The Honorable Jennings Randolph, United States Senator from West Virginia for the past fifteen years:

Library services for the blind needs creative participation by organizations and individuals. Jennings Randolph has been a founding sponsor and spokesman in behalf of public legislation and few persons in the halls of Congress can match his long career efforts in behalf of the handicapped person. He has been a major force in the development and continued financial support for legislation designed to serve handicapped persons. He is actively associated with many national organizations, encouraging them to to be concerned with serving the handicapped.

It is with deep appreciation that we of the library profession award this citation to Jennings Randolph who has advocated and provided legislation not only for library services, but services to meet all needs of the handicapped.

The citation is named for Sir Francis Joseph Campbell, who assumed leadership in the latter half of the nineteenth century in educating blind persons and promoting the use of braille at a time when such ideas had little acceptance. Educated at the Tennessee School for the Blind, he later became head of the Music Department in Perkins School for the Blind and founded the Royal Normal College and Academy of Music in London. For his services he was knighted in 1909 by King Edward VII.

The designer of the medal, Bruce Moore, has been honored for his outstanding contribution to medal design by the American Numismatic Society. His versatility ranges from sculpture, such as the Billy Mitchell statute in the Smithsonian Institution, to glass design, including the Steuben glass bowl presented by President Eisenhower to Queen Elizabeth on her state visit to the United States.

COVERAGE OF NONPROFIT HOSPITALS UNDER THE NATIONAL LABOR RELATIONS ACT—CONFERENCE REPORT—PRIVILEGE OF THE FLOOR

Mr. TAFT. Mr. President, I ask unanimous consent that Robert Hunter of the minority staff of the Labor Committee and Mr. Randy Stayin of my staff be allowed the privilege of the floor during the debate on the business scheduled at 11:45.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

FOOD FOR PEACE: 20 YEARS OF SHARING

Mr. DOLE. Mr. President, this is an historic day in world history—a day which should be remembered as one of this Nation's most honorable and humanitarian anniversaries. For it was on July 10, 1954, that the great leader—and 34th President of the United States—Dwight D. Eisenhower signed the Agricultural Trade and Development Act—known all over the world as Public Law 480. In terms of lives saved and improved this was and is the most constructive letter number combination in all history. It should be memorialized, and those who were so effective in bringing into being this bipartisan legislative giant should take great pride in their accomplishments.

THE WORK OF MANY

As I looked around the Senate Chamber yesterday and again today, I saw and see some great supporters and sponsors of this legislation—and one former food for peace administrator. There are many unsung heroes in this continuing struggle, such as the bureaucrats who helped draft this proposal and who, with care and a strong humanitarian sense, have been administering it. There are the dedicated men and women of the great voluntary agencies for overseas relief and rehabilitation, such as CARE, the Protestant Church World Service and Lutheran World Relief, Catholic Relief Service and its Charitas counterparts, the American Jewish Joint Distribution Committee, and a number of similar privately supported humanitarian organizations helping to carry out the U.S. Government's food for peace program.

HELPING MILLIONS

The latest reports indicate that these programs are now reaching, for at least some supplemental feeding, some 45 million school-age children and another 10 million preschool infants, and pregnant or nursing mothers, scattered around the world in 100 countries.

Even that is just scratching the surface. Related to need, only a dent has been made.

There are the men and women in the agribusiness complex whose genius for assembling, processing, and transporting great quantities of food is bridging the distance between producer and ultimate consumer.

Starting with President Eisenhower, the legislation has had the support of every succeeding President. Witness the following Presidential comments:

President Eisenhower:

My earnest hope is that our people will put their hearts as well as their minds into this effort. It is more than surplus disposal, more than an attempt to foster ties and sympathies for America. It is an effort that I consider in full keeping with the American tradition—that of helping people in dire need who with us are devoted to upholding and advancing the cause of freedom. It is an undertaking that will powerfully strengthen our persistent and patient efforts to build an enduring, just peace.

President Kennedy:

American agricultural abundance offers a great opportunity for the United States to promote the interests of peace in a significant way and to play an important role in helping to provide a more adequate diet for peoples all around the world. We must make the most vigorous and constructive use possible of this opportunity. We must narrow the gap between abundance here at home and near starvation abroad. Humanity and prudence, alike, counsel a major effort on our part.

President Johnson:

Today the Food for Peace Program is a shining example of human compassion. It is more than a monument to a high moral purpose—it is a living legacy of practical economic wisdom. Besides meeting the most elementary human need, our food resources are being used around the world to build schools, dig irrigation ditches, pay U.S. bills abroad, and create new markets for American agriculture.

President Nixon:

Food for Peace, which completed its fifteenth year of operation during 1969, is a landmark among humanitarian efforts to improve diets in the developing areas of the world. It plays an important part in the work of developing nations to improve their own agricultural production, marketing, and distribution. Although many of these countries are becoming better able to feed their people, the need for substantial food assistance continues.

The Food for Peace Program enables the United States to pursue its food assistance goals and development objectives in a number of ways: bilaterally, through concessional sales programs and government-administered donations programs; privately, through religious and charitable voluntary agencies such as CARE; multilaterally, through institutions such as the World Food Program.

DECLARATION OF POLICIES

In the 20 years since the Public Law 480 program was devised out of the hearts and minds of brilliant men, I have watched it with keen interest and with growing awareness of what it has accomplished, and what tasks lie before us.

It is important that all of us understand the great objectives of Public Law 480, as set forth in the preamble of the act. It follows:

The Congress hereby declares it to be the policy of the United States to expand international trade; to develop and expand export markets for United States agricultural commodities; to use the abundant agricultural productivity of the United States to combat hunger and malnutrition and to encourage economic development in developing countries, with particular emphasis on assistance to those countries that are determined to improve their own agricultural production; and to promote in other ways the foreign policy of the United States.

EXPANDING EXPORTS

It is to be noted that one objective of Public Law 480 is the development and expansion of export markets for U.S. agricultural products. As we look back at the export figures since the inception of this program to the present, one would have to conclude that there has been no period in American history in which we have done as well in our agricultural exports. In the fiscal year just ended we had total agricultural exports in excess of $20 billion. Of this, dollar sales set a new record of $19 billion.

One of the objectives of Public Law 480 has to do with encouraging economic or is it providing strength to help them development. Is the program mainly a crutch for the less-developed countries—or is it providing strength to help them

stand on their own feet? This is a critically important question.

A good test of economic development is a country's improving ability to buy the things it wants in the commercial marketplace. Already a number of countries that once received food aid have become important commercial customers. The classic examples are, of course, Japan, Italy, and Spain. Under Public Law 480 and earlier aid programs, they received considerable assistance. Today they are among our best cash customers.

These countries, at a critical time in their economic developments, were aided by Public Law 480. They were ready to carry out their own self-help programs, but they needed some help in getting started. Once started, they have moved forward of their own momentum.

BENEFITS ABOUND

Other countries can be cited that are dramatic in their transition from aid to trade; they started with less and have had further to go.

The benefits of exports are shared by nonfarm people. Hundreds of thousands of workers and businessmen across the country owe part or all of their incomes to the activities created by agricultural exporting—handling, transporting, warehousing, processing, packaging, freight forwarding, insuring, financing, and related activities. Exporting has, in itself, become a vast industry.

BALANCE-OF-PAYMENTS IMPACT

Another benefit to the United States of expanded foreign markets for our farm products is a better balance of payments.

It is not generally known—but it is a fact of which we should be very proud—that American agriculture, through its export earnings, is today doing more than any other segment of the Nation to hold back the critical outflow of dollars.

As food for peace embarks on its 21st year, there is growing indication of the program's substantial contribution to the development of commercial markets for our farm products. In a large sense, these commercial exports constitute food for peace at its best—mutually beneficial, multilateral trade using the efficiency of commercial trade channels. The soundest and the simplest way to maintain our balance of payments would be to utilize to the maximum the productive efficiency of our farmers by findings ways to increase our agricultural exports even more.

IMPORTANT ELEMENT OF FOREIGN POLICY

The food for peace program is far more than just a farm program. It is truly a national program, to support national foreign policy objectives. It reflects the fact that we have wed our world leadership responsibilities with our breakthrough in agricultural technology.

Food and fiber from American farms have saved the lives of millions of people.

There are millions of boys and girls today, throughout the world, who regularly receive school lunches through this program.

KEY TO WORLD DEVELOPMENT

It makes sense for the United States and other exporting countries to share abundance—God-given abundance—with millions who lack that abundance. In our foreign aid programs, we recognize more and more that a key factor in economic development will be the future ability of people to feed themselves—the ability to really close the world's food gap. Thus we seek not only to share our abundance of production with developing nations, but also our abundance of know-how and technology.

Beyond the obvious political and moral reasons for our assistance, there is also a good economic reason.

The real market development for agricultural output has been and is in increasing total dollar markets of the world—not just in dividing existing markets.

Our assistance programs are helping to build future export markets for American farm products—by increasing living standards and purchasing power of the great populations in developing areas of the world.

INTERDEPENDENCE OF NATIONS

These are the lessons of today. That all of us in this Nation, and in this world, are interdependent—that none of us is isolated from his neighbor.

It is not easy to measure the accomplishments of a program with such multiple objectives as U.S. food aid. During the 20 years, U.S. farm products amounting to $20 billion were exported under Public Law 480 programs. Food has been furnished to meet emergency situations and to meet nutritional needs as a contribution to the development of the economies of the recipient countries. Loans to foreign governments for economic development are the largest item in the uses of foreign currencies generated under the program.

PROGRAM SAVES LIVES

Malnutrition takes its worst toll in the first 5 years of human growth, blunting the physical development of preschool children, and very often retarding their mental growth as well. In countries where food shortages are both chronic and widespread, this irreversible process affects up to 50 percent of the infant population.

Millions of youngsters in many lands are alive today as a result of American compassion and American know-how—and as a result of a unique partnership between the public and private sectors of this country.

FLEXIBILITY AND PROTECTION

U.S. commodities have played a major role in maintaining the precarious balance between world food production and world food consumption for a number of years. The current act no longer limits food aid to surplus commodities, but encompasses commodities determined to be available by the Secretary of Agriculture. U.S. set-aside acreage has been returned to production as needed for U.S. uses, commercial exports, and food assistance exports.

However, it should be noted that section 401 of the act provides the following:

No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity.

We should not overlook the need to be reliable suppliers to dollar customers—nor should we repeat the soybean mistake with export controls.

Actually, export controls would have to be associated with an embargo on Public Law 480 exports.

CALL TO OTHER NATIONS

There should be an international call upon other highly developed countries to contribute their share to the solution of the world food deficit. The threats which accmpany hunger and starvation are so great and the issues so complicated that the experience, ideas, skills, and resounces of as many countries as possible must be brought to bear upon tne problem. The world community should support the expansion of international food and agricultural assistance programs, including the United Nations world food program.

The world community should call upon those countries with oil rich billions to set aside at least a modicum of these riches to implement an oil dollar for food program. This would be a practical recognition that the net effect of their pricing formulae has been to reduce food production especially in developing countries. This would be a great act of mercy worthy of responsible men.

MILESTONE OF MAN'S CONCERN

As we look back on two decades of effort, the accomplishments are remarkable by any test. Historians of future generations may well look back on this expression of America's compassion as a milestone in man's concern for his fellow man.

Let us, then, who share in the miracle of American agriculture, continue to work for a future in which our energies and our productivity will be devoted to making life happier, freer, and more abundant for the whole family of man.

The Nation's founders insisted on "a decent respect to the opinions of mankind." This food-for-peace program is a continuing major action on our part in that direction. Today is a birthday to uplift the hearts and minds of men.

COVERAGE OF NONPROFIT HOSPITALS UNDER THE NATIONAL LABOR RELATIONS ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. ABOUREZK). Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 3203, which will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3203) to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 3, 1974, at pp. 22130–22131.)

The ACTING PRESIDENT pro tempore. The Chair wishes to state that the official papers pertaining to the conference report on S. 3202 are not available to the Senate at this time and until such time as they are made available, the Senate cannot proceed to the consideraion of the conference report.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that I may yield 2 minutes to the Senator from Massachusetts.

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

The Senator from Massachusetts is recognized.

DEATH OF CHIEF JUSTICE EARL WARREN

Mr. KENNEDY. Mr. President, Earl Warren was a giant of American justice, and his death deprives the Nation of perhaps its foremost living symbol of integrity and moral leadership.

For generations to come, Earl Warren will be remembered as one of the Nation's greatest Chief Justices, and history may well rank him as the greatest since John Marshall. Certainly, the two together—Marshall and Warren, touching each other across the centuries—are easily seen as the two great shapers of the Supreme Court in the American system of government—Marshall at the beginning, who forged the Court's enduring role as a strong and coequal branch of government and as the ultimate keeper of the Constitution, and Warren in the modern era, who led the Court in the contemporary judicial revolution that has brought such powerful and important change to every aspect of American life, but most especially in civil rights, in civil liberties, in reapportionment, and in criminal justice. Just as President John Adams once said that his proudest act was his gift of John Marshall to the people of the United States, so it can be said that Earl Warren was President Eisenhower's finest gift.

In addition to the monumental achievements of Earl Warren in public life, my family and I will always remember his friendship and the quiet kindness and comfort he brought at the time of the assassination of President Kennedy. His private courage at the time was a source of strength for us at a difficult period for our family, and his public courage in assuming the leadership of the Commission to investigate the tragedy was a source of strength to the American people at a difficult period for the Nation. Thanks to his personal leadership, the Warren Commission became one of the most influential forces in allaying the fears of that era and in allowing the Nation to return vigorously to its course.

To his wife and children, I give my deep sympathy. Perhaps it is of comfort now to know that his life was so rich and full, and that his contributions to our Nation were so immense. So long as American history is studied, Earl Warren will be celebrated by future generations, not only in this country, but throughout the world. So long as lawyers argue cases before the Supreme Court, they will recall his famous question from the bench. "Yes, but was it fair?"

Mr. President, I ask unanimous consent that an article on Chief Justice Warren in this morning's Washington Post by Mr. Alan Barth may be printed in the RECORD, as well as excerpts from remarks I made in 1970, on the occasion of the presentation by the JFK Lodge of B'Nai B'Rith of the Profiles in Courage Award to Chief Justice Warren. I also ask unanimous consent that the following additional materials may be printed in the RECORD: the proceedings in the Supreme Court on June 23, 1969, on the retirement of Chief Justice Warren; a tribute to Chief Justice Warren by Archibald Cox that appeared in the Harvard Law Review in 1969; an interview by Anthony Lewis with Chief Justice Warren; and a chapter on Chief Justice Warren from John P. Frank's book, "The Warren Court".

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

[From the Washington Post, July 10, 1974]

CHIEF JUSTICE WARREN: HIS COURT RESHAPED THE NATION

(By Alan Barth)

By nearly every standard that can be said to measure judicial stature, Earl Warren must be counted among the great chief justices of the United States—the greatest, in all probability, since John Marshall.

Like John Marshall, Earl Warren presided over the Supreme Court during a period of dramatic change in the character of American Life. The "Marshall court" at the inception of the Republic wrote upon a clean slate in giving vitality to the United States Constitution and in delineating for itself a decisive role as a shaper of the national destiny. The "Warren court" adapted the institutions of a developing society to the needs of a fully developed nation, a great military and economic power in a world made intimate by scientific and technological advances altogether beyond the imagination of the Constitution's framers.

It is apt to be misleading to designate a court by the name of a Chief Justice who is, after all, but *primus inter pares* among its members. But in the case of Earl Warren as in the case of John Marshall, the designation seems justified not alone as the mere indication of a time period but as a recognition of leadership and influence.

The court over which Warren presided was an extraordinarily vigorous one, replete with powerful personalities. He was surpassed by several of its members in legal learning, in felicity of expression, in depth of judicial perception and philosophy. As administrator of the court's affairs, however, he gave the disparate justices a measure of unity and a sure sense of the tremendous political role the court had to play in its time.

In ceremonies marking the conclusion of Warren's term as Chief Justice and the installation of Warren E. Burger as his successor, President Richard M. Nixon remarked: "Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change than any in our history."

A society once overwhelmingly rural in residence and agricultural in occupation had become predominantly urban and industrial. This shift was accompanied by a vast migration from small towns and villages into great metropolitan centers and brought with it a social upheaval entailing immense alterations in social values and immense problems of social adjustment. An important part of the population movement involved great numbers of Negroes uprooted by technological change from the Southern cotton fields where they had worked first as slaves and later as sharecroppers and who now found themselves penned in the decaying slums of inner cities wholly unequipped by reasons of illiteracy and ignorance to compete for a livelihood in an advanced industrial economy.

These black Americans were clamoring for civil rights and for economic opportunity. Migration to the cities made the disproportionately rural representation in state legislatures seem altogether inequitable and anachronistic. Education, police authority, social institutions, media of communication, esthetic and moral values, even religion, were all undergoing dramatic changes. The law, indeed the whole relation of the state to the individual, had to change with them. And it was over that transformation of the American community that the Warren court presided.

"No decade in American history has brought to the Supreme Court such a diversity of deeply troublesome and controversial questions," this newspaper commented editorially on the 10th anniversary of Warren's appointment as Chief Justice. And a member of Congress remarked, not happily, that "our entire way of life in this country is being revised and remolded by the nine justices of the Supreme Court."

Earl Warren was born in Los Angeles, Calif., on March 19, 1891, the second child of a railroad worker named Methias H. Varran, brought to this country in infancy from Norway. The name was anglicized to "Matt Warren.' Matt was not a man of much education but he was intensely interested in reading and in learning—for his children no less than for himself. The family fortunes were not resplendent. John D. Weaver, in a biography of Earl Warren, says that the boy once asked his father why he had no middle name. "Son," Matt Warren answered, "when you were born, we were too poor to enjoy any luxury of that kind."

But Matt Warren was industrious and provident, saving money and investing it shrewdly. He was determined that his children should have the education he had missed. He worked his way up on the Southern Pacific from a mechanic to a master car builder. In 1938, when Matt had retired from his railroad job and when his son, Earl, was district attorney of California's third largest county, the body of the father, then 73 years old, was found in the kitchen of his home, bludgeoned to death with a lead pipe. It was a case of robbery—evidently by someone who supposed the old man had concealed wealth on his premises. The murderer was never found.

Earl did odd jobs when he was young, working for a while as a call boy for the railroad. He did well enough in school but was more interested in sports than in study. He put himself through college and law school at the University of California.

Warren spent about three years in private practice after his graduation from law school and before he enlisted in the Army upon America's entry into the first world war. He

saw no service overseas but he rose to the rank of second lieutenant. Following his discharge from the Army, he obtained an appointment as a deputy in the Alameda County district attorney's office and remained a public employee for all the rest of his working years until his retirement as Chief Justice of the United States.

Warren was elevated to the office of district attorney in 1925 and, in the course of 13 years in that post won a reputation as a crusading prosecutor, tough but compassionate and fair. "The only way the racketeers can get control in any community," he once said, "is by alliance with politics, and control of your public officials, your courts, your sheriff, your police chief, your district attorney, and other law enforcement agencies."

Earl Warren was a strict law and order man, known much more for his personal probity and prosecutorial skill than for any sociological pioneering. During Prohibition, he became a teetotaller, not out of any dislike of drinking but out of a disciplined sense of duty. "How can I drink bootleg liquor at a party on Sunday night." John Weaver quotes him as having said, "and then on Monday morning send my deputies to prosecute bootleggers?"

Politically, he was aligned with the right wing of the Republican Party in California. He was an ardent champion of states' rights. As attorney general he was vehement in his denunciation of Communist radicals and as governor vociferously supported the military decision, after the attack on Pearl Harbor, to remove all persons of Japanese ancestry from the West Coast and put them in detention centers in the interior of the country.

He grew prodigiously in office, however. In 1945, during his first term as governor, he became convinced that California needed a state program of prepaid medical insurance. The California Medical Association regarded this, of course, as "socialized medicine" and fought it ferociously. No doubt the sheer irrationality of its opposition served to move the governor into even more shocking forms of progressivism. He undertook the reorganization of the state's antiquated Department of Mental Hygiene, inaugurating a modernization of mental institutions which put California in the forefront in this field. He put through the legislature stringent legislation regulating lobbyists. He fought the petroleum interests to a standstill in obtaining enactment of an equitable highway development bill and in the face of bitter opposition from the private power lobby championed the Central Valley project for the public development of hydroelectric energy.

When Warren ran for a second term as governor of California in 1946, he did so on a record of legislation which extended enlightened and progressive help to the state's unemployed, handicapped, elderly and mentally ill. Moreover, the state was free of debt, and taxes had been cut by above 15 percent. He won the nomination of both major parties and was resoundingly reelected—the second governor to serve a second term in a century of California experience.

A Democratic governor who served California some years later—Edmund G. (Pat) Brown—said of Earl Warren: "He was the best governor California ever had. He faced the problems of growth and social responsibility and met them head on. He felt the people of the state were in his care, and he cared for them."

Warren had by then, of course, become something of a national figure and certainly the outstanding Western Republican politician. Somewhat reluctantly, as a matter of party loyalty, he accepted the GOP nomination for the vice presidency in 1948 as the running mate of Gov. Thomas E. Dewey. They went down to defeat. It was the only election Warren ever lost. But Warren had a third term to serve in the gubernatorial mansion in Sacramento.

In 1952, Warren was a serious contender for the GOP presidential nomination at a convention in which Gen. Eisenhower and Sen. Taft were considered the frontrunners. The California delegation, including the state's junior senator, Richard M. Nixon, was pledged to the governor.

According to John D. Weaver, "Nixon was suspected by the governor's political tacticians of having made a deal to deliver to the general the secondary strength he would have had to demonstrate if he had failed to get the nomination on the first ballot." The first ballot nomination, in any case, went to Eisenhower, and the nomination for the vice presidency went to Nixon. Whatever the merits of the matter, an enduring coolness developed between Nixon and Warren.

In the final days of his third term as governor, Warren announced that he would not be a candidate for re-election. A few days after this announcement, in September, 1953, Fred M. Vinson, then Chief Justice of the United States, died. President Eisenhower promptly nominated Gov. Warren for that great office, remarking that he made the choice on the basis of the governor's "integrity, honesty, middle-of-the-road philosophy . . ."

Warren came to a court diminished in prestige and deeply divided not alone by ideological differences but by personal hostilities among its members. It was a measure of his qualities of leadership that the new Chief Justice managed, from the very outset of his tenure, to heal, or at least to bridge, these divisions. He won at once the warm regard as well as the respect of all his associates. The achievement contributed immeaurably to a restoration of the court's prestige and influence.

One of the great controversies of American history came before the court at the very beginning of Warren's chief justiceship: the question whether state-enforced segregation of Americans on the basis of race is constitutionally impermissible because it entails a denial of the equal protection of the laws.

Historically, the court had held that racial segregation was not unconstitutional provided the facilities afforded the two races were essentially equal. For more than a decade, however, the court had recognized in a series of decisions that the schools, hospitals and other public facilities provided for Negroes were, in fact, markedly inferior to those provided for white persons.

Brown v. Board of Education came before the court in Warren's first term. When it was decided on May 17, 1954, the opinion of the court, written by the new Chief Justice himself, had the unanimous concurrence of his associate justices and represented one of the great landmarks in American jurisprudence. "We conclude," Warren wrote, "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal . . ."

The ruling was soon applied, of course, and with continuing unanimity to fields other than public education. The unanimity of the court achieved under Warren's leadership was a testimonial to his judicial statesmanship and contributed significantly to the impact and effectiveness of the dramatic change in race relations required by the decision. The impact and effectiveness were diminished, however, by the failure of the Eisenhower administration to give the court moral and political support. Massive resistance to the decision began to develop in the Southern states; and from that time forward the Chief Justice became the target of vicious attacks by demagogues and reactionaries, including even a campaign, sparked principally by the John Birch Society, for his impeachment.

A decade later, in 1964, the Chief Justice wrote opinions for the court in six cases decided simultaneously in which the residents of half a dozen states challenged the validity of apportionment in legislatures where sparsely populated rural districts enjoyed the same representation as much more populous urban districts. Under this arrangement, rural residents of the states wielded much more political power than city dwellers.

For a court divided this time 7 to 2, Warren held that this inequality violated the constitutional promise of equal protection. He ruled, moreover, that the requirement of population equality in election districts applied to both branches of bicameral state legislatures, rejecting any analogy between them and the national Congress where the federal Constitution provided for equal representation of states in the Senate regardless of their size or population.

"Legislatures," Warren wrote, "represent people, not acres or trees. Legislators are elected by voters, not farms or cities or economic interests . . . The weight of a citizen's vote cannot be made to depend on where he lives."

This decision was quite comparable in importance and in political impact to the school desegregation ruling and evoked an almost equal sense of outrage among those who viewed it as a judicial intrusion into the legislative domain. It confirmed the view of Warren's critics that he was an inveterate judicial activist. On the other hand, it corrected a political injustice and imbalance that, given the rural ascendency in state legislatures, had no real possibility of correction through legislative action.

The Warren court outraged conservative sensibilities in one additional area, the field of criminal law. Over a decade or more the court wrought a revolution in extending to defendants in state courts the protections guaranteed to them in federal courts by the Bill of Rights. The Chief Justice's most signal contribution in this process was in regard to the admissibility of confessions. A confession, no matter how reliable, must be excluded from a criminal prosecution, he ruled, if it were obtained by coercion, threat or trickery of any sort. "The abhorrence of society to the use of involuntary confessions," he wrote in Spano v. New York, decided in 1959, "does not turn alone on their inherent untrustworthiness. It also turns on the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves."

The strongly held views of the Chief Justice regarding the rights of persons charged with crime found its culmination in what was perhaps the most controversial of all his opinions, handed down in the Miranda case in 1966. The decision held that the police must warn any arrested person, before questioning him in connection with a crime, that he has a right to remain silent, that any statement he makes may be used against him and that he is entitled to consult an attorney (to be provided for him by the state if he cannot afford to hire one himself) before or during any interrogation. Omission of any of those requirements would make a confession inadmissible.

These procedural rights have been an immemorial part of the folklore of American justice. How far they were from observance in reality was attested by the tornado of indignation that the Warren opinion generated from law enforcement officers and district attorneys. It is perhaps profoundly significant, however, that the opinion came from a judge who had had long and ripe experience as a public prosecutor.

To Chief Justice Warren, Anthony Lewis remarked in a distinguished monograph, "justice consisted not of providing a fair mechanism of decision but of seeing that

the right side, the good side, prevailed in the particular case . . . Often the framework of the argument seems ethical rather than legal . . ." This appraisal seems in large measure just as discerning. In a speech delivered in 1962, the Chief Justice spoke of law as floating "in a sea of ethics." In a profoundly conscientious sense, he thought of the Supreme Court as a force for "good."

The whole of his career was devoted to public service in an activist sense of the term. He believed, above all else, in righting wrong. His thinking was robust and healthy rather than subtle or sinuous; and it rested on elementary American values—confidence in the good sense of the people, in the utility of freedom, in the ultimate triumph of truth over error. "A prime function of government," he wrote in the only book he ever published—"A Republic, If You Can Keep It"—"has always been . . . to protect the weak against the strong."

Warren's devotion to the public service was marked by an impeccable personal integrity. It is perhaps unique among public men, and certainly unusual, that from the moment he entered public service in California, Earl Warren never took a dime from anyone for a speech, article or any other kind of private or public activity. And once he accepted appointment to the chief justiceship he never manifested the slightest interest in any political office or influence. His commitment to the court was all-embracing.

If his opinions were not particularly notable for elegance or eloquence, they were nevertheless soundly reasoned and made powerful by the feeling of decency and compassion that informed them. At least in the fields of politics and law enforcement, where he had rich experience, his views commanded great respect and influence.

As the leader of an embattled court engaged in adapting the law to new economic and political circumstances, moreover, he displayed a high degree of judicial statesmanship. He was a man of clear conviction and of granitic strength. Once he quit elective office for the bench, he became wholly indifferent to popular favor and to public excoriation. He will be counted, undoubtedly, as one of the titanic figures in the history of the Supreme Court.

Once he joined the court, the only major interruption in his work came when President Johnson persuaded him to become chairman of the commission to investigate the assassination of President Kennedy. The Chief Justice undertook that assignment reluctantly. He apparently believed that a member of the court should not engage in non-judicial activities, but had been convinced by President Johnson that his personal prestige and the prestige of his office was needed to calm public fears that the investigation would be a whitewash. The report of the commission did much to quash fears that the assassination was part of a large conspiracy.

After stepping down as Chief Justice in 1969, Warren remained active in judicial affairs, speaking largely on matters of judicial administration and working at his office in the Supreme Court building. He maintained his lifelong interest in sports and was a regular spectator at football games of the Washington Redskins.

In 1925, Warren married Nina Palmquist Meyers, the widow of a musician who had died when their son, James, was three weeks old. Her mother had died when Nina was three years old, her father when she was 13; and she had been self-supporting ever since. James was adopted by his stepfather, and the family was enlarged in succeeding years by the birth of Virginia in 1928, Earl Jr. in 1930, Dorothy in 1931, Nina Elizabeth (known as Honey Bear) in 1933 and Robert in 1935. It was an extraordinarily close and loving family, retaining its sense of warm unity throughout the whole of Earl Warren's life.

REMARKS OF SENATOR EDWARD M. KENNEDY UPON THE PRESENTATION OF THE PROFILES IN COURAGE AWARD TO CHIEF JUSTICE EARL WARREN—J.F.K. LODGE, B'NAI B'RITH, APRIL 28, 1970

Just five years ago, I was pleased to be with you to honor the memory of the first recipient of the Profiles in Courage award, Edward R. Murrow. In the four years since then, the winners have been giants in American life and American liberty, Judge Simon Sobeloff, Charles Weltner, Paul Douglas, and Ramsey Clark. And today that proud tradition continues as we pay tribute to Chief Justice Earl Warren.

I feel a deep sense of privilege and awe in performing my role tonight. For the life of the Warren Court spanned my entire adult life. I was 21 when Earl Warren became Chief Justice, and perhaps my generation will be the last to understand, from personal experience, why the Warren Court was the subject of so much controversy and so much emotion.

Indeed, for many of us, the key rulings of the Warren Court have already come to seem, in retrospect, merely the necessary articulation of self-evident constitutional precepts. It hardly seems radical to have decided, nearly 90 years after the 13th, 14th and 15th Amendments, that officially forced separation of citizens, by skin color, was unacceptable. It hardly seems surprising that after 175 years of increasingly irrational legislative apportionment, the Court decided that "Legislators represent people, not acres or trees." It certainly does not shock us now to hear that poor defendants are entitled to the same Constitutional protections as rich ones, that these protections attach as soon as a suspect is deprived of his liberty, and that the suspect must be told of his rights before he can be assumed to have waived them.

These, stripped to their essentials, are the three major, and most controversial, decisional themes of the Court which Earl Warren led for 16 years, and it is a sign of that Court's impact on national life that today most of us take them for granted.

Yet the fact is that each of these developments in the law was earthshaking in its day, and reflected the courage and confidence of Chief Justice Warren and his fellow Justices.

For in those days the constitutional promises of equality and liberty and justice were often shams in the courts, in the legislatures, in the precinct houses, and in schools and public facilities. And few with the power to act had been willing to recognize those shams, to mark them for what they were, to destroy them, and to replace them. The legislative branch would not. The executive branch could not. And the judicial branch had failed to appreciate that, by refusing to decide cases, or by deciding to acquiesce in the status quo, it was exercising its power just as fully as if it took cases and altered the status quo. It would not admit that, by choosing not to address problems which it could have addressed, it assumed a share of the responsibility for those problems. There appeared to be a judicial code of silence on many great issues and hard issues, a code which said, if the problem is difficult and complex and the correct judicial solution would raise its own difficulties, then the courts had better abstain from seeking a solution, no matter how pressing the need for change. The theme seemed to be that only easy problems with easy answers were fit for judicial solution, and that drastic problems with difficult answers should remain unsolved. Judicial restraint became judicial abdication, and since there were no other sources of relief, judicial abdication became the last step in America's toleration of constitutional hypocrisy.

But within a year after he joined the Court, Earl Warren changed all that. With the Chief Justice as catalyst and spokesman, the Court's unanimous opinion in *Brown* showed forcefully that the Court was prepared to address large issues and hard issues, and to tear away the Constitutional facade behind which we had been living.

The first years of the Warren Court were historic not merely for the advances in judicial responsiveness which they produced, but perhaps more strikingly for the political context in which they occurred. In Congress, where an effective combination of political forces was resisting all social progress and generating novel legislative dilutions of liberty, there had developed a pattern of individual demogoguery, and fear-mongering, that threatened to destroy any person or any institution working in the public interest, and especially those who sought to strengthen and promote and avail themselves of Constitutional liberties and individual freedoms. In the Executive, there was not just a benign neglect of pressing national challenges, but a benighted preference for low profile government which would not make waves—even when it saw that the waters were already troubled. And the public quietly accepted this attitude. Tired from two wars, cowed by McCarthyism, worried for the first time since World War II about their pocketbooks, the nation did not have the emotion, or inclination, or social activism. Even those who suffered most, and most directly, from the system's failures—the black, the city dwellers, the poor, the ignorant—suffered in comparative silence—without demonstrations, without violence, without rebellion, with just an occasional lawsuit seeking to test the honesty and validity of the system.

So it was left to the courts, and with Earl Warren leading, the courts responded.

Earl Warren had been a great and successful politician. He had been elected district attorney, attorney general, and, 3 times, governor of California. He knew the Nation and its people. He knew what they wanted and what they needed, and what they would accept. He knew that politics was the art of the possible, but he also recognized, in the words of a quote which Congressman John F. Kennedy saved and used, that "the best politics is to do the right thing." Earl Warren's vision of the "right thing" changed over time. What seemed necessary to him in 1941, probably seemed inconceivable in 1961. But it was this growth and perspective which gave him strength.

He knew what he wanted the Supreme Court to be. While he did not find it necessary to articulate a comprehensive theory of how the Court should go about deciding cases, his record on the Court spoke deep and thoughtful messages about his philosophy of judicial behavior. Jim Clayton has summarized the Frankfurter and Warren philosophies this way:

"Frankfurter saw it as a Court in which only principles were established; Warren often sees it as a place where justice is done." But I think that contrast does not stand up, and does not fairly reflect the meaning and importance of the Warren philosophy. For when a supreme instrument of government does justice, it also establishes principles. It demonstrates that the government, the institutions of organized life, the Establishment, if you will, is alive and well, is responsive and responsible, is vital and functioning. It restates the principle that justice can be done and should be done and must be done by all instruments of government. It keeps alive the faith of the people in the system, stimulates them to seek more justice from the system, shows them how the system should operate so that they will recognize its malfunctions.

It broadcasts the clear lesson that the Constitution is not just a piece of parchment to

be kept in helium at the Archives for schoolchildren to look at, and for lawyers to genuflect to, but that the Constitution is a living force, a guide for finding contemporary answers to contemporary questions, a working tool for every citizen, meant to be used, and strengthened by use.

And when the instrument which establishes thse principles is the Supreme Court, they have special meaning. For when the Supreme Court finds it necessary to intervene, that is a strong warning to other institutions of government that they may be failing in their own responsibilities.

Of course, that warning came through loud and clear from the Warren Court, first to the Executive Branch, and then to the Congress. The first change of Administrations during the Warren era found a new commitment to social justice. The Executive worked in tandem with the judiciary, taking strong initiatives in civil rights, and laying the groundwork for an upheaval in criminal and civil justice by focusing on the problems, ventilating them, and proposing administrative and legislative reforms. By the end of the first decade of the Warren Court, Congress also began to complete what the Court had started. The Civil Rights Acts of 1960, 1964, and 1965, provided massive legislative solutions which facilitated, or replaced, the excruciating case-by-case pursuit of equality. The Criminal Justice Act, Narcotics Addict Rehabilitation Act, Bail Reform Act, Law Enforcement Assistance Act, and others, recognized the need for overhauling the machinery of justice. With OEO, education, health, and Manpower legislation, the Congress assumed even broader responsibilities for social progress. A misguided effort in Congress to turn the clock back on *Baker* v. *Carr* was rebuffed not once but twice, and the Court's demand for equality of representation remained intact.

And so, as the Warren era drew to its close, our national government was strong enough to withstand the twin challenges of urban violence and political dissent. By and large, the institutions of order, especially at the federal level, were able to respond firmly when necessary, but with flexibility, compassion and due respect for legitimate rights. I think it is a mark of the contribution of the Warren Court that we were able to get through the last half of the decade of the 60's with our liberties and our institutions intact . . .

Thus, there is hope. There are Americans who can carry on the fight for justice which Earl Warren led so bravely. But they must step forward now, for it is late in the game.

When Earl Warren stepped down from the Bench, he said, "We serve only the public interest as we see it, guided only by the Constitution and our own consciences, and conscience is a very severe task master." And so we have seen his courage not just in profile but in full face, for he has devoted his whole being to liberty and to justice, for all and forever. There was always something very special about the Chief's courage. Archie Cox described it this way: "not merely the will to decide and decide according to his convictions, but the courage that preserve equanimity, tolerance, and good nature in the face of provocation." That kind of courage is welcome in any man, vital for a good Justice, and absolutely essential in a great Chief Justice. Earl Warren had it, and that is why we are proud to honor him today.

[From 395 U.S. VII]

RETIREMENT OF MR. CHIEF JUSTICE WARREN, SUPREME COURT OF THE UNITED STATES, MONDAY, JUNE 23, 1969

Present: MR. CHIEF JUSTICE WARREN, MR. JUSTICE BLACK, MR. JUSTICE DOUGLAS, MR. JUSTICE HARLAN, MR. JUSTICE BRENNAN, MR. JUSTICE STEWART, MR. JUSTICE WHITE, and MR. JUSTICE MARSHALL.

THE CHIEF JUSTICE said:

We are honored today by the presence of the President of the United States as a member of this Bar.

Mr. President, my I recognize you at this time.

President Nixon said:

Mr. Chief Justice, may it please the Court:

I am honored to appear today, not as President of the United States but as a member of the Bar admitted to practice before this Court.

At this historic moment I am reminded of the fact that while this is the last matter that will be heard by the Chief Justice of the United States, the first matter to be heard by this Court when he became Chief Justice was the occasion when, as Vice President of the United States, on October 5, 1953, I moved the admission of Warren Olney III and Judge Stanley Barnes to be members of [the Bar of] this Court.

I have also had another experience at this Court. In 1966, as a member of the Bar, I appeared on two occasions before the Supreme Court of the United States. Looking back on those two occasions, I can say, Mr. Chief Justice, that there is only one ordeal which is more challenging than a Presidential press conference and that is to appear before the Supreme Court of the United States.

On this occasion, it is my privilege to represent the Bar in speaking of the work of the Chief Justice and in extending the best wishes of the Bar and the Nation to him for the time ahead.

In speaking of that work, I naturally think somewhat in personal terms of the fact that not only is the Chief Justice concluding almost 16 years in his present position, but that today he concludes 52 years of public service to local, State, and National Governments:

As District Attorney in Alameda County, as Attorney General of the State of California, as Governor of the State of California, the only three-term Governor in the history of that State.

The Nation is grateful for that service.

I am also reminded of the fact that the Chief Justice has established a record here in this Court which will be characterized in many ways. In view of the historical allusion that was made in the opinions just read, may I be permitted an historical allusion?

Will Rogers, in commenting upon one of the predecessors of the Chief Justice, Chief Justice William Howard Taft, said that "It is great to be great. It is greater to be human."

I think that comment could well apply to the Chief Justice as we look at his 52 years of service. One who has held high office in this Nation, but one who, in holding that office, always had the humanity which was all-encompassing, the dedication to his family, his personal family, to the great American family, to the family of man.

The Nation is grateful for that example of humanity which the Chief Justice has given to us and to the world.

But as we consider this moment, we also think of the transition which will shortly take place. We think of what it means to America, what it means to our institutions.

Sixteen years have passed since the Chief Justice assumed his present position. These 16 years, without doubt, will be described by historians as years of greater change in America than any other in our history.

And that brings us to think of the mystery of Government in this country, and for that matter in the world, the secret of how Government can survive for free men. And we think of the terms "change" and "continuity." Change without continuity can be anarchy. Change with continuity can mean progress. And continuity without change can mean no progress.

As we look over the history of this Nation, we find that what has brought us where we are has been continuity with change. No institution of the three great institutions of our Government has been more responsible for that continuity with change than the Supreme Court of the United States.

Over the last 16 years there have been great debates in this country. There have been some disagreements even within this Court. But standing above those debates has been the symbol of the Court as represented by the Chief Justice of the United States: fairness, integrity, dignity. These great and simple attributes are, without question, more important than all the controversy and the necessary debate that goes on when there is change, change within the continuity which is so important for the progress which we have just described.

To the Chief Justice of the United States, all of us are grateful today that his example, the example of dignity, the example of integrity, the example of fairness, as of chief law official of this country, has helped to keep America on the path of continuity and change, which is so essential for our progress.

When the historians write of this period and the period that follows, some with a superficial view will describe the last 16 years as the "Warren Court" and will describe the Court that follows it as the "Burger Court."

I believe, however, that every member of this Court would agree with me when I say that because of the example of the Chief Justice, a selfless example, a nonselfish example, this period will be described, not only his but that of his successor, not as the Warren Court, not as the Burger Court, not in personal terms, but in this hallowed moment in this great chamber, the Supreme Court. It was always that way; may it always be that way. And to the extent that it is, this Nation owes a debt of gratitude to the Chief Justice of the United States for his example.

The CHIEF JUSTICE said:

Mr. President, your words are most generous and are greatly appreciated. I assure you. I accept your pesonal, kind words, but in doing so I must confess that I sense in your presence here and in the words you have spoken your great appreciation of the value of this Court in the life of our Nation and the fact that it is one of the three coordinate Branches of the Government and that it is a continuing body.

I might point out to you, because you might not have looked into the matter, that it is a continuing body as evidenced by the fact that if any American at any time in the history of the Court—180 years—had come to this Court he would have found one of seven men on the Court, the last of whom, of course, is our senior Justice, Mr. Justice Black. Because at any time an American might come here he would find one of seven men on the Bench in itself shows how continuing this body is and how it is that the Court develops consistently the eternal principles of our Constitution is solving the problems of the day.

We, of course, venerate the past, but our focus is on the problems of the day and of the future as far as we can foresee it.

I cannot escape the feeling that in one sense, at least, this Court is similar to your own great office and that is that so many times it speaks the last word in great governmental affairs. The responsibility of speaking the last word for not only 200 million people, but also for those who follow us is a very awesome responsibility.

It is a responsibility that is made more difficult in this Court because we have no constituency. We serve no majority. We serve no minority. We serve only the public interest as we see it, guided only by the Constitution and our own consciences. And conscience sometimes is a very severe taskmaster.

But the Court through all the years has pursued a more or less steady course, and in my opinion has progressed and has applied

the principles set forth in the 5,000 general words of the Constitution in a manner that is consistent with the public interest and consistent with our future so far as it can be discerned.

We do not always agree. I hope the Court will never agree on all things. If it ever agrees on all things, I am sure that its virility will have been sapped because it is composed of nine independent men who have no one to be responsible to except their own consciences.

It is not likely ever, with human nature as it is, for nine men to agree always on the most important and controversial things of life. If it ever comes to pass, I would say that the Court will have lost its strength and will no longer be a real force in the affairs of our country. But so long as it is manned by men like those who have preceded us and by others like those who sit today, I have no fear of that ever happening.

I am happy today to leave the service of my country with a feeling of deep friendship for all these men whom I have served with for 16 years, in spite of the fact that we have disagreed on many occasions. In the last analysis, the fact we have often disagreed is not of great importance. The important thing is that every man will have given his best thought and consideration to the great problems that have confronted us.

It was ordered by the Court that the accompanying correspondence between members of the Court and Mr. Chief Justice Warren upon his retirement as Chief Justice of the United States be this day spread upon the minutes and that it also be printed in the United States Reports.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., June 23, 1969.

Hon. EARL WARREN,
Chief Justice of the United States,
Washington, D.C.

DEAR CHIEF: Your retirement today from our Court brings us mingled feelings—regret that you are leaving and gratitude that you have served the Court and the Nation with such eminent distinction.

We, your brethren, cannot let you leave without expressing our admiration and affection for you. Through our years of service together we have been constantly impressed by your patriotism and your unswerving devotion to liberty and justice. For us it is a source of pride that we have had the opportunity to be members of the Court over which you have presided during one of the most important and eventful eras of our Nation.

We are happy that you leave the Court in good health and wish you many more years of health and happiness in your well-earned retirement.

Sincerely,

HUGO L. BLACK,
W. O. DOUGLAS,
JOHN M. HARLAN,
WM. J. BRENNAN, Jr.,
POTTER STEWART,
BYRON R. WHITE,
THURGOOD MARSHALL.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., June 23, 1959.

Mr. JUSTICE BLACK, Mr. JUSTICE DOUGLAS, Mr. JUSTICE HARLAN, Mr. JUSTICE BRENNAN, Mr. JUSTICE STEWART, Mr. JUSTICE WHITE, and Mr. JUSTICE MARSHALL.

DEAR BRETHREN: Your letter of today concerning my retirement was heartwarming for me.

To have been able to serve with you through these many eventual years is one of the great satisfactions of my life, and to retire with the friendship of all of you fills my cup to overflowing.

I shall always be interested in you and your work, and I trust that each of you will, for many years, enjoy continued good health and happiness.

Sincerely,

EARL WARREN.

[From 83 Harvard Law Review (1969)]

CHIEF JUSTICE EARL WARREN

(By Archibald Cox) *

A great man represents a great ganglion in the nerves of society, or, to vary the figure, a strategic point in the campaign of history, and part of his greatness consists of his being *there*.[1]

What Holmes said of Marshall upon the centennial anniversary of the day he took his seat is equally applicable to Earl Warren. The retired Chief Justice of the United States—less formative of the structure of government than the Marshall era despite *Baker v. Carr*[2] but enormously important in defining the relation between people and the State. It will be recognized a century hence, I venture to think, no less than many of us suppose today, that the responsibility of government for equality among men, the openness of American society to change and reform, and the decency of the administration of criminal justice received both creative and enduring impetus from the work of the Warren Court.

Greatness is not merely being there, and Holmes did not suggest it was. He spoke of "a great ganglion" much as Galen did—as the center of the intelligence and nervous system receiving messages from all parts of

[From 83 Harvard Law Review (1969)]

the body, appreciating their meaning and its needs—comprehending the body within itself, as it were—and sending back the critical impulses to shape the body's growth and action. *Who* sits at the nerve center of society makes all the difference. To grasp the point one need only suppose that the fourth Chief Justice had been Spencer Roane instead of Marshall.

When Earl Warren took his seat as the fourteenth Chief Justice in 1953, his political career gave reason to hope that he would indeed understand and express in public the long range needs and aspirations of the American people. Raised at a time and place still near to the frontier tradition yet governor of the most rapidly growing of all forty-eight states, he knew the country and the city, the past and the future. The great Chief Justices Marshall and Hughes had like him been shaped by intimate association with the political process. Earl Warren's politics were not easy to stereotype unless in terms of Hiram Johnson and the Bull Moose tradition, but he was progressive and a little left of center. That too suggested that the Court's decisions, to the extent that he could influence them, would be in keeping with the idealistic yet pragmatic character of the American people.

Increasingly often during the next fifteen years lawyers at the bar found that arguments based upon precedent, accepted legal doctrine, and long range institutional concepts concerning the proper role of the judiciary and the distribution of power in a federal system foundered upon Chief Justice Warren's persistent questions, "Is that fair?" or "Is that what America stands for?" Such questions were profoundly disturbing to those engrossed by the intellectual and institutional side of the law, its history, and sheer professional expertise. No one could successfully argue in simple elemental terms that a poor man charged with crime should not have as much chance to have a lawyer at the preliminary hearing as one who was rich, or that cows and trees should have as much voting power as people. If accepted legal doctrines and institutional concepts called for a different conclusion, was not the fault in the legal and intellectual stratum and in the indifference, blindness, and compromise it reflected rather than in the basic ideal? What the Chief Justice was saying of the legal system parallels the message of the student explaining his generation with simple honesty: "*We* take seriously the ideals we were taught at home and in Sunday School."

I do not mean to suggest that it is enough for constitutional law to reflect a sense of justice and political idealism. Ability to rationalize decisions into an ongoing legal system is probably indispensable to preservation of the rule of law. The two should go hand in hand, but perhaps it is inevitable that our necessarily complex and highly developed legal system sometimes becomes so overly concerned with "the internal perfecting of its own categories" as to forget the goals of the enterprise. "What drives us back from time to time to search further, to question outright what are our purposes," Lord Radcliffe observed, "is the insistence of the layman, the man who is not versed in law, that it shall stand for something more, for some vindication of a sense of right and wrong that is not merely provisional or just the product of a historical process."[3] More unusual but much more effective is the insistence of a lawyer who is also the Chief Justice of the United States.

Of course, the goals of the enterprise are not self-defining, and even those who believe (as I do) that the sensitive reading of history and appreciation of the current condition of the community will enable the great judge to discover its ulterior values still must acknowledge a delicate symbiotic relation. To a degree the Court serves as a symbol. Its opinions are sometimes the voice of the spirit telling us what we are by reminding us of what we may be. But while the opinions of the Court can help to shape our national understanding of ourselves, the roots of its decisions must be already in the Nation. The aspirations voiced by the Court must be those the community is willing not only to avow but in the end to live by. For the power of the great constitutional decisions ultimately rests upon the accuracy of the Courts perception of this kind of common will and upon the Court's ability, by expressing its perception, ultimately to command a consensus.

It is in this area that Earl Warren and the Court he led achieved greatness. One may criticize the craftsmanship of some opinions, doubt whether the lines of distinction were always drawn meaningfully between borderline cases, and argue that sometimes the Court pressed its enthusiasms beyond their proper limits. Yet it is infinitely more important that on the great occasions and in the consistent thrust of lesser rulings the decisions of the Warren Court brought the law more nearly into accord with the best and truest aspirations of the American people. No one seriously supposes that the legal revolution led by the Warren Court will be undone even though a few of the extremely controversial decisions may be modified. The number and length of the strides taken measure the needs that were waiting to be filled as well as the accomplishment.

Indeed, the decisions of the Warren Court seem to me always to have had deeper and stronger support in the country than the volume of professional criticisms and vocal public resentment might seem to indicate. The reapportionment cases are the clearest example. The resistance to the desegregation cases is still both widespread and genuine; they aroused new fears as well as old prejudices by upsetting habits so ingrained that their vice could be conveniently forgotten. Still, I cannot believe that when forced to face up to the question many Americans

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* Williston Professor of Law, Harvard Law School, B.A., Harvard, 1934, L.L.B., 1937.

[1] 178 Mass. 619, 625 (1901) (Chief Justice O. W. Holmes, Jr., of the Supreme Judicial Court of Massachusetts, responding to a motion that the court adjourn on February 4, 1901, the one hundredth anniversary of the day on which John Marshall took his seat as Chief Justice) (emphasis in original).

[2] 369 U.S. 186 (1962).

[3] C. Radcliffe, the Law and Its Compass 78 (1960).

would want the courts to hold that their Constitution sanctions apartheid. Similarly, I suspect that, even in the face of deep concern for the law and order, the sober second thought of the community approved the essential thrust of the constitutional reforms in criminal procedure. Only history can confirm or belie my impressions, but we may perhaps draw a hint of the future from the fact that the strongest support for the decisions of the Warren Court comes from the rising generation, as is partly evidenced by the Editors' decision to dedicate this issue of the *Harvard Law Review* to the retired Chief Justice.

The fashion in some intellectual circles is to decry the habit of associating the constitutional trends of a particular period with the Chief Justice who presided. The Chief Justice is only one of nine, it is contended, and others may have more original minds and greater intellectual power. Similiarly, the Chief's administrative duties and role as presiding officer are said to carry little power in the process of decision. Perhaps so; it is not given to those outside the Court to know what influence any Justice has upon his brethren. For myself I am inclined to think that in that small, tightly knit, and in many ways isolated circle, the degree to which the Chief Justice embodies the human qualities that make for leadership among men has vastly more significance for the character and direction of the Court's work than can be discerned from purely intellectual analysis of the opinions. On the great constitutional occasions, moreover, it is usually the Chief Justice who delivers the opinion. He speaks for the Court; the ideas in the opinion come from varied sources, some his own, some from his associates, perhaps occasionally a few from counsel. But it is the Chief who speaks. Not only the position of the speaker but his personal qualities—the image he projects, if you will—are determinants of the way the decision is received by the country and of countless little-noticed rulings in lower courts.

Earl Warren brought other extraordinary personal qualities to the fulfillment of this office in addition to in intuition I have sought to describe. Foremost perhaps was courage—not merely the will to decide and decide according to his convictions but the courage that preserves equanimity, tolerance, and good nature in the face of provocation. Some years ago I joined the Chief Justice on an early flight to attend the dedication of a law school building, at which he was to deliver the principal address. He was met at the Raleigh-Durham airport by a noisy crowd of pickets with signs, demanding his impeachment. Walking beside him I could almost feel him suffer. The years on the political hustings and long familiarity with "Impeach Earl Warren" demonstrations had not made an extremely sensitive nature indifferent to personal affront. Outwardly his composure was undisturbed; the pickets ten feet away saw only friendliness, warmth, and dignity.

That we expect and usually receive courage from our Justices should not blind us to its importance, especially in times of high public emotion. I know from their testimony that Earl Warren's example made the choices plainer and the path easier for the numerous federal judges who were required to aid in working out great constitutional changes in such controversial areas as civil rights and the administration of criminal justice. It must equally have strengthened his own Court.

Earl Warren's warm friendliness and simple dignity must also have influenced his brethren. Certainly they were felt by the bar. Once in a while counsel—usually counsel for the prosecution in a criminal case—felt the sting of rather blunt interrogation about the fairness of his posture, but even in such an instance he would usually leave the courtroom feeling that, although defeat appeared inevitable, the Chief Justice in presiding had accorded him a full and kindly hearing. The response of lawyers on the occasion of their admission to practice before the Supreme Court of the United States is revealing. Their numbers are great, especially in the tourist season, and an habitué of the chamber can easily find himself sitting through the hundreds of motions, as I soon began to do, with growing boredom. The Chief Justice never allowed the motions to become only a ritual. Each lawyer or each group received a genuine welcome, often spoken with personal direction. A few conversations with these men and their wives and children soon dissipated my insensitivity. It was not just that the occasion was intensely important to them. The warmth of the Chief Justice's greeting had made the Court *their court*. The bond would be enduring.

Much more than courtesy or even friendliness was involved. Chief Justice Warren desired above all else, I suspect, to have both the Court and the law belong to people—to have it serve their needs, speak to them, and voice their aspirations. Perhaps the wish fathers the thought but I am also inclined to believe that much of the country sensed his desire, and that this understanding was a source of great institutional strength in a time of necessary innovation.

[From the New York Times magazine, Oct. 19, 1969]

A TALK WITH WARREN ON CRIME, THE COURT, THE COUNTRY

(By Anthony Lewis)

(Anthony Lewis, who formerly covered the Supreme Court for The Times, is chief of its London bureau.)

Since he retired last June as Chief Justice of the United States, Earl Warren has spent much of his time traveling with Mrs. Warren. Last month, shortly before the Supreme Court reconvened under his successor, Warren Burger, he was in London and agreed to an interview.

He naturally avoided comment on the record about politicians, past and present, and such partisan matters: The restraints on a Supreme Court Justice do not end with his retirement. But he gave his general views on a number of important subjects, and in the course of the conversation there were clues to the nature of the man who for 16 years was one of the most powerful influences on American life.

The most striking impression was what an old-fshioned American figure he is. He thinks people are essentially good; he believes in the genius of the American political system. His virtues are fairness, dedication to public service, courage. The baseball pennant races were still on, and he said he hoped the New York Mets would win just to show that Leo Durocher was wrong about nice guys.

His simplicity is a wonder in the year 1969. He thinks judges and other men are obligated only to do their best—and if in conscience they do, they need not lie awake at night. He believes in progress.

The interview follows.

CRIME

Mr. Chief Justice, what do you think are the reasons for the amount of crime that so deeply disturbs the United States today? Where do we look for solutions—to the courts, to the police, to general social reform?

WARREN. Well, of course there is no simple answer to that, but I believe that in the main it demonstrates that we have a disrupted society.

One thing that I think is really basic to our whole situation is that the people who are now, let's say, 30 years of age in the United States have never known anything but war conditions in our country and in the world. From the time they could learn to talk they have learned that we are in the war business, and young people are taught to kill and to recognize violence as a part of life.

Many hundreds of thousands, even millions of our young people have been thrust into actual warfare, have seen violence and all of the degradation that it brings about, and it has no horrors to them as it would to someone who had never been influenced by that kind of life. I think that that's had a great effect on our people.

Then also we have people in our big cities who are living in ghettos, without any employment of any kind. They are ignorant, they have had no schooling, they have no skills with which to compete in the economic market, they are easy prey to all kinds of bad influences in the community.

I think one of the things that must be done in order to eliminate much of that is to improve the condition of our cities. We must get rid of the ghettos, we must see that every youngster who comes into being in our country is afforded a decent education and is given some skill through which he can compete in the market.

Then, I think, he must not only have that skill but he must have the opportunity to get a job, he must be able to join a union. We must eliminate the discrimination that is so prevalent in many places if we are to have a society that in general will accommodate itself to the law.

You are saying in effect that the causes of crime are deep.

Why do you think it is that the public and a number of politicians seem to blame crime rather on judges?

WARREN. Someone always has to be a scapegoat when there is crime, and the only people who cannot talk back, who cannot argue their case are the courts. The police can take their case to the public. The prosecutors can take their case to the public. The only people who cannot talk back but must do their job day by day are the courts. I don't mean by that, that the courts are faultless, but I mean that they are defenseless when it comes to entering into a debate as to who is the cause for crime.

What would you say were the most important criminal law decisions during the years of the Warren Court?

WARREN. I think one of the most important cases we had was the case about which you wrote your book, the Gideon case. That was the case which interpreted the Constitution to say that it meant just exactly what it said, that a man was entitled to counsel in a criminal proceeding.

Before that case in many places throughout the country a man was afforded counsel if he couldn't pay for it only if he was charged with a capital offense, and of course that means that hundreds of thousands of men every year were arrested and tried and perhaps had no legal advice at all. The Gideon case made it a living thing that every man charged with a serious offense ws entitled to have counsel at his trial. That is basic, and I believe it was of tremendous importance.

Then also, I think, the case of Escobedo was a very important case, because in that case it was determined that when a man was in jail and asked for his lawyer and his lawyer was available, he was entitled to have him there.

There we had a case of a man who was in the police station and his lawyer was down the hall. He called for his lawyer, his lawyer called for him and the police told both of them that they could see each other only when they got through with Escobedo. And then they went through him and against his protests they took his confession and convicted him on his confession.

Then we come to the Miranda case, and the question arises: If he's entitled to a lawyer when his lawyer is present, when is he first entitled to a lawyer? Miranda simply said that when the law puts upon a man by putting him in restraint and taking him away from his home and his family and his

friends and starts to put him behind bars, that he's then in the toils of the law in a criminal case and is entitled to have representation of counsel.

That doesn't stop the prosecution of the case at all. But so far as making him talk and convict himself by what he said is concerned, his right to a lawyer starts when he is put in durance vile.

What do you say to the complaint widely heard from the police, and even I think it is fair to say from the present Attorney General of the United States, that the Miranda rule—whatever its base just makes it too difficult to deal with criminals?

WARREN. That same argument could of course be applied to almost any rule that keeps the law enforcement agencies of the state from excesses. It is always easier to obtain a conviction if you are permitted to use excesses that are prohibited by the Constitution, and thereby avoid the necessity of going out and convicting a man on independent evidence.

It would be easy to let anyone come and crash into your home at any time and search it and see if you possibly were committing any crime, but the Constitution says that you can't do that. Of course, that makes it more difficult to convict people; but there are certain things that an ordered society must honor in the rights of individuals—and things that cannot be countenance in a decent society.

There is a more general concern about American criminal law, I think expressed by your successor, namely that our criminal law system has become too complicated, that the trial and appeal of cases goes on for years. There is a contrast, for example, with the situation in Britain, where ordinarily the whole conduct of the criminal law is short and swift and therefore has more impact on the potential criminal. What do you think about that?

WARREN. That's not new doctrine of any kind. That's been bruited around since long before I was a District Attorney 40-odd years ago. It is true in a sense that our whole society is more complex, our whole governmental system is complex. Here in England you have a small compact nation that in size is only half the size of my state of California, and as a consequence they can have a unitary system that will operate efficiently and smoothly and go right through to a quick conclusion.

They are not hampered by a Federal system such as we have, where for instance they can go through the state courts and then after that they have a right to come to the Federal system or to the Supreme Court on constitutional and Federal questions.

Now I wouldn't defend everything that exists in our Federal judicial system. We have great ills, and I think that many of them can be improved if not eliminated. I want to refer first to the great backlogs that we have in our courts today, whether it's in state courts or in Federal courts. I found recently that in Brooklyn, in the eastern district of New York, in the Federal court the average length of time between indictment and trial in a criminal case was 22 and 2/10ths months. Now you add to that the time between arrest and indictment and you'll find that you have a solid two years of delay there before a man has a jury trial. Now, if a man is innocent that is a practical destruction of his life, and if he is guilty and is out on bail during that period committing other crime it's a great injustice to society.

Those things must be changed, they can be changed, and I think so far as the courts' responsibility is concerned it is largely one of administration. The answer to it isn't just putting on more new judges. When you have a bad system, even though new judges come in with great vigor and earnestness and a desire to make the system work properly, they find out that they cannot do what they had hoped to do, and they gradually fall into the same pattern as the others.

You wouldn't want to see us abandon our Federal system—the whole complicated relationship between the states and the Federal Government that you spoke of?

WARREN. No, in no sense. It is just one of those situations that does make our system more complicated and more time-consuming, but it does afford us certain protections against the centralization of power that, it seems to me, are just basic to our way of life.

That may strike some as ironic, since you and your Court were always accused of destroying states' rights and state powers.

WARREN. I could argue that, but I don't think there is any necessity. If anybody could show me anything that we have done in the time that I have been on the Court other than to insist that a man is entitled to counsel at all times after he has been put upon by the Government in a criminal case, and entitled to fair treatment, to due process in the trial of his case, I would concede that we had perhaps done something wrong. I can't think of any such thing.

Remembering your years as a District Attorney and State Attorney General, what do you think has changed about the problem of crime? Why does it seem to be growing so much worse?

WARREN. People are prone to forget that we have had enormous crime problems in other eras. I can refer particularly to the era in which I was a District Attorney, from 1925 until 1938. If you will remember, most of those years were years of the Prohibition era, and in it we had the bootlegging, the high-jacking, the rum-running and all of the crimes that surrounded that liquor business, and particularly the gang murders that were involved.

To my mind, that was about as badly criminalized an era as we have had, and the public was contributing to it through their refusal to obey the Prohibition laws. We have situations that are comparable to that at the present time, but it is a different kind of crime that is dominating the situation. Now the things that people are terribly concerned about are the robberies and the burglaries and the muggings and the rapes and all these other individual crimes that largely emanate from the slums in our cities. The public is very much aroused about these, but even at the present time it is not aroused about organized crime. Where do we find the people crusading against organized crime, the crime in which there is a big business, the narcotic business for instance?

Are you saying that the public on the whole disregards the big crime, the organizations that rake in millions from narcotics and gambling particularly?

WARREN. I am. And furthermore I will say that that kind of crime cannot exist and flourish in any community unless there is corruption in some form, in some segment of law enforcement. It might be the police, it might be the prosecutor, it might even be contributed to by the courts.

How do you feel about the use of wiretapping by law enforcement officials on the ground that it is necessary to fight criminals at their own level?

WARREN. I think that any invasion of the privacy of the home or of business that is not within the limitations of the Constitution is destructive of our security in this nation. While of course there have to be searches and seizures under given circumstances, they must under the Constitution be reasonable and the courts must determine what are reasonable. The indiscriminate use of wiretapping is an outrageous violation of the privacy of individuals and can lead to the grossest kind of abuse.

The prosecutor under our system is not paid to convict people. He's there to protect the rights of people in our community and to see that when there is a violation of the law, it is vindicated by trial and prosecution under fair judicial standards.

THE COURT

Mr. Chief Justice, you have said that the reapportionment cases were the most important decided by the Court during your 16 years. It was predicted by some people that those decisions would not be accepted by the country and would lead the Court into great difficulties—the political thicket. Why do you think that did not in fact happen?

WARREN. I think it did not happen largely because almost everyone recognizes that ours is a representative form of government, and if it is to be representative it must have fair representation, and by fair representation we mean that everyone should have an equal voice. There had been such a departure from that standard for so many years, with no remedy of any kind available, that the nation was ready for the decision.

While those who were in office did not acquiesce, there was general recognition of the principle that your vote should be as good as mine and mine as good as anybody else's. It is consistent with our institutions and, I think, with the intention of the founding fathers, and I also believe that it will be conducive to better government. I say that because I believe in government by the people and I believe in the wisdom of the people when they are throughly informed and everyone participates.

As Governor of California, you defended that state's apportionment system, which gave grossly unequal representation to people in different parts of the state. Why did you take a different view as Chief Justice?

WARREN. Because on the Court I saw it in a different light. Politics has been said to be the art of the possible, and in it we accomplish what we can accomplish by compromise and by getting agreement with people. We look at a problem from that standpoint, not perhaps from a standpoint of exact principle, because politics is not an exact science.

But when we come to the Court and we face a similar problem where the question of constitutionality is raised, we then test it by constitutional principles; if it violates the constitutional principles, we no longer can compromise, we no longer can change to bring people into agreement, we have to decide the matter according to the principle as we see it.

Now in California, when I was Governor, we did have a malapportioned Legislature. Los Angeles County with 6 million people had one State Senator, and so did a mountain district with somewhere between 50,000 and 100,000 people.

That was not equal representation by any manner of means, but our system was getting along and the people were having an opportunity to vote upon it. There was no question of constitutionality raised. At that time I didn't reflect seriously on the constitutionality of it, and I went along with the thoughts that we were doing pretty well and we would leave well enough alone.

Now, when I got to the Court, I found what was happening in some of these other states—Tennessee, for instance, where the matter first arose under *Baker* v. *Carr*, and other states where they had a constitutional provision that the representation must be equal. They had had terribly malapportioned legislatures for over 60 years, and those who were in office and had sole control of whether there should be a reapportionment absolutely refused to permit any change of any kind because it would affect their pos-

sibilities for election. When we ran across that and applied the constitutional provision, we found that it was not fair representation and we so held.

Also I think we'll find that when men go on the Supreme Court that the empirical views that they've had in certain fields do change. I don't see how a man could be on the Court and not change his views substantially over a period of years.

I think you said to me that he comes to realize that he has the last word.

WARREN. That's right. It is purely a matter of principle with him and not a question of accommodation.

Can you remember any specific area in which you felt your own views changing on the Court aside from reapportionment? I remember one case, *Irvine* v. *California*, that was decided soon after you came on the bench and that involved eavesdropping in a gambler's home in California. The conviction was upheld despite the use of this eavesdropping evidence, and you were with the majority. I would be fairly certain myself that in more recent years you would not have voted to sustain that conviction. Can you tell us anything about that?

WARREN. Yes, I was shocked by the Irvine case. I thought it was a terrible abuse of power on the part of the police, a shocking invasion of privacy. If you will remember, I joined Justice Jackson in an opinion which suggested, because of that violation of privacy, that the Federal Government should investigate it as a violation of civil rights.

But just a few years before that we had had the case—not we, I wasn't on the Court at that time—the Court had had the case of *Wolf* v. *Colorado* in which it had held that an illegal search was a violation of the Constitution but that it was within the power of the states to remedy this situation. The Federal Government, the Court, withheld its hand in that field. That having been a very recent case and a majority of the Court having agreed not to overrule it at that particular moment, and I being a new Justice on the Court still groping around in the field of due process, I went along with that opinion, shocked as I was at the conduct of the police.

That leads me to ask you something else. On reflection now, after the 16 years, how free should a Supreme Court Justice be to overrule a prior decision in a situation like that, where he is shocked? What are the pressures on you to stick with the past decision?

WARREN. I don't believe that there is any simple answer that I could give to it. I would say that I have been in dissent on a few constitutional cases in my career on the Court, and where I have been and the majority has held one way, normally I have gone along with it until and unless some flagrant thing developed to reaffirm my view that I was right in the first instance. If there was no new element in it, I would be inclined to go along and I've done that in a number of cases and I think that is the right approach.

But at the same time we have always had the view that in constitutional cases stare decisis is not absolute, that constitutional questions are always open for re-examination, and I believe that too. It's a combination of those two things that I've just talked about that I would say one must judge it by.

I suppose it is inevitably the case that the arrival of a new Justice or Justices on the Court may reopen a question because men have different views.

WARREN. Oh yes, oh yes, without doubt. In fact, even men of the same Court are entitled to change their minds when they are confronted by new conditions and have done so.

Do you think the constitutional decisions of the Warren Court in the three great areas of reapportionment, race and the criminal law—the sweep of those decisions, their general tendency—will last?

WARREN. In all three of those areas, of course, I believe that our decisions are consistent with the principles of the Constitution and that they were but implementations of those principles to be in accordance with the conditions of American life that confront us. I would, of course, believe that the decisions should stand, but I would not predict.

Different men see things in different ways, and it might be that others will see them differently. That is for those who are on the Court and have the keeping of the Court in their hands to determine in accordance with the Constitution. But I believe the decisions are wholesome, in the best interests of society according to constitutional principles, and in keeping with the life of our nation. Naturally I would hope that they would remain.

How much pressure does a Supreme Court Justice feel from the outside world? You came in as Governor of California, appointed by President Eisenhower, with certain relationships with the Republican party, although you were, of course, a very independent politician. Does all that drop off when you go on the Court? Do you still feel that you need the approval of people you have related to?

WARREN. To be on the Supreme Court is an entirely different kind of life, an entirely different responsibility. I think my change from being Governor of California to Chief Justice of the United States was almost a traumatic thing for me; but change you must if you are to do your duty on the Supreme Court.

In the first place I felt it necessary to divorce myself from every political activity of every kind and to try to bring myself to act in as non-partisan way as it is possible for a human being to do. I tried also to eliminate every influence from personal contacts that could be brought to bear upon me. As you know I secluded myself from the press.

I also adopted the practice of not reading my fan mail, whether it was good or bad, because I had the idea that if you were going to believe the good things that were said about you, you'd probably have to put some thought to the accuracy of those who were against you also.

In other words, I led pretty much of a monastic life on the Court, contrary to what I had been before—because I had visited with and exchanged views with people in every part of my state and I loved to discuss matters with newspaper people.

There is no pressure on the Court from individuals, because I think practically every American realizes that it would be improper for him to try to influence a member of the Supreme Court by any contact with him on a given case, and so the only pressure comes from the pressure of these problems that you are daily confronted with.

What about your relationships with your colleagues? It must be difficult at times living in that secluded way with just eight other people.

WARREN. There is no more intimate association, other than that of man and wife, I should say, than the association that we have on the Supreme Court of the United States. It can be a very agreeable and stimulating association, or it could be a bedlam and almost hell for a person.

But I want to say that during my term on the Court our relationships have been as fine as any that I could conceive of with eight other men.

It's true that we write differently and sometimes critically and sometimes with a little feeling, but that has not been carried over to our personal relationship. I can say, after 16 years and my association with—how many?—about 16 different Justices, that I have had nothing but admiration and affection for each one of them. I believe they were trying as hard as I was to be independent and to vote their convictions and their willingness to live with their convictions, and you can't ask more of people.

As you look back at the 16 years, is there a one day that stands out in your memory as a particularly happy day?

WARREN. I do not think at the moment of any day that was particularly joyful. Almost every day on the Court is a great day of responsibility. It doesn't lend itself to levity, and even when some very important cases are decided in conformity with one's views one must have a great feeling of responsibility and wonderment as to what the consequences may be. There is no exuberance, but there may be real satisfaction.

I didn't mean to suggest only exuberance; I think satisfaction is better. I remember the day that you delivered the opinions in Reynolds v. Simms, for example, laying down the rule of one man one vote, and I had very much a feeling of history that particular day. I wonder whether you felt it.

WARREN. Yes, I did. I think Baker v. Carr was the most important case that we decided in my time, because that gave to the courts the power to determine whether or not we were to have fair representation in our governmental system, and Reynolds v. Simms was merely the application of that principle.

It was a case in which I derived real satisfaction, although I was thoroughly cognizant of the controversy that it was going to start. As a matter of fact, people in California have said to me since, "Why on earth did you have to take that case of Reynolds v. Simms?" While I didn't respond to them in this manner, my real reason for it was because I had viewed the matter in a different way when I was Governor, and when I had to face it on the Court, I just thought that as long as I had to face it I would face it directly myself.

You mean you assigned the opinion to yourself.

WARREN. Yes.

How important do you think that function is—the function of assigning opinions? Does it give the Chief Justice a very different weight on the Court from his colleagues?

WARREN. No— I don't think it gives him any additional weight. But I do believe that if it wasn't done with regard to fairness, it could well lead to great disruption in the Court.

During all the years I was there I never had any of the Justices urged me to give them opinions to write, nor did I ever have anyone object to any opinion that I assigned to him or to anybody else. I did try very hard to see that we had an equal work load, that we weren't all writing in one field where one person would be considered the expert. Everybody, regardless of length of time they were on the Court, had a fair opportunity to write important cases.

There wasn't any of the backbiting that one senses in Mason's biography of Chief Justice Stone?

WARREN. Never one, never one shred of that—never have I had one indication of that in all the time I have been on the Court.

There were a lot of peppery exchanges between you and Justice Frankfurter over the decision of cases. Did that affect your relationship at all?

WARREN. No, no, no. I've been in dissent with Justice Black, too, recently where Black has been very, very incisive in his remarks, but that makes no difference at all.

No, Justice Frankfurter by nature was a very decisive fellow in his speech. Sometimes he could raise hackles, you know, but he was a delightful companion, and our relationships throughout the years I was there were always very friendly as they have been with all of the rest of the Justices.

Mr. Chief Justice, do you have thoughts about American lawyers and the American

bar and how they have changed? Have the law schools been turning out better lawyers, or what do you think of our legal profession?

WARREN. I think the products of the law schools these days are infinitely better than they were in my day. I have a lot of contacts, as you can imagine, with youngsters out of law school, having had three or four law clerks each year. I deal with them on an intimate basis, and I come to know them almost like you would know a son, and when they leave me I feel almost like I used to feel when one of my boys would leave home to go to college. You just feel a sense of loss.

They are great people, and they couldn't have been as good as they were without having much better instruction, much more comprehensive instruction than we had when I was in law school. And you have to bear in mind also that the law now is infinitely more complex and voluminous than it was when I was admitted to practice in 1914.

Over the years various people have charged that the law clerks play a secret, powerful role on the Supreme Court. What do you think of that?

WARREN. I remember when President Eisenhower appointed Loyd Wright, the former president of the American Bar Association, to head up a commission on subversion, and he reported that great possibilities for subversion stemmed from these young law clerks who were just out of the law school. He referred to them as a group of young radicals and proposed in his commission report that all of them be given complete F.B.I. investigations and that they be confirmed by the Senate before they could be employed by the Supreme Court.

Now, the fact was that at that particular time our law clerks were more conservative than any young lawyers that I had ever seen. They were in that phase; at that time law schools were very, very conservative.

Since then, I want to say, the law clerks have become far more interested in public affairs, interested in the defense of people, interested in teaching and law schools, interested in constitutional questions.

Really they are a rare lot, and I think they are a great institution. The Court uses them normally only for one year, because it doesn't want to build up a bureaucracy. We bring new young men right out of the law school, and it's great for them, it's wonderful for the Court. We get great help from them, and I think that they can be a real force in our profession throughout the country.

If the law clerks have become less conservative, have the law school also?

WARREN. You know now that the big law firms in New York, Chicago, San Francisco and Los Angeles are recruiting young men just like universities recruit football players. They go out and pay their way back to New York—you know, to visit with their office, show them the theaters and so forth, let them mix with their elders in their offices and invite them to come to the firm.

They tell me that in New York some firms are up to $17,000 a year now right out of the law school, and the graduates are not beating a path to their door either. The firms are having difficulty in getting them because a lot of these boys work for the Peace Corps, they work in the Poverty Program, they go to work in district attorneys' offices, in public defenders' offices and in the Federal and state governments, and for Ralph Nader.

In other words, we'll put it they are interested in public causes where 15 years ago, or even 10 or 12 years ago, it was very difficult to get young lawyers to be interested in public causes.

I have only one real quarrel with the law schools—I don't know one in the country where they give an adequate course on the responsibilities of lawyers to the cause of justice, or where they give a comprehensive course on the reciprocal responsibilities of court and lawyers to the administration of justice, and I think that that has kept our bar from being alert to many of these problems that have confronted our courts.

The Court has suffered from that fact, too, because the great debate on important issues has never been developed as it should be. Take this proposal of Senator Dirksen's, that came through the Council of State Governments, for a new constitutional court of 50 members, the Chief Justices of every state of the Union to constitute a court above the Supreme Court of the United States—and then the other constitutional amendment on reapportionment. Those things went through Legislature after Legislature till almost two-thirds of them passed some kind of resolution on them, and there was no debate of any kind on the part of the bar in the country. To think of coming that close to a constitutional amendment on important subjects of that kind without the bar taking an interest is almost a frightening thing.

Perhaps you are saying that the organized bar in the United States has not improved quite so much as the law schools have improved.

WARREN. That is true. The American Bar Association for many years, particularly during the McCarthy era, never had a kind word to say for the Supreme Court. Everything was critical.

There have been some splendid men in recent years as president of the American bar. Last year Mr. William Gossett was the president, and he was a very enlightened person and has done a great deal to improve the situation, it seems to me. Mr. Bernard Segal, who's the new president of the American bar, is also a very enlightened, forward-looking man, and I'm sure he will make a real contribution to the work of the bar.

THE COUNTRY

Mr. Chief Justice, is there a day that you remember as the most unhappy of your years in Washington?

WARREN. That is not a difficult question to answer. The saddest day I remember, the saddest week I remember, the saddest year I remember all started one Friday afternoon when we were in conference and I received a note from my secretary, Mrs. Margaret McHugh, to the effect that President Kennedy had been shot.

We immediately adjourned, and by the time I was back in my office Mrs. McHugh informed me that it had just come over the radio that the President was dead. And that and the following week were the saddest days I've ever seen not only during my 16 years but, I think, the saddest I've ever seen in any community in my life.

It was only a day or two after he was buried that President Johnson sent the Solicitor General [Archibald Cox] and the Deputy Attorney General [Nicholas deB. Katzenbach] to see me to ask if I would head a commision to investigate the facts of the Kennedy assassination. I told them that I wished they would tell the President I thought I could not do that, because the Court did not look with favor upon extracurricular commissions of that kind. I myself had expressed an aversion to it, and I thought it would be much better if he would get someone else, and I proposed a couple of names to them.

I thought that was the end of it. But in about an hour I received a message from the President asking if I could visit him at his office. I did so, and he told me of the wild stories that were going around the world and what this might mean internally if there were not a thorough probe of the facts and some conclusion reached as to who was responsible for the assassination.

He told me that he had conferred with the leaders of both parties in the Congress and that he was going to set up a commission to explore the facts, and he said they would all serve if I would be the chairman of it. He thought that no less a personage than the Chief Justice of the United States, the chief judicial officer of the nation, should head it up. He told me it was of paramount importance; I remember him saying, "You served the country in uniform, and this will be a more important service than anything you could do in a uniform." And so I said, "Mr. President, in spite of my feelings about the matter, if you consider it of that importance, of course, I will do it."

I spent 10 months on that. I think that, too, was the unhappiest year of my life, because I spent at least half of each day and night on that—the rest on my Court work—and to review the terrible happenings of that assassination every day for 10 months is a traumatic experience.

Those days were the unhappiest days I ever spent in the public service.

And you didn't get much in the way of applause for doing that job, did you?

WARREN. No, that is very true. But up to the present time no one has produced any facts that are contrary to the findings of that commission. A great many people have written to the effect that it might have been this, it might have been that, and some inferences could be drawn other than those that the commission drew. But there has been no confrontation of the facts at all to discredit anything that is in that report.

You are now in retirement, Mr. Chief Justice. How do you think you will like it, a person who's been as active and as engaged in issues as you have been?

WARREN. I'm not so sure how I will like it when I get back to Washington, in my new office in the Court, and the term opens and others all are working and I am not. I haven't felt the strain at all up to the present time because I remained on the Court until the end of the term, and I have been traveling since then.

I can say that I want to cure the problem by doing something that is worthwhile in three fields that I have been interested in. How much time I can or will give to each of them I don't know, but I hope in the aggregate that I will fill my days as I have in the past.

I am interested, of course, in peace, in our country being a leader in the movement for peace around the world. I am interested naturally in court administration; I think there is much to be done, and I have offered my services to the new Federal judicial center which I have worked to have established for many years. And then I am interested in the conservation of our environment, and there is so much to be done in that field thta I may find some little niche where I can be of help.

In general, are you optimistic for the United States, or do you think that with all the troubles we've been having we are in a period of some kind of moral decay?

WARREN. I am optimistic, of course, about the United States. For many years I have been at odds with those people who feel that we are living in a mature society, that the society is starting to disintegrate and that the institutions based on that society are themselves deteriorating and becoming degraded. I do not believe that.

I believe that this is a young nation, that we haven't yet reached our potential in any sense of the word. I believe that our forms of government are still on trial, that we are still going through the growing process, that we are learning from day to day.

And I think that many of the problems we have today are the result of more active conscience than they are of degradation or of decadence rather than degradation. I have been in the public service now for 52

years, and when I first went into the service of my state 50 years ago I found moral standards in government far below what they are today.

The standards of government today are head and shoulders over what they were in those days, and I am speaking now of local government, of state government and of Federal Government as well. There are a lot of things brought to light today that create real scandal, that in those days would never have been mentioned—they would just be overlooked.

So I think there is improvement. I think in spite of the travail we are going through now that we will emerge a better nation and a stronger nation, because I believe the things that we are learning will convince us that our system, being a pluralistic system, must also be a system of equality.

Do you take seriously the warning that President Eisenhower gave in his final speech, against what he termed the Military-Industrial Complex?

WARREN. Yes, I do, and I wish that General Eisenhower had said that before the day he left the White House. I think there is a great danger. One can find the industrial world linked with the military today in almost every request of the military.

I received something of a shock about six months ago when I read an article in one of the Sunday papers that was an interview with the top executives of the 10 largest defense contractors in the country, and each one of them said their companies were not expecting any decrease in their military contracts even if the war in Vietnam ended tomorrow.

It seems to me that the armed forces are always interested in improving their forces to the point of perfection as they see it, and with the alliance of the business world this becomes almost impossible to resist.

I also have some concern about bringing our universities and colleges into that same complex. You will find that a major portion of the budgets of our great universities these days is in the field or research for military purposes, and many have expanded to such an extent that it would be very undesirable from their standpoint to cut back to the size they were before.

I take it from what you said right at the beginning of this talk that you regard the ending of violence as vital for the future of the United States, and specifically the end of the war in Vietnam.

WARREN. I do indeed. I don't believe that we can continue to be in war, and continue to teach our young people that war is an essential part of their lives, and still expect our young people to grow up normal and quiescent.

[From "The Warren Court"]

CHIEF JUSTICE EARL WARREN—
CHAPTER 2

(By John P. Frank)

In Chief Justice Warren's first year on the Supreme Court a little ceremony was repeated for 1,567 lawyers admitted to Supreme Court practice. Each newcomer stepped before the Court. As his name was called, some already established bar member moved the admission of the new man. Warren paused, called the man by name, and gave him the famous Warren smile of welcome.

Time passed. Ten years later, an observant person paid a first visit to the Supreme Court chamber. Warren was ten years older, and by this time the number of lawyers who had been admitted was not 1,500, but 15,000. When the new lawyers were being admitted, each with Warren's flash of cordiality, the observer was heard to whisper, "He actually makes each one feel personally welcome!"

This little courtesy was unnecessary. The lawyers could be admitted in the clerk's office without taking Court time at all. Even with the traditional open Court ceremony, they could certainly be admitted without the Chief taking time to address each one—a nod of the head would do it. Yet after ten years Warren was treating each person as individually as when he began.

But there was a difference. When Warren came to the Bench, each new lawyer was admitted upon a statement by his sponsor that "I have examined his credentials in the office of the Clerk and am satisfied that he possesses the necessary qualifications." Ten years later the little sentence had been shortened; it was obviously immaterial where the sponsor had seen the credentials, and all he said was "I am satisfied that he possesses the necessary qualifications." The thirteen eliminated words, if said in a dignified way, take about four seconds. Four seconds repeated a thousand times (sometimes several lawyers are admitted together), is four thousand seconds, sixty-six minutes, a little over an hour. The Court could save that hour of time, could put it to more constructive use. The cordial greeting, the hour saved—these are two sides of the Warren personality. He wants the judicial machine to run as swiftly and efficiency as possible, but never at the expense of the individual.

The Chief Justiceship of the United States is, beyond most offices, what its holder makes of it. The Constitution makes no special provision for the Chief Justice; the only reference to him is that in the case of a trial for the impeachment of the President, the Chief Justice shall preside; happily, this has occurred only once in American history. George Washington's Congress of 1789 created the Court providing for "a Chief Justice and five associate Justices" as the number then was. The title of the position as "Chief Justice of the United States" was stabilized by law in the year 1866 and has continued. What the wearer of the title does is a mixture of tradition and the personality of the particular Chief Justice. His two most important special functions are first, that he is Chairman of the conferences of the Court, and so leads the discussion when the Justices gather together each week to decide their cases. Second, he assigns the writing of the opinions, for while each Justice may, if he wishes, write on every case, the practice since John Marshall's time in 1801 has been to strive for one opinion of the Court. If the Chief himself is in the majority, it is up to him to choose who shall write.

Warren has put a whole new dimension on the job. He came to the Court after ten years of experience as Governor of California, which was then on its way to being what it has since before, the nation's largest state. The administrative problems of a Governor of California are prodigious; it is one of the greatest executive jobs in America. The Governor is responsible for the performance of thousands upon thousands of employees engaged in hundreds of projects, for the making of great budgets, for leading the legislature, for an endless number of appointments.

As Chief Justice, Warren is the administrative head of the Supreme Court, but giving him the traditional or obvious administrative duties is a little like giving the head of America's largest bank a child's savings account to manage; it is not likely to take him very long. Superintending the few employees of the Supreme Court building, having the reports properly published, seeing to it that the clerk's office keeps proper track of the cases—such chores if put into the hands of an able staff, cannot occupy Warren much.

Warren, therefore, has taken over ultimate responsibility for the management of the judicial system of the United States. In days now gone, the management of the work of the federal courts around the country was no one's responsibility. Each district judge was a local lord responsible for his own domain. If he got the job done, good. If he did not, the people of that state could simply endure it and wait for the next judge to be appointed. If conditions became too bad, perhaps because of expanding population, the state might hope for an Act of Congress under which a new judge could be appointed. But there was no central management of this system at all.

This condition began to change in 1922 when William Howard Taft was Chief Justice and obtained the passage of an act for the creation of a Judicial Conference of the United States. Under his leadership, this was a gathering of the senior federal appeals judges from each region of the country. The Conference came in time to be an old gentlemen's club, pleasant but giving very little actual leadership.

Succeeding Chief Justices have attempted to make more of the Conference, but it remained for Warren really to take hold. What followed was a quiet revolution. When Warren became Chief, the members of the Judicial Conference averaged about eighty years of age, and the Chief Justice, while he presided over their discussions, did not vote. Warren changed all this. He quietly saw to it that when a judge became seventy he would no longer be in charge of administration in his circuit nor represent it at the Conference. Warren himself is seventy-three, but he recognizes that, on the average, few judges can carry administration after this age. Instead, that responsibility passes to a younger man.

The next step, after cutting down the average age of the Conference, was to bring in the trial judges. Up to this time, the Judicial Conference had consisted of the senior judges of the eleven appeals courts which cover the United States. These appeals judges believed that they could reflect the views of the trial judges of their own regions. Warren doubted that this was so, but he prefers to lead gently where he can, so he simply suggested that the trial judges be asked whether they felt that the appeals judges adequately represented them. Upon a poll, 75 per cent of the trial judges declared that they would prefer to speak for themselves. Warren then brought them in.

Having made the group younger and broadened its base, it remained to furnish leadership. It seemed to Warren that if the Chief was to be a participant, he should really participate, and so he does, voting along with the others.

Having thus created a workable institution of young and vigorous men, it remained to give them plenty of good solid work to do; and this Warren has also done. All legislation concerning the federal courts is likely either to start with the Conference or be referred to it for check. All rules for all federal courts are basically the responsibility of the Conference. The local divisions of the Conference have the responsibility of managing affairs in their own areas.

At the same time Warren took charge of the Administrative Office of the federal courts. With an exceptionally able man of his own choosing as Director and a valuable second-in-command for the important statistical work of the office, Warren began personally to direct the operation of the federal court system. If one region of the country now falls behind in its work because of a sudden burst of new cases or because a judge is ill, the Administrative Office will find someone to help carry the load. If any particular judge is failing to carry his load, his record will look very bad in the annual statistical reports. The federal district judges remain powerful and useful figures in their states; their independence is fiercely preserved. But the days of the local tyrant whose whim could victimize a region are now largely gone.

Warren's final instrument to improve the federal court system has been by rule making. In the 1930's the detail was too great for Congress, which gave the Supreme Court power to make rules for the federal courts. These rules are laws governing how the courts shall work, laws that are made by the Supreme Court itself rather than Congress. The rules cover countless matters—who can be included in a lawsuit, what questions each side has to answer for the other before the trial begins, how come matters are to be presented to the judge for his decision and others to the jury for its holding, and so on. These rules matters involve not hundreds but thousands of details. The two standard texts on only one portion of the rules run seven fat volumes apiece.

Rule making flourished for a time, but after 1949 it ground to a total halt. One of Warren's first problems how to get the rule making off the ground and working again. After meeting with the Judicial Conference, he finally led the way to a whole new system, had six separate committees appointed to do rules work, and now has the machinery at full blast. Warren personally is the heart and soul of what makes these committees go. He selects their membership with great care, drawing on lawyers, judges, and law professors around the country; one of the most hardworking committees, for example, is headed by Mr. Dean Acheson, who is head of a great law firm as well as former Secretary of State and who himself works as hard at his committee duties as any other member. Warren personally meets for at least some of the time with each committee, giving the closest possible attention to its work and sometimes joining in its discussion. The committees, not unnaturally, take the view that if what they are doing is worth the bother of the Chief Justice of the United States it is worth renewed effort on their part, and they buckle into their jobs a little harder than before. The committee reports then go to the Judicial Conference, to the Supreme Court, and finally to Congress with Warren personally guiding each step of the way.

This does not mean that Warren is personally actually doing what the Conference, committees, and staff get done. He is a dedicated believer in delegation of responsibility on the Supreme Court just as he was as Governor. The Director of the Federal Courts, for example, comes from his office in the Supreme Court building to bring his problems in to the Chief, receives some general guidance, and then tends to the details himself. But Warren realizes completely that the Chief must participate and must take the lead if the system is to work successfully. If he chooses able subordinates, he can expect others to follow once he shows the way.

The result is that Warren is the first true "Chief Justice of the United States," as distinguished from being the "Chief Justice of the Supreme Court," that the country has ever had. There have been prodigiously able men in the office of the past; the Chief Justiceship has earned the greatest tradition of ability of any office in American life ever since the days of John Marshall. But no one has ever taken hold of the entire system in this manner before.

In no place is Warren's personal hold on the court system more clearly shown than at the annual meeting of the American Law Institute. This is an organization of some 1,500 lawyers and judges from about the country which meets annually in Washington to consider matters of concern in the legal systems of all courts of the country, state and federal. The Chief Justice regularly attends these meetings and makes an annual report of his own. When in attendance, he follows the discussion with the extraordinary attention of an intense listener, following each speaker with his eyes and his ears, attention completely focused. When he makes his own report, what is remarkable is not his planned speech, because doubtless the administrative office supplies paragraphs which could be presented by anybody. What is more impressive than the planned remarks are the spontaneous comments and observations he makes as he goes along. The topics in his planned text bring his mind to other related illustrations, and so he spontaneously speaks of problems of improving the probation system of one area of the country or of bringing down the costs of bankruptcy administration in another. As one listens, the realization washes over the audience that the legal system of the United States is not simply a headless juggernaut; there is one single individual in authority who actually knows what is going on from coast to coast and is concerned about making it go better.

Warren's name is Americanized from his ancestral Norwegian; his grandfather was Halvar Varran. His father was a railroad mechanic. He was himself born in Los Angeles on March 19, 1891, and attended the University of California from which he received his basic college and law degrees in 1912 and 1914. From 1914 to 1917 he practiced law in the San Francisco area. In 1917 and 1918 he was in the Army, finishing as a first lieutenant in the infantry.

From the end of World War I until the present, Warren has been active in public life. He was a city and county prosecuting attorney from 1919 to 1939, serving as district attorney for Alameda County from 1925 to 1939. For the next four years he was Attorney General of California. Then, in 1943, Warren hit the big time. He became Governor of California and continued in that office until he went to the Supreme Court ten years later.

The migration to the American West, and particularly to California, after World War II has been the largest movement of people in the history of the United States and one of the largest mass migrations in the history of the world. Between 1940 and 1960, the population of California increased from about 7,000,000 to about 16,000,000. An increase of this magnitude is not simply growth, it is an explosion, and Warren was in the Governor's chair just in time to pick up the pieces. The community responsibilities in terms of schools, water supply, public health, law enforcement, roads, and in terms of the taxes necessary to pay for it all created prodigious burdens which Warren met with skill, good humor, and poise.

Warren's politics were Republican; but the political lines in California were far too fluid to make party identifications of great importance and Warren was about as non-partisan a party member as any governor could be. Each California candidate ran his campaign pretty largely by himself, and since Warren was by far the most popular political figure in the state, lesser known Republicans struggled to find ways of riding in on his coattails. As Governor, Warren appointed William Knowland to the Senate to fill a vacancy in 1945, but he put Knowland largely on his own when that Senator ran for the full term the next year. Warren's relations with Richard Nixon were never close, and he did not involve himself very deeply in Nixon's campaign for the Senate in 1950. Warren was himself twice re-elected as Governor, having the astonishing compliment of being nominated for his third term by both the Republican and the Democratic parties.

What were the ingredients of the Warren appeal? Here is a man who from 1925 to 1953 never lost an election in California. Living as he did in a state that was constantly changing, with ever-increasing problems, he could never simply coast on voting habits. Probably three-quarters of the people who voted for him in his last campaign were not even inhabitants of the state at the time of his first. The key ingredients of repeated victories were three:

1. He did his job honestly and effectively. There is no Warren scandal, no skeleton in the closet, nothing to be explained away.

2. He had a manner of dignified kinship with those he represented. He radiates sincerity of purpose, good will, and trust in others, the kind of trust which evokes trust in return. "The more we in public office trust the people, the more the people will trust us," he said, and he meant it; it was never Warren's way to ram things through but always to let them be discussed to a point of decision. At the same time, his was a dignified camaraderie. Without being stuffy, Warren was never the backslapping, sideshow performer type of politician.

3. Warren spoke for a deep-seated liberal tradition in California. California was progressive territory in Theodore Roosevelt's day. Its longtime Senator, Hiram Johnson, was one of the great progressives. The Democratic Governors whom Warren followed were among the most liberal in the country. By taking a stand as a liberal Republican, Warren picked up the progressive strain of his own party, gave the Democrats nothing to complain about, and left more conservative Republicans with nowhere else to go. Warren was, at all times and at all places, an outspoken progressive. As he saw it, "a nation that abandons its social objectives is on the road to decadence. Within the limits of our financial means, every social objective of the American people must be advanced not only to relieve undue hardship and to afford equal opportunity for the good life, but also to demonstrate to an observing and critical world that our governmental and economic systems can work hand in hand in the elimination of poverty, suffering and degradation."

On the Supreme Court, Warren has been a consistent and vigorous supporter of the Bill of Rights, and of racial equality. The foundations of these views were all expressed when he was Governor of California. In 1947, he told the California Constitutional Convention that "the heart of any Constitution consists of its Bill of Rights, those provisions that secure to the people their liberty of conscience, of speech, of the press, of lawful assembly, and the right to uniform application of the laws and to due process of law. Every other provision of the Constitution should be designed in the spirit of these basic rights in order to make sure that they become not mere theoretical rights, but actual rights."

He spoke on equal rights in 1948 to a Jewish organization, saying, "Because intolerance has been directed against the Jews does not make it merely the problem of the Jews. Whenever and wherever intolerance rears its ugly head, it is the job of Americans—not of some Americans, but of all Americans—to suppress it."

The Governor was perfectly willing to take the unpopular side on this principle. When a Chinese in California moved into a neighborhood which seemed to be hostile to him, the Chinese decided to put it up to his potential new neighbors as to whether he should feel free to live there. The neighbors voted no. Warren wrote to the Chinese, "I am not at all proud of this action of the people in the neighborhood of your home. I am sure this is a disappointment to you and I agree with you that it is just such things that the Communists make much of in their effort to discredit our system."

In 1948, Warren made his first appearance in national politics as a candidate for Vice President with Thomas E. Dewey. The defeat following by President Truman was the only defeat Warren ever sustained as a candidate. In 1952, he actively sought the Republican presidential nomination. In that year, the fight was primarily between General Eisenhower and Senator Taft; but there was a possibility of a deadlock between the two and so a chance that Warren might be cho-

sen. He had the California delegates solidly, or almost solidly, in his pocket. This was a block of seventy votes, enough to make a great difference to either of the main candidates. Under California law, the delegation was obligated to stand firm for Warren until he released it, and Senator Knowland, who led the delegation in Warren's behalf, issued strict instructions that no one in the delegation was to talk compromise with anyone.

But the then Senator Nixon had his own supporters within the California group. Amidst charges of "sellout," Nixon did give some indications to Governor Dewey and others behind the Eisenhower boom that he would be available himself for the Vice Presidency if Eisenhower was nominated. While the California delegation stood firm for Warren on the first ballot, the widespread impression that Nixon would lead a substantial secession toward Eisenhower undoubtedly assisted the General in picking up votes from other delegations which put him over on that ballot.

Though he was not nominated, Warren was still an immense power at home. In the campaign following, he was courted by both sides; the Democratic candidate, Governor Stevenson, saying good-naturedly at a Los Angeles appearance that "I think some Republicans are just about as good as Democrats. And, within that very limited category, I include the great Governor of this, my native state, Earl Warren." Warren, however, loyally backed his party's choice.

In January of 1953, General Eisenhower became President Eisenhower, and in September of the same year, Chief Justice Fred Vinson died. The President chose Warren for the succession. Eisenhower considered a number of other possibilities. Arthur T. Vanderbilt, Chief Justice of New Jersey, was certainly one, and according to one report, the President at least joked with his Secretary of State, John Foster Dulles, about the possibility of moving him over to the judicial job. One published account by a writer credited with inside information attributes the selection to Warren's prestige, to the fact that Eisenhower liked him personally and respected his integrity, and to the fact that Eisenhower liked his position on every issue which had come to his attention.

Warren came to the Supreme Court at the nadir of its fortunes. Chief Justice Stone, who had served in that capacity from 1941 to 1946, was a very great Justice, but far less successful in the special duties of a chief. Chief Justice Vinson, who followed him, was a man of splendid character and great dedication to his country, but had no particular talent for the business of being Chief Justice of the United States. The Court's opinion output had been on a downward spiral so that, for example, in the year 1950, the Court had decided fewer cases than in any year since 1850. Not since the term of Charles Evans Hughes, a truly great chief who stepped down in 1941, had there been a completely effective chief; and it was time for a strong hand at the helm.

Warren had not been on the Court a year when it fell to him to hand down the most momentous opinion of American life after World War II. On May 17, 1954, he spoke for the Court in a unanimous decision holding segregated education unconstitutional.

The Warren opinion was the final step in a course of legal development which had been under way for many years. The Civil War was followed by three constitutional Amendments. The Thirteenth gave the Negroes their freedom, the Fourteenth gave them the "equal protection of the laws," and the Fifteenth gave them the right to vote.

The key open question was just what they had received by the grant of "equal protection of the laws." Segregation, a device of enforced legal separation of whites and Negroes, largely began after the Civil War. Many who had sponsored the Fourteenth Amendment felt that this was a denial of equal protection, and in an early and little noticed post-Civil War decision, the Supreme Court did hold that separation even on an identical basis was not "equality."

But, by the end of the nineteenth century, the country and the Court had abandoned the fight. Segregation was upheld by the Supreme Court during the 1890's with only one Justice dissenting. Immediately thereafter, and on a rising spiral until the beginning of World War I, there was a great intensification of segregation in the United States. Whole new methods of separation were found, separation in stores, restaurants—everything, including cemeteries.

Beginning about 1920, the Supreme Court began to chip away at the separation concept. During the Chief Justiceship of Charles Evans Hughes in the 1930's, there was strict insistence that segregation, if it were to exist, must in truth be equal in fact. Before Chief Justice Warren came to the Court, two landmark decisions had been handed down, one that no state could require segregation in the holding of land and another holding that there could be no segregation in higher education.

The case before the Warren Court was the validity of segregation in primary schools. Every person participating in the case from beginning to end was aware of its momentous quality. The case was argued, and then reargued a year later. The briefs were prodigious. Every scrap of law or history or any other knowledge which could be offered to the Court was included. Any opinion which attempted seriously to canvass all these materials would have been hundreds of pages long.

Warren concluded to deal with the problem briefly. He began by recognizing that the best lesson history could teach was inconclusive. Public school education in the Civil War period had not reached a point at which anyone gave much consideration to its relation to the meaning of the Fourteenth Amendment. By the 1950's conditions were very different. In our own time, said Warren, "education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship." Undoubtedly, he said, the opportunity for education "is a right which must be made available to all on equal terms."

This brought him to the great question: "Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other 'tangible' factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does." Referring to colored children, he said, "To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." Segregation, continued Warren, necessarily instills a feeling of inferiority which would be bound to retard the educational and mental development of the children. Hence, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

There remained the question of what was to be done about it. Warren and his fellow Justices were prepared to declare that segregated education was unconstitutional, but they also were anxious to give the segregated areas an adequate opportunity to adjust to the new order. How the decision was to be enforced was set for new argument, the practical effect being to postpone the decision itself for a year. At the end of this additional year, Warren in a second opinion declared that it was the duty of the trial courts to cause "a prompt and reasonable start toward full compliance." The trial courts were instructed to consider the problems of administration of school transportation, the revision of school districts, and all the other genuine difficulties of enforcement. But having taken all this into account, the trial courts were instructed to see to it that there should be school admissions on a racially non-discriminatory basis "with all deliberate speed."

The biggest work of the Warren Court has been these decisions and their aftermath. The immediate holding covered only the parties to the particular cases there involved, but new cases followed at once. President Eisenhower forthwith ordered desegregation of schools in the District of Columbia, and his order was carried out. Other areas voluntarily accepted the principle of the decision with more or less grace, notably Missouri, Kentucky, and West Virginia. But elsewhere there was turmoil, as new patterns began to emerge.

This is Warren's story, not an account of desegregation, and the details of that great excitement may be put aside. Nonetheless, the desegregation controversy has been for the balance of Warren's judicial career an everlastingly important offstage noise. All estimates of Warren, now and hereafter, are likely to be colored by attitudes on this. Case after case has come up on the same theme, segregation in restaurants, on golf courses, on buses, and in schools, and more schools. The tremendous triumph of Warren and the Warren Court together is that it has been able to stand as a unit for ten years on all these topics with almost no divisions within itself. The process of desegregation has been difficult and frequently tragic and ugly. It might have been an impossibility if the Court had not consistently spoken with but one voice. The simple and precise adherence of the Court to its position in case after case is a credit to each individual Justice, but it is also attributable to Warren as a distinct leadership accomplishment. By 1962 the Court had buried the segregation question as deep as it is ever possible to bury a constitutional issue, holding that the unconstitutionality of segregation was so overwhelmingly established that it was no longer open to discussion.

Meanwhile, the Court had much other business to concern it. There was the administration of the whole federal legal system of which Warren rapidly took hold. There was the matter of bringing the Court back to a reasonable productivity, which also occurred. But another great issue of the day arose from the activities of legislative committees which, in the course of investigating possible subversive activities menacing the United States, appeared frequently to focus on exposure for its own sake. This in turn led to character destruction, which in some cases might be completely unjustified. An offhand observation which Warren made early in his service, while not having the polish of an opinion, expressed his point of view: "To the extent that anyone indiscriminately charges individuals or groups of individuals with dishonesty or subversion or whatever it might be that would destroy a reputation, that is, in my opinion, not in the American tradition and should not be encouraged."

Warren certainly did not encourage it. In a 1957 opinion, he made very clear that the Congressional power of investigation is extremely broad. "But broad as is this power of inquiry, it is not unlimited. There is no gen-

eral authority to expose the private affairs of individuals without justification in terms of the functions of the Congress." As he saw it, the Congress is not "a law enforcement or trial agency . . . investigations conducted solely for the personal aggrandizement of the investigators or to 'punish' those investigated are indefensible."

The two cases just discussed—the segregation case and the legislative investigation case—illustrate a range of Warren techniques. The segregation case is brief. It dealt with a matter on which the country had been in debate for many years. No further talk could be fruitful. It was a time to state conclusions concisely, and the Court did. The investigation matter on the other hand was one on which the country was not fully informed. There was a need for education both for Congress and for the public. Warren dealt with the subject comprehensively, fully considering the function of legislative investigations from earliest to most recent times. The opinion is not only a decision, it is an education.

The key to the Warren attitude in the investigation case is his observation that trials are for the Courts. The phrase reveals one of the deepest premises of Warren's whole character. He is a man who believes in due process of law with a spirit of complete attachment. To understand the Warren of today, one must never forget that he was a county attorney for twenty years of his life. Not the most experienced of his brethren on the Court—and several have very substantial experience in criminal matters—can come close to equaling the intensity of his experience. He knows precisely what a good, fair, orderly trial is and he is determined that every American accused of crime shall have one.

Warren wants trials to be trials, and not sideshows. This is why he feels so intensely that television and photography should stay out of the courtrooms. It is scarcely too extreme to say that the first photographer or broadcaster who gets into a federal court will have to do so over the dead body of the Chief Justice. In 1962, when the then head of the Federal Communications Commission recommended that radio and television should be allowed into courtrooms and proposed that the American Bar Association should relax its standards in this regard, the Chief Justice gave the matter deep thought. The result was the adoption by the Judicial Conference of a clear-cut directive that under no circumstances would there be pictures or broadcasts in the federal courts; and this strong position so firmly buttressed the American Bar Association's position that it is unlikely that there will be any change in the states. So far as Warren is concerned, the person accused of crime has enough on his mind without worrying about how he is going to look to the curious.

In matters of trial procedure, Warren draws on his experience as a district attorney for highly practical distinctions. Take the two cases of secret electrical recording. In the first, decided before Warren came to the Court, a government agent with a small portable broadcaster up his sleeve engaged a defendant in a conversation. The conversation, unknown to the defendant, was being transmitted and recorded at a nearby point. The recording was used against the defendant without having the agent available for cross-examination. In the second case, an agent also engaged the defendant in a conversation secretly recorded by a pocket device. In this case the agent did appear and was subject to cross-examination, and the recording served only as confirmation or added proof of the agent's testimony.

When this second case came before the Court in 1963, Warren thought the second practice constitutionally acceptable and the first not. He recognized "that the fantastic advances in the field of electronic communication constitute a great danger to the privacy of the individual." In the first case, the agent was not present; if he had been examined, the whole matter might have looked different. In the second case, the recording simply served to defend the agent from a charge that he was not telling the truth. Warren thought this only fair, saying: "In the performance of their duty, agents are thus often faced with situations where proof of an attempted bribe will be a matter of their word against that of a tax evader and perhaps some of his associates. They should not be defenseless against outright denials or claims of entrapment, claims which if not open to conclusive refutations will undermine the reputation of the individual agent for honesty and the public's confidence in his work. When confronted with such a situation, it is only fair that an agent be permitted to support his credibility with a recording as agent Davis did in this case."

One of Warren's key jobs is to serve as Chairman of the Conference of the Justices. Here he makes a preliminary statement of each case. To prepare himself, he has his clerks make memos on each of the applications to be heard. He then reviews their notes and the actual papers. He makes a few handwritten notes on each case, a sort of shorthand of his own which no one else could read, in which one letter may stand for a word and a couple of letters for a phrase. Possessed of these notes, he outlines the problem to the Court. If there are practical as well as legal consequences to the ruling, he brings those out as well. He then gives his recommendation to the Court and passes the discussion on to the next Justice.

In preparing his decisions Warren's system is to dictate a memorandum in every case which someone else might call a first draft but which he regards simply as a memorandum. Then he calls in one of his clerks and goes over the memorandum with him for as much as two or three hours and studies the briefs. All oral arguments are recorded as they are made and Warren may play them back at this point. He then has his clerk prepare a second draft based on the extensive discussion and on the memo from which they started. This second draft is then worked and reworked as may be necessary. When the opinion itself is finally ready to be released, Warren regularly replays the oral argument in full. He recognizes that he can't always remember every detail, and something may turn up on that last replay which shows that he had missed something important.

Warren conceives of the Supreme Court in relation to the courts of the country as he conceives of his own handling of his own work. The job is leadership plus delegation. He recognizes that most of the decisions must be made by the federal courts of appeal and takes great satisfaction in what he thinks is their thorough co-operation. He feels that these lower federal judges are doing their best to keep acquainted with the Supreme Court's rulings and to carry them out. At the same time, Warren feels that Supreme Court Justices have no spare time and he thinks it extremely undesirable for them to engage in any avoidable non-judicial work. Hence, it was with the most extreme reluctance that he accepted the request of President Johnson to head the Commission investigating the assassination of President Kennedy. However, he was persuaded by President Johnson that his acceptance of the assignment was absolutely essential to the public interest.

Because Warren has been a vigorous leader of a vigorous Court, he has been subject to an extraordinary degree of personal vilification. He is a favorite target of the extremists of the far right. The John Birch Society would love to impeach him, and he is a favorite object of attack of extreme segregationists.

None of this troubles the Chief particularly. He enjoys his work on the Court and his association with his colleagues. He has a splendid personal relationship with all those currently serving. He married Nina Meyers in 1925, and she is his constant companion; and he takes keen interest in his six children and his grandchildren.

Certainly the Birchers are not moving Warren from the path of his convictions. In a 1963 decision, he held that the House Committee on Un-American Activities had failed to comply with its own rules and that therefore a witness before it was excused from answering its questions. He has governed himself from the beginning to the end of his public service by principles he expressed in a lecture at New York University in 1962:

I am one who believes firmly that the Court must be vigilant against neglect of the requirements of our Bill of Rights and the personal rights that document was intended to guarantee for all time. . . . Democracy under our Constitution calls for judicial deference to the co-ordinate branches of the Government and their judgment of what is essential to the protection of the Nation. But it follows no less for a steadfast protection of those fundamentals imbedded in the Constitution, so incorporated for the express purpose of insulating them from possible excesses of the moment.

But while Warren finds Birch Society picket lines no more than unpleasant, he does as a calm and reasonable man regret the rise of passions and intemperateness as a national vice. He spoke of this at the ceremony over the body of the late President Kennedy:

We are saddened; we are stunned; we are perplexed.

John Fitzgerald Kennedy, a great and good President, the friend of all men of good will, a believer in the dignity and equality of all human beings, a fighter for justice, an apostle of peace, has been snatched from our midst by the bullet of an assassin.

What moved some misguided wretch to do this horrible deed may never be known to us, but we do know that such acts are commonly stimulated by forces of hatred and malevolence, such as today are eating their way into the bloodstream of American life.

What a price we pay for this fanaticism.

It has been said that the only thing we learn from history is that we do not learn. But surely we can learn if we have the will to do so. Surely there is a lesson to be learned from this tragic event.

If we really love this country, if we truly love justice and mercy, if we fervently want to make this Nation better for those who are to follow us, we can at least abjure the hatred that consumes people, the false accusations that divide us, and the bitterness that begets violence.

Is it too much to hope that the martyrdom of our beloved President might even soften the hearts of those who would themselves recoil from assassination, but who do not shrink from spreading the venom which kindles thoughts of it in others?

The Chief Justice has had less opportunity than a President to be an apostle for peace; but surely he too has been the friend of all men of good will, a believer in the dignity and equality of all human beings, and a fighter for justice.

LEGAL SERVICES CONFERENCE REPORT—PRIVILEGE OF THE FLOOR

Mr. CRANSTON. Mr. President, I ask unanimous consent that when H.R. 7824, the legal services conference report, comes before the Senate, the following staff members of the Committee on Labor and Public Welfare may have the privilege of the floor: Dick Johnson, Larry

Gage, Jon Steinberg, John Scales, and Bob Nagle.

Mr. TAFT. Mr. President, if the Senator will yield, I wonder if he would add to his unanimous-consent request the names of Robert Hunter and Randy Stayin of the minority staff.

Mr. CRANSTON. Of course.

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

COVERAGE OF NONPROFIT HOSPITALS UNDER THE NATIONAL LABOR RELATIONS ACT—CONFERENCE REPORT

The Senate continued with consideration of the conference report on S. 3203, a bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that instead of consuming the hour already agreed to by the Senate in the discussion of the pending conference report, that the vote occur at the hour of 12:30 p.m., the time to be equally divided between the manager of the conference report and the distinguished Senator from Ohio (Mr. TAFT).

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

Mr. TAFT. Mr. President, I ask unanimous consent that during the consideration of this matter, the privilege of the floor be extended to Tom Zimmerman and Gene Mittelman of the minority staff.

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

Mr. DOMINICK. Mr. President, I ask unanimous consent that Mr. Bob Bohan, of the minority staff, be permitted the privilege of the floor during the consideration of the pending bill.

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

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

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. 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. WILLIAMS. Mr. President, the conferees have reached agreement on S. 3203 by resolving the two matters which were at issue—the handling of labor disputes, and individual religious convictions.

Except for these two provisions, the measures which passed the House and the Senate were identical in every respect. The bill will extend the coverage and protection of the National Labor Relations Act to some 1.4 million employees of nonprofit hospitals.

We must not forget that nonprofit hospital workers were covered by the original Wagner Federal Labor Relations Act in 1935 and were regrettably excluded in 1947 with the Taft-Hartley amendment. As a result of this unfortunate exclusion, these deserving workers were left out of the Nation's economic mainstream for far too long.

I am most pleased that the Congress is finally in a position to correct this oversight. During the course of the recent debates the principal purpose of the bill—the extension of collective bargaining rights, was never the subject of serious challenge or controversy. Hopefully this unanimity will be interpreted to mean that employees of nonprofit hospitals will no longer have to maintain their status as second-class citizens in this area of labor relations.

When S. 3203 was being drafted by the Senate Committee on Labor and Public Welfare, it was also recognized that labor relations in the health care industry required special considerations. Almost from the start the Senate Labor Committee sought to fashion a mechanism which would insure that the needs of patients would be met during contingencies arising out of any work stoppage or labor dispute.

The bill which emerged from committee represented a sound and equitable reconciliation of the competing interests involved. It was arrived at after more than 6 months of discussion with those groups representing employers, employees and the administration. The Senate as a whole concurred, and passed S. 3203 which contained a number of unique provisions designed to facilitate the collective bargaining process, reduce the opportunity for negotiation impasses and, provide recognition of the need for continuity of patient care. In brief the Senate bill provisions included the following:

First. The present law calls for a 60-day notice of termination or expiration of a contract—the bill provided an additional 30-day notice requirement or 90-day notification. Thus, bargaining will commence 90 days prior to the expiration of the agreement rather than 60 days.

Second. Present law calls for the Federal Mediation and Conciliation Service to receive a 30-day notice with no obligation on either party to engage in mediation. The bill provided an additional 30-day notice, with mandatory mediation binding upon the parties.

Third. Under present law there is no notification requirement to any party with regard to initial contract negotiations.

The bill provided a 30-day notice requirement to the employer, to the Federal Mediation and Conciliation Service, and to appropriate State agencies.

Fourth. Under present law there is no special notice requirement that must be given before any picketing or strike can take place, other than those referred to above. The bill provides a 10-day notice by a labor organization before any picketing or strike could commence.

Fifth. Violations of the above provision would constitute an unfair labor practice on the part of the labor organization, which is subject to remedial injunctive action under section 10(j). Such provisions are not available under present law.

Because of the unique problems associated with hospital administration, it was deemed desirable that employees of all health care institutions, including those already covered by the National Labor Relations Act, should be subject to these same procedures. Thus, these new provisions will apply equally to all proprietary and private nonprofit hospitals, convalescent hospitals, health maintenance organizations, health or medical clinics, nursing homes extended care facilities, and other institutions devoted to the care of sick, infirmed, or aged persons.

The disagreement between the House and Senate versions of this bill concerned with the fashioning of an appropriate mechanism for resolving labor disputes. The unresolved issue was one of degree and procedure. All of the conferees recognized the need for continuity of patient care services.

The House provision reflected a view that the Senate bill did not contain sufficient assurances that disruption of critical hospital services would be minimized in the event of a labor dispute or work stoppage. It added to the Senate impasse procedure a 60-day "cooling off" period in which the status-quo would be maintained while a board of inquiry investigated the dispute and made a report to the Director of the Federal Mediation and Conciliation Service.

It was the consensus of the Conference Committee that this additional provision would neither eliminate work stoppages or reduce the tensions associated with such labor disputes as its sponsors had intended. Furthermore, the conferees agreed that such a procedure might have the opposite effect, and heighten tension between the parties, as well as unnecessarily prolong any labor dispute in which the procedure were invoked. The conferees concluded that such an interference with the normal collective bargaining process would, in the long run, be detrimental to all parties concerned.

Nevertheless, the Senate Conferees yielded to the House demand that additional safeguards be built into the bargaining procedure. The Senate conferees offered an amendment to the House provision that will permit the Director of the Federal Mediation and Conciliation Service to convene an impartial board of inquiry to help settle a potential or existing labor dispute before it reaches the critical strike stage which could close a health care facility or facilities upon which a community may be dependent.

Within 30 days after the notice of a contract expiration or within 10 days after the notice of new contract negotiations, the Director may convene such a board, which would be obligated to make a report within 15 days. This board would not only be empowered to investigate the labor dispute, as the House envisioned, but would be required to make findings of fact together with

recommendations for settling the dispute. During the period, the status-quo is to be maintained.

I believe that the agreed upon procedure will in fact achieve the statutory objective of bringing about a prompt, peaceful, and just settlement of labor disputes in the health care industry.

The only other matter in which there was disagreement concerned the House provision permitting employees of health care institutions with religious convictions to be exempted from having to join or support a labor organization.

The Senate conferees accepted this provision with an amendment that each individual so exempted could be required to make payments to a nonreligious charitable fund in lieu of periodic union dues and initiation fees.

Mr. President, in all other respects the House bill was the same as that which passed the Senate by a vote of 63 to 25 on May 7.

At this point I would like to express my deepest appreciation to the ranking Republican member of the committee, Senator JAVITS, and to Senator TAFT, for their special efforts, and to all the members of the Senate Labor Committee who played a role in bringing about this much needed and long overdue legislation, restoring the right of employees of nonprofit hospitals to protection under the National Labor Relations Act.

As chairman of the committee and sponsor of the legislation which originated in the Senate, I wish to note that this legislation is the product of intensive efforts over a long period of time by the Congress and the parties to focus upon adapting general principles of the Taft-Hartley Act to the concrete problems that are encountered on a day-to-day basis in the health care industry. The Senate Committee strove for a balanced solution, and the language of its bill and its report and the explanations thereon by its managers, reflect the precise results of its studied effort to deal specifically and in an evenhanded manner with these problems. This legislation is the product of compromise, and the National Labor Relations Board in administering the act should understand specifically that this committee understood the issues confronting it, and went as far as it decided to go and no further and the Labor Board should use extreme caution not to read into this act by implication—or general logical reasoning—something that is not contained in the bill, its report and the explanation thereof.

Other statements, of course, appear in the record and form an integral part of the legislative history, in my judgment, to the extent that the views expressed by an individual Senator or Congressman accord with the language of the bill, and the committee report.

I am concerned for two reasons. First, there appear individual views in the CONGRESSIONAL RECORD on May 7, 1974 at 13559–60, which in my judgment do not accord with these standards and, second, an address delivered by the General Counsel of the National Labor Relations Board on June 13, 1974, containing his interpretations of S. 3203 and H.R. 13678, grossly misapplies these standards. I feel constrained, therefore, to express my views on certain issues raised therein, in the light of the bill's language, its report and the explanation by its managers.

First, the bill specifically covers any and all clinics, et cetera, devoted to the care of such infirm or aged persons. Therefore, the committee did not require that doctors' offices and clinics would be subject to previous Board jurisdictional standards, much less that the Board should give consideration to enforcing more exclusionary standards. Nor is there any warrant for the statement that the committee intended that assertion of jurisdiction over health maintenance organizations would be restricted to those defined in the Health Maintenance Organization and Resources Act of 1973. To the contrary, the intent of the committee was to cover the entire nonpublic health care industry.

Second, it should be clear that the exception to the section 8(g) notice was never intended to be limited to the precise facts found in *Mastro Plastics Corp.* v. *NLRB*, 350 U.S. 270 (1956). Mastro Plastics involved a strike against an employer within the 8(d) waiting period and in the face of a no-strike clause solely because the employer discharged an employee because of his organizational activities in support of the union. The Court held that neither section 8(d) nor the no-strike provision prohibited employees from engaging in a strike to protest an employer's unfair labor practice. The committee intended to make clear that the section 8(g) provision could not be interpreted so as to preclude a union from striking to protest an employer's unfair labor practice without serving a 10-day notice period.

Even though such conduct reflects a flagrant example of interference by the employer with the section 7 rights, obviously there have been thousands of different examples in the history of the act. The committee used the term "flagrant" to distinguish such cases as where a union seeking to avoid giving a section 8(g) notice strikes without notice where an employer has engaged in a purely technical violation of the act, or where a union seizes upon a technicality as an excuse to avoid giving an 8(g) notice.

Third, a violation of section 8(g) will not also constitute a violation of section 8(b)(3). Consideration was given to various alternatives, but the committee voted to make it a separate unfair labor practice. If the committee had intended to also make it a refusal to bargain, it would have said so plainly.

Fourth, the committee never passed upon, much less intended to approve the recent Supreme Court decision, *NLRB* v. *Bell Aerospace Co.*, (slip opinion No. 72–1598, April 23, 1974).

Fifth, the National Labor Relations Board has shown good judgment in establishing appropriate units for the purposes of collective bargaining, particularly in wrestling with units in newly covered industries. While the Board has, as a rule, tended to avoid an unnecessary proliferation of collective bargaining units, sometimes circumstances require that there be a number of bargaining units among nonsupervisory employees, particularly where there is such a history in the area or a notable disparity of interests between employees in different job classifications.

While the committee clearly intends that the Board give due consideration to its admonition to avoid an undue proliferation of units in the health care industry, it did not within this framework intend to preclude the Board acting in the public interest from exercising its specialized experience and expert knowledge in determining appropriate bargaining units. (*NLRB* v. *Delaware-New Jersey Ferry Co.*, 128 F. 2d 130 (3d Cir. 1942)).

Sixth, the question of cession of jurisdiction under the proviso to section 10 (a) of the National Labor Relations Act is one which is enormously difficult, particularly where attempts to deprive the NLRB of such jurisdiction have been turned back by both the House and Senate bills. Here, again, the National Labor Relations Board should carefully consider the effects of any such cession of jurisdiction. As the debates showed, there is no history of the Board ever having done so. While there was considerable favorable comment, particularly by the Senators from Minnesota, about the operation of the State's act regulating collective bargaining as it applies to hospitals, nevertheless, the general purpose of the National Labor Relations Act, as interpreted by the Board and the courts, is to attempt to establish a uniform pattern of collective bargaining rules nationwide, without local variation.

Seventh, I reject any interpretation that this committee intended to create a new unfair labor practice, whenever mention is made of an intent to withdraw services in violation of section 8(g). Clearly, the committee meant precisely what it said and no more, for if it had intended to make such a "threat" a violation of section 8(g), it would have said so, precisely as the Congress amended the act in 1949 to make a "threat" to violate section 8(b)(4), itself a violation of the act.

Eighth, the NLRB General Counsel expresses a willingness to litigate many technical issues which he says are not clear in this bill. One would hope that both the General Counsel and the Board would not search around for technicalities but put the desire to litigate in the background and instead adhere to the will of the Congress.

In this connection, I note the statement that section 8(g) would be violated if less than 12 hours notice was given. Suppose, for example, that the union gave 11 hours notice. Clearly, the committee never intended that the General Counsel dissipate the efforts of his office and the Board by litigating such technical minutae.

Tenth, the NLRB General Counsel poses a situation where a previously noticed strike begins, and then for some reason the strike "ceases for a while." Under these circumstances he opines that he will issue a complaint where the union then resumes picketing without

giving another 10-day strike notice. This is yet another instance where the General Counsel is seeking to expand upon the actions of this Congress. Had the committee intended to require another 10-day notice to be served under these circumstances it knew how to so provide. The Board has no license to intrude upon otherwise protected activities except as provided by the Congress.

Eleventh, I am greatly alarmed by Mr. Nash's statements that employees would automatically lose their "employee" status if they participated in a strike, outside such time frames of 72 and 12 hours. Surely the committee never intended such a harsh result.

Twelfth, it was the intention of the committee to modify the Ally doctrine in order to permit a neutral hospital to supply essential personnel and equipment to a hospital involved in a labor dispute, or accept that hospital's critically ill patients so that a continuity of medical treatment might be maintained. However, the committee did not intend to extend this exception to a hospital which provides personnel other than for the above purposes, and in so doing enmeshes itself into the primary dispute. In such a case, the intervening hospital should no longer enjoy the immunity intended by the bill, and should be subject to the Ally doctrine. Thus, under these circumstances it would be quite inconsistent with the bill's intent to require a second 10-day notice to a hospital employer, who of necessity, must have already been aware of the existence of the labor dispute at issue.

Thirteenth, it is clear that organizational or recognitional picketing is not banned by the amendments, provided that section 10(g) notice requirements are faithfully fulfilled. Under existing case law, courts have upheld 8(b)(7) violations where picketing has occurred for less than 30 days only in those circumstances where a pattern of violent picketing has prevailed. The Committee wished to make certain that in the health care industry—even in the absence of violence—the Board should not necessarily be foreclosed in all instances from finding that a period of nonviolent picketing of less than 30 days in the health care industry would be inappropriate. Declarations by supporters of the bill that the availabilities of election procedures in the nonprofit hospital field should eliminate the need for recognitional picketing should not be perverted to mean that the bill contemplates that recognitional or organizational picketing is to be prohibited in the health care industry.

My overriding point is that in this carefully tailored legislation Congress decided to treat the health care industry uniquely in certain respects. It decided to go so far, and no more. I trust this bill will be treated by the NLRB and its General Counsel in the same spirit, and not as an excuse to search out and litigate all possible situations, or substitute its will for that of the Congress.

I also wish to state that the administration fully supports this conference report and has urged speedy passage. Mr. President, I ask unanimous consent that a letter from Secretary of Labor Brennan in support of the conference report be included in the RECORD.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., July 8, 1974.

Hon. HARRISON A. WILLIAMS, Jr.
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: We would like to take this opportunity to again express this Department's support for legislation "To amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes."

Although reasonable minds may disagree as to particular provisions of the Conference Report, we feel that the Conferees have resolved the differences between the House of Represntatives and Senate in a reasonable way.

According, we fully support the Conference version of this bill, and hope that this important and much needed legislation will receive quick and favorable action.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

Mr. WILLIAMS. Mr. President, I urge my colleagues to ratify this conference report so that S. 3203 may be swiftly enacted into law.

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

Mr. WILLIAMS. I yield.

Mr. MONDALE. I wish to congratulate the distinguished chairman of the Labor and Public Welfare Committee on a most impressive measure.

As the Senator knows, this proposal does create certain problems for the State of Minnesota where we have a unique and highly successful statute concerning labor relations in nonprofit hospitals which has been in effect for several years. It has been strongly supported by the Minnesota Hospital Association, the State AFL-CIO, and other unions.

During the consideration of this bill in the Labor and Public Welfare Committee, I offered an amendment to the pending measure which would have avoided preemption of the Minnesota Charitable Hospitals Act. Unfortunately, my amendment was defeated by the committee.

Mr. WILLIAMS. I am well aware of the existence of the Minnesota Charitable Hospitals and of its long record of successful operation.

Mr. MONDALE. I am wondering if, under section 10(a) of the National Labor Relations Act, there is any possibility of the National Labor Relations Board ceding jurisdiction to States such as Minnesota which have comprehensive, effective, and workable statutes dealing with labor relations in nonprofit hospitals?

Mr. WILLIAMS. The pending measure does not affect section 10(a) of the National Labor Relations Act in any way. Under section 10(a) the Board is empowered to cede jurisdiction to any State agency over cases in any industry unless the Board determines that the State statute is inconsistent with the corresponding provision in the National Labor Relations Act. The NLRB would be free to exercise that option in this instance. I would hope that the Board would consider the successful operation of the Minnesota Charitable Hospitals Act and would give serious consideration to ceding in this instance.

Mr. MONDALE. I am glad to know that section 10(a) leaves open that possibility. I would join the Senator in urging the National Labor Relations to seriously and favorably consider ceding jurisdiction under section 10(a) to the appropriate Minnesota State agency over disputes involving nonprofit hospitals if, as I believe it will, the Board determines the Minnesota Charitable Hospitals Act to be substantially equivalent to the Federal legislation.

Mr. CRANSTON. Will the Senator yield?

Mr. WILLIAMS. I yield to the Senator from California, who has done so much to bring us to this hoped-for point of passage of the legislation.

Mr. CRANSTON. I thank the chairman for all the hard work he has done and for his very effective work on this legislation. I am delighted that we are now passing a fine bill that culminates an effort that was launched when Senator JAVITS and I introduced S. 794 over a year ago, designed to deal with the general problems with which this legislation finally comes to grips.

Mr. President, Senator JAVITS, Senator TAFT, Senator DOMINICK, Senator WILLIAMS, and others, have all been very helpful, very constructive, and very fair in considering this legislation.

Mr. President, I rise to support the conference report on S. 3203, a bill which will extend the coverage and protection of the National Labor Relations Act to employees of private nonprofit hospitals.

As comanager of the Senate bill, I was particularly pleased that the conferees were able to reconcile their differences on the two matters in which there was disagreement. The first issue concerned the handling of labor disputes, while the second one involved individual religious convictions. In every other respect, the Senate version was the same as that passed by the House.

The conferees on both sides recognized that health care institutions require special consideration in the area of labor relations because of the essential nature of their functions in the community. However, there was disagreement as to what would be the most effective procedure to minimize the likelihood of disrupted patient services if a labor dispute should occur. The House felt that a 60-day cooling off period in the event of a strike would be the most appropriate mechanism. However, the Senate conferees were unable to accept the House-passed impasse procedure because it was felt that the end result might produce more disputes and more tension between the parties, then would otherwise have been the case. We came to this conclusion because so-called cooling-off periods in labor relations have historically been as much an aggravating factor as they have been a settling force.

The Senate's representatives maintained that S. 3203 already contained sufficient safeguards to reduce the likeli-

hood of a strike. The thrust of the Senate bill was to aid in settling labor disputes before they reached the critical strike stage by providing a series of procedures which would be compatible with the collective-bargaining process.

The bill as passed by the Senate provided that:

First, the requirement for notice of termination or expiration of a contract be 90 days;

Second, the Federal Mediation and Conciliation Service (FMCS) be given 60 days notice of such termination or expiration;

Third, in initial contract negotiations a 30-day notice of a dispute to FMCS be required;

Fourth, the health care institution and labor organization be required to participate in mediation at the direction of the FMCS; and

Fifth, the health care institution be given a 10-day notice by a labor organization before any picketing or strike—whether or not related to bargaining—can take place.

Despite a strong feeling by the Senate conferees that S. 3203 already contained sufficient protections to insure continuity of patient care services, the House conferees insisted that additional safeguards be built into the bargaining process.

A mechanism was agreed to which will permit the Director of the Federal Mediation and Conciliation Service to convene an impartial board of inquiry in the event a labor dispute threatens to close a health care facility or facilities upon which a community may be dependent.

Within 30 days after the notice of a contract expiration or within 10 days after the notice of new contract negotiations, the Director may convene such a board, which would be obligated to make a report within 15 days. This board would not only be empowered to investigate the labor dispute, as the House envisioned, but also would be required to make findings of fact together with recommendations for settling the dispute. During the period, the status quo is to be maintained.

The second matter before the conference concerned the House provision permitting employees of health care institutions with religious convictions to be exempted from having to join or support a labor organization. Although the Senate version of the bill contained no similar provision, we accepted the provision with an amendment that each individual so exempted could be required to make payments to a nonreligious charitable fund in lieu of periodic union dues and initiation fees.

Mr. President, it is my hope that the passage of this bill as reported by the conference committee will do much to bring about peaceful and just settlements of labor disputes in the health care industry.

Mr. President, I most strongly urge the acceptance of this conference report on S. 3203.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield to me for a few minutes?

Mr. TAFT. Mr. President, I believe the time, or the Senator has the time——

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. President, I rise to concur in this report, and to commend it to the Senate.

I wish to point out in connection with our chairman's note that we are going to place some reliance upon the Federal Mediation Service, that we have letters from the presidents of the four major unions involved in organizing hospital employees, adopting, as a matter of policy, the use of voluntary binding arbitration to settle disputes which threaten to disrupt essential health care services.

These assurances are in the record of the debate on the bill, and came to me from Presidents George Hardy, of the Service Employees International Union; Leon Davis, of Local 1199 of the National Union of Hospital and Nursing Home Employees; President Peter Fosco of the Laborers International Union, and President Frank Fitzsimmons of the International Brotherhood of Teamsters.

Mr. President, because of the importance of these policy commitments and the action being taken by Congress, I ask unanimous consent that the text of the letters may be printed in the RECORD.

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

COMMITTEE ON POLITICAL EDUCATION,
Washington, D.C., April 4, 1974.

Hon. JACOB JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: During the hearings on S. 794 you expressed concern about assuring the continuity of essential patient services in the event of a labor dispute involving health care institutions. Our organization shares this concern, and for that reason we support S. 3203, the clean bill, recently ordered reported by the Senate Committee on Labor and Public Welfare. The 10 day notice, extended bargaining period and mandatory mediation required by S. 3203 should operate to minimize the necessity for strike action involving any health care institution.

In addition, in the event that a settlement cannot be achieved by the parties through direct collective bargaining, our organization fully endorses the use of voluntary arbitration as a technique for obtaining peaceful settlements if a strike would result in disrupting essential health care services in the community. In fact, many of the contracts that have already been negotiated with health institutions contain arbitration provision. This provision obviously was negotiated voluntarily.

Naturally, I am extremely pleased that the Committee has acted favorably with respect to this legislation. We sincerely believe that prompt enactment of S. 3203 will lead to less, not more, tension in labor-management relations in the health care industry.

Sincerely,

GEORGE HARDY,
International President.

NATIONAL UNION OF HOSPITAL AND NURSING HOME EMPLOYEES,
March 18, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate
Washington, D. C.

DEAR SENATOR JAVITS: With respect to legislation which is currently under consideration by the Senate Labor Committee to extend the collective bargaining act to employees in Voluntary Hospitals, an inquiry has been made to our Union as to our views on voluntary arbitration.

Specifically, we were asked whether or not our Union favors voluntary arbitration in a labor dispute where a strike or stoppage is threatened against a Hospital and where such strikes or stoppages may affect the life and limb of patients. It has been our policy in the past, it is our present policy and I expect that it will continue in the future that in such event our Union will favor submitting the disputed issues to voluntary and binding arbitration as a means of resolving the issues in dispute and thus avoiding the consequences of such a strike or stoppage.

I would like to call your attention to the fact that our recent stoppage in New York was not due to the refusal of our Union to abide by the arbitration process, it was our desire to have the arbitration awards enforced which led to the unfortunate result. It has been our experience that workers in hospitals are as conscious of their responsibility as the public generally.

Very truly yours,

LEON J. DAVIS,
President.

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA,
Washington, D.C., April 8, 1974.

Hon. JACOB K. JAVITS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR JAVITS: In the course of the hearings on proposed legislation to bring nonprofit hospitals under the National Labor Relations Act, you raised the question of how the continuance of essential patient services could best be assured in the event of a strike or lock-out involving a health care institution. We fully understand your concern regarding this question, and have ourselves given this matter a great deal of thought. We believe that the positions embodied in S. 3203 will greatly facilitate settlements through the normal process of collective bargaining. In addition, the bill will make available time-tested procedures for determining organizational and recognitional issues through the NLRA.

In those cases where a peaceful settlement cannot be achieved through collective bargaining, we believe as a matter of policy, in the use of voluntary arbitration if a strike or lock-out would result in the disruption of essential health care services. We further believe that voluntary arbitration is far preferable to any governmentally imposed solution.

We are grateful that the Senate Committee on Labor and Public Welfare has reported out S. 3203 and are very hopeful that the full Senate will soon act favorably on this bill. We strongly believe that this legislation is not only in the best interest of employees of nonprofit hospitals, but also will serve to reduce rather than increase the number and intensity of labor-management disputes in this industry.

Very truly yours,

PETER FOSCO,
General President.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
Washington, D.C., April 22, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: We wish to thank you for your efforts on behalf of workers employed by non-profit hospitals who would be covered by the National Labor Relations Act under S. 3203. Since 1947 these workers have been denied the protection accorded to

most other American workers and we believe that there is no rational justification for this special exemption.

We are aware of the concern you expressed during the hearings about possible interruptions in patient care because of a labor dispute at health care institutions. We believe that the special provisions embodied in S. 3203 will serve to minimize any possible disruption in essential services. Furthermore, in those instances where a settlement cannot be reached by the parties, we believe that voluntary arbitration would be an appropriate technique to achieve a settlement re a strike or other economic action would result in the disruption of essential health care services.

Respectfully yours,
FRANK E. FITZSIMMONS,
General President.

Mr. JAVITS. Mr. President, my other purpose in rising at this time is to commend two of my colleagues of the minority on the Committee on Labor and Public Welfare who I feel have made major contributions to what we are about to do.

The Senator from Ohio (Mr. TAFT) took a very special interest in this bill because of his longstanding feeling in labor matters, which is a great tradition in his family, and his particular concern with the philanthropies of his own family in respect to hospitals.

It is rare that a Senator, in such a self-effacing way, takes an initiative in order to bring a matter to a conclusion. I have been here a long time. I have done it in other cases, and I know how gratifying it is, whether anybody speaks appreciation or not. I should like to express my appreciation to Senator TAFT for his action that is in the best tradition of the Senate and at the same time of such enormous service to probably as depressed a group as exists among workers.

It is not realized what nasty, difficult work it is to work in hospitals at the lower levels, and how underpaid it has been for years.

The Senator from Ohio has done an excellent job, and I am delighted that it is now being consummated with what I hope will be success today.

Although Senator DOMINICK is opposed to this conference report—and he will shortly be heard—he has realized the importance of what we are doing. Yet, as is his wont, whether he agrees with his colleagues on the committee or not, he has thrown himself into the situation.

I believe we would not have had the ability to compromise; we would have had an absolutely hard-and-fast position without any give at all, if Senator DOMINICK, on the other side—without in any way derogating from his opposition to this conference report—had not pushed what he considered to be the legitimate need of the hospitals for a cooling off period, and so forth.

So, Mr. President, as the ranking member, I am very grateful to my colleagues for the outstanding service they have rendered.

For the reasons I have stated, I highly commend the conference report to the Senate and hope it will be adopted today.

Mr. President, I ask unanimous consent that Mr. Don Zimmerman and Mr. Dunn, of the minority committee staff, may have the privilege of the floor during the debate on this matter.

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

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. JAVITS. The passage of this legislation will end long-standing discrimination against employees of nonprofit hospitals by granting these workers collective bargaining rights under the National Labor Relations Act. The conferees have reached what I regard to be a most satisfactory resolution of the differences between the House and Senate versions of this legislation. This legislation represents long and careful study by the committee and negotiation between representatives of organized labor and hospital management. Its provisions have been carefully tailored to meet the particular problems of labor-management relations involving health care institutions.

The conference committee had before it two issues raised by House amendments to the Senate-passed bill. The first provided for an exemption from mandatory membership in, or financial support of, a labor organization for employees of a health care institution who hold religious beliefs opposed to such membership. The second amendment would have established an additional impasse procedure providing a 60-day cooling-off period after the conclusion of the contract term, during which time the status quo would be preserved and a board of inquiry would investigate and report on the dispute.

The conference committee was successful in reaching an accommodation on both issues. With respect to the exemption from union membership and support on the basis of religious conviction, the conference report provides that an employee may be so exempted, but that he may be required by collective bargaining agreement to contribute an amount equal to the dues and initiation fees he would otherwise pay to one of three nonreligious charitable funds designated by the bargaining parties. If the parties fail to designate these funds, the employee himself may select an appropriate fund.

On the issue of the impasse procedures, the conferees agreed to a provision eliminating the 60-day cooling-off period and providing instead that the Director of the FMCS is to decide, within the first 30 days after receiving the required 60-day notice of contract termination, whether a threatened work stoppage would substantially interrupt the delivery of health care services in a locality. He will then appoint an impartial board of inquiry to investigate the issues in the dispute. That board will report its findings of fact and recommendations for settlement within 15 days. This compromise preserves the mandatory mediation procedures of the FMCS to resolve disputes in the health care industry before they reach the impasse stage.

It is my belief that the agreement worked out by the conference has preserved the spirit and content of the bill originally passed in the Senate, while providing a special dispute procedure to help maintain the delivery of health services in each community.

I am satisfied that adequate protection for the public will be provided by enactment of this bill. It is, of course, essential that we do our utmost to insure against interruption in the delivery of health services to the people. It is my belief that we can best achieve this objective by promoting peaceful and harmonious labor relations in the health care industry.

I am further reassured by the statements concerning voluntary arbitration by the presidents of the four major unions involved in organizing hospital employees, to which I have already referred.

There are, of course, some who will still argue that to rely upon the voluntary assurances of unions and management, and to place faith in the development of harmonious labor relations, involves an unacceptable risk to the continuance of essential health care services. I agree that there are risks involved in depending upon voluntary action to avoid disruptions in essential health care services, but note that our experience demonstrates that no new procedure can possibly avoid all such risks. The recent hospital strikes in New York this past fall, and in San Francisco this spring, were conducted in direct violation of court orders. We, of course, cannot condone illegal strikes, but it is necessary to point out that there is no warrant for assuming that just because the law says you cannot strike, that there is not going to be a strike. In short, there are risks involved in whatever course of action we choose to follow. In my judgment, however, the best guarantee we can get is the commitment of the parties involved to use peaceful and lawful means, including the use of voluntary arbitration, to avoid disruptions in essential health care services.

I urge my colleagues to vote for this conference report in an effort to bring more—rather than less—stability to labor-management relations in the health care industry.

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

Mr. JAVITS. I yield 5 minutes to the Senator.

Mr. TAFT. Mr. President, I thank the Senator for the most generous recognition he has given to me and to other members of the committee in the work that has gone on over a very protracted period. Without his leadership and without the leadership of the distinguished chairman, the Senator from New Jersey (Mr. WILLIAMS), I do not think this bill possibly could have arrived at the point where it is about to become enacted. He has at all times contributed to playing the roll he is so famous for, in working out differences and difficulties, and at the same time trying to come up with practical answers to the problems that he knows so well from his own State and which all of us know exist in this field.

Mr. President, the National Labor Relations Act, the Nation's principal labor law, governs the collective bargain-

ing relationship of millions of workers including employees of proprietary hospitals, proprietary nursing homes, and nonprofit nursing homes. Coverage of employees employed in the health care field is not a new phenomena or concept. Presently, the law specifically exempts from coverage employees of private nonprofit hospitals. The original Wagner Act of 1935 did not contain this exemption and the courts in 1942 upheld employee coverage. In 1947, the Wagner Act was amended by the Taft-Hartley Act. Included in these amendments was a provision, added as a floor amendment in the Senate, to exempt nonprofit hospitals. This amendment was retained in conference. Thus, employees of proprietary hospitals and nursing homes, including nonprofit nursing homes, have had the benefit of coverage of the National Labor Relations Act since its passage in 1935, and generally, the coverage has resulted in a favorable experience for the public and for those employees who are employed in these sectors of the health care industry.

The bill under consideration removes the existing exemption in section 2(2) of the National Labor Relations Act for employees of nonprofit hospitals and extends the protections of the act to such employees to the same extent as currently applicable to employees of nursing homes and proprietary hospitals. There is no logical reason why employees engaged in the same industry should be treated differently; employees of nonprofit organizations being deprived of statutory benefits while another segment of employees is accorded rights. This bill will eliminate the disparity of treatment. It further seeks to resolve through the orderly procedures of the National Labor Relations Act the bitter and wasteful confrontations which have resulted in some cases in the past. For instance, extension of the NLRA to this industry should considerably alleviate one of the most serious problems in hospital labor relations today, the recognitional strike.

In summary, the time has come to place private, nonprofit hospitals under the salutary provisions of the National Labor Relations Act. Labor relations legislation to meet the needs of this industry and its employees must apply evenly to all private health care institutions whether or not organized to make a profit.

An essential element of Federal national labor relations policy is the promotion of collective bargaining. It is no longer seriously questioned that employees do have the right to self-organization and to form, join, or assist labor organizations and to bargain collectively through representatives of their own choosing. Employees have the right to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, including the right to resort to economic action to support their economic and other demands.

I especially want to express my agreement with the remarks of the distinguished Senator from New York as to the need of this particular group of employees—working as they do in a nonprofit enterprise, but at the same time working on very difficult jobs—at many times to have protection given them under the law for the concept I have just mentioned.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. Mr. President, I yield an additional 3 minutes.

Mr. TAFT. However the Senate, in carrying out its responsibilities in this area, should not be unmindful of the unique responsibilities and problems of the health care industry. Straight application of the National Labor Relations Act would not recognize these considerations. Therefore, I have pressed for safeguards embodied in the proposed legislation which would avoid mechanical application of standard National Labor Relations Act procedures.

The bill contains several additional special provisions designed to facilitate collective bargaining settlements and to provide advance notice of any strike or picketing involving a health care facility, as follows:

First. The requirement for notice of termination or expiration of a contract will be 90 days as opposed to 60 days notice required for other industries. Thus, employees and labor organizations engaged in the health care field are afforded, among other things, a longer period for hopefully productive bargaining.

Second, the Federal Mediation and Conciliation Service (FMCS) must be given 60 days notice of such termination or expiration.

Third, in initial contract negotiations, a 30-day notice of a dispute to FMCS will be required.

Fourth, the health care institution and labor organization will be required to participate in mediation at the direction of the FMCS. Unlike private industry, where mediation is discretionary with the disputants, parties in the health care industry are statutorily obligated to utilize FMCS services. This provision insures the active involvement of the Federal Mediation Service who will attempt, by the use of its expertise, to adjust the disputes expeditiously.

Fifth, to further assist in the resolution of a collective bargaining dispute, the FMCS Director may, after determining that the dispute substantially threatens to interrupt health care in the affected locality, appoint a board of inquiry to investigate the issues and report with respect to such dispute. The board must be appointed within 30 days after the FMCS is notified of the intention of either or both of the parties to terminate the contract, or 10 days after the FMCS is notified in the case of an initial contract. The report of the board of inquiry will be issued within 15 days of its appointment and the status quo must be maintained for another 15 days thereafter. Once issued, the board's report shall contain findings of fact, together with the board's public recommendations for the settlement of the dispute.

The appointment of the board will not interrupt the mandatory mediation process. Mediation will continue while the board performs its crucial function. These procedures are intended, and should go a long way, to achieve a prompt and peaceful adjustment of the dispute. The new procedures not only provide the parties more time to reach a settlement, without resorting to strike, but also afford FMCS a greater and more meaningful opportunity to work with them toward that end.

Finally, the health care institution must be given a 10-day notice by a labor organization before any picketing or strike—whether or not related to bargaining—can take place. This 10-day requirement provides an adequate length of time to develop plans for assuring proper patient care.

I believe these safeguard procedures will substantially aid health care institutions and their employees settle their disputes responsibly and peacefully, while not significantly restricting either party's freedom of action. All these activities occur within the collective bargaining framework and assure the greatest possible success of that process prior to the need to resort to strikes or other economic sanctions.

A word concerning the appropriateness of a cooling-off period following the expiration of the mediation procedures and the 10-day strike notice as I have outlined. I do not support the concept of a cooling-off period primarily because it merely prolongs and unduly interferes with the parties' mandatory obligations to meet and bargain in good faith during the term of a contract. Experience gained under the NLRA has demonstrated that cooling-off periods will not achieve the desired objectives of preventing strikes or work stoppages. Viewing labor relations realistically and knowing there is no known guarantee to prevent strikes or lockouts, I think it more beneficial and in the public's interest to require the parties bargain in good faith for 90 days prior to contract expiration. Mandatory mediation, including the appointment of a factfinding board, is a positive force in adjusting disputes. I believe extension of the NLRA in accordance with the several built-in safeguards will promote and facilitate the parties' mutual bargaining responsibilities. In turn, the prospects for the uninterrupted delivery of health care services and the free flow of commerce are enhanced.

I, too, support the religious conviction exemption with the modifications proposed by me during the joint Senate-House conference. An employee, because of his bona fide religious tenets or teachings, should be able to avoid financial support for and membership in a labor organization and continue to maintain his employment without fear of discharge. Inherent in this exemption, however, is the possibility of abuse by the concealment of what are known in labor parlance as "free-riders." To balance the equities involved, the bill will require an employee, claiming the exemption, to nevertheless tender a sum equal to the labor organization's periodic dues and initiation fees, to a nonreligious, charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

To further facilitate the exemption, I

offered an amendment which provides that the employer and labor organization should agree in bargaining on at least three alternative qualifying fund designations. The individual employee then has a degree of freedom in selecting the organization of his choice within the list of alternatives agreed upon.

I was also disturbed by the prospect that requiring the parties to bargain concerning the alternative fund designations might result in an impasse which would then be a further obstacle to successful bargaining. To avoid this possibility, I suggested again, by way of a clarifying amendment, that the employee be given the right to select a qualifying organization upon the parties' failure and/or refusal to agree upon proper potential recipients.

In conclusion, over an extended period, the only thing that prevents strikes is the establishment and maintenance of a good collective bargaining climate. I believe the best way to assure that kind of climate is by covering employees in the private health care field under the National Labor Relations Act in essentially the same manner that employees in other industries are covered. To that end, and within the context of the safeguards I have proposed, I favor and support the concepts of extending the proven benefits of the National Labor Relations Act coverage to nonprofit hospitals.

The PRESIDING OFFICER (Mr. BENTSEN). Who yields time?

Mr. DOMINICK. Mr. President, will the Senator from New York or the Senator from New Jersey yield me further time?

I need 10 minutes, I think.

Mr. JAVITS. How much time do we have, Mr. President?

The PRESIDING OFFICER. The Senator from New York has 9 minutes.

Mr. JAVITS. I will yield 5 minutes.

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes.

Mr. WILLIAMS. I yield 5 minutes, 5 and 5.

Mr. DOMINICK. I thank the distinguished chairman and the ranking member. I thank the Senator from New York for the gracious comments he made earlier about both Senator TAFT and myself. We may have our disagreements on bills, but I very much appreciate his selflessness.

Mr. President, I was a member of this conference and I declined to sign the conference report. Representative ERLENBORN did the same thing on the House side and declined to sign the report.

I urge my colleagues to consider my views before deciding how they are going to vote.

When this bill was originally reported from our committee, I indicated at that time that I believed the paramount public interest in having unimpeded and unhindered access to the best possible health care necessitated consideration of adding safeguards to maximize the opportunity to resolve labor impasses without a strike or work slowdown. I am not opposed to the right of employees to form collective bargaining units in dealing with management, but I am concerned that in certain fields in which an impasse between management and employees is reached a resultant slowdown or strike could adversely affect the public interest. The health-care field is one such area.

This was pointed out last fall in a strike in my distinguished colleague's city of New York in which patients were discharged from hospitals and other health-care institutions.

Obviously, this bill does not prohibit striking. I know that nurses, staff physicians, and others are in favor of the principle of collective bargaining. I talked to a number of nurses in Colorado over the recent July 4 recess, however, and many of the ones that I talked to would have been willing to have a "no-strike" clause in the bill, and this is a concern of mine.

I recently talked to a very fine nonprofit hospital in Colorado, the Bethesda Mental Health Hospital, where there are some 75 psychiatric beds. I asked them what would happen if they had a strike and where the patients would go. The answer was "Nowhere, because there are not sufficient facilities in the metropolitan area of Denver qualified staffwise and facilitywise to be able to take care of those people."

The bill has a 30-day period, for fact-finding by a special board. In addition we did get the "conscience" clause in conference. The question is, Is that enough?

The 30 days is a so-called cooling off period in an effort to add an additional safeguard to the rights of patients which I think are paramount. As my colleagues will recall, on the Senate floor, I introduced a limited form of a cooling off period in an effort to add an additional safeguard. This amendment, I would point out, would have had limited use, and its mechanism would have been used only when the Director of the Federal Mediation Service found that a threatened strike or work slowdown would have threatened health-care delivery in an area. The Senate turned down this proposal as well as tabling my amendment which would have allowed an employee in lieu of joining a union to pay dues to a charitable organization if he held religious convictions against union membership. Our colleagues in the House did adopt both the 60-day cooling off period and a form of the "conscience" amendment. It is my belief that the conscience clause is in keeping with basic first amendment rights guaranteed by our Constitution.

I hope that the Senate would be willing to support such a "conscience" clause, and I would like to thank my colleagues in the conference.

However, I believe that the conference's treatment of the 60-day "cooling off" period, rather than promoting a resolution to disputes, will prove to be cumbersome and without benefit. The compromise reached by the conference provides that the Director of the Federal Mediation and Conciliation Service may appoint a Board of Inquiry to investigate and report with respect to a labor dispute. The investigation, however, and report occur prior to the termination of a contract when there is a contract in existence. Already written into this bill is a provision by which notice is given to the Federal Mediation and Conciliation Service 90 days prior to the termination of a contract and the Service is directed to use its best efforts by mediation and conciliation to bring the parties to an agreement. I believe the addition of a special Board of Inquiry on top of the Federal Mediation Service is not needed, and in fact, is not in keeping with the purpose of "cooling off" periods.

As I understand it, "cooling off" periods allow the parties, once an impasse is reached, an additional period of time for solution to the impasse while maintaining a status quo. Under the conference report, in fact an impasse would not even be reached prior to the appointment of this Board of Inquiry by the Federal Mediation Service. In addition, the Board could be appointed regardless of whether or not the parties were going to settle the dispute with or without the aid of the Federal Mediation Service.

Once this Board has been appointed, I expect that the parties to the dispute rather than attempting further efforts to resolve their dispute will merely wait until the Board of Inquiry makes its recommendations. If so, this would completely undermine the bill's provisions for a 90-day notice of termination of a contract and overrides the safeguards written into this bill which could be used to resolve a dispute prior to the termination of a contract.

Mr. President, all of us recognize that the health-care industry is a unique industry. We have seen that at times the public interest may be damaged because of a dispute between management and labor such as the New York hospital strike in last November. Solutions to the need for the protection of the public interest while protecting collective bargaining rights are difficult. Interestingly, I have been assured by some health-care employees that they would continue to work in a hospital even if a strike were to occur, called by another bargaining unit, because of their commitment to the providing of health care to the public.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. JAVITS. I yield the Senator 2 additional minutes.

Mr. DOMINICK. Mr. President, I am sure as dedicated professional nurses, staff physicians, and other hospital employees serving the public's health care needs would never jeopardize their patients well being. The balancing of these groups' rights as employees to form bargaining units with the public interest in access to health care has given us some special features in this bill such as the 10-day notice prior to a strike. If, in fact, we had been able to reach agreement on adding an impasse resolution without a strike, I would support this bill. If we had retained some type of limited "cooling off" period which I believe affords some extra measure of protection to States such as mine where we have 25 counties with a total of 600,000 residents with only 1 hospital per county, I would support this bill. I believe additional safeguards could be added to this bill without jeopardizing rights to collective bargaining.

Mr. President, there exists in hospitals the possibility of multiple collective bargaining units. If one unit should reach an impasse with management and strike, we could face the serious problems of having to transport patients at times up to 50 miles in order to obtain health care if a strike were recognized by all other units. Such a situation would not be in the public interest, and I would urge my colleagues to carefully consider whether or not additional protection such as a true "cooling off" period should be provided.

It is my basic feeling, and I close with this, that the purpose that we are working on is to provide health care for people who need it, and we are not working just to determine the rights between a hospital association on one side and the employees on the other. Certainly they are important; but far more important is the ability to take care adequately of the patients who are there.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I have heard with the greatest interest the views of the Senator from Colorado (Mr. DOMINICK), which have been expressed before. I can appreciate the sincerity of those views. But, Mr. President, in balancing the interests of organized labor and the hospital associations, even in my own city, which has suffered such a dreadful strike in this field, and in considering the disposition of major international unions to seek voluntary but binding arbitration in health-care field, together with the urgency of regularizing employment in this field through the application of the National Labor Relations Act, I believe the balance falls heavily on the side of approval of the conference report, and I hope the Senate will approve it.

S. 3203—AGAINST THE PUBLIC INTEREST

Mr. BUCKLEY. Mr. President, the product of the conference report on S. 3203 seriously disappoints all those who are concerned about protecting the sick and the public in general against the interruption and loss of essential hospital care caused by strikes.

The House bill contained a provision essential to the public interest—a 60-day cooling off period which the Director of the Federal Mediation and Conciliation Service could use, after all other NLRA procedures to resolve an impasse had failed, to help settle a hospital strike which seriously threatens to interrupt the provision of hospital services to the citizens in a particular community or area.

Unfortunately, this important measure was removed in conference and an "empty" compromise was substituted that would insert an additional fact-finding-mediation procedure into the latter part of a labor-management contract negotiation period. The result is the elimination of the cooling off protection provided for in the House bill. In fact, the compromise could even substantially interfere with and undermine the basic impasse resolution procedures that are contained in S. 3203.

The American Hospital Association strongly opposes the conference report on S. 3203, and in a recent letter on the report, it pointed out with regard to the alleged "cooling-off compromise" that:

1. Is not, in fact, a "compromise";

2. It is not even a cooling-off period—that is a complete misnomer. (In reality, it is an abbreviated 30-day fact-finding/mediation procedure that can only be utilized concurrently with the other impasse resolution mechanisms included in S. 3203. It would be available only prior to contract termination and, therefore, by statute unavailable at any other time!);

3. Thus, by its very terms, it could not protect the public in major health care emergencies caused by labor disputes, e.g., the New York City Metropolitan Area hospital Francisco Bay Area nurse strike against 40 hospitals; and

4. It would undermine the present Congressionally-mandated mediation period now contained in S. 3203.

Another disappointing aspect of this legislation is the lack of a provision to cede NLRB jurisdiction to States with substantially equivalent labor relations laws already in existence. There is no justifiable reason why the NLRB must supercede equivalent State labor relations laws and agencies. In fact, in some States their labor relations provisions are superior to the NLRA, and the substitution of the Federal provisions could harm the very people they are intended to help.

In my own State, the Convention of the Licensed Practical Nurses of New York recently passed a resolution on S. 3203 which stated:

Whereas, S. 3203 would authorize and encourage strikes and at the same time destroying compulsory arbitration in contract impasse situations established by New York State Labor Law,

Now, therefore, be it resolved that the House of Delegates of the Licensed Practical Nurses of New York—opposes the passage of S. 3203 in its present form.

Mr. President, I ask unanimous consent that the resolution, as well as the letter and memordanda of the American Hospital Association, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, this bill is an illusion. It offers the prospect of encouraging more disputes and hospital strikes, with the resulting loss of hospital services for the sick and the public in general. Therefore, in the public interest, I urge that this report be defeated in its present form.

EXHIBIT 1

AMERICAN HOSPITAL ASSOCIATION,
Washington, D.C., July 5, 1974.

DEAR SENATOR: As you may know, S. 3203, the bill to extend coverage of the National Labor Relations Act to employees of nonprofit hospitals, as passed by the House contained a 60-day cooling-off period provision which could be utilized by the Director of the Federal Mediation and Conciliation Service—after all other impasse resolution procedures under the NLRB had failed—to help settle a hospital strike which threatens substantially to interrupt the delivery of health care to the citizens of a community or area.

The intent of this cooling-off period is to provide a genuine opportunity for parties at impasse:

1. to resolve a dispute where a work stoppage would likely cause a community emergency;

2. to find an adequate substitute for the negotiation process which had failed; and

3. to achieve all this without either compulsory arbitration or a surrender of the right to strike.

The House/Senate Conference on S. 3203 did not adopt a cooling-off period provision, but instead, approved a labor-sponsored "compromise" to insert an additional fact-finding/mediation procedure into the latter part of a labor-management contract negotiation period. This action completely drops the cooling-off protection of the House-passed amendment and, in fact, could seriously interfere with the present impasse resolution procedures contained in S. 3203 as approved by both House and Senate.

In view of increasing national concern for safeguarding the continuity of patient care interruption in the delivery of essential health care services due to hospital strikes—we would strongly urge you to vote to recommit the conference report when it is brought up for floor action—in order that further conference consideration may result in agreement on a workable and effective cooling-off amendment in the final bill before it is passed by Congress into law.

For your information, I am enclosing a more detailed fact sheet on the labor-sponsored "compromise", as adopted by the House/Senate Conference. In summary, the labor amendment:

1. Is not, in fact, a "compromise";

2. It is not even a cooling-off period—that is a complete misnomer. (In reality, it is an abbreviated 30-day fact-finding/mediation procedure that can only be utilized concurrently with the other impasse resolution mechanisms included in S. 3203. It would be available only prior to contract termination and, therefore, by statute unavailable at any other time!):

3. Thus, by its very terms, it could not protect the public in major health care emergencies caused by labor disputes, e.g., the New York City Metropolitan Area hospital strike last November, or the recent San Francisco Bay Area nurse strike against 40 hospitals; and

4. It would undermine the present Congressionally-mandated mediation period now contained in S. 3203.

From a labor-management relations standpoint, it would be preferable to have no cooling-off provision at all in S. 3203 than to have the labor-sponsored proposal superimposed in statutory language on the present impasse resolution procedures included in the NLRA, as amended by S. 3203.

Also enclosed is a revised 45-day cooling-off period amendment which has been proposed in an effort to find common ground for resolution of the differences between the House and Senate versions of S. 3203—without sacrificing the essential elements of the cooling-off mechanism whenever it might be needed to settle a labor dispute that threatened to disrupt vital health services to a community or area.

Again, I would urge you to vote to recommit the labor-sponsored conference report, so the Conference Committee can work out a genuine cooling-off amendment that will effectively help safeguard the public interest.

Sincerely,

LEO J. GEHRIG, M.D.,
Vice President.

COMMENTS ON THE LABOR-SPONSORED "COMPROMISE" COOLING-OFF PROPOSAL ADOPTED BY THE HOUSE-SENATE CONFERENCE COMMITTEE ON S. 3203

1. The House-passed 60-day cooling-off period amendment to S. 3203 would apply to any strike or labor dispute which substantially threatened to interrupt the delivery of health care to the citizens of a community or area, but only after all collective bargaining procedures provided under the NLRA and in S. 3203 have, in fact, been exhausted. The selective use of this mechanism to attempt to resolve a labor dispute while preserving the

continuity of patient care would be available whenever necessary: in a threatened strike resulting from a bargaining impasse during contract renegotiation, or resulting from a bargaining impasse during negotiation of an initial agreement, or in a strike situation which arises during the period of a contract, but nevertheless threatens to disrupt essential health care in a particular locality.

The intent of the cooling-off period originally enacted by the House was to provide genuine opportunity for parties at impasse: (1) to resolve a dispute where work stoppage would likely cause a community emergency; (2) to find an adequate substitute for the negotiation process which had failed; and (3) to achieve all of this without either compulsory arbitration or surrender of the right to strike.

2. Labor proposed a "compromise", which was adopted by the Conference Committee on S. 3203. This proposal, which in fact is not a compromise (and is not even a true cooling-off period, but is in reality a fact-finding/mediation period), contains two key elements. First, it would permit an abbreviated 30-day so-called "cooling-off" period to take place, but only prior to the expiration date of a contract (or, in the case of bargaining for an initial agreement, during the period for negotiation and notice as provided in S. 3203). Secondly, it would not apply in any way to strikes which occur either after the end of a contract, or during a contract, except for this brief 30-day period just before the end of a contract.

3. Because the Labor "compromise" proposal would be statutorily time-limited to use just before the end of a contract, it would destroy the basic purpose of the House-passed amendment, which is to provide, after all negotiation efforts of S. 3203 have failed, a viable mechanism for fact-finding and focusing community pressures on both management and labor to settle their differences amicably whenever a hospital strike threatens substantially to interrupt the delivery of health care to an entire community.

4. Since the "cooling-off" period contained in the Labor "compromise" cannot be implemented except between 60 and 30 days prior to expiration of a contract, it would not apply in any way to strikes which occur either during the period of a contract, such as the week-long strike in New York City in November 1973, when 30,000 employees struck 48 hospitals and nursing homes during the second year of a two-year contract, or after the contract has expired, as in the recent three-week San Francisco Bay Area strike of 4400 nurses against 41 hospitals and clinics, which occurred several months after a contract period.

5. Additionally, the use of a "cooling-off" period before all existing mechanisms to resolve a collective bargaining impasse have been exhausted would undermine the value of the period of mandatory mediation now called for in both House and Senate versions of S. 3203. This vital mediation period was intended by Congress to be the primary focal point in negotiations designed to encourage management and labor to arrive at a mutually agreed setttlement. The use of a so-called "cooling-off" period before it is even known if an impasse will develop, and before it is known if a strike is likely to occur, can only serve to weaken this important Congressionally-mandated collective bargaining mediation procedure.

The parties would simply wait until after the fact-finders had submitted their report and recommendations, and no serious mediation or negotiation would take place until the final few days prior to contract expiration.

6. In summary, the labor "compromise" proposal of inserting the "cooling-off" period into a time frame before the expiration date of a contract is unacceptable because (1) it subverts the basic purpose of a colling-off procedure by effectively preventing its use in the event of a health care emergency; and, (2) it would undermine the value of the collective bargaining process during the period of mandatory mediation now included in S. 3203. From a labor-management relations standpoint, it would be preferable to have no cooling-off provision at all in S. 3203 than to have the labor proposal superimposed in statutory language on the present impasse resolution procedures included in the NLRA, as amended by S. 3203.

In the interest of assuring that all reasonable steps have been taken to preserve the continuity of patient care for communities across the country, it is strongly urged that the conference report on S. 3203 be recommitted, and a workable and effective cooling-off amendment be included in the final bill before it is passed by Congress into law.

FORTY-FIVE-DAY COOLING-OFF PERIOD AMENDMENT

(f) Title II of the Labor Management Relations Act, 1947, is amended by adding at the end thereof the following new section:

"Conciliation of Labor Disputes in the Health Care Industry; Interruptions

"Sec. 213. (a) If a labor dispute between a health care institution and its employees or a threatened or actual strike or lockout affecting a health care institution is not settled under the National Labor Relations Act, and, in the judgment of an impartial committee, composed of no less than three individuals, appointed once or from time to time by the Director of the Federal Mediation and Conciliation Service for the purpose of making such judgment within 48 hours after the committee is appointed, threatens, if permitted to occur or continue, substantially to interrupt the delivery of health care in the locality concerned, the Director shall create a Board of Inquiry to investigate the issues involved in the dispute and report thereon with findings of fact together with recommendations, with the objective of achieving a prompt, peaceful and just settlement of the dispute. The board shall be composed of such number of persons as to the Director may seem desirable. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the labor dispute and make a report thereon to the Director within 15 days of its creation. No committee or board member appointed under this section shall have any interest or involvement in the health care institutions or the employee organizations involved in the dispute.

"(b) After the creation of such Board of Inquiry and for thirty days after such board has made its report to the Director, no change in the status quo, in effect prior to the expiration of the contract in the case of negotiations for a contract renewal, or in effect prior to the time of the impasse in the case of an initial bargaining or other negotiation, shall be made except by agreement of the parties to the controversy: *Provided, however*, That the notification as provided in section 8(g) of the National Labor Relations Act may be given within the final ten days of the said thirty-day period.

"(c)(1) Members of any committee or board established under this section who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(2) Members of any committee or board established under this section who are not subject to subparagraph (1) of this subsection shall receive compensation at a rate prescribed by the Director but not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including travel for each day they are engaged in the performance of their duties under this section and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

LICENSED PRACTICAL NURSES OF NEW YORK, INC.

This Resolution passed by the House of Delegates of Licensed Practical Nurses of New York, Inc., in the 1974 Convention, at Swan Lake, New York.

Whereas, Licensed Practical Nurses of New York, Inc., is a professional organization of 5,000 LPN's in the State of New York dedicated to the best care and treatment of patients in all health care institutions, and

Whereas, LPN, N.Y., INC. has collective bargaining contracts with numerous hospitals and nursing homes throughout the State of New York, and

Whereas, LPN, N.Y., INC. is vitally concerned with continuing, without interruption or strikes, the care of the sick, the injured and the aged, who are patients in said institutions, and

Whereas, S. 3203 would authorize and encourage strikes and at the same time destroying compulsory arbitration in contract impasse situations established by New York State Labor Law.

Now, therefore, be it resolved that the House of Delegates of LPN, N.Y., Inc. assembled in convention on this 8th day of May 1974, support the right of 1,500,000 employees of non-profit health care institutions to engage in collective bargaining. However, LPN, N.Y., Inc., opposes the passage of S. 3203 in its present form.

LPN, N.Y., INC., urges that S. 3203 be amended so as to require that the National Labor Relations Board cede jurisdiction over employees in such institutions to State agencies where the State law prohibits strikes in such institutions but substitutes instead compulsory arbitration in the event of contract disputes leading to impasse.

Mr. McGOVERN. Mr. President, the conference report on H.R. 13678 and S. 3203, while providing National Labor Relations Act coverage for the employees of our nonprofit health facilities, still falls short of protecting both employees and patients. We have noted in the recent past serious strikes among hospital workers which have seriously endangered the care patients were receiving.

To me, the denial of a 60-day cooling off period jeopardizes the ability of hospitals and nursing homes to maintain continuity of patient care in the event of labor disputes. The creation of a substitute cooling off period which is prior to a contract deadline is unfair to the hospital in its efforts to maintain uninterrupted patient care because the cooling off period is superimposed on a period where negotiations are already taking place and attempts are being made to avert a strike.

I am certainly sympathetic to coverage of these employees by the National Labor Relations Act. It does seem, however, that there should be reasonable opportunity for negotiations which, in the best of cases, might be found unexpectedly difficult.

I am voting to reject the conference report because it omits the 60-day cooling off period.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have no further requests for time.

Mr. JAVITS. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The vote on the conference report is set for 12:30.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, to alert Senators.

The PRESIDING OFFICER. Has all remaining time been yielded back?

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now proceed to vote. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 64, nays 29, as follows:

[No. 292 Leg.]

YEAS—64

Abourezk	Haskell	Nunn
Aiken	Hatfield	Packwood
Allen	Hathaway	Pastore
Bayh	Hollings	Pearson
Beall	Huddleston	Pell
Bentsen	Hughes	Percy
Biden	Humphrey	Proxmire
Brooke	Inouye	Ribicoff
Burdick	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Case	Kennedy	Sparkman
Chiles	Long	Stafford
Clark	Mansfield	Stevens
Cook	McGee	Stevenson
Cranston	McIntyre	Symington
Domenici	Metcalf	Taft
Eagleton	Metzenbaum	Talmadge
Eastland	Mondale	Tunney
Fong	Montoya	Weicker
Gravel	Moss	Williams
Hart	Muskie	
Hartke	Nelson	

NAYS—29

Baker	Byrd, Harry F., Jr.	Dole
Bartlett	Cannon	Dominick
Bennett	Church	Ervin
Bible	Cotton	Fannin
Brock	Curtis	Goldwater
Buckley	Gurney	Griffin
Hansen	McClure	Thurmond
Helms	McGovern	Tower
Hruska	Roth	Young
McClellan	Scott, William L.	

NOT VOTING—7

Bellmon	Magnuson	Randolph
Fulbright	Mathias	Stennis
Johnston		

So the report was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF ATOMIC ENERGY ACT OF 1954

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3698, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3698) to amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, the following request is being made at the direction of the distinguished majority leader and has been cleared with the distinguished assistant Republican leader and with Mr. PASTORE, the manager of the bill, with Mr. JAVITS, with Mr. PROXMIRE, and other Senators:

I ask unanimous consent that time on the pending measure be limited to 2 hours, to be equally divided between Mr. PASTORE and Mr. AIKEN; that time on any amendment to the bill be limited to 1 hour; the time on any amendment to an amendment, a debatable motion or appeal to be limited to 30 minutes; the time on the amendment to be offered by Mr. PROXMIRE to be limited to 2 hours, and that the agreement be in the usual form, with the understanding that an amendment by Mr. JAVITS, which would deal with procedure, would be in order regardless of its germaneness—

Mr. PROXMIRE. Would that be by this Senator and Mr. JAVITS——

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. And that the amendment by Mr. PROXMIRE be in order, likewise.

Mr. JAVITS. Will the Senator yield? It is another amendment I am talking about.

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

The PRESIDING OFFICER. May we have a clarification as to who has the floor?

Mr. ROBERT C. BYRD. Mr. President, I have made my request and the Senators are reserving their right to object.

Mr. GRIFFIN. Mr. President, reserving the right to object, the only reservation I have is the matter of agreeing to allowing amendments to come in on a nongermane basis without knowing what the amendments are. Concerning the amendment of the Senator from Wisconsin, if it is the one we talked about earlier, clearly it would be germane.

Mr. PROXMIRE. Mr. President, this is my understanding, and I assumed it was germane until a couple of minutes ago. I asked the Parliamentarian. He believed that the amendment would be germane, but he has not had the opportunity to study it.

Mr. GRIFFIN. Is it the same amendment?

Mr. PROXMIRE. It is the same amendment. It would simply affect procedure.

Mr. GRIFFIN. Mr. President, with respect to the amendment to be offered by Mr. JAVITS, a procedural matter, I understand that has to do with debate——

Mr. JAVITS. Mr. President, I will explain it. I just wanted to have the right to propose an amendment, if we are left with a formula which at least prevents the 60 days from being eroded away by procedures in the House or the Senate. Indeed, I am hopeful to work it out. That is all I have.

Mr. GRIFFIN. With the understanding that any other amendment would be germane, I withdraw my reservation.

The PRESIDING OFFICER. Is there further objection? The Chair hearing none, it is so ordered. Who seeks recognition?

Mr. PASTORE. First of all, Mr. President, I ask unanimous consent that the following staff members be granted the privileges of the floor: Mr. Martin Donovan, Mr. Edward Bauser, Mr. George Murphy, Mr. James Graham, and Mr. Randall Stevens.

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

Mr. PASTORE. Mr. President, I had hoped in the beginning that we could, in a very, very simple, practical way, resolve the thorny problems in order to lead us down the road of success, rather than end up with a nightmare of a veto by the President of the United States.

Starting way back in 1954, when President Eisenhower made his famous speech at the United Nations advocating atoms for peace, the following year it was my privilege to be selected as a delegate to the U.S. mission to the 10th General Assembly of the United Nations.

It was also my privilege to advance, on behalf of the U.S. Government before the first political committee, a draft resolution that created the International Agency for the Peaceful Uses of Atomic Energy.

Today, more than 100 nations of the world are members of the International Agency for the Peaceful Uses of Atomic Energy. This agency is housed in Vienna, Austria.

Mr. President, over the years this agency has been working assidously—assiduously—in order to provide and promulgate certain safeguard regulations whereby any of the fuel that was given over for reactors by any of the nuclear countries would not be diverted from peaceful uses into the manufacture of weapons.

They have worked at these safeguard regulations. I daresay that up to this day—up to this day—there has not been a single violation in the case of any reactor or any agreement that was made by the United States of America with various foreign countries of the world.

Mr. President, we have negotiated more than 30 of these agreements.

It was announced only recently that in all probability we might enter into a bilateral agreement with Egypt and with Israel—and perhaps later on even with Iran. As a consequence of the announcement that was made by the President of the United States, because of the sensitivities that are involved in the Middle East members of the joint committee became quite concerned with the law as now existing on the books. This is the law on the books, Mr. President.

Under section 123(c), the procedure to be followed is exactly this: The Atomic Energy Commission negotiates with a foreign government a bilateral agreement for the construction by American manufacturers of a nuclear plant in that particular country, and we, by arrangement, provide for the fuel. We provide in the bilateral agreement that all of this operation comes under the surveillance of the standard regulations of the International Agency for the Peaceful Uses of Atomic Energy.

When that announcement was made, because of the sensitivities in the Middle East, as I have already said, many of us thought the law should be reviewed, and I am one of those who were convinced that it should be reviewed.

What is the trouble with the present law under these circumstances? Under section 123(c), when the Atomic Energy Commission negotiates an agreement, that agreement has to go to the President. The President has to review the agreement, and then he has to send it to the joint committee, under section 123 (c), with the assurance that it will in no way risk the national security.

It might be said, "Well, all right, it is sent to the joint committee for 30 days. What can the joint committee do about it?" Under the present law, the joint committee cannot do very much about it. All we do is hold hearings. We have the arrangement inserted in the RECORD, and that is where it stands.

If we wanted to reject it, we would have to introduce a bill. If we introduced a bill, the President of the United States would have to approve the bill. If he disapproved the bill, we would have to override his veto. This raises a very serious situation, because we actually would be disputing the person who has the right of command in the first place.

In view of that, we thought we should do something about changing section 123(c).

Under section 123(d), which is the following section of the Atomic Energy law, in the case of military exchange, this is what happens: Under the law, once the agreement is negotiated by the Atomic Energy Commission and is sent to the President, the President has to send it not to the Joint Committee but to Congress, which in turn refers it to the Joint Committee. That agreement must remain with Congress for 60 days, within which time Congress, by concurrent resolution, can either reject or approve. But if neither happens, it automatically becomes an agreement, after 60 days.

What did we do with the amendment I proposed? We lifted from section 123 (c), which has to do with peaceful applications of atomic energy, all the reactors above 5 megawatts of heat. Why do I make that exception? I make the exception of five megawatts of heat because, first of all, all American reactors that are up to 5 megawatts have enriched uranium and do not produce plutonium. So, rather than have agreements involving reactors above five megawatts of heat come before Congress and be debated, we would leave those as they now are under section 123(c), because there is hardly any danger at all. We would have to be asleep for 15 or 20 years in order for anyone to get that kind of plutonium, in order to make a bomb out of that kind of reactor. That is the kind of reactor we have at many of our universities in the United States. They are research reactors. We have one in Rhode Island. There may be one in Missouri. We have many of them.

What are we doing with the reactors above 5 megawatts? We are saying that in that case, they ought to be treated as we are now treating the military exchange. And what is that?

No. 1, the President has to send it to Congress, with the assurance that it does not involve a risk to our security. No. 2, Congress will refer it to the Joint Committee on Atomic Energy. Within 30 days or sooner, we have to return it to the floor of the Senate and to the floor of the House. Then, within 60 days from the time it is sent up by the President, we have a right, by concurrent resolution, either to reject or to approve.

If we do neither, in that particular case, if both branches cannot agree, then automatically the administration, or the Presidency—and I am not talking about President Nixon now; I am talking about the Presidency—will be given the benefit of the doubt, and it will become a consummated agreement.

The question might be asked as to why we do not go the whole way, as Senator PROXMIRE and some other Members of Congress would like us to go, and say, "Oh, no, unless we definitely approve the agreement, it cannot become an agreement."

I have never been a crystal-ball gazer, but I have been around for a long time. I have been in public life for 40 years. I have been a member of the Senate for 24 years. I think I am a pretty good judge of what is going to happen. If it is done the PROXMIRE way, it will be vetoed by the President. Frankly, if I were the President, I would veto it, too, because it would be handcuffing the President, and that should never be done.

I think that Congress should be a partner, that Congress should have a right to debate it, that Congress should have a right to make up its mind. But if Congress cannot make up its mind in 60 days, then we should say to the President of the United States, "You have the benefit of the doubt." That is what it amounts to.

I am not talking about one President as against another. I have served under five Presidents. I have agreed with some, and I have disagreed with most, whether Republican or Democrat.

Mr. President, that is what this is all about. I think it is a practical, sensible way of correcting something that needs to be corrected. If we become too dogmatic, if we become too extreme, if we allow ourselves to be carried away by false fears, we are going to end up, I am sorry to say, with the law the way it presently is. Frankly, that is a dangerous situation, because Congress will have no alternative but to pass a bill to reject, which has to be approved by the President. It is hard to imagine that that ever will occur.

It might be asked of me, "What have you done?" I have taken the course that I think is the practical solution. I do not believe I have created a nightmare. The bill that I introduced was supported by every member of the Joint Committee, Republicans and Democrats alike.

It was voted on unanimously by the entire committee of 18 members—nine from the House and nine from the Senate.

We are halfway to success. All I am pleading to the Senate, at this 11th hour, is not to spoil it—just do not spoil it. I question no one's motive. I question no one's sincerity. But if we begin to monkey around with this amendment today, we are going to end up with zero.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I welcome the opportunity to speak on S. 3698, a bill to amend section 123 of the Atomic Energy Act. I am a cosponsor of this measure and strongly support the right of Congress, and particularly the Senate, to express its will on international agreements of such potential import. As a member of the Joint Committee on Atomic Energy, I have become increasingly aware of the respective benefits and liabilities inherent in the use of nuclear power.

The benefits to a world confronted by an ever-increasing energy shortage are obvious. But, the liabilities are not; and the detonation of a nuclear device by India last May is tragic proof of the need to not only reexamine the potential hazards associated with all so-called peaceful applications of nuclear energy, but also to renew our efforts on behalf of nonproliferation.

The measure pending before the Senate would clarify and enhance the right of either House to concur or disapprove of proposed international cooperative agreements. This measure is particularly timely in that the number of States in possession of nuclear weapons has increased for the first time in 10 years, and the President has proposed the introduction of nuclear power reactors in what must still be considered the most unstable part of the world. Thus, it is entirely appropriate that proposals of this nature be considered by the Congress prior to their implementation. Indeed, it has been suggested by some that the agreements be formally submitted to the Senate for ratification as treaties.

Although I can sympathize with such a proposal, I would oppose it because of the unique method by which atomic

energy matters are considered by the Congress. That method consists of the Joint Committee on Atomic Energy, created and empowered by the Atomic Energy Act of 1954, as amended. In view of the fact that the Atomic Energy Act has provided for the consideration of this subject by both Houses simultaneously, I believe it would be inappropriate for the Senate, at this point, to assert its right to advise and consent on treaties. Rather, I prefer the approach offered by the distinguished Senator from Rhode Island, and presently pending before the Senate, empowering both Houses to concur or disapprove of proposed international cooperative agreements.

It is essential, in my judgment, that both Houses be involved in the consideration of this issue because of its complexity and potential impact on the stability of the world. That stability, as it relates to the possession and deployment of nuclear weapons, has been strengthened in the last 10 years by the conclusion of a number of bilateral and multilateral arms control agreements. Foremost among those is the Nuclear Non-Proliferation Treaty concluded in 1968, and implemented in 1970. The intent of that treaty is to prevent the further spread of nuclear weapons to nations which do not already possess them, as well as providing for the appropriate safeguards to prevent the diversion of peaceful plutonium into weapons production.

Thus far, over 100 states have signed the treaty and over 75 have ratified it. Nevertheless, the Indian nuclear test must be considered a significant setback to the cause of nonproliferation; and it would be reasonable to assume that further setbacks are likely unless international efforts to tighten control of nuclear energy are augmented.

This is not to say that we have failed to make significant progress in the area of safeguards, for the International Atomic Energy Agency has done a remarkable job of concluding safeguard agreements with both signatories and nonsignatories of the nonproliferation treaty. Moreover, the IAEA is constantly in the process of improving its own methods of inspection and monitoring. However, their resources are limited; and immediate consideration should be given, in my judgment, to the necessity for increasing the resources of the IAEA on a multilateral basis, so that they might continue to adequately discharge their growing global responsibilities.

I also firmly believe that new incentives must be found to encourage nations which are not party to the Non-Proliferation Treaty to sign and ratify the agreement. It should not be done through super-power threats or coercion, but rather by reasoning with those who possess the capability to develop weapons and reducing the tensions which might prompt those nations to pursue such a policy.

Proposals to require nations to ratify the NPT before receiving nuclear power technology are commendable, but impractical. They are impractical, because the most likely result of requiring ratification in return for power reactor technology is to send the prospective recipient elsewhere to buy the necessary material and equipment. This is undesirable for not only commercial reasons, but primarily because other nations may not impose as strict a level of safeguards as the United State requires. Indeed, if a nation is determined to devleop nuclear power, I would prefer that they acquire the technology from the United States with our accompanying safeguards.

It is neither realistic nor desirable to expect that the United States would be the only nation capable of exporting nuclear power reactor technology. In fact, there are probably more than 10 nations that have that capability at the present time. What would seem important is not to discourage the sale or transfer of such technology by these nations, but rather to urge the adoption of the strictest safeguards practicable as part of any and all bilateral agreements. This is particularly important when such agreements are concluded between two nonsignatory nations.

Although we have long passed the point where we could effectively control all applications of atomic energy, we can and must continue to endeavor to prevent the wholesale proliferation of nuclear weapons. This can be done, in my view, by continuing to reduce the reasons why States would pursue such a policy, and in the meantime, urging broader adoption of the strict level of safeguards presently required by the United States and the International Atomic Energy Agency.

Mr. JACKSON. Mr. President, I support the passage by the Senate of S. 3698, which amends the Atomic Energy Act of 1954 to permit the Congress to concur in or disapprove of any international agreement providing for the export of a nuclear reactor capable of producing more than 5 megawatts of thermal energy. My colleague, the distinguished Senator from Rhode Island (Mr. PASTORE), is the author of this bill, and he is to be congratulated for the clear and timely manner in which it deals with the issue of Congressional authority over this program. An identical bill, H.R. 15582, has been introduced in the House by Chairman PRICE and is before the House Rules Committee today. I would expect that the House would give full consideration to this legislation at an early date so that congressional action could be completed soon, certainly well before the completion of the negotiations for the agreements for cooperation with Egypt and Israel which will govern the acquisition by each of these countries of a 600 megawatt, electric, nuclear power reactor to be provided by the United States.

It is the announcement of these negotiations, coming less than a month after the May 18 detonation of a 14-kiloton device by India, that has focused national attention on the proliferation of nuclear technology. The Mideast has been a tinderbox, producing major conflicts between national armies twice in the last 7 years, numerous threats of military action by a number of Mideastern nations and a background of recurring terrorist activity involving a confusing jumble of organizations, some of which operate in a manner which is almost totally clandestine. The Indian nuclear explosion makes it clear that the ability to construct a nuclear weapon is not limited to just those countries with a highly developed technological base. In fact, the sorts of expertise and funds which are available to subnational organizations or even terrorist groups are sufficient to lead to the production of a nuclear explosive device if and only if these persons are able to acquire enough fissionable material to produce a critical mass.

The availability of this material is the key to the proliferation of nuclear weapons. So it is not surprising that national debate should be provoked by proposals by the United States to make nuclear technology and fissionable materials available to two countries who, within the space of only the past year, were at war with each other.

Until now congressional responsibility for the possibility that the export of nuclear technology for peaceful uses might act to increase the proliferation of nuclear weapons has been slight. The Atomic Energy Act provides for congressional veto of an individual project only in the case that what are clearly military applications of atomic energy are involved in the project. However, recently the inevitable connection between the peaceful uses of energy generated from nuclear fission in reactors, for such purposes as basic research, desalinization of water, the generation of electric power, and the potential for destructive uses involving nuclear weapons or radioactive contamination has been widely recognized.

There are two important links which provide the connection between the destructive potential of nuclear fission to its peaceful uses. Because of this connection, passage of the legislation before us today is essential in order that the Congress play the role it should in controlling the diffusion by the United States of any nuclear technology which has a potential for destructive use.

The first important link in the connection is plutonium, an element available to us in significant quantities only as a byproduct of the operation of a uranium-fueled reactor. This element is always contained in the used fuel rods of such a reactor.

Plutonium is easily fissioned and can itself be reprocessed for use as reactor fuel. The element is extremely toxic, comparable to anthrax in its effects when absorbed into the lungs or the blood stream. More importantly, however, plutonium can be separated from spent reactors' fuel with far less effort than is required to enrich uranium and it can then be used to produce a nuclear explosive. Thus wherever uranium-fueled reactors operate, plutonium is produced, and the potential to separate it for use in nuclear weapons exists. Each of the reactors planned for Egypt and Israel will produce enough plutonium each year they operate for at least 20 nuclear explosive devices.

The second link in the connection is the inevitable spread of scientific knowledge and technological know-how. The

most important result of the enormous research efforts that went into the Manhatten project to develop a nuclear explosive is known by nearly everyone. That is that nuclear weapons work. Since the explosion of the first bomb the understanding of nuclear processes has grown and spread in a way which could not have been stopped. Today the scientific expertise and technological know-how required to mount a successful effort to produce a nuclear explosive device exists in nearly every area of the world.

The combination of circumstances under which the United States places fissionable material essential to the production of nuclear weapons in the proximity of groups with the ability and the inclination to use those materials to actually fabricate the weapons cannot be ignored by the Congress. Congressional concurrence with the details of each such arrangement must be made essential in order that any export of nuclear technology may go forward. The bill offered today by Senator PASTORE and cosponsored by every Senate member of the Joint Committee on Atomic Energy, myself included, insures the Congress of an opportunity to scrutinize each of these proposals with the utmost care.

With passage of this bill the job of the Congress begins. It is evident that the time is ripe for a searching and careful review of our programs for the export of nuclear technology and for a fundamental analysis of the risks and benefits associated with these programs. Accordingly, I was pleased to note in the June 14 Federal Register that the Atomic Energy Commission has announced that it is preparing an environmental impact statement on its International Nuclear Power program. Hopefully, this study in the context of the export of nuclear technology will weigh carefully the alternatives to nuclear power, its economic advantages and disadvantages, and will assess the magnitudes of the inherent risks associated with the proliferation of nuclear technology, such as the standards to be applied in foreign countries for reactor construction and operation, the potential for diversion of fissionable material by national and subnational groups and all measures which are essential to prevent the use of nuclear fission by participants in the program for destructive uses.

But over and above the overall and general analysis to which the AEC and the Congress, acting independently, must subject to International Nuclear Power program, the specific sales of power reactors to Egypt and Israel must receive special and individualized analysis discussing, at minimum, the issues involved in any general analysis. Each of the programs placing the enormous potential for destructiveness in the hands of a foreign power must have the full and careful consideration of the Congress and the public before it is to go forward on a case-by-case basis. A vote today for passage of S. 3698 is the first step in obtaining such a detailed analysis of the program supplying the Egyptian and Israeli reactors. In the months ahead, it will be the duty of the Congress to see that the full story with regard to the program in general and these sales in particular are brought before the public.

Mr. HART. Mr. President, in recent months, Members of Congress and others have repeatedly called for Congress to exercise more influence on the great policy questions that affect the Nation and the world.

Not surprisingly, such calls for leadership are greeted with applause by most Senators and Congressmen.

This is not the moment for a general discussion on what type of leadership Congress can give, but it is the moment for us to take a narrow but important stand on a question of vital importance to this and other nations.

The question, simply put, is whether Congress should have a full voice in approving agreements to send nuclear technology abroad.

A decision to sell or donate such technology in other countries will have wide ramifications.

We, of course, must ask ourselves what safeguards, if any, can be constructed to insure that such transactions will not speed the proliferation of nuclear bombs to nations big and small, stable and unstable.

We must ask ourselves the wisdom of exporting a device which must operate perfectly for its lifetime to nations with limited technological skills.

And we must ask ourselves the morality of sending abroad technology which is yet to be accepted as completely safe in this country.

These are the types of questions that Congress should have a full voice and responsibility in deciding, for the answers could move those hands on the nuclear destruction clock still closer to midnight.

S. 3698, as reported to the Senate floor, gives the Congress half a voice in making such decisions, for only a negative vote by both Houses of Congress could kill such an agreement.

If we required a positive vote of both Houses on the most minor of bills, I do not see the logic of permitting such important decisions to be approved by just one branch of Congress. To accept that approach is to suggest either that Congress cannot act responsibly on such questions or that somehow Congress should not have a leadership role equal to that of the executive branch on such questions. I reject and think the Senate and the House should reject that position.

Rather, we should adopt the amendment now before us which would require an affirmative vote by both Houses of Congress before an agreement to export nuclear technology could be be carried out.

I am aware that there is concern that under such an approach a filibuster might kill a nuclear transaction which a majority of both Houses approves. It is my understanding that the amendment goes far to forestall this possibility.

So I urge the adoption of the amendment.

On the question as to whether any type of nuclear transaction should be excluded from the bill's coverage, it is my understanding that the Senate Banking, Housing, and Urban Affairs Committee will consider that issue in connection with legislation dealing with exports. In voting for this bill, I do not support the exemption of any type of nuclear transaction and will support future efforts to close that exclusion.

Mr. KENNEDY. Mr. President, during the past 2 months, a number of events have again raised serious concern about the possible spread of nuclear weapons around the world.

First, on May 18, India tested a nuclear device, thus becoming the world's sixth nuclear power. There is little doubt that the plutonium used by India came from a nuclear reactor acquired from Canada. Canada claims that India violated the agreement between the two countries limiting the uses of the reactor to peaceful programs. India denies this, claiming that its nuclear detonation was, indeed, peaceful.

Nevertheless, the widely held belief that firm safeguards existed against the diversion of nuclear materials from reactors to the manufacture of explosives, has proved false. Another country has "gone nuclear," smashing international efforts to limit the size of the nuclear club.

Second, at the recent summit, the administration passed up the chance to press for a comprehensive test ban treaty, despite clearly expressed Soviet interest in such a treaty. Instead the two powers concluded a limited threshold treaty, which does nothing to convince nonnuclear nations that the superpowers truly intend to limit their own nuclear arms race. It does nothing to erect new barriers against the spread of nuclear weapons.

Third, last month the United States agreed to sell nuclear fuel and reactors to both Egypt and Israel. Since then, a number of disturbing questions have been raised about the wisdom of these agreements. Whatever the safeguards placed on these reactors and materials, these agreements must inevitably raise doubts in the minds of Middle East leaders about the prospects for stability in that part of the world. This is particularly so in light of India's recent diversion of nuclear materials for explosive purposes, despite what Canada believed to be safeguards against just such an event.

Finally the Export-Import Bank last week announced a $176 million loan to Yugoslavia for the purchase of a large nuclear reactor, thus continuing the U.S. policy of almost routine approval of the spread of nuclear technology, reactors, and fuel.

Each of these recent events must lead to a simple conclusion: that the continuing transfer of nuclear technology, ostensibly for peaceful purposes, has raised grave issues that must be thoroughly debated by the Congress and the American people. These issues are too important to be decided by one branch of Government alone. They are too important to be decided on a business-as-usual basis. Secretary of State Kissinger has rightly called for a national debate on the major issues of our nuclear relations with the Soviet Union. But at the same time, there must be a

national debate on the whole range of issues that relate to the deadly spread of nuclear weapons around the globe.

Mr. President, I am pleased that Congress has moved swiftly to consider this issue. I commend the distinguished Senator from Rhode Island (Mr. PASTORE) and his colleagues on the Joint Atomic Energy Committee for their prompt action in preparing this legislation. By establishing tighter provisions for congressional review of proposed agreements involving nuclear technology, this bill is a move in the right direction. It will give Congress a greater opportunity to exercise its responsibilities in the making and execution of American foreign policy.

Therefore, Mr. President, I urge the Senate to support this important legislation.

The PRESIDING OFFICER (Mr. HATHAWAY). Who yields time?

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. Mr. President, I ask unanmious consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 2, line 3, immediately before "a period" insert "to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate and (1)."

On page 2, beginning with "but" in line 7, strike out all down through line 18, and insert in lieu thereof the following: "and (2) both Houses of Congress have, within such sixty day period and pursuant to the procedures specified in section 132A, agreed to a concurrent resolution approving such proposed agreement for cooperation. In computing such sixty day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days. Prior to the elapse of the first thirty days of any such sixty day period, the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed agreement."

On page 2, between lines 18 and 19, insert the following:

SEC. 2. Chapter 11 of the Atomic Energy Act of 1954, as amended, is amended by inserting after section 123 a new section as follows:

"SEC. 123A. Congressional Action on Proposed Cooperative Agreements.—

"a. This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rules of each House, respectivley, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they supercede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"b. For the purpose of this section, 'resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress approves/disapproves of the proposed agreement for cooperation described as follows: .', the blank space therein being appropriately filled and either approval or disapproval being appropriately indicated; but does not include a resolution which specifies more than one action.

"c. A resolution with respect to a proposed agreement referred to in section 123d. shall be referred to the Joint Committee, by the President of the Senate or the Speaker of the House of Representatives, as appropriate.

"d. If the Joint Committee has not reported a resolution which has been referred to it at the end of 30 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of such resolution.

"e. A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"f. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"g. When the committee has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"h. A resolution with respect to a proposed agreement referred to in section 123d. agreed to by one House of the Congress shall be placed on the calendar of the other House and shall become the pending business of such other House immediately upon agreeing to a motion, made by any Member of such other House, to proceed to the consideration of such resolution. Such a motion shall be in order at any time after the elapse of three calendar days following the day on which such resolution is received by such other House. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to reconsider the vote by which the motion is agreed to or disagreed to.

"i. Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"j. Motions to postpone made with respect to the discharge from committee or the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

"k. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate."

On page 2, line 19, strike out "Sec. 2" and insert in lieu thereof "Sec. 3".

Mr. PROXMIRE. I yield myself such time as I may require and I ask unanimous consent that Ron Tammen of my staff be allowed to remain on the floor during the remainder of the debate on this amendment and the vote on the same.

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

Mr. PROXMIRE. Mr. President, the purpose of my amendment is to close a gaping loophole in the bill which would allow the President to thwart the will of the Senate or the House of Representatives and to conclude international agreements without Congress following the normal procedure for issues of this importance.

BACKGROUND

A few words of background are necessary. On June 25 I offered an amendment to the extension of the Export Administration Act which would have required a vote by both houses of Congress before any proposed agreements of cooperation were put into effect. Such a change in procedure was desperately needed since over 30 international nuclear reactor agreements had been concluded without a single vote in either vote on Congress. Not one vote on these measures. The executive department simply submitted the proposed agreement to the Joint Committee and after 30 days it was put into effect.

After I announced my intent to bring my amendment to a vote, the Joint Committee on Atomic Energy met to approve its own version of a similar measure. That bill is the one before us today. I withdrew my amendment when it became clear that the Joint Committee bill would be voted upon early. During the debate on the earlier amendment it was pointed out that quick action was required in view of the impending action by the Atomic Energy Commission to enter into contract with Egypt and Israel for nuclear fuel.

Those fuel agreements have now been concluded and the administration is one more step down the road to implimenting these international agreements without the consent of Congress.

S. 3698 CONTAINS LOOPHOLE

The bill before us is deficient in one meaningful way. It will allow the President to work around a divided or uncertain Congress.

Let me give an example. Let us presume for a moment that the President proposes an agreement of cooperation with Cuba that would ship U.S. nuclear technology to that island in exchange for some quid pro quo. And let us further presume that the House of Representatives, for whatever reason, decides that the President's actions are wise.

But the Senate, in its wisdom decides that it cannot go along with the President this time. Then what would happen under S. 3698?

The proposed agreement would go into effect. Since it takes a negative vote by both Houses of Congress under 3698 to kill any proposed action by the President, there can be a substantial dispute between the two bodies and the President will have his way.

Now let us be honest about these proposed agreements of cooperation. These are treaties by any other name. They are international agreements with wide-

spread ramifications if the immediate past is any indication. Under the provisions of the AEC Act section 123(d) which S. 3698 amends, military technology as well as civilian technology is exported to foreign countries. Therefore the Senate under certain conditions could object to the transfer of nuclear technology to a foreign country and still see that technology transferred regardless of its opposition.

That is the loophole that is allowed under the proposed bill.

WHY GIVE UP AUTHORITY TO THE EXECUTIVE BRANCH?

What we have here is a question of basic congressional responsibility that for too long has been dormant. It is time to reassert that right which is ours to jointly determine foreign policy with the executive branch.

Congress has been at the mercy of a powerful executive for years. I am not talking simply about President Nixon. It has been true through the administration of a number of Presidents.

We have been at the mercy of a powerful Executive that finds ways to reach agreements that in effect are treaties but without a corresponding vote in Congress. We must resist the temptation to legislate only one-half of our responsibilities. Why should we willingly give up the power of positive consent in these matters of international relations? Why should we voluntarily hand over to the administration a portion of our powers by saying that a split opinion or inaction by either body means consent to go ahead with any proposed agreement?

In my view, Mr. President, this is not the way to legislate on something as important as the proliferation of nuclear technology.

Mr. President, there can be no doubt that we need corrective legislation.

The Atomic Energy Commission and its Chairman recognized that, that is why they brought the bill up today. I think this bill is a step in the right direction, but it is not enough.

Why should not the Congress have the same authority it has with everything else we have passed?

Why should either House be stopped from effectively acting in a matter as grave as exporting nuclear technology?

This bill is a step in the right direction. But it contains such a glaring loophole that it is difficult to support this bill even though it does provide a required remedy. Unfortunately the established procedure is flawed and that is the fatal mistake in this legislation.

The Proxmire-Javits amendment to this bill would correct this flawed procedure in a very simple way. Instead of requiring a negative vote by both Houses to kill a proposed agreement of cooperation, I would substitute the requirement of a vote of approval in both Houses before any proposed agreement could go into effect. Instead of legislating by inaction or legislating by division of opinion, there would have to be a clear statement by both Houses of Congress that they approve such an agreement.

This would restore the proper balance and perspective to the process. This would give us the basic rights which belong to the Senate. And I might say it would allow the House of Representatives to participate directly, and in the same manner as the Senate, in the international decisionmaking process.

Now, Mr. President, to refer to part of the amendment that was not read, but is, I think, very important.

Mr. PASTORE. Could I ask the Senator a question?

Mr. PROXMIRE. Yes.

Mr. PASTORE. What if both branches of the Congress did not agree under the Senator's amendment, what happens then?

Does it not kill it?

Mr. PROXMIRE. That would kill the proposed arrangement——

Mr. PASTORE. In other words, the Senator is talking about inaction. In other words, by inaction a good negotiated agreement could be killed.

Mr. PROXMIRE. The Senator is correct insofar as an agreement could be killed.

Mr. PASTORE. Of course I am correct.

Mr. PROXMIRE. I would say kill it, if it was a bad agreement.

Mr. PASTORE. I know, but the Senator has been saying it should not become anything through inaction. Now the Senator's proposal is saying, you see, I have got an instigation in there, I am saying that now we act in 60 days, one way or the other, and if we do not, then we pay the consequences, then we do not have the authority to complain because we have been inactive. We refused to carry out the responsibility.

But under the Senator's amendment all there is to do is stall this thing and stall it and do nothing at all, and end up with nothing.

Mr. PROXMIRE. Mr. President, I have the floor, let me say——

Mr. PASTORE. I know the Senator has the floor.

Mr. PROXMIRE. Mr. President, it is not that we cannot stall and stall it. As a matter of fact, as I understand it—I have not had a chance to study the measure completely, but I am advised by other Senators that the stall is possible under the Pastore proposals. It is not possible under my proposal.

It is true, however, that if either House votes against permitting the export of this technology, it does not take place.

The difference between the Senator from Rhode Island and the Senator from Wisconsin is that the position taken by the Senator from Rhode Island is that if there is inaction, then this measure will take effect.

Mr. PASTORE. And give the benefit of the doubt to the President.

Mr. PROXMIRE. The position taken by the Senator from Wisconsin is, if there is inaction by either House, it does not take effect.

Mr. PASTORE. That is right.

Mr. PROXMIRE. So that in either case, inaction can be effective. The Senator's point is valid. I accept it, but the point I want to stress is that his should not take effect unless we get positive affirmative action by the House and the Senate.

The position taken by the Senator from Rhode Island is that this should take effect unless both houses say it should not.

ANTIFILIBUSTER PROVISION

Mr. President, the amendment contains a second major provision. It has an antifilibuster provision. The effect of this antifilibuster language is to force a vote on any proposed agreement during the 60-day waiting period without the threat of an extended debate.

It would not be possible by inaction to kill the bill if my amendment passes. It would only be possible to kill the bill by the Senate or the House voting against it. In a sense, this is inaction because the House or Senate cannot agree.

The Senator from Rhode Island is right about that, but there must be a vote. Under my amendment, a nuclear agreement is not killed by a filibuster, it is not killed by delay, it is not killed by not coming up, there must be a vote under the amendment I provide.

The language is taken mainly from the D.C. home rule bill, and I am sure all Senators know how it works. Basically after 30 days, the joint committee is required to submit a report to the Congress of its views and recommendations respecting the proposed agreement of cooperation.

If the joint committee has not reported out a resolution within 30 days of the time one is submitted to the committee, a discharge motion can be made and is limited in debate to 1 hour. Following that, a nondebatable motion to consider the resolution is in order followed by a time-controlled 10-hour period of debate on the resolution itself.

This procedure will insure that any resolution of a proposed agreement of cooperation will be debated upon by both Houses and that only a vote of approval will allow the resolution to go into effect.

So let me reiterate once again, it cannot be killed by delay in the Senate. It is not something that a Senator or a group of Senators can filibuster. This amendment would not permit that. Nor can any House Member, House committee, or House group pigeonhole it or kill it. The Senator is correct, that either House could vote against it, and by that kind of "inaction" it would not take effect.

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

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. Mr. President, has the Senator given any consideration to the problem of the proliferation of plutonium? The Senator from Rhode Island is vice chairman, next year will be chairman, of the Joint Atomic Energy Committee. I know that he knows only too well the problem that is developing because of the proliferation of plutonium.

There was an article published Sunday in the Washington Post, which made some interesting points about the growing danger incident to plutonium being spread all over the world. We now have information that a large majority of the wealth of the world, fiscal and monetary reserves, will by 1980 be in the hands of the oil-producing countries, and therefore available for them to continue to develop plutonium production, which we will all agree is probably the most dan-

gerous material in the world today. It could replace gold as a unit of value in various countries.

What would be the objection to having an agreement of this character subject to treaty?

Mr. PROXMIRE. Mr. President, I would be delighted to do that. I would be in favor of it. I think that would make it more difficult than my amendment does to get it enacted, inasmuch as, as the Senator knows, it would require a two-thirds vote: It would be subject to filibuster and it could be delayed by one-third of the Senate, therefore, in two different ways.

But I would agree with the Senator that it is of great importance. Let me put it this way. I can think of very few, if any, agreements that would be more important than agreements to provide for transfer of nuclear energy or nuclear power. So I would agree that a treaty might be an advisable way.

However, as the Senator knows very well, the House of Representatives has been in partnership with the Senate in this matter. So I am taking the position that both the House and the Senate should approve.

As I say, I can imagine a situation in which we could pass this kind of an agreement by a majority vote of both Houses, but could not get it past two-thirds of the Senate. It would be very rare that something would pass two-thirds of the Senate and be blocked in the House of Representatives.

So my proposal would not go so far as the Senator from Missouri suggests, but it would serve a similar end result.

Mr. SYMINGTON. The Senator's point about House participation is very well taken. I would point out that the French, according to press reports, have sold to a foreign country four reactors. France has neither ratified nor signed the Nonproliferation Treaty; and if these reactors are as large as press reports indicate the country in question, from those reactors alone, could make several bombs of Hiroshima size per day, if they made full arrangements to obtain the plutonium residual in the waste, this based on the size of the reactors.

What worries me is extensive proliferation of plutonium. I have the greatest respect for my chairman of the Joint Committee, and would appreciate his comments.

Mr. PROXMIRE. I am happy to yield to the Senator from Rhode Island for that purpose.

Mr. PASTORE. Mr. President, I will respond on my own time. Naturally we are all very much concerned with this. We are dealing with a very risky substance; there is no question at all about it. I hope the joint committee is not being misunderstood with regard to this. We have held 89 meetings and 89 hearings on this whole subject. We do that every day behind closed doors; it goes on ad infinitum. We are very careful, very cautious, and very much concerned about safeguards.

There is nothing in my bill or in Mr. PROXMIRE's bill that precludes sending up a treaty. The only trouble with that is, it will go over to the Foreign Relations Committee. I have no fault with that, because it may involve a matter of policy; but Senators will have to admit that the joint committee has the expertise necessary in making sure we have proper safeguards. We have been dealing with this thing since 1954.

We have sold, all over the world, power-producing reactors that now produce 7 million kilowatts of electricity. Let me tell the Senate what 7 million kilowatts of electricity will do. It will light up the entire city of New York. Further there are now under construction in these foreign countries, or on order, U.S.-type reactors with a total capacity of 75 million kilowatts, which means enough electricity to light up 10½ cities the size of New York.

That is a lot of power.

Mr. SYMINGTON. Mr. President, will the Senator from Wisconsin permit me to ask a question of the Senator from Rhode Island?

Mr. PROXMIRE. Yes, indeed.

Mr. SYMINGTON. Would the rejection of an agreement of this character, requested by the administration, require the approval of both Houses, or would one of the Houses, if it rejected the agreement, be enough?

Mr. PASTORE. Unless both Houses approved or rejected it—they have the privilege to either approve or reject, and my guess is that if it is a good agreement they will approve and if it is a bad agreement they will reject it—they are going to follow the recommendation of the joint committee, and I think both Houses will work in unison, because we have a committee composed of nine Members of the House of Representatives and nine Members of the Senate. I do not think the potential trouble is there. But it is true that we have to get the approval, one way or another, of both Houses in order to either effectuate or reject the agreement.

Mr. PROXMIRE. That is the difference between the position of the chairman and my position, in that I feel it is essential that we get a majority vote of both the House of Representatives and the Senate before this measure is approved, which I think is essential.

Once again, it must be remembered that this amendment does not deal with the substance of the bill before us. It simply corrects a procedural flaw that at times would allow the will of the Senate or House to be circumvented by executive action. And we cannot allow this to happen when the issue involves the transfer of nuclear technology or weaponry.

What we are dealing with here is no less than the potential power to blow entire nations off the map. I recognize that there are safeguards and that many people feel they are adequate.

But, Mr. President, as this technology becomes more and more common, as 30 countries, then later 40 countries, and then later 100 countries acquire this capability, I think we are kidding ourselves if we do not proceed with the greatest caution and the greatest care. We are going to have to be extremely fortunate if this material does not fall into the hands, either of a country headed by an irresponsible, reckless, military dictatorship, or into the hands of fanatics who are able to steal it or find a way to fabricate it and be able to threaten this country in a way that is almost beyond imagination.

The other day there was an explosion in Pittsburgh by this violent group, the Weathermen, in which they blew up an entire floor of a building. Fortunately, through a miracle, nobody was hurt. If they could get plutonium, and in the event that somehow they could get their hands on a nuclear device, it is conceivable they could blow up an entire city.

This is not a matter of frightening anybody. It is a matter of looking at the facts, looking at what might happen, recognizing the tremendous importance of exercising the greatest possible care and discretion. And it would seem to me it would be far better to err on the side of proliferating less, disseminating this enormous and dangerous power less, than to err on the side of proliferating it too much. And my amendment is a cautious amendment.

There are reputable scientists who think the safeguards are not adequate in any sense and that shipment of this technology abroad will mean the inevitable development of nuclear weapons by many countries.

How can we allow such transfers to take place when there is a bitter dispute between the two Houses of Congress? How would this body feel if the President were able to ship nuclear technology to some country in total opposition to the will of the Senate?

This is not only possible under the present bill, but would actually be encouraged by the requirement for dual negative votes. The White House would be in the position of being able to successfully lobby only one House of Congress to work its will.

Mr. President, at a time when many nations of the world are considering developing atomic weapons and the Non-Proliferation Treaty is without widespread support, how can we stand by and say to the executive department, "Here is a loophole—exploit it?"

The best procedure is to have a vote of approval in both Houses before any proposed agreement is entered into. This will allow the will of the American public to be expressed in a straightforward manner by all the elected public officials of Congress.

Mr. President, the chairman of the Joint Committee has made one argument—and I listened to his speech as carefully as I could. He made one principal argument against this amendment, and that argument is that if we pass this amendment the bill would be vetoed.

Mr. President, maybe it will, maybe it will not. I have been in a housing conference all morning in which we were told by the House that unless we knuckled under and gave the administration the kind of housing legislation they want we will get a veto.

I think our duty here is to determine this on our own responsibility. It is possible the President will veto the bill the chairman of the Joint Committee proposes to the Senate this afternoon. Maybe he will, maybe he will not. He

probably will not. He may sign the bill I have proposed. In the event he does veto this then, it seems to me, the Senate can either try to pass the bill over his veto or can then proceed to enact legislation that the Senator from Rhode Island is proposing here.

Mr. President, at any rate, the Senator from Rhode Island argues, that the President knows better than the Senate, since the Senate can enact legislation against a proposed agreement and still have it go into effect. I do not know whether the President knows better than the Senate or not. Maybe he does. He may well know better. This may be true whether it is President Nixon or some other President. But when in doubt on something like this, it seems to me that the overwhelming majority of the American people would vote for caution, vote on the side of the body—whether it is the executive branch or the House or the Senate—on the side of those who say, "Let us not proliferate; let us not make this available; let us not take the chance."

Mr. President, I reserve the balance of my time.

Mr. PASTORE. Mr. President, I might take just a moment to say that I never said that the President knows more than the Senate. As a matter of fact, I have made a lot of speeches on that. The fact still remains that maybe the Senate would reject it and the House would approve it, and then we would have a contest as to whether the House is right or the Senate is right.

All I am saying is this: After all, under the Constitution the President of the United States has the right and the responsibility to conduct our foreign policy. No one disputes that. All I am saying is that what we have now on the statute books is nothing—let me repeat, nothing. If the Egyptian agreement came up tomorrow it would go to the Joint Committee on Atomic Energy for 30 days, and that is where it would stay—let me repeat, that is where it would stay—and if we did not like it there is nothing one could do except to pass a bill, and the bill would have to be signed by the President, who sent up the agreement. That is all I am saying here, and we have a chance to do something about it.

There has been a discussion here that it ought to be debated on the floor of the House, it ought to be debated on the floor of the Senate. That is what my bill is permitting; that is what we want.

If it is a good agreement it ought to be approved. If it is a bad agreement both Houses ought to reject it. Of course, we get into this game of whether the House will do it, whether the Senate will do it. The fact still remains that here we are, we have nothing, nothing under the present law, and the one chance we have to do something about it is if we pass the bill that was suggested by the Joint Committee.

If we go the extreme way—and I have no real objection to it if I thought for 1 minute it could become the law—we have got so much razzmatazz in there, we have got in there about anti-filibuster, what is that going to do on the floor of the Senate? The minute we say "filibuster" around here we scare half of the Senators out of the room.

All this came about because of the Egyptian matter, and everybody knows that we have a very sensitive problem, and the name of the game here is standards—safeguards; that is the name of the game.

Now, the Senator is talking about a government in the hands of terrorists. Well, I was the father of the resolution that led to the Nonproliferation Treaty. I introduced that resolution, and it passed by a vote of 82 to nothing—I am corrected, 84 to nothing, I am selling myself short. I was sent by John Kennedy to Moscow to witness the signing of the Nuclear Test Ban Treaty; I went with Senator BAKER of Tennessee and inspected our depositories in Europe where we keep our bombs. We wrote a very critical report and we sent it to the President and sent it to the Secretary of Defense. We cannot publish it because it is highly classified.

Nobody can tell me that I have not been careful about how we use this material. I have been working at it since 1952 as a member of the Joint Committee on Atomic Energy, and I do not tip my hat to anyone when it comes to safeguards. That is the name of the game, and that is why I say when that comes to that Joint Committee we are going to make sure, we are going to make doubly sure, that the fuel that we put into that reactor does not get out of the hands of the country before they can convert it or divert it.

If we do not do that we are fools; and we can do that. Everyone knows that one-third of the fuel rods can be taken out, they are expendable; they are put in cooling water, and they cannot be touched because they are contaminated; and then they are placed in containers and they have to be sent back to be recycled. We should insist that all recycling be done in the United States of America. That is how we can protect ourselves. I do not know if we ever will have an agreement on selling a reactor or giving a reactor to Egypt; I do not know if we will ever have an agreement on selling a reactor or giving a reactor to Israel; I do not know if we will ever have an agreement on selling a reactor or giving a reactor to Iran. I do not know whether we are going to do that, but that is not the question here. However, whatever we are going to do I want the Senate and the House to debate it. I would like to have a law that permits that debate to become law, because the President might veto it. At the same time, we would allow Congress to become a partner in this effort.

With regard to this idea that we are trying to scare to death half of the people of the United States of America because this may happen or that may happen, all I know is that we had one scientist before our committee who said, "If you have too few red blood cells you will have leukemia." We know that. The name of the game is to do the safe thing. We can do that; we have done it up to now so why not in the future.

With regard to the idea that it is impossible that Congress knows better than the President or the Atomic Energy Commission, I do not think we know any better, but I think we know as much. I do not want to deprecate anyone. I have been critical of the President in many respects, and I have been critical of the Atomic Energy Commission. If we are confronted with this agreement that comes here from the President, what are we going to do with it? What are our rights? Today we have no rights. All we are trying to do is give ourselves some rights.

The Senator from Wisconsin says, "PASTORE is not going far enough." All I am saying is, "If we go the Senator's distance, we will end up with nothing."

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

Mr. PASTORE. I yield.

Mr. BAKER. Mr. President, I support the measure introduced by the distinguished Senator from Rhode Island (Mr. PASTORE) of which I am a cosponsor. I am also sympathetic to the proposal made by the distinguished Senator from Wisconsin (Mr. PROXMIRE) as I understand it.

I was intrigued particularly with the colloquy of the Senator from Wisconsin and the Senator from Missouri about whether or not to require submission of these agreement treaties. If we were to go that far, we would have to do so in a constitutional way; that is, to require submission of the international agreement to the Senate and require ratification by a two-thirds vote.

However, the Senator from Rhode Island has put his finger on the reason why the treaty approach is unwise, as well as the Proxmire amendment. It is because we would be beyond our constitutional rights as I understand them and as the Joint Committee on Atomic Energy does. Although it is clear we have the 30-day period with respect to civilian nuclear cooperative agreements and 60 days for weapon proposals, the law is uncertain and confused with respect to what we can do after that.

Nevertheless, it is clear to those of us who serve with the Senator from Rhode Island (Mr. PASTORE) on the Joint Committee on Atomic Energy that it is essential for us to have more than the idle opportunity to observe these proposed agreements, for 30 days or 60 days. The Pastore bill gives the Senate and the House an opportunity to consider, hear recommendations, after the Joint Committee on Atomic Energy has debated it, and decided to approve it, if it so chooses, or disapprove. I think that this is an eminently practical way to handle it, which in the absence of any other statute gives no real voice to Congress. If there were no Atomic Energy Act the President could enter into those agreements as he may wish except as they require the advice and consent of the Senate; and I doubt very much that that authority will be called into play any time soon.

Therefore, I think we are doing all that is practical in passing the Pastore legislation. If we go further, we are going to infringe directly on the authority of the President to formulate and administer

the foreign policy of the United States; and this is a very poor time to do that.

The Pastore amendment is unique in its duality. It gives Congress, the House and the Senate, the opportunity to hear and debate. It does not give us the opportunity to stymie or take away from the President the opportunity to negotiate with foreign powers, as he has done with the United Arab Republic, and no doubt will do with others.

Sometimes in the midst of our own rhetoric, and especially our atomic energy rhetoric, we get caught up in our own fears as if this were the first time we had ever entered into an agreement with anyone on nuclear power reactors from which plutonium could be extracted or reprocessed, and perhaps diverted into a weapon form or device. But, this is not the first time we have faced this situation. It is the 20th or 21st time the United States has entered into an agreement of some sort about nuclear power reactors around the world, and it was done without the Pastore amendment simply by submitting it to the Joint Committee on Atomic Energy pursuant to section 123 of the act.

Mr. PASTORE. Mr. President, will the Senator yield at that point?

Mr. BAKER. I yield.

Mr. PASTORE. And no one ever complained about it.

Mr. BAKER. No one ever complained about it; no one ever raised a voice.

I think this strengthens Congress, but at the same time we should not deprive the President of the right to initiate the opportunities for safeguards in the Middle East.

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

Mr. BAKER. I yield.

Mr. PASTORE. I think the Proxmire amendment could raise very serious constitutional questions also.

Mr. BAKER. I think it does, too. Aside from the legal standpoint, however, it is important for us to look at this initiative by the President as an opportunity to bring the UAR and even the Israelis into the orbit of those countries that will sign the nonproliferation treaty and have membership in the International Atomic Energy Agency, as well as enabling us to accomplish the impossible in a forum where there is no veto. This measure gives the opportunity for all these things as a possible condition precedent. Let us not take that away from the President of the United States. I think the Pastore proposal is a good mixture of what we can and should do without diminishing the rights of the President.

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

Mr. BAKER. I yield.

Mr. SYMINGTON. In connection with the statement made by the able senior Senator from Tennessee, to emphasize my apprehension about this entire matter also my respect for the apprehension of the distinguished Senator from Wisconsin, I ask unanimous consent that at the end of this discussion there be printed in the RECORD an article I have already presented in the RECORD July 8, entitled "The Proliferation of Plutonium," by Thomas O'Toole.

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

THE PROLIFERATION OF PLUTONIUM

(By Thomas O'Toole)

When nuclear scientists were collecting plutonium for the world's first atomic bomb, they measured it out in thimbles. Today, enough plutonium leaks out of the nation's bomb factories every year to make the equivalent of five bombs. There is in storage in the United States alone plutonium for 20,000 atomic weapons. Around the rest of the world, there is plutonium enough for another 5,000 bombs.

The mind reels when one considers how plutonium will multiply in the next 25 years. By 1985, the world will be producing 220,000 pounds of the gray-colored metal every year, enough for 10,000 bombs with a force of 20 kilotons each. By the year 2000, plutonium will be a commonplace metal and part of the world's nuclear energy economy. There is one stark fact about plutonium. Twenty pounds of it will make a crude but convincing explosive. India did it with less, and there was nothing crude about the bomb they exploded in May.

At no time in the nuclear age has the specter of atomic spreads loomed so large. India joined the "club" by diverting plutonium out of a research reactor built for it by Canada. Egypt has a similar reactor the Soviet Union built. Israel has one built by France. Most weapons experts assume Israel has already assembled several bombs, but has not tested one for fear a test would goad Egypt to do the same.

More than 20 countries have failed to sign the Non-Proliferation Treaty forbidding them from developing their own atomic weapons. Another 28 have signed the treaty, but have not ratified it. At least 10 countries are considered "threshold" nuclears who have not signed or ratified the treaty because they're keeping their atomic options open.

West Germany is one, Japan another, Sweden and Italy and even Switzerland are European possibilities. Argentina and Brazil are South America's near-nuclear nations. Pakistan may want the bomb because India has it. Australia and Indonesia are outside choices for the same reason. South Africa is a likely candidate because of its fear of Black Africa. South Korea has a different fear of North Korea, but is a candidate too.

There is a growing belief among the world's nuclear diplomats that atomic spread is inevitable. The many nations that have neither signed nor ratified the proliferation treaty should have done so by now if they ever planned to do so. India set the example this year for the others. The heat is off. They can decide to go nuclear without the worry of worldwide reprimand.

The superpowers were oddly mute in their criticism when India tested its bomb. They expected it. The next nation to get the bomb will probably get the same silent treatment. Again, the superpowers expect nuclear spread to take place. What they don't expect is that any nation choosing to acquire atomic weapons will ever choose to use those weapons.

The Atomic Energy Commission's Edward B. Giller is an articulate witness to this expectation. He points out the differences between acquiring a bomb and building a nuclear force. He says he doesn't expect any nation to develop one weapon and then use it against a neighbor, but if one did that it could expect to be repaid in kind.

"I don't know what a country can do with a bomb these days except blackmail its own neighbor," Gen. Giller said the other day. "But even if you get your neighbor, there are a lot of other guys around the world who will want to make an example of you. You might find the Russians and the Americans falling all over themselves to make a world example of what happens to nations who tinker with nuclear weapons."

There are those who worry that any nuclear exchange between emerging nations would be the spark to ignite World War III. The fear here is that the superpowers would take sides, in roughly the same way they took sides in the Mideast. Taking sides once an atomic attack has taken place might lead to nuclear escalation.

When Defense Secretary James R. Schlesinger was with the Rand Corp. seven years ago, he wrote an article for the Yale Review about the dangers of nuclear spread. He took the approach then that a nuclear attack by an emerging nation would not be enough to trigger a world nuclear war. He says today that he hasn't changed his thinking.

"Any initiation of nuclear weapon use by third parties would instantly stimulate the alertness and sobriety of the major powers," Schlesinger wrote. "Prudence would become the watchword, and tendencies toward rash action reduced. Rather than a quick escalatory spiral, the likely outcome would be an attentive search for means to dampen or settle the local conflict."

Not that Schlesinger is in favor of nuclear spread. Seven years ago, he wrote that proliferation brings "serious risks in its train." He said it could lead to the political unsettlement of much of the world, could destabilize the Third World and might even threaten the risk of a small-scale attack on the United States. Most seriously, it might disrupt the nuclear strategies of the superpowers that have served to keep the world from nuclear war these last 20 years.

"It is with good reason," he said then, "that American policy seeks to avoid nuclear spread."

Unhappily, it gets harder and harder to avoid nuclear spread. The reason is straightforward. The world is slowly running out of oil and gas at a time that emerging nations need both to energize their economies. The only thing left is nuclear power, the very instrument (through plutonium diversion) of nuclear spread.

The U.S. is in a tough position to deny emerging nations their own nuclear power stations. If we do deny them then France, West Germany or the Soviet Union could supply it, out of pure competitive reasons to get the business. The risk of resentment against those who deny nuclear power also runs high, a risk that could incite terrorism and revolution inside the Third World.

The genie has been out of the bottle for almost 30 years, which suggests that the world has found a way to live with the bomb. There is a natural tendency to view nuclear spread with nothing but alarm, but such a viewpoint brings to mind the comment of one Washington observer who said 10 years ago that coping with proliferation required the services of only two men—one to count and the other to wring his hands.

Mr. BAKER. Mr. President, I had not quite finished my remarks. With respect to the concern of the senior Senator from Missouri about treaty applications, I fully sympathize with that point of view. There are now six countries that have one form of nuclear device or another. Precisely how many countries could export the necessary materials for a weapon, I do not know. Perhaps 10 countries or so. Moreover, there are probably a half-dozen corporations that could build a nuclear device. There is no great secret about it. Thus, we may be in for a tough time. It could become a major issue for us and maybe of such magnitude that it would require ratification as a treaty by the full Senate but I do not believe that to

be likely; and I prefer the Pastore approach.

I have one further thing to say. The Senator from Rhode Island mentioned a trip that he and I made to inspect nuclear installations.

At some future time, no doubt, the Senate will have an opportunity to discuss this further, but we live in a nuclear age and we cannot turn the clock back. There are weapons around the world, American and French, Russian, and Chinese, British, and goodness knows how many others. The Indian explosion was an enormous setback for nonproliferation, but we cannot turn the clock back. We will never learn to love the bomb, but we are going to have to learn to live with it.

To me, it is far more important that we increase the incentives to accept inspection and ratify the Nonproliferation Treaty, than it is to go around, as the young child said, scaring ourselves.

I propose, Mr. President, that we look at the Pastore amendment as a desirable one, and one that should be passed now.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require.

The Senator from Tennessee said that in his view nothing is more important or nothing will be more important than stemming nuclear proliferation. I agree wholeheartedly with that. I think as the years pass, it is going to become more and more vivid to us. It can be a nightmare.

Mr. President, this is why today I predict future Congresses and the American people are just going to insist that we exercise real caution and real control on the question of transferring nuclear technology.

The Senator from Rhode Island said that his proposal would provide for more debate in the Senate than in the House. Well, I hope it does. But it would not provide for as much debate as my proposal does. Obviously, for example, Mr. President, if the House should say, "Yes," to an agreement, there would be no point in the Senate debating it or bringing it up. That is it. If the House goes along, there is no way it can be killed. We would just be spinning our wheels and wasting our time. Why have a debate?

I think this debate we have had this afternoon, the first debate on the floor of the Senate on this subject in some time, has been most constructive and most useful. I hope it means that we are going to have a debate if the President sends down a proposal to disseminate nuclear technology to Egypt, Israel, or any other country. But it will not mean that if this amendment that I propose fails, and in the event the House should proceed to approve it. It would means that there would be no debate in the Senate, or vice versa.

Mr. President, the distinguished Senator from Rhode Island said that there is razzmatazz in this amendment, providing an antifilibuster provision.

Mr. President, all that antifilibuster language does is to guarantee that it is necessary to act on this agreement, guarantee that you have a vote on the agreement, guarantee that it cannot be stopped by a filibuster or by delay. The Senators would have an opportunity to stand up and be counted on the agreement. That is what we are elected to do. It seems to me that that kind of provision is most desirable and vital.

Mr. President, I would also like to make one other point before I yield to my good friend from New York.

The United States-Egyptian agreement, I think, is a good case in point. The Senator from Tennessee brought it up. It indicates to me why we should proceed with the greatest caution and greatest care in providing this kind of deliberation, why the Senate ought to have an opportunity to say "no," and if it says "no," to have that position respected, regardless of what the House does.

There will not be dissemination, in other words, to Egypt, if the Senate disagrees.

I would like to quote from four distinguished scientists, Daniel F. Ford, Henry W. Kendall, George B. Kistiakowsky and George W. Rathjens:

IV. THE UNITED STATES-EGYPTIAN AGREEMENT

There are other considerations associated with the proposed agreement aside from those related directly to a possible Egyptian weapons program or the diversion or theft of Plutonium by third parties.

It cannot be argued that Egypt needs nuclear reactors as a source of electric power. That country, which is in the midst of an area that contains the world's largest identified reserves of petroleum, has not exhausted her own identified reserves, nor completed a program of exploration for additional reserves. There is presently no shortage of electric power for the 1000 megawatts provided by the Aswan Dam hydroelectric installation is not yet entirely utilized. Forecast shortages of electricity could be eliminated entirely by oil-fired plants. It appears imprudent to encourage the introduction of an uncertain and difficult technology, as well as an expensive one, for generating electricity in an area with an abundance of oil.

The uncertainty and difficulty of nuclear power is well illustrated in the present sharp controversy over safety in the U.S. nuclear program. U.S. attempts to export reactors to Great Britain is now beclouded by the controversy. In Britain, a proposal was made by the Central Electricity Generating Board last year, supported by Britain's nuclear reactor manufacturers, to purchase American nuclear reactors. The British Parliament's Select Committee on Science and Technology opposed the proposal on the ground that American reactors were unsafe. Britain's chief nuclear inspector, in testimony before that Committee, rejected U.S. claims about the safety of these reactors. The British Government's Chief Scientific Advisor, the metallurgist, Sir Alan Cottrell, opposed the plans to construct U.S. reactors in Britain on the ground that his studies had shown the reactor pressure vessels to be susceptible to catastrophic rupture without warning.

Nuclear reactors with their great inventories of radioactivity may be sabotaged or destroyed by acts of war by a variety of techniques so as to cause the massive release of radioactivity into the surrounding regions. The frequency of both terrorists' acts and war in the Middle East is the gauge of the importance we attach to the problem of deliberate release of radioactivity.

It is important to recognize that the "assured safeguards" to be provided against diversion of Plutonium from U.S. nuclear reactors in Egypt would not be likely to include physical control of that material by U.S. personnel. At any time then a change of view of the governing regime, or a change of the regime itself, could result in the immediate diversion of Plutonium to weapons use.

Mr. President, this is why in this particular instance, and I imagine it will be multiplied many times as the years go by, I think the Senate and the House both should be required to act affirmatively before we agree to a further dissemination or proliferation of this nuclear technology.

I yield such time as the Senator from New York may desire.

Mr. JAVITS. I wish 10 minutes.

Mr. President, I have joined in this amendment with Senator PROXMIRE and other Senators because I consider it to be one of the most important things to come before us in this or any other session of Congress. One feels, as one speaks in the Chamber with practically no one present, as if Members have just been literally scared out of here by the awfulness of this proposition.

I do not yield to anybody in my esteem for the distinguished chairman of the Joint Committee on Atomic Energy. I might tell him quite publicly that one of the most gifted things he has done is to describe what this weapon means, and the respect in which the nations of the world must hold it at the peril of their own extinction.

So first, whether we win or lose, or he wins or loses, I deeply indicate the fact that there does not seem to be that outflow of interest which should be enormous and practically unanimous that this particular propostion deserves. But still it is our duty, and Senator PROXMIRE has really been a great stalwart in the Congress in his way, to espouse the positions in which we believe, in the interest of the country, the faith in our fellow Senators and countrymen, that we really want to strive to do the thing that is best for us and best for the secuirty of the world.

What has awakened us to this problem is not the existence of the agreements respecting atomic power. We have some 35 such agreements, as has been said time and again in this debate.

This question has not arisen before. Up until now the law is that it has been pretty much in the hands of the Joint Committee on Atomic Energy. But the genie has escaped from the bottle. The reason for it is the fact that as far as anybody can tell, the ability of India to explode a device which could be a nuclear weapon arises strictly from the fallout of plutonium in respect of these rather conventional fission-type reactors such as we are going to contract for, according to the President, with Egypt and with Israel.

Mr. President, the reason there was such a surprise over this development, and such an expression of concern and worry, was the fact that, coupled with the experience of India, as based on a Canadian allegedly peaceful type reactor, there was deep concern that we were already beginning to proliferate nuclear weapons.

I agree thoroughly with Senator BAKER—and I heard his argument—that probably the greatest safeguard will be public knowledge, discussion, and openness in respect to whatever is done in the nuclear weapons field.

So, Mr. President, I respectfully submit that that very argument is the best

argument for the amendment we are presenting, because that is exactly what we are seeking. We are seeking open covenants, openly arrived at, in the most awesome field known to man today.

What terrible thing are we doing? We are asking that Congress, with deliberation and responsibility, in the same spirit as it recaptured its powers in the War Powers Resolution and in the congressional Budget Priorities Act, should recapture its powers in respect of this even more awesome matter and should be willing to vest its own responsibility in the exercise of the authority affirmatively to approve these agreements. Then, at least the aggregate number of minds which are capable of being enlisted in such a situation—to wit, the 535 Members of Congress as well as the Chief Executive—will be able affirmatively to have their say.

The difficulty with the plan presented to the Senate is twofold. One, as has been pointed out by Senator PROXMIRE, if one House thoroughly disapproves and the other House thoroughly approves, only one House will prevail, the President having made the agreement and the concurrent resolution being incapable of being passed.

Second, a band of "wilful men" in this body, even if one less than two-thirds of this body, in order to reverse the executive action, would be prevented from doing so. There is no built-in safeguard whatever in the 60-day provision as it is presented to the Senate which prevents a filibuster from being effected.

Mr. President, it is effected if one House is kept from acting within the 60-day period. Then an agreement such as I referred to in the proposed legislation goes into effect. I think these are two very fatal defects.

I do not see why anybody, in a matter of this gravity, should fear the concurrence of congressional action with that of the executive. On the contrary, it should be welcomed.

One final point: We passed in the Senate the commitments resolution, under the gifted authorship of Senator CASE, in which we held it as a matter of policy that anything which committed the forces or resources of the United States in the way of an agreement with a foreign power should be subject to congressional approval. I cannot think of anything that commits more the resources and the power of the United States to a foreign country than the potential which is inherent in the fallout from these allegedly civilian nuclear plants.

Mr. President, I find it extremely difficult to see why we shy away from this. I think it is still a heritage, still a hangover, from the fact that, so far as the people are concerned, we find it difficult, because of all our antecedents—ours and our traditions as well—to understand the demands of the modern time, which is to share everything we know with people who may be obliterated if we do not share it.

Mr. President, it is in that spirit that I feel we have presented this amendment to the Senate. I think it was our profound duty to do so, under these circumstances.

I do not know what the Senate will do with this amendment on this occasion. I believe that this is the voice of the times, as well as the voice of the future, and that we should share this power, all of us, as well as sharing the responsibility. I emphasize very strongly the latter. We will treat this power with infinitely more respect if we have to make a commitment and stand up to that commitment before the people in the successive elections which are a blessing of our kind of democracy.

So, Mr. President, I present two propositions, by way of summation. First, in this field particularly, they should be open covenants, openly arrived at; and the people, through Congress, should affirmatively have the authority, and therefore the responsibility, to be required to vote upon them before they are put into effect.

Second, we should not allow our own rules, including the filibuster provision of rule XXII, to deprive even one House of the opportunity which is to be afforded by the proposed legislation as it is brought to the Senate by the Joint Committee on Atomic Energy.

If any of us can do anything to bring about a success for both or either of those propositions, I consider it a high public responsibility to do exactly that.

I thank the Senator for yielding.

The PRESIDING OFFICER (Mr. GRIFFIN). Who yields time?

Mr. PASTORE. I yield 2 minutes to the Senator from Vermont.

Mr. AIKEN. Mr. President, we are now discussing what is probably one of the fastest growing industries in the world—the development of energy from the atom, through the nuclear reactor. It is an industry which is prompting a great deal of intense consideration in many countries. I will not undertake to say how many countries, but it is taking place in probably 20, several of which could, without too much delay, go into the business of furnishing nuclear reactors to those who have the money to pay for them.

It is my opinion that the approval of the Proxmire amendment would have the effect in diverting much of this potentially great industry from the United States to other countries. We had an example only last week, when the Government of Iran placed an order with France for $5 billion worth of nuclear reactors—presumably for peaceful uses, presumably for the development of clean water.

Other countries also are interested in the same thing, particularly countries that are producing a great deal of oil but are short of water. We know that they are very interested in developing their countries.

Iran and Saudi Arabia have money enough for their own reactors. Others will have to borrow the money. It offers a field for investors, including investors from the United States, who even now are concerned with making very substantial loans to countries that earlier we would not have considered dealing with.

It has been said that there is a risk in a nuclear reactor. I do not know of any industry, any occupation, that is 100 percent free from risk. I would say that the human error element would enter into the nuclear power business just as much as it does into other power businesses, into mines, into lumbering, and other such activities.

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

Mr. PASTORE. I yield the Senator 1 additional minute.

Mr. AIKEN. Mr. President, this bill, which has been approved by all the Senate members of the Joint Committee on Atomic Energy, is one which we consider safe. We know that there is opposition to the development of nuclear power. Some opposition stems from one source and some from another. Some opposition is honest provided by those who sincerely fear atomic power; other opposition is in the field of competition.

I believe that this bill, which is the best that can be devised by people who supposedly know what they are talking about and what they are writing about, should be approved by the Senate. I am not in favor of diverting one of the greatest industries in the world to other countries.

Right now, France is in a position, with investment from whomever she can get it, to take over this industry. I believe we had better keep what we can of it here.

Mr. PASTORE. Mr. President, I only want to say one further word, and then I shall yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator yield in order to permit me to ask for the yeas and nays?

Mr. PASTORE. I yield.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, I merely want to say, in conclusion, that we on the Joint Committee on Atomic Energy studied this matter in all its phases.

What we did, we followed the precedent which was set under 123(d) which had to do with military exchange, and that is the reason why we took that route feeling that the administration would be more amenable in passing and approving the bill.

The one thing that concerns me is that if we go to the extreme as suggested by this amendment, the possibilities are very, very great that there will be a veto and we will end up with nothing.

My amendment is a practical solution. The amendment that was approved unanimously by the Joint Committee on Atomic Energy, will give us an opportunity to not only thwart the administration in negotiating an agreement, but at the same time, Mr. President, it will allow the Senate and the House to become a partner in these agreements and be allowed the opportunity to debate it.

I yield back my time.

Mr. AIKEN. Mr. President, may I have just 2 minutes more?

The PRESIDING OFFICER (Mr. TAFT). The Senator from Vermont.

Mr. AIKEN. Mr. President, since I finished speaking, I have received certain information relative to the extent to which other countries are supplying nuclear reactors around the world.

The United Kingdom supplied natural uranium reactors to Japan, 166 megawatts, and Italy, 150 megawatts, many years ago.

West Germany supplied 318 megawatt natural uranium heavy water reactor to Argentina; 692 megawatt water reactor to Austria; 920 megawatt water reactor to Switzerland; and 450 megawatt water reactor to the Netherlands.

Canada has been selling reactors; Sweden supplied a 660 megawatt reactor to Finland. France has supplied different countries and, it is mentioned, has now received a $5 billion order from Iran.

Japan has bid on foreign sales, but has not as yet sold reactors.

Italy has, and Russia, of course, is the other country which could supply them in quantity, and which will.

No doubt, American investors will put big money into these businesses in foreign countries. Now, why not keep it here?

Mr. STEVENSON. Would the Senator yield for a question at this point?

Mr. AIKEN. I yield.

Mr. STEVENSON. Can the Senator tell us how many of those countries which the Senator knows are selling U.S. technology, either technology licensed by U.S. companies or by U.S. companies operating in those countries?

Mr. AIKEN. France, I believe——

Mr. PASTORE. I can answer that question.

Westinghouse in Germany cooperates with the German Government. They are a shareholder in the enterprise. I think we have American interests all over the world, but it is not exclusively that.

The question of selling the reactors to Iran was strictly a French deal, there is no question about that.

As I pointed out, in the world today there has been a supply in foreign countries exclusive of the United States of America to the tune of 75 million kilowatts of electricity which, as I said before, is enough to light up 10½ cities like the city of New York.

We have only exported about 7 million kilowatts as against the 75 million kilowatts.

It is true, General Electric and Westinghouse, and many other big American combines, do have some interest in foreign manufacture, but principally the idea comes from America, principally the concepts are American and much of the manufacturing is American insofar as our American export is concerned, but there is a tremendous amount of foreign export insofar as what they export, and that goes for France and it goes for Canada.

For instance, one of the first reactors in India, was a Canadian reactor, and what appears to have happened there is that when that reactor was first built they used Canadian fuel, that was the first fuel supply, but then the Indians began to use their own natural uranium fuel and the basic plutonium came from the Indian material which apparently was not under any international safeguards.

So this idea that it is not going to go on by foreign countries is really whistling in the dark.

The fact still remains, as the Senator from Tennessee pointed out and as we have pointed out time and time again, this at least gives us a foothold and all we need to do is have the proper safeguards, and if we take these rods as they are taken out and have them brought back to the United States of America for reprocessing and recycling, that is the protection we need.

When we boil it all down, it all comes down to the safeguards. We can dictate from now until the cows come home, to reject or approve, but if we did not have a good binding agreement, with safeguards that can be enforced, we would be wasting our time.

Mr. STEVENSON. How can that be enforced if the other party to the agreement, the other government, foreign country, simply chooses not to perform its part?

Mr. PASTORE. We stop it, we stop it. We do not give them any more fuel.

Mr. STEVENSON. After they have——

Mr. PASTORE. Absolutely.

Not only that, we do not take all fuel out at one time, we only take out one-third.

We take out one-third of the rods and they have to go in the water for cooling.

We will see that they come back to America, that has to be in the deal.

Mr. STEVENSON. Is it not possible that these countries can obtain fuel from other sources after that?

Mr. PASTORE. There is nothing that stops it now. Germany can sell a reactor, Canada can sell a reactor, and as the Senator from Vermont pointed out, we could put ourselves right out of the market, if we wanted to.

Mr. STEVENSON. The point, the possibility of safeguards, especially, as the Senator points out, once they get the reactor they can get it from other sources.

Mr. PASTORE. Right, but they come under the peaceful uses of atomic energy, and we have 100 nations as members. They are the ones. We do not sell a reactor unless they agree to come under that inspection.

Mr. STEVENSON. Was the Canadian reactor and the Canadian technology which was transferred to India developed without any licensing and cooperative arrangements with the U.S. Government?

Mr. PASTORE. Not with the U.S. Government.

Mr. STEVENSON. U.S. companies?

Mr. PASTORE. We have our own reactors that we built, that comes under the international safeguard.

Mr. STEVENSON. I was asking about GE or Westinghouse, U.S. companies, was there no commercial U.S. involvement in the development of the technology of the reactors which went from Canada to India?

Mr. PASTORE. Not that I know of, but I could be mistaken about that, I would not know positively, but I doubt it.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Before the Senator yields back his time——

Mr. PASTORE. I am happy to yield time.

Mr. JAVITS. Mr. President, the debate has gone on, on some questions of whether we should or should not approve these agreements with Israel and Egypt and also whether we should or should not associate ourselves with the job of providing civilian atomic reactors.

In all fairness to the proponents of the amendment, we raise neither of these questions, but simply the question before us is a very narrow one.

Well, Congress has to say, do not do it, in both Houses, or does it require an affirmative, that both Houses will say, yes, we do it with or without conditions.

So I simply take this minute or two to put the question we are voting on and focus it for myself.

I have lots of points of disagreement.

Mr. PASTORE. Will the Senator yield?

Mr. JAVITS. Of course.

Mr. PASTORE. I do not take that position whatsoever.

The position I am taking here this afternoon is that under the present law we have no rights at all on these agreements.

If we remain the way we are today, the President only has to set up an agreement, it goes to the joint committee, stays 30 days, and there is nothing we can do about it. It becomes a binding agreement and sometimes we waive the 30-day element.

All I say is, if we go as far as the Senator from Wisconsin wants us to go, we are going to end up with a veto.

We have debated this in the committee and have come up with what we feel is a fair compromise. It gives us a share of partnership, a chance to debate it.

At the same time, we do not have the administration in such a position, I would say, as to say, "From now on you have nothing to do with this. We are going to guide even the foreign policy of this country," and that is where it is dangerous.

Mr. JAVITS. I understand. I just make one correction.

We do not say to the administration, "You have got nothing to do with us."

On the contrary, on the stipulation, to move on as heretofore, they get the AEC certification, they make the agreement, and they send it up here.

They do that in executive agreements time and again. The President did it with respect to the atomic limitation agreement of arms, or SALT I, with the Soviet Union.

There is nothing unusual at all in what we are asking for, but I do think it is valuable to narrow the quest, and that is all I am trying to do.

Mr. GRIFFIN. Mr. President, will the Senator from Rhode Island yield me 2 minutes?

Mr. PASTORE. I yield 2 minutes to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, we all know that legislating is the art of the possible. I rise to support the Senator from Rhode Island in what he has said.

I do not do that as a spokesman for the administration. Frankly, as I understand it, the administration would rather not have the Pastore bill. The administration would prefer, I assume, to be able

to negotiate such agreements and not have to depend upon approval by Congress.

However, the Senator from Rhode Island has forged a very practical and reasonable compromise, which would give the Congress an important and responsible role.

As one Senator, I believe the administration's position of opposition to the Pastore bill is extreme and impractical. And I respectfully say that the amendment proposed by the Senator from Wisconsin is extreme on the other side, and impractical.

If the Senate were to adopt the amendment of the Senator from Wisconsin (Mr. PROXMIRE), I believe that without question, as the Senator from Rhode Island has suggested, there would be a veto. Certainly, that veto would be sustained in one House or the other.

So, it seems to me that we are about to vote on whether or not we do want to increase the role of Congress. Those who want to increase the role of Congress should vote down the Proxmire amendment and support the Pastore bill.

Mr. PROXMIRE. I yield myself such time as I may require.

Mr. President, I am about to yield back the remainder of my time, and we will vote in just a minute or two. But I would like to emphasize and underline what the Senator from New York has said. This is a matter of procedure: How do we decide these matters? What Senator JAVITS and myself have proposed is that these proposals should come before the House of Representatives and the Senate, so that we could have a vote up or down in the House and the Senate.

Under the proposal before us, there is no guarantee that we would have a vote in either place. It is possible for a Senator to filibuster the provision. If he did so, under the Pastore proposal, providing nuclear technology to Egypt would take effect without any action by the House of Representatives and without any effective action by the Senate, because we might not be able to get cloture.

What we require is that we pass on it, as we pass on every law we pass, no matter how trivial it is, by having both the House and the Senate act affirmatively. Furthermore, we would prohibit a filibuster. There is no way under my amendment by which action by the House and the Senate could be held up. We must act within 60 days. We must have a chance to stand up and be counted.

There is nothing extreme about that. All we provide is that we act here the same as on all other legislation. It seems to me that this is a fair and reasonable way to proceed. If there is a veto, which I doubt very much, we can confront that when the time comes. We can enact appropriate legislation later, if we cannot summon the votes to override a veto.

Mr. PASTORE. Mr. President, there is nothing in the amendment of the Senator from Wisconsin that guarantees a vote either in the House of Representatives or in the Senate. It can be pigeonholed here in committee or there in committee, either in the Senate or in the House. You can find any kind of reason or excuse not to bring it up in either the Senate or the House of Representatives. By inaction, we could cut off an appropriate agreement.

I am not talking about Egypt, Israel, France, Canada, or any other country; I am merely saying at this point this gives us an opportunity which we do not have now, that has the possibility of becoming law. If we go beyond it, I am afraid we would end up with nothing, as we are now.

Mr. PROXMIRE. If the Senator will yield on the point he makes, there is no way that the antifilibuster provisions in the pending amendment can be abridged. There must be a vote within 60 days. There is no way to stand up and delay it. It requires 10 hours of debate, equally divided; we have the limitation of 10 hours on the time, so there is no way to filibuster it.

So it cannot be killed by inaction.

I am prepared to yield back the remainder of my time, if the Senator is.

Mr. PASTORE. I yield back the remainder of my time.

Mr. CHILES. Mr. President, I call for a division of the amendment, the first part consisting of the first 11 lines on page 1.

The PRESIDING OFFICER. The Senator has that right. The amendment will be so divided.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. CHILES. I yield for that purpose.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. The yeas and nays would then relate separately to each part?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHILES. Mr. President, I send to the desk an amendment in the nature of a substitute, and ask for its immediate consideration.

The PRESIDING OFFICER. This is as to part 1 of the amendment?

Mr. CHILES. That is correct.

The PRESIDING OFFICER. That is the only part open to amendment. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed insert the following:

"Submitted to the Senate as a treaty, and the Senate has given its advice and consent with respect to that treaty,"

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, how much time does a substitute amendment have available?

The PRESIDING OFFICER. Thirty minutes to a side.

Mr. CHILES. I yield myself 5 minutes.

Mr. President, the purpose of this amendment is to bring the nuclear agreement before the Senate in the form of a treaty. I think the Senator from Wisconsin is making progress in his attempt to allow an affirmative vote by the Congress on this question, but my feeling is that we are dealing with something which seems to me of so much import, in the way of an agreement with a foreign country, that we ought to be talking about a treaty.

When I think back to what was the purpose of a treaty and what they were for, what we envisioned as we set up the Constitution and provided for the right of the Senate to advise and consent, it would seem to me this would be such a major agreement.

The PRESIDING OFFICER (Mr. BUCKLEY). The Chair would state to the Senator that the Chair was in error. Because this is an amendment in the second degree, there is 15 minutes to a side.

Mr. CHILES. I thank the Chair. As we know, the provisions for ratification of a treaty have fallen into disrepute in their use by the Executive over recent years, and more and more we have seen that major agreements have been concluded with foreign countries in which the ones that were of most controversy and most major have habitually, now, come to be handled by the President as executive agreements, excluding the Congress and excluding the constitutional provisions that provided that the Senate would have the right to advise and consent.

When I think of the import of what we are doing in introducing plutonium to the Mideast, of all places, certainly that is the kind of issue that should be debated in the Halls of the Senate. That was the kind of provision for which I think we set up the provision in the Constitution providing for advise and consent and a two-thirds vote.

I am convinced that the American people want to see a debate on this issue. The fact that Senators say we have introduced these plants to Mexico and Canada and some other places might be true, in the past, but we know the kind of explosive situation that exists in the Mideast, with active terrorist groups and governments that can be completely stable one moment, and completely changed the next.

All of those are items I think the American people are entitled to have debated, and I think it should be done, and that the Senate should not be considering surrendering its power to advise and consent on matters of major importance dealing with foreign policy through any kind of procedure where we have a concurrent resolution or any other kind of action, other than the constitutional provision that provides for the right to consider a treaty, the right to a debate, and the right for a two-thirds vote of the Members to be necessary to conclude that debate.

I have the strongest feelings that this is an item that the American people would like to see come in by way of a treaty and for debate, and about which they have great apprehension and great fear now.

We talk about whether somebody is going to get some business, whether we are going to sell a plant or not; that is the situation we have gotten into in the nuclear proliferation area, I think. We have France trying to make money from it. We have people trying to determine whether it is going to be a profitmaking venture.

If we give some terrorist group plutonium and the ability to make the bomb and the ability to hold us up for goodness knows what or to blow us up, we are not going to be concerned with whether we have helped American industry or whether we have helped American business.

All of those items, of course, upon their merits and their demerits could best be debated by virtue of a proposal in the form of a treaty. I think we would be saying to the President, no matter who he is in this country, "When you start concluding agreements like this or entering into agreements like this, remember that Congress is going to demand that they not surrender their function, their constitutional function, to see that these are brought before us in the nature of a treaty and that we have adequate debate and that the American people will be protected on it."

I reserve the remainder of my time.

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

Mr. CHILES. I yield.

Mr. PROXMIRE. I want to commend the Senator for his proposal. It has a great deal of support.

Senator SYMINGTON earlier asked if this treaty approach might not be a better route. There is a lot of logic in what the Senator says.

There are, however, several problems. Problem No. 1 is this would take away the jurisdiction from the Joint Committee on Atomic Energy, which has done an excellent job, which has expertise it has developed. It has developed a tremendous amount of experience and has a very knowledgeable staff. The Joint Committee gives us advice with respect to nuclear technology, but this substitute takes jurisdiction away from the Joint Committee and gives it to the Foreign Relations Committee, which is also an excellent committee, but with no expertise or knowledge in this field.

No. 2, it would take jurisdiction away from the House of Representatives. They would have to act on this bill, and I cannot imagine the House of Representatives, with their proper and appropriate jurisdiction with respect to the nuclear business, saying, "Take us out of the act. We do not care that much about it. Let the Senate handle it under their procedures."

As I say, the Senator has enormous logic behind this.

I think if we had started with a different history and a different background the Senator would be right. Under these circumstances, however, I think these obstacles make it extremely difficult.

Mr. CHILES. I thank the Senator from Wisconsin for his remarks.

Let me say, first, I do not think this would be taking this question away from the jurisdiction of the Joint Committee because the Joint Committee would still get the reference, would still be able to study the matter, would still be able to present their findings to the floor of the Senate before we had our debate, and nothing I would do would try to change that or their expertise. With all deference to their expertise and the work they have done on it, I think our history goes back a little further to the Constitution in saying that the Senate has the right to advise and consent.

That is a treaty provision. That predates the Joint Committee, and I think it predates any expertise that they have. But we get to utilize this expertise because they would still have the right to study the question before it was referred to us.

Now, with respect to the Senator's second remarks——

Mr. PROXMIRE. Does the Senator's amendment provide that these proposals would be referred to the Joint Atomic Energy Committee?

Mr. CHILES. We made no change with respect to that so the reference could still be made.

As to the second point that the Senator raised that we run into the practical considerations that the House is going to want to have something to say on this, as I understand it, foreign policy has been the prerogative of the Senate. The House is concerned with initiating tax matters, with initiating appropriations, and they do not want us to initiate any appropriation bills. They do not allow us to do that. That is something I do not find in the Constitution anywhere, but I find that habit and custom have allowed that to grow up so that they initiate that. So we are talking about an area that has belonged to us traditionally. It is provided for in the Constitution which provides for us.

We are going to say now because this is something they would like to be involved in that we are going to say that no longer do we have to consider treaties. Are we going to do that on all matters that should come before us as treaties? Are we going to say that we will now have concurrent resolutions rather than treaties? I do not see the logic of the Senator's proposition in that.

If we feel that this is a treaty matter, if we feel that under the Constitution it should come before us as a treaty, just as the Senator thinks we should vote what we think is the best provision and worry about whether the President is going to veto the Proxmire amendment or not, then I think we should consider this in the most logical and reasonable way that we think it should be considered, and determine that we would be able to convince the House of that logic, especially when we defer to them in tax matters and we defer to them in appropriating matters.

This certainly is a matter dealing with foreign policy which has been and, I think, should be, the role that the Senate has as it is set forth in the Constitution.

Mr. PASTORE. I yield whatever time the Senator from Vermont wants, Mr. President.

Mr. AIKEN. Mr. President, on March 6, 1973, the Foreign Relations Committee reported out the Genocide Treaty, as it is called. That has now been on the calendar for about 15 or 16 months. The amendment offered by the Senator from Florida would permit an agreement to furnish a reactor to another country, even a friendly country to be held up for as long as this Genocide Convention has been held up. Such action would be immensely pleasing, I am sure, to certain producers of competitive fuels, and also to certain investors who put their money in foreign fields at 13 percent plus. I do not think we should accept this amendment.

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

Mr. AIKEN. I realize it would be very pleasing for some people in having the nuclear reactor trade held back.

Mr. CHILES. Mr. President, would the Senator yield?

Mr. AIKEN. I yield.

Mr. CHILES. I wonder if the Senator would like to have the Genocide Treaty concurred in by joint concurrent resolution which Congress would not even have to vote on, so that they would only be able to express themselves by that treaty, and if they failed to express themselves that way, then automatically something as important as that question would go through. I do not think the Senator would want that.

Mr. AIKEN. Under the Senator's proposal then any plan for any contract to furnish a nuclear reactor to another country, would also require the same number of votes in the Senate as would the Genocide Treaty, two-thirds or more. I just cannot see that. I just cannot see—well, I just cannot see the House of Representatives agreeing to let the Senate have the full say on this matter anyway.

Mr. CHILES. Mr. President, I just happen to think that it is more important for two-thirds of the Senate to agree on where we are putting plutonium than it is on whether we adopt the Genocide Treaty or not as far as the real protection and safety of the American people are concerned.

Mr. PASTORE. Mr. President, maybe I should have minded my own business in the first place and not bothered with this at all and just left everything the way it is, which is nothing at all.

Under section 123(c), as I have said many times this afternoon, at the present time all the President has to do is send an agreement up here. It goes to the joint committee for 30 days. We have no power to do anything but bring out a bill that would have to be signed by the President then you know what he would do with that bill.

Now, after all, there is nothing in the amendment that is suggested by the joint committee or even the amendment suggested by the Senator from Wisconsin that precludes the President from sending it up in the form of a treaty if he so chose to do.

But now this is the practical proposition. I am not opposed to its coming up in a treaty, but the minute we write this in and we preclude the Members of the House, what are they going to do with this bill? What does the Senator think they are going to do to this bill? Here we are trying to amend the atomic energy law; we have a Joint Committee on Atomic Energy which has legislative power, the only joint committee that does in Congress. It is comprised of nine Members of the House and nine Members of the Senate. The bill that I reported out was unanimously reported out by the full committee and now we

are telling the House, "You sign a bill that puts you out of the picture completely." What does the Senator think is going to happen or have I lived in vain for 67 years?

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield myself 3 minutes.

I again applaud the action of the Senator from Rhode Island in taking the initiative here, and I think that is good. The Senator from Florida also introduced a bill that would require that these agreements must have a treaty provision, and that bill, of course, is somewhere over in the committee. That is not before us on the floor.

Therefore, my initiative here is to try to amend this bill and provide that we deal with the matter in the form of a treaty. I can understand the problems of the House and the fact that some of them sit now on the Joint Committee on Atomic Energy. I am coming to understand all of the problems relating to committee jurisdiction and the feelings that go with that kind of jurisdiction. But still it seems to me that the provision of the Constitution is just as persuasive and just as strong in that regard. This is a matter in which I think the American people would be well served if we had debate and the requirement of a two-thirds vote.

Mr. PASTORE. Mr. President, I yield back the remainder of my time if the Senator from Florida is ready to yield back his time.

Mr. CHILES. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The result was announced—yeas 17, nays 78, as follows:

[No. 293 Leg.]

YEAS—17

Biden	Ervin	Hughes
Case	Fulbright	Inouye
Chiles	Hathaway	Nunn
Church	Helms	Schweiker
Clark	Hollings	Symington
Eagleton	Huddleston	

NAYS—78

Abourezk	Beall	Buckley
Aiken	Bennett	Burdick
Allen	Bentsen	Byrd, Harry F., Jr.
Baker	Bible	Byrd. Robert C.
Bartlett	Brock	Cannon
Bayh	Brooke	
Cook	Javits	Percy
Cotton	Kennedy	Proxmire
Cranston	Long	Ribicoff
Curtis	Mansfield	Roth
Dole	Mathias	Scott, Hugh
Domenici	McClellan	Scott, William L.
Dominick	McClure	Sparkman
Eastland	McGee	Stafford
Fannin	McGovern	Stennis
Fong	McIntyre	Stevens
Goldwater	Metcalf	Stevenson
Gravel	Metzenbaum	Taft
Griffin	Mondale	Talmadge
Hansen	Montoya	Thurmond
Hart	Moss	Tower
Hartke	Muskie	Tunney
Haskell	Nelson	Weicker
Hatfield	Packwood	Williams
Hruska	Pastore	Young
Humphrey	Pearson	
Jackson	Pell	

NOT VOTING—5

Bellmon	Johnston	Randolph
Gurney	Magnuson	

So Mr. CHILES' amendment to Mr. PROXMIRE's amendment was rejected.

The PRESIDING OFFICER. The question occurs on the first part of the amendment by Mr. PROXMIRE.

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

On this vote, the Senator from West Virginia (Mr. RANDOLPH) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from West Virginia would vote "yea" and the Senator from Washington would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The result was announced—yeas 46, nays 49, as follows:

[No. 294 Leg.]

YEAS—46

Abourezk	Hart	Muskie
Bayh	Hartke	Nelson
Bentsen	Haskell	Nunn
Biden	Hathaway	Packwood
Buckley	Helms	Percy
Burdick	Huddleston	Proxmire
Case	Hughes	Ribicoff
Chiles	Humphrey	Roth
Church	Javits	Schweiker
Clark	Mathias	Stafford
Cook	McGovern	Stevenson
Cranston	McIntyre	Talmadge
Eagleton	Metcalf	Tunney
Ervin	Metzenbaum	Weicker
Fulbright	Mondale	
Gravel	Moss	

NAYS—49

Aiken	Dominick	McGee
Allen	Eastland	Montoya
Baker	Fannin	Pastore
Bartlett	Fong	Pearson
Beall	Goldwater	Pell
Bennett	Griffin	Scott, Hugh
Bible	Hansen	Scott, William L.
Brock	Hatfield	Sparkman
Brooke	Hollings	Stennis
Byrd, Harry F., Jr.	Hruska	Stevens
Byrd, Robert C.	Inouye	Symington
Cannon	Jackson	Taft
Cotton	Kennedy	Thurmond
Curtis	Long	Tower
Dole	Mansfield	Williams
Domenici	McClellan	Young
	McClure	

NOT VOTING—5

Bellmon	Johnston	Randolph
Gurney	Magnuson	

So part 1 of Mr. PROXMIRE's amendment was rejected.

Mr. JAVITS. I would appreciate it if the Senator would yield me 2 minutes.

Mr. PASTORE. I yield to the Senator.

Mr. JAVITS. Mr. President, as to the second part of this amendment which is now to be voted on, it seems very clear, and I hope the Senator will give his attention for a minute, that something needs to be done because the 60-day period allowed for expressing the negative on a Presidential agreement of this character can be completely eroded in this body by a filibuster and the other body by the usual hassle within the Rules Committee.

Mr. PROXMIRE and I have suggested, rather than the long form which is now to be voted on and which comes out of the Reorganization Act, a very brief amendment which we submitted to the manager of the bill, which will enable the conference committee at least to do something about this question.

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

Mr. JAVITS. Yes.

Mr. PASTORE. I am quite familiar with the purpose of this amendment, which is the second part modified, and if unanimous consent will be ordered to withdraw the yeas and nays I will be very happy to carry it to conference and see if we cannot iron something out in that regard.

Mr. JAVITS. I ask unanimous consent that the order for the yeas and nays be vacated on the part still open, part No. 2.

The VICE PRESIDENT. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, I think for the information of the Senate that some brief explanation of what this would do——

Mr. PROXMIRE. Mr. President, I have sent the amendment to the desk; I ask that the Clerk read the substitute amendment.

The VICE PRESIDENT. The clerk will read the substitute amendment offered by the Senator from Wisconsin (Mr. PROXMIRE).

The Assistant Legislative Clerk read as follows:

On page v, line 18, after the period insert the following:

"Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within 25 days and shall be voted on within 5 calendar days thereafter, unless such House shall otherwise determine by yeas and nays."

Mr. GRIFFIN. Now, if I may ask, further reserving the right to object, Mr. President, under the present bill that the Senator from Rhode Island has offered, the committee must make a report to both houses within 30 days, in any event, is that correct?

Mr. PASTORE. That is correct.

Mr. GRIFFIN. And the only addition here, as I understand it, is that it requires that it not just go to the calendar, but it be made the pending business?

Mr. PASTORE. That is right. So that it will not die on the vine. It might be that we will have to protect this in conference, but it does make sense.

In effect, it overcomes this doubt on the part of some that by inaction or by a prolonged debate, we may never get to a decision to have a vote, and this guarantees the vote.

Mr. GRIFFIN. Mr. President, I personally shall not object to the withdrawal of the yeas and nays.

The VICE PRESIDENT. Is there objection to the withdrawal of the yeas and nays?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, under the Senator's substitute amendment for his own amendment, as I understand the reading of it by the clerk, an amendment to the resolution reported would be in order.

Mr. PROXMIRE. That is my understanding, that is correct.

Mr. ROBERT C. BYRD. Also, in listening to the language read by the clerk, a motion to reconsider the vote by which the resolution is agreed to or rejected would be in order.

Mr. PROXMIRE. That is correct.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the substitution of the amendment. I think it is a great improvement over the language for which it is being substituted, because that language is strictly boilerplate language lifted out of the President's reorganization plan resolution. No amendment by the Senate would be in order, no motion to reconsider would be in order, and any resolution reported from the House of Representatives would go directly on the calendar, so that the Senate could only rubberstamp the action of the House, or reject it.

Mr. PROXMIRE. I thank the majority whip. May I say the reason why I am willing to accept the modification Senator JAVITS has suggested is because of the objection of the Senator from West Virginia and the points he made against the amendment.

Mr. JAVITS. Mr. President, one further thing. The Parliamentarian tells me we should have unanimous consent that it be in order to substitute what we have submitted as a complete substitute for the item 2 that was to be voted on.

The VICE PRESIDENT. Is there objection to the offering of this amendment by the Senator from New York as a substitute for the whole second part of the amendment offered by the Senator from Wisconsin? The Chair hears none, and it is so ordered.

Mr. PASTORE. Mr. President, I yield back my time.

The VICE PRESIDENT. Is there objection to the withdrawal of the order for the yeas and nays on part 2? Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from New York (Mr. JAVITS) as a substitute for the second part of the Proxmire amendment.

The substitute amendment was agreed to.

The second part of the Proxmire amendment, as amended, was agreed to.

The VICE PRESIDENT. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. PASTORE. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, nuclear assistance to foreign nations raises deadly serious issues which have received little examination in the Congress. Nuclear proliferation conjures up terrifying images of nuclear holocaust and international blackmail. The Joint Atomic Energy Committee and the Senator from Rhode Island, Mr. PASTORE, have acted with commendable dispatch to bring these issues to the Senate floor. But the issues have still not been examined in depth by the Congress. And they will not by any means be settled by whatever action the Senate takes today.

Procedural questions remain to be settled. For example, the Atomic Energy Act applies to agreements for the transfer of nuclear technology. To what extent does—or should—the Export Administration Act procedures apply to actual exports or the procedures for control of exports to Communist countries, recently approved by the Senate in the military procurement bill apply? Such substantative questions as the enforceability of safeguards raise serious doubts about the wisdom of nuclear exports from the United States or by U.S. companies from other countries.

I do not pretend to know how all such questions should be answered—but they should be answered. And the issues should be ventilated and debated in full. The Senate Banking Committee has recently marked up legislation to extend the Export Administration Act which expires at the end of July. That legislation affords the Senate another opportunity to examine this subject. It will offer the Senate an opportunity to take such additional action as may be indicated. I have, therefore, scheduled hearings in the subcommittee on international Finance for this Friday, July 12, and Monday, July 15, on nuclear proliferation, its adequacy of export controls and the procedures for establishing and enforcing them. Members and all interested parties are invited to contact Stanley Marcuss, subcommittee counsel, or Chuck Levy in my office.

Mr. HARTKE. Mr. President, the administration's plans to give or sell nuclear power plants to Middle East and other countries involve important questions concerning the risks which the public will be exposed to as irradiated fuel and nuclear wastes are transported overseas. Hearings before the Commerce Subcommittee on Transportation, which I chaired, revealed alarming evidence of the probability and consequences of accidents involving the transportation of nuclear material within the United States. These dangers can only be compounded when such material moves abroad.

Each large nuclear power plant generates an enormous quantity of nuclear fission, over 2,000 pounds each year of which about 600 pounds consists of plutonimum, one of the deadliest substances known to man. Reputable scientists have estimated that 1 pound of plutonium is sufficient to cause 9 billion cancers if plutonium particles are injected into the lungs of human beings.

The transportation of the irradiated fuel from nuclear plants overseas back to the United States has been suggested in order that the fuel reprocessing take place in this country where safeguards can be established to insure against the diversion of plutonium to nonpeaceful purposes. But the transportation of highly radioactive material is a major problem in itself. Testimony before the Transportation Subcommittee has raised questions as to the adequacy of the design and fabrication of the containers in which the fuel is shipped. The possibility of collisions at sea cannot be ruled out with the attendant horror of the spillage of long-lived radioactive elements into the ocean. And some of these substances are long-lived indeed. Plutonium has a half-life of 24,000 years and is lethal to human beings for perhaps 250,000 years. There was no one who testified at the hearings who could give absolute assurance that no spillage would occur.

A report by the Michigan Public Interest Research Group contained the following comments with regard to the integrity of containers holding the radioactive material:

> The AEC continually says that none of its containers have been breached. But the General Accounting Office has found the reporting procedures required by the AEC are so vague that casks may arrive leaking and neither the AEC nor the public would ever know it. For example, the GAO discovered that between 1969 and 1972, there were 64 unreported instances in which containers on the vehicles were contaminated above the specified levels. Over a period of 2–3 years two types of containers continually experienced contamination problems. Many of these occurrences of contamination exceeded the allowable limits. These instances were not reported, and were found out only by the GAO's special research.

Dr. Marc Ross, a respected physicist from the University of Michigan has made a special study of the transportation of radioactive material, especially as it involves cesium. He concludes that the possibility of leakage is real, that inadequate safeguards exist to prevent this poisonous gas from escaping and that the consequences of such escape from just one shipment could involve thousands of deaths.

Furthermore, the subcommittee obtained evidence that the Department of Transportation, which has the responsibility for monitoring the movement of radioactive material has failed to do an adequate job. While 95 percent of all hazardous materials move by truck in the United States there are only 120 general investigators and 9 specialists to cover the entire country. Only a small portion of the time spent by these men in the field involve checking against violations of the Department's safety regulation for movement of hazardous material.

Thus, there are major unresolved ques-

tions with regard to transportation hazards involved in the sale or grant of nuclear powerplants to foreign countries. Some of these include the following:

a. Will irradiated fuel be reprocessed in the country having the nuclear powerplant or in the United States? If the later, because of national security reasons, who shall establish safety requirements for transportation and who shall insure that such requirements are met?

b. Will radioactive wastes be stored in the United States or abroad and if the latter under whose control?

c. What are the respective roles of the AEC, Department of State, and Department of Transportation in opposing the safety of the movement of radioactive material to and from foreign countries?

d. Can these agencies provide unequivocal assurances to the Congress and to the public that the movement of toxic radioactive material to and from foreign countries can be undertaken with absolute assurance that no leakage will occur?

Until these issues are thoroughly reviewed by the Congress, I would urge the administration to hold off on signing any international agreements for the sale or grant of nuclear powerplants.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The result was announced—yeas 96, nays 0, as follows:

[No. 295 Leg.]

YEAS—96

Abourezk	Fannin	Montoya
Aiken	Fong	Moss
Allen	Fulbright	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Beall	Hansen	Pastore
Bennett	Hart	Pearson
Bentsen	Hartke	Pell
Bible	Haskell	Percy
Biden	Hatfield	Proxmire
Brock	Hathaway	Randolph
Brooke	Helms	Ribicoff
Buckley	Hollings	Roth
Burdick	Hruska	Schweiker
Byrd, Harry F., Jr.	Huddleston	Scott, Hugh
Byrd, Robert C.	Hughes	Scott, William L.
Cannon	Humphrey	Sparkman
Case	Inouye	Stafford
Chiles	Jackson	Stennis
Church	Javits	Stevens
Clark	Kennedy	Stevenson
Cook	Long	Symington
Cotton	Mansfield	Taft
Cranston	Mathias	Talmadge
Curtis	McClellan	Thurmond
Dole	McClure	Tower
Domenici	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Metcalf	Young
Ervin	Metzenbaum	
	Mondale	

NAYS—0

NOT VOTING—4

Bellmon	Johnston	Magnuson
Gurney		

So the bill (S. 3698) was passed, as follows:

S. 3698

An act to amend the Atomic Energy Act of 1954, as amended, to enable Congress to concur in or disapprove international agreements for cooperation in regard to certain nuclear technology

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 123 d. of the Atomic Energy Act of 1954, as amended, is revised to read as follows:

"d. The proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of sections 53, 54, 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided,* That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine by yeas and nays."

SEC. 2. This Act shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter submitted to the Congress.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

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

REPORT ON THE INTERNATIONAL COFFEE AGREEMENT—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ABOUREZK) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Finance. The message is as follows:

To the Congress of the United States:

In accordance with the International Coffee Agreement Act, as extended and amended, I transmit herewith my annual report on the operations of the International Coffee Agreement in 1973.

The overproduction and surpluses in coffee which prevailed when the 1962 and 1968 coffee agreements were negotiated no longer existed when the 1968 agreement expired on September 30, 1973. In fact, the agreement's price-quota provisions had lapsed nine months earlier and it was clear that producers and consumers would be unable to reach agreement on similar provisions in a new coffee agreement. The 1968 agreement, therefore, was extended for two years effective October 1, 1973, but without its operative economic clauses.

A decade of international cooperation on coffee as represented by the 1962 and 1968 agreements should not be ignored. The prevailing atmosphere has not been conducive to agreement on the terms of any new coffee agreement containing operative economic provisions. However, it has been felt desirable to keep together the experienced secretariat staff of the International Coffee Organization to serve as a competent authority for the collection and dissemination of coffee statistics and other information on world production, trade and consumption while maintaining a framework in which consultations on coffee and negotiations for a new agreement could take place.

In the absence of operative economic provisions in the extended agreement and with a view to effecting some control over prices, a number of the producing nations have been attempting to concert their efforts to support coffee prices. We have repeatedly emphasized, during the negotiations for the modified extension of the 1968 International Coffee Agreement and on other occasions, our strong view that such unilateral producer actions are incompatible with the concept of international producer-consumer cooperation on coffee problems.

RICHARD NIXON.

THE WHITE HOUSE, *July 10, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BENTSEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ORDER TO PLACE H.R. 15275 ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 15276, the Juvenile Delinquency Prevention Act of 1974, be placed on the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the measures listed on the whip notice, S. 2619, H.R.

11537, S. 3355, and S. 3164 be laid aside temporarily for the purpose of taking up four conference reports. They can be laid aside either until the end of the day or until the conference reports are cleared, whichever is the earlier.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I do not know that I will—what conference reports are going to be taken up?

Mr. MANSFIELD. We are going to take up the national cancer program authorization, diabetes mellitus research, Public Health Service Act amendment, and legal services.

Mr. GRIFFIN. Three of them are very noncontroversial. I have no objection myself, and other Senators who have an interest are in the Chamber.

The PRESIDING OFFICER (Mr. BROCK). Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, in what order?

Mr. MANSFIELD. In the order I announced them. This is only to the end of the day or until they are disposed of.

Mr. HELMS. I think the distinguished majority leader.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 10-minute limitation on each of the following measures: the conference report on the National Diabetes Mellitus Research and Education Act (S. 2830), the conference report on the National Cancer Act Amendments of 1974 (S. 2893), and the conference report on Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (H.R. 11385), the time to be equally divided between the Senator from Massachusetts and the Senator from Pennsylvania (Mr. SCHWEIKER).

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

NATIONAL CANCER ACT AMENDMENTS OF 1974—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 2893, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2893) to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of June 27, 1974, at pp. 21697–21698.)

Mr. KENNEDY. Mr. President, the Senate now has an opportunity to approve one of the most important health bills of the 93d Congress—the National Cancer Act of 1974. This bill will extend the program for another 3 years. It authorizes approximately $2.7 billion for continuation of the national cancer program being conducted by the Cancer Institute at the National Institutes of Health. Based upon our hearings, I am pleased with the progress of the program to date. And I believe that this bill provides the necessary tools for the program to continue to make progress for the next 3 years.

Most of the amendments which this bill makes are the direct result of the recommendations of the President's cancer panel, which is chaired by Mr. Benno C. Schmidt. Benno Schmidt is a truly distinguished American who has been selfless in his willingness to dedicate his energies and his creative talents to public service. The country owes this man a great debt.

Now, Mr. President, there were only two issues of contention between the House and Senate in this legislation. The Senate bill contained two provisions, which were not included in the House bill. The first called for the creation of a President's Biomedical Research Panel to assess, review, and make recommendations to the President and the Congress on the overall progress of this Nation's biomedical research program. I am pleased to report to my colleagues that this vitally needed panel is included in the conference report.

Second, the Senate bill contained a permanent extension of the antiimpoundment legislation, which prohibits the President from impounding funds which are appropriated under the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Act. I also want to point out that this provision is also included in the Conference Report.

Mr. President, this is an excellent bill. It merits the support of every Member of the Senate. I urge my colleagues to support the conference report on S. 2893.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report.

The conference report was agreed to.

HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND MEDICAL LIBRARIES ACT OF 1974—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on H.R. 11385, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11385) to amend the Public Health Service Act to revise the programs of health services research and to extend the program of assistance for medical libraries, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 2, 1974, at pp. 21195–22000.)

Mr. KENNEDY. Mr. President, the Senate now has the opportunity to approve the conference report, which will extend and improve three crucial health programs. These programs cover medical libraries, health statistics and health services research.

The bill extends these programs for an additional 3 years. The conference report is a fair compromise between the House and Senate bills. There was in the Senate bill only one preeminent issue. This was the requirement in the Senate bill that the National Center for Health Statistics and the National Center for Health Research be continued as separate identifiable programs. The House bill proposed to merge these two programs. Based upon the hearings of the Senate Health Subcommittee, we determined that such an amalgamation would be a mistake. We believe, that while these two programs need to be closely coordinated, that their functions are sufficiently different such that they must remain independent.

The conference report continues these programs as separate and identifiable, though I expect that efforts to better coordinate these programs must be made by HEW.

Mr. President, I urge my colleagues to support the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

NATIONAL DIABETES MELLITUS RESEARCH AND EDUCATION ACT—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 2830, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2830) to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of June 25, 1974, at pages 21081–21084.)

Mr. KENNEDY. Mr. President, I am indeed pleased to bring to the Senate the conference report on the National Diabetes Research and Education Act. This report contains the major features of the bill which originally passed the Senate. It calls on the Director of the National Institutes of Health to establish a National Commission on Diabetes. This Commission will formulate a long-range plan to combat diabetes. This plan will include a coordinated biomedical research program, evaluation of drug therapies and treatment approaches, field studies including prevention and control programs, and programs of education and training for health professionals in the research into and treatment of diabetes.

In addition the bill calls for the creation of diabetes research and training centers throughout the Nation. And in this respect the bill authorizes a total of $40 million for the next 3 years.

Mr. President, at this time I want to pay tribute to the ranking minority member of the Health Subcommittee, Senator SCHWEIKER. This bill is to a very substantial degree the product of his concern, dedication, and leadership. I want to compliment him on the creatively constructive role he has played in the initiation and development of this legislation. The legislation which emerges from the Senate Health Subcommittee frequently bears the imprint of his imagination, wisdom and commonsense. I want him to know how much I appreciate his valued cooperation on vital health legislation.

Mr. SCHWEIKER. Mr. President, I thank the distinguished chairman of the Health Subcommittee, the Senator from Massachusetts, for his constructive, positive and helpful support on this bill.

Mr. President, the Senate has before it the conference report on the National Diabetes Education Act, S. 2830. It is a major milestone in the development of an expanded Federal effort against diabetes. This legislation represents a major first step in dealing with a chronic disease which afflicts nearly 10 million Americans. It will be the first legislation designed to deal with this major health problem. The adoption of this conference report which has already passed the House of Representatives, when signed into law will assure that for the first time a national program will be inaugurated. For some time, I have been involved in efforts to bring this issue to the forefront of congressional activity. I was pleased to introduce the first Senate bill to deal exclusively with diabetes, and last year I chaired the first hearings into the problem.

The bill as adopted by the House-Senate conferees would provide for the establishment by the Director of the National Institutes of Health of a national task force on diabetes to formulate a long-range plan to combat diabetes. The task force will provide specific recommendations for the utilization and organization of national resources for that purpose. The plan will be based on a comprehensive survey investigating the magnitude of diabetes, its economic and social consequences, and on an evaluation of available scientific information and the national resources capable of dealing with the problem. Included will be a plan for a coordinated research program encompassing the programs of a number of the institutes of the National Institutes of Health and other Federal and non-Federal programs.

Mr. President, in the area of diabetes prevention and control, a program which was included in the Senate bill, the conferees added diabetes to the list of diseases for which prevention and control programs are supported through the Center for Disease Control in Atlanta.

The bill also provides funding for diabetes research and training centers, located geographically on the basis of population density and in environments with proven research capabilities. This provision will allow for the development or substantial expansion of such centers so that satisfactory diabetes teaching for both professional and lay personnel will be available throughout the Nation. The centers will conduct basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, detection, and treatment methods for diabetes.

The Secretary of Health, Education, and Welfare is authorized to establish a new position of Associate Director for diabetes within the National Institute of Arthritis, Metabolism and Digestive diseases who would be responsible for programs with regard to diabetes within the Institute. In addition, the legislation establishes a diabetes coordinating committee composed of the directors, or their designated representatives, of each of the institutes and divisions involved in diabetes related research and will include representatives from all Federal departments and agencies whose program involve health functions or responsibilities related to diabetes as determined by the Secretary.

The committee will be chaired by the Director of the National Institutes of Health or his designated representative.

Mr. President, may I emphasize my strong support for the National Diabetes Research and Education Act, and I recommend to my colleagues the adoption of the pending conference report.

The need for a national diabetes program as embodied in S. 2830, the National Diabetes Research and Education Act, is clear. I am particularly pleased that the Senate took the initiative and lead in developing this legislation providing for a massive national effort to combat diabetes.

My interest in diabetes began some time ago and resulted in my introduction of my first legislative proposal in recent history to address itself to the problem of diabetes. I was prompted to introduce the bill because, as ranking Republican member of the Senate Health Subcommittee, I was becoming increasingly aware that as our population was becoming older, fatter, more affluent and urbanized, the incidence of diabetes was increasing at an alarming rate. I was stunned to learn that it is estimated that by 1980, one in five Americans will have diabetes or its genetic trait and that diabetes is the second or third leading cause of death in the United States if you consider it is the major factor in many chronic and disabling illnesses. For example, diabetic retinopathy is currently the second leading cause of blindness. Soon it will be the first.

At this point, it became clear to me that we needed much more adequate information on the origin of diabetes, its effects on the human body, and the best methods of treating it to prevent long-term complications from developing. It became obvious that a vastly expanded diabetes research program was needed.

Mr. President, the needs of persons with diabetes in the United States are not being met at the present time. These needs cannot be met in the future unless the Federal Government expands its leadership role in this area and provides the financial support that is essential to implement effective programs aimed at problems related to diabetes.

The seriousness of diabetes to the individual diabetic and to the Nation is not yet widely appreciated, partly because it has relatively low visibility. Diabetes which is, in effect, hidden by being either undetected or well controlled does not convey an impression of seriousness, which it should. Moreover, as serious as the problem is now there is every indication that it will become even more so in the years ahead. In the 15 years between 1950 and 1965 it has been estimated that the number of diabetics in this country very nearly doubled. The prevalence of diabetes is still increasing dramatically.

There has been a progressive increase in disability and death due to the vascular complications of diabetes. Today about 70 percent of diabetic patients die from the degenerative vascular complications which effect the blood vessels of the heart, brain, extremeties, eyes, kidneys, and nerves. It is these changes which are responsible for the striking increased incidence of heart attacks, stroke, blindness, kidney failure, amputations, and obstetrical mishaps in the diabetic. The present state of knowledge of the vascular complications of diabetes can only be described as very inadequate.

Much remains to be done. Not enough is known about diabetic vascular disease to apply scientific knowledge to its prevention and treatment. Although it is important to detect diabetes early and educate both the physician and the patient for the optimal care of his diabetes, it is only as the consequence of expanded research in diabetes and related diseases that we can hope to avoid the ever-increasing economic and emotional toll which the diabetic in the Nation are bearing.

The need to provide for greater and more effective efforts in research, professional training, and public education is obvious. Mr. President, it can be accomplished by expanding the national attack on diabetes, the objective of S. 2830.

Mr. President, I strongly urge the adoption of the conference report.

Mr. McGEE. Mr. President, I rise in support of the adoption of the conference

report on S. 2830, the National Diabetes Mellitus Research and Education Act. Both the House and Senate have worked hard in arriving at a final compromise on this legislation.

As you know, Senator SCHWEIKER and I early last year introduced two separate bills which have resulted in the final version which we are considering here today. Although the bill reported out of conference does not go as far as the original bill which I introduced in providing a comprehensive program to combat diabetes, I wholeheartedly support this measure and urge the adoption of the conference report.

As we all recognize, this disease is the fifth leading cause of death in this Nation. It is also the second most common cause of blindness, and within 10 years, it is expected to become the leading cause. Diabetes-related sicknesses result in absenteeism, disability, and lifetime productivity losses due to premature death. It is estimated that these ailments result in the loss of $2 billion of earnings per year. Included in disabilities and related sicknesses are heart attacks, kidney failures, and circulatory ailments.

Mr. President, the programs which are provided for in S. 2830 are indeed miniscule compared to the suffering and the losses which are directly attributed to the disease of diabetes. The bill would authorize the sum of $8 million for fiscal year 1975, $12 million for fiscal year 1976, and $20 million for fiscal year 1977 for the purpose of establishing research and education centers throughout the country. This effort is indeed long overdue.

I was certainly encouraged by the unanimous support in the Senate for this legislation when S. 2830 was passed on December 20 of last year. I also wish to compliment the conferees on their efforts to approve an equitable compromise between the Senate and House versions.

Mr. President, I believe the Senate should approve the conference report so that this legislation can become effective as soon as possible.

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Florida (Mr. GURNEY) are necessarily absent.

The result was announced—yeas 94, nays 0, as follows:

[No. 296 Leg.]

YEAS—94

Abourezk	Ervin	Montoya
Aiken	Fannin	Moss
Allen	Fong	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Beall	Hansen	Pastore
Bennett	Hart	Pearson
Bentsen	Hartke	Pell
Bible	Haskell	Percy
Biden	Hatfield	Proxmire
Brock	Helms	Randolph
Brooke	Hollings	Ribicoff
Buckley	Hruska	Roth
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Hughes	Scott, Hugh
Byrd, Robert C.	Humphrey	Scott, William L.
Cannon	Inouye	Sparkman
Case	Jackson	Stafford
Chiles	Javits	Stennis
Church	Kennedy	Stevens
Clark	Long	Stevenson
Cook	Mansfield	Symington
Cotton	Mathias	Taft
Cranston	McClellan	Talmadge
Curtis	McClure	Thurmond
Dole	McGee	Tower
Domenici	McGovern	Tunney
Dominick	McIntyre	Weicker
Eagleton	Metcalf	Williams
Eastland	Metzenbaum	Young
	Mondale	

NAYS—0

NOT VOTING—6

Bellmon	Gurney	Johnston
Fulbright	Hathaway	Magnuson

So the conference report was agreed to.

Mr. SCHWEIKER. Mr. President, I move that the vote by which the conference report was agreed to be reconsidered.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, I ask unanimous consent to yield 3 minutes to the distinguished minority leader without losing my right to the floor.

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

Mr. HUGH SCOTT. I thank the distinguished Senator.

SPERLING AND SCHWARTZ, INC.

Mr. HUGH SCOTT. Mr. President, from the Judiciary Committee, I report favorably Senate Resolution 186 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 186) to refer the bill (S. 2571) entitled "A bill for the relief of Sperling and Schwartz Incorporated", to the Chief Commissioner of the United States Court of Claims for a report thereon.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 186) was considered and agreed to, as follows:

Resolved, That the bill (S. 2571) entitled "A bill for the relief of Sperling and Schwartz, Incorporated", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

ORDER OF BUSINESS

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

Mr. NELSON. I ask unanimous consent that I may yield to the majority leader, without losing my right to the floor.

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

SERVICES FOR THE LATE CHIEF JUSTICE OF THE UNITED STATES, EARL WARREN

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader (Mr. HUGH SCOTT), I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

S. CON. RES. 101

Resolved by the House of Representatives (the Senate concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that the said catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Earl Warren, former Chief Justice of the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 101) was considered and agreed to.

ESTABLISHMENT OF LEGAL SERVICES CORPORATION—CONFERENCE REPORT

Mr. NELSON. Mr. President, I submit a report of the committee of conference on H.R. 7824, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FANNIN). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, having met, after full and free conference, have agreed

to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of May 13, 1974, at pp. 14170–14174.)

Mr. NELSON. Mr. President, I will, in a short period of time, move to lay on the table the pending conference report on H.R. 7824, the Legal Services Corporation Act.

Adoption of the motion to table the conference report would leave the legislation in the following status: The Senate would revert back to the point at which the Senate passed its version of the legislation as a substitute amendment for the House-passed bill. At that point, assuming adoption of the motion to table the pending conference report, I will then move that the Senate further insist upon its amendment to the text of the House bill.

The purpose and effect of these motions will be to send the bill back to the House of Representatives where the managers of the bill will move to concur in the Senate amendment with a further amendment: To substitute the text of the conference agreement with the one exception that the authority for backup centers would be replaced by the language of the House-passed bill prohibiting grants and contracts for backup centers.

Assuming the House takes such action, the revised conference agreement will then come back to the Senate for our concurrence, at which time the legislation would be cleared for the President's signature.

Mr. President, it is clear that legislation to establish a Legal Services Corporation is not going to become law unless the authority to make grants and contracts for back-up centers is removed. It is now a certainty that the bill faces a Presidential veto unless this change is made. There are simply not the votes to override a veto, as evidenced by the fact that when the House of Representatives considered the conference report it failed by only seven votes to recommit the conference report with instructions to insist upon striking out the authority to contract for back-up centers—183 for recommittal; 190 against.

Mr. President, the legal services program for the poor has been one of the most effective components of the war on poverty. For the first time, free legal assistance has been available to poor persons to press their valid claims in our system of justice. Legislation to transfer the legal services programs from the Office of Economic Opportunity to a new independent Legal Services Corporation has been under consideration before Congress for 3 years. We have met the administration's concerns in all essential respects. We have done our best to reach a reasonable compromise.

Let me make clear that I personally think that it would have been wise to leave to the Legal Services Corporation's board of directors the judgment of whether or not to make grants or contracts for back-up centers. I believe that the conference report was therefore a good one on its merits. However, almost half of the Members of the House of Representatives are of the opinion that contracts for back-up centers should not be authorized and felt strongly enough to vote to recommit the conference report on that ground.

Obviously, a Presidential veto could not be overridden in the House. The prudent course, in my judgment, is to face the legislative situation realistically and save this carefully worked-out conference agreement with the one change removing the authority for grants and contracts for back-up centers. The business of transferring the program of legal services for the poor from the Office of Economic Opportunity to the Legal Services Corporation can then move forward without further delay.

Mr. President, I ask unanimous consent to yield 10 minutes to the distinguished Senator from New York (Mr. JAVITS) without losing my right to the floor.

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

Mr. JAVITS. I thank my colleague very much.

Mr. President, the Senate is entitled, I think, to a very complete explanation of what we have endeavored to do, and also as to its timing.

Literally, I represent to the Senate that what we have endeavored to do has come together within the last few minutes—so many parties were required in order to deal with it.

Those of us who are deeply convinced that a Legal Services Corporation is very desirable and that the legal services effort is one of the principal elements of the war on poverty which has proved itself to be most effective in breaking the syndrome of poverty—by giving a poor individual the sense of dignity derived from representation by a lawyer—wish to see this effort continued. The American Bar Association and a great many of the other bar associations of this country, including the most prestigious, believe the way to do this is through an autonomous corporation of the kind provided in the conference report. The President of the United States, indeed, himself was a principal author of the proposition that we have such an autonomous corporation.

It would therefore have been indeed a strang miscarriage of justice if we in Congress should have fallen out with the President, after such a long effort, so many hearings, floor debates, conferences, and so on.

So an effort was undertaken by me and a very distinguished partnership of the Senator from Ohio (Mr. TAFT), the ranking minority member of the Senate Subcommittee on Poverty, the chairman of that subcommittee the Senator from Wisconsin (Mr. NELSON), the Senator from California (Mr. CRANSTON), the Senator from Minnesota (Mr. MONDALE), and their colleagues on the other side of the aisle in an effort to see if—as it turns out, by swallowing hard some of our own deep feelings about these backup centers including those in New York, which I value very highly and I think are critically important—we could finally come to some understanding that the bill approved in conference would be signed.

So, Mr. President, I state to the Senate first that it is my judgment, everything taken into account, that if we simply approved this conference report and sent it on to the President, he would veto it. I concur with my colleague from Wisconsin that this would be a vain act, and that we do not have the votes to pass it over a veto with the specific authority for the backup centers in. But with the backup centers authority out, Mr. President, I am satisfied, with the assurances which I have received, that the President would sign the measure.

Under those circumstances, I have joined, with Senator NELSON, Senator TAFT, and all of the other Senators I have mentioned in an effort to work out the procedural program which Senator NELSON has set forth.

I wish to represent to the Senate that we do not see any deviation in that program as far as we are concerned. We will go through with it step by step. That is our commitment to each other and our commitment to our colleagues in the House of Representatives, and we are satisfied that our colleagues in the House in the same positions we occupy are fully prepared to cooperate to see that this gets done.

Mr. President, if we can go forward as necessary, since a few Senators feel very strongly about it, certainly their views should be heard, but if they persist in trying to bring down everything we have done, we shall have to, of course, lend ourselves to whatever the remedies are under the Senate rules to correct that situation.

I would close by saying that in all honor, in this matter on which we have worked so hard even our opponents ought to be content. They, too, have fought very hard, and this bill is essentially, even without the backup center proposition dropped out, what the President wanted. It seems to me, therefore, that this is the consummation of the kind of activity in the country, in making law which should be favored and not discouraged. I hope very much, therefore, that we may be able—in any case we will give it our best effort—to consummate the procedural plan which Senator NELSON has laid out.

May I say to the Senator from Wisconsin that I know a lot of this has been very hard for him, because he feels very keenly about the terms of the Senate bill as we had it, as do I. I very much appreciate the way in which he has been willing to defer some of the details in order to reach the main point, which is an autonomous Legal Services Corporation.

Mr. NELSON. Mr. President, without relinquishing the floor, I would like to

ask the Senator from New York one question. I was momentarily discussing another matter at the beginning of the Senator's remarks. Did the Senator from New York comment on the assurances that he had that this bill would be signed if the backup centers were removed?

Mr. JAVITS. Mr. President, I wish to repeat what I said. I believe I can repeat it exactly as I said it.

I said I have received assurances which I considered entirely satisfactory that if the bill comes to the President with the specific authority for the backup centers dropped out and the language of the House of Representatives, in that respect restored—the specific language for which I shall insert in the RECORD—the President will, if presented with this measure, sign it.

I ask unanimous consent that excerpts from the conference report showing the proposed changes to be effected be printed in the RECORD.

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

"SEC. 1006. (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

"(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

"(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

"(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernmental arrangements),

for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;

"(2) to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

"(3) to undertake directly and not by grant or contract the following activities related to the delivery of legal assistance—

"(A) research,

"(B) training and technical assistance, and

"(C) to serve as a clearing house for information.

"(b) (1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with section 1011, financial support to a recipient which fails to comply.

"(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in the provisions of section 1011.

"(3) The Corporation shall not, under any provision of this title, interfere with any attorney in carrying out his professional responsibilities to his client as established in the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association (referred to collectively in this title as 'professional responsibilities') or abrogate as to attorneys in programs assisted under this title the authority of a State or other jurisdiction to enforce the standards of professional responsibility generally applicable to attorneys in such jurisdiction. The Corporation shall ensure that activities under this title are carried out in a manner consistent with attorneys' professional responsibilities.

"RIGHT TO REPEAL, ALTER, OR AMEND

"SEC. 1013. The right to repeal, alter, or amend this title at any time is expressly reserved.

"SHORT TITLE

"SEC. 1014. This title may be cited as the 'Legal Services Corporation Act'."

TRANSITION PROVISIONS

SEC. 3. (a) Notwithstanding any other provision of law, effective ninety days after the date of the first meeting of the Board of Directors of the Legal Services Corporation established under the Legal Services Corporation Act (title X of the Economic Opportunity Act of 1964, as added by this Act), the Legal Services Corporation shall succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs or activities assisted pursuant to section 222(a)(3), 230, 232, or any other provision of the Economic Opportunity Act of 1964.

Mr. JAVITS. I have said also that it is my judgment that if we send the conference report to the President as is, he would veto it, and that we do not have the votes to pass it over his veto with the backup centers in.

That is, I believe, exactly as I said it before.

Mr. NELSON. Mr. President, I thank the distinguished Senator from New York.

I might say that I have been advised by two sources independently representing the White House that the bill would not be signed, in their judgment, if the backup centers remained in.

Mr. President, I ask unanimous consent to yield 10 minutes——

Mr. TAFT. Mr. President, 3 minutes will be adequate.

Mr. NELSON. Three minutes to the distinguished senior Senator from Ohio (Mr. TAFT) without losing my right to the floor.

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

Mr. TAFT. I thank the Senator for yielding.

I merely want to supplement what has already been said and to compliment the distinguished chairman of the subcommittee as well as the ranking minority member who worked hard and long and, I think, with a great deal of understanding with the objective of getting affirmative legislation under what looked like the most difficult circumstances.

I would like to repeat that I have been in touch for some time with the executive branch in discussions with respect to this entire matter, and I concur completely in what the distinguished Senator from Wisconsin and the distinguished Senator from New York have said regarding the likelihood of the bill being vetoed if the changes in the Senate version are not made.

I also concur in the fact that assurances would be entirely appropriate that if the change is now worked out in the way it is proposed to be worked out, that the bill will receive favorable consideration by the Chief Executive.

I thank the Senator.

Mr. NELSON. Mr. President, may I say this proposal for an independent Legal Services Corporation was first considered in 1971 and, after extensive hearings on both the House and the Senate side, we finally reached an agreement on an independent Legal Service Corporation which the administration itself initiated and proposed.

It went to the President and it was vetoed because of objections by the President to that particular bill regarding appointment of members of the Board of Directors of the Corporation.

Then in 1972 we went to great lengths to work out another independent Legal Services Corporation bill and we could not agree in conference with the House on a bill that both Houses could accept and could be signed into law.

Then again in 1973, more than a year ago, we proceeded with hearings and markup on another independent Legal Services Corporation bill.

We finally went to conference, holding seven sessions over an extended period of time. We finally reached agreement on the conference report that is before us.

I regret very much the necessity for removing the backup centers, but it is perfectly clear that without removing the authority to make grants and contracts for backup centers the bill will not be signed.

This bill is the result of carefully extended bipartisan consideration within the committees in the Senate and in the House. It represents 3 years of effort and compromise, and I would hope that we would be able to reach a final conclusion after 3 years of work on this bill.

Mr. President, I ask unanimous consent that there be printed in the RECORD an excerpt from the Senate Committee Report No. 93-495, on the Legal Services Corporation on the consideration of this legislation by the Senate Labor and Public Welfare Committee before the bill was reported to the Senate.

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

CONSIDERATION OF LEGISLATION

On May 15, 1973, Senators Javits, Nelson, Taft, Schweiker, and Beall introduced the administration's proposed legislation to establish a Legal Services Corporation.

The bill reported by the committee is based upon the Administration's proposal. It was considered in executive session by the Subcommittee on Employment, Poverty, and Migratory Labor on October 2 and 3 and was ordered reported by the full Labor and Public Welfare Committee on October 10.

The framework of and the essential principles embodied in the committee-reported bill have been thoroughly considered by this committee during the past 3 years.

During the 91st and 92d Congresses, the Poverty Subcommittee held 8 days of hearings specifically devoted to the legal services program. In addition, many witnesses have testified concerning legal services at hearings on Economic Opportunity Act programs

in general, both in Washington and at field hearings around the Nation this year.

A title to establish a Legal Services Corporation was included in the Economic Opportunity Amendments of 1971. That legislation passed the Senate on September 9, 1971, but the conference agreement was vetoed on December 10, 1971. While much of the veto message related to matters in the bill other than legal services, the President in his veto message stated his objections to the make-up of the board of directors and certain transition provisions.

Again in 1972, both the House and Senate included a title to establish a Legal Services Corporation in the Economic Opportunity Amendments of 1972. However, differences between the House and Senate relating to Administration concerns about the appointment of members to the board of directors and other matters proved irreconcilable and the joint conference committee was unable to reach agreement on a legal services title.

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

Mr. NELSON. I would yield to the Senator for a question.

Mr. HELMS. Did I understand the Senator to say hearings on this bill were held in January 1973? Is that the way the Senator stated it?

Mr. NELSON. I misspoke. We had held hearings on this bill in the two previous Congresses. We did not reach agreement on that bill in conference, but it was substantially the same bill we began with this session, so we did not hold hearings in 1973.

Mr. HELMS. One further question, Mr. President, if the Senator will yield.

Mr. NELSON. Yes.

Mr. HELMS. That makes the situation one in which this 93d Congress, and this Senate, as now constituted, has not had hearings on this legal services corporation bill; is that correct?

Mr. NELSON. That is correct. There was not anything left to have hearings on, since we had been over it many times.

Mr. HELMS. If the Senator will yield further——

Mr. NELSON. I yield for a question without losing my right to the floor.

Mr. HELMS. Mr. President, is the Senator aware that the distinguished Senator from Tennessee and the Senator from North Carolina had a legal services corporation bill that was never considered?

Mr. NELSON. Yes. Counsel advises me it never came to our committee so it would not have been my responsibility. I understand that it went to the Judiciary Committee.

Mr. HELMS. But insofar as the distinguished Senator from Wisconsin knows neither Senator BROCK nor I was invited by your committee to express any opinion about this legislation, let alone advocate our own proposal for providing legal services for the poor.

Mr. NELSON. That would not be my recollection, Senator. The distinguished Senator from Tennessee and the distinguished Senator from North Carolina expressed their opinion at considerable length on the floor of the Senate on the pending bill.

Mr. HELMS. Yes, but that was after, if the Senator will forgive me, the distinguished committee had drafted its ideas of legislation, and information that has been available to me is that this bill was marked up by your committee in secret or in executive session. Without being critical of anyone in this matter, the rest of us simply did not have a look-in until it was a fait accompli.

I thank the Senator for yielding.

Mr. CRANSTON. Mr. President, would the Senator yield?

Mr. NELSON. I would just like to add that after we had exhausted all administration testimony, had exhausted all testimony from interested parties from all over the United States, and had exhausted the committee itself, under the theory of the Senator from North Carolina the distinguished junior Senator from Ohio would have the right to stand on the floor when he was appointed and arrived here a few months ago and say, "Senator, I did not get a chance to appear before your committee; therefore, I object to the bill."

Mr. HELMS. The difference being——

Mr. NELSON. I will yield for a question without losing my right to the floor.

Mr. HELMS. Very well. I do not know that I can state it in a question, but I will do the usual and say, is it not correct that this was new legislation at the beginning of this session of Congress?

Mr. NELSON. There was not very much new about it because we have been hashing, rehashing—hashing, rehashing—the question of the continuation of a legal services program which has been around for several years. In fact, all the fundamental principles of legal services, of this corporation, all the sections that are in the legislation here either from the old legislation or from modifications that were more restrictive than the old legislation have been exhaustively discussed.

Mr. HELMS. Mr. President, if the distinguished Senator will yield further—and I will try to phrase it in the form of a question again——

Mr. NELSON. I am perfectly willing to let the Senator do so without asking a question, if I do not lose my right to the floor.

I ask unanimous consent to allow the distinguished Senator from North Carolina to make whatever observations he would like to make, without my losing my right to the floor.

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

Mr. HELMS. Mr. President, I thank the distinguished Senator for his courtesy.

Mr. NELSON. For 5 minutes?

Mr. HELMS. Oh, much less than that. I would simply comment that the distinguished proponents of this legislation now find themselves in a box of their own making—perhaps because the rest of us were not given a look-in on this proposition. I hope that in the future interested parties will be permitted to participate—and I do consider myself an interested party. I reiterate, as the distinguished Senator well knows, that there was no way I could participate in any hearings prior to 1973. I was not elected to the Senate until November of 1972 and took office on January 3, 1973—the beginning of the 93rd Congress. At that time and, in perfectly good faith, the distinguished Senator from Tennessee and I submitted a bill which, frankly, we were prepared to demonstrate, if given an opportunity, is far superior to the bill now pending before the Senate.

We wish our bill had been given consideration. It was not given consideration. We made a request of the distinguished chairman of the subcommittee of the Judiciary Committee that we be heard on it, and nothing ever came of that.

We made other inquiries and, again without any suggestion of impropriety or discourtesy on the part of anyone, the fact remains that we were shut out from any participation in this legislation until it was an accomplished fact. I wish that somehow the proposal of the Senator from Tennessee (Mr. BROCK) and I could have been given consideration, to let the Senate decide whether it has merit or not. We happen to think it does. I thank the distinguished Senator for yielding.

Mr. NELSON. I thank the Senator from North Carolina. I will submit for the RECORD prior to the conclusion of the discussion of this measure all the days of hearings and a list of the witnesses who appeared. Actually I would say to the Senator from North Carolina we did not have any more witnesses by 1973 who wanted to appear. Now it may have been that if the distinguished Senator from North Carolina had asked the committee, we would have set aside a day for him to appear. We could not think of anybody in the United States who, after all this period of time, had not been heard. I realize the Senator from North Carolina——

Mr. HELMS. Mr. President, I hope the RECORD will show the Senator from North Carolina is shaking his head because I certainly wanted to be heard on this, and I never was.

Mr. NELSON. As to the question of the bill the Senator submitted, it was referred to the Judiciary Committee. I don't know why a hearing was not held over there, but my recollection in any event, is that, the Senator had his opportunity to persuade the Senate because he offered his amendments on the floor during the 8 days this legislation was before us; is that not correct?

Mr. HELMS. The Senator is entirely correct, but as is the custom in this body, 4 or 5 Senators, or even fewer than that, were on the floor at the time, and the Senator knows the name of the game. Few Senators heard or read the proposed amendments by the Senator from North Carolina. There was no consideration of our position in the matter. I realize this is the way it goes with a great deal of legislation in the Senate, but in this case it is my ox that is being gored—and the ox of the people of this Nation—and certainly I regret it.

But let me proceed, for a few minutes, with an assessment of this conference report.

Mr. President, today we are considering the conference report on H.R. 7824, the bill to set up an independent legal services corporation. The bill, we are told, is a compromise between the Senate and House versions. We are told that politics is the art of compromise, and,

the compromise having been reached, the moment has arrived to back down from tentative negotiating positions, and accept what has been bargained for in good faith. Any bill, we are told, is better than no bill. Under this reasoning, all Senators are urged to accept the conference report and the President is urged to sign the bill into law.

But this superficially reasonable argument falls to pieces when the special circumstances are examined. It is always wise to ask just what kind of a compromise this is. We must ask what is compromised. Technically speaking, it is a compromise between a permissive, though heavily amended House bill, and a very permissive Senate bill. The advocates of an independent legal services corporation have fought the battle in both Houses, and in both cases came up with bills that fundamentally reflected their views on the nature of the corporation and its role in American society. Some restraints were imposed by the House, but nothing to alter the fundamental character of the institution being created. A few amendments were added in the Senate. The conference made technical adjustments in the two bills. But even more of the House-passed safeguards were watered down.

Indeed, there were nearly a hundred points listed in the conference report where the conferees made concessions. But in scarcely half a dozen of these concessions were the provisions improved—and those mainly in minor areas of recordkeeping and audits. In most of the cases, the House conferees agreed to recede from their bill whenever their bill was toughest; and the Senate conferees cooperated by receding from their language whenever the Senate bill was the toughest. In other words, whoever, on either side, had the toughest language, backed down. So the "compromise" is not in the direction of the House bill or the Senate bill; the "compromise" is back toward the permissive concept of legal services that both Senate and House implicitly rejected in their versions of the bill.

Now I have used the term "permissive" and alternately the term "safeguards." What is being "permitted?" And what is being "safeguarded" against? Is there an implication that the poor will get too much legal counsel, or that they are somehow worthy of only second-rate professional assistance? Nothing could be further from the truth. I myself have been a strong advocate of improving the delivery of legal services to the poor. From the standpoint of my constituents in North Carolina alone, I would have to be an advocate of improving legal services, since the present system—and there is nothing in the proposed system to alter the situation—has cheated and shortchanged the poor people of North Carolina of millions of dollars that would be due to them if the available funds were distributed equitably on the basis of need.

It is my belief that every poor individual in North Carolina should have access to the courts at the time of need; and the same is true of individuals in every other State who are so poor that the courts of justice are denied to them. But I further believe that the only way to provide high quality service, experience, and wisdom is to provide it through the local bar—through men who are engaged in the ordinary practice of law of all kinds, and who are responsible to the local and State-elected officials, and through them to the people as a whole. In other words, any such corporation, financed with public funds, must be accountable to the public.

Over a year ago, in company with the distinguished Senator from Tennessee (Mr. BROCK), I introduced a bill, S. 1990, to establish a legal services corporation embodying this concept. The corporation would have provided money directly to the States to set up local projects in conjunction with the local bar. This bill was introduced before the bill which passed the Senate last fall was written. No hearings were held on our bill, S. 1990, even though it was an entirely new concept and even though it was introduced after a great public debate had arisen over the nature of the Office of Legal Services in OEO. In fact, no hearings at all were held before the Senate bill was written and reported to the floor, despite the great changes which had been wrought in OEO in the meanwhile.

But the advocates of an independent legal services system do not want a legal services delivery system that is accountable. With all due respect to their intentions, I submit that the very nature of the system they propose is to render the corporation not accountable to the people.

First of all, the corporation is independent. By independent they mean that it is free of political control. They mean that local bar associations, local governments, even State governments will have little power to interfere with the activities funded by the project. Yes, indeed, even the Congress of the United States will have very little power to control the corporation once the Board of Directors has been appointed and the money appropriated. The implication seems to be that the elected officials of this Nation—local, State, and Federal—are so benighted and unjust that they will abuse their powers and prevent poor people from getting what is rightfully theirs.

Second, the present Office of Legal Services, and its funded recipients, are in the hands of a radical group, with pronounced social views; and the transition procedures in the bill before us are such that it would be impossible to extricate them from the apparatus, even if the new Board of Directors wanted to do so. The structure of this new corporation will be based upon the same staff-attorney system as at present, which frequently brings in out-of-State attorneys with little knowledge of the local scene, eager to attack what they conceive to be the local power structure.

The staff-attorney system insulates the attorney from the normal constraints of the legal profession and provides him with a salary, no matter what his level of social irresponsibility.

Third, the proposed corporation is independent of the poor people it is supposed to serve. It is ironic that the whole purpose of this system is to deliver legal services to the poor, but the poor have the least to say about it. To be sure, the self-proclaimed "leaders of the poor" will see to it that they, themselves, are institutionalized into the decisionmaking—and funding process. But the poor people themselves will have little to say about the priorities, about what kind of cases will be handled, and how many. Because of the staff-attorney system and the national guidelines, we may expect to see a great portion of resources programed toward social revolution and manipulation of the law. We may expect to see more class action suits of the sort that destroyed our abortion laws, increased welfare payments, forced busing upon suburban educational systems, attacked the property tax as the basis of local funding of schools, and so forth. "High quality legal services" is a euphemism for unfettered social agitation in the courts.

It is strange that we hear much about the necessity to leave the attorney free to practice as he sees fit—on taxpayers' money—but we hear little about the desirability of allowing the poor client to choose an attorney as he sees fit. Is it not degrading for the client to have to go stand in line, and hope that the quota on his type of case will not be filled before he gets there? Instead of contributing to the individual dignity of the poor citizen, the proposed corporation collectivizes him, just as it socializes the practice of law. The poor man, already burdened with his legal problem, is crushed by the weight of another insensitive bureaucracy.

Finally, we must come to the conclusion that this so-called independent legal services corporation is not really interested in the poor person as an independent citizen. It is interested in exploiting poor people in the name of class warfare. This bill is frankly deceptive to those who do not understand the special code language employed. For example, everywhere that one reads the term "eligible client," one would ordinarily think of some poor individual having landlord trouble, or domestic trouble, or credit trouble. And indeed, there will be many cases where such is true.

But it is also true that "eligible client" means an organization composed of poor people or that advocates issues in the name of the poor, or both. With this in mind, one has to think through the impact of this bill by substituting the name of an issue-advocacy organization wherever one sees "eligible client." Thus, wherever we see political activity proscribed, with the qualifier, "other than legal advice and representation," we have to remember that the "eligible client" may well be the "National Welfare Rights Organization," the "United Farm Workers Organizing Committee" of Cesar Chavez, the "American Indian Movement," the "National Tenants Organization," and the like. This is not the place to argue the merits or lack of merits of such organizations; there are doubtless some strong supporters of some of these organizations in the Senate. I think all would agree, however, that it is unjust

for Federal funds—the common taxpayers' funds—to be expended in support of the goals of these groups, particularly when they assert the interests of one group over those of other groups.

Mr. President, advocacy organizations do not represent the common interest, whether they are based on narrow special interests—such as the welfare rights groups, or the Cesar Chavez operations—or whether they assume the pose of broad-based support, such as many of the self-proclaimed "public interest" groups organized by Ralph Nader and others. They are all advocating a particular point of view. And, like all activist groups, this view is formulated by an intellectual elite. Through agitation, mobilization, organizing, or whatever you want to call it, they attempt to inculcate a sloganized and simplified version of this point of view in their membership of self-selected constituency. Let us face the fact that, whatever their intentions, revolutionary and reformist groups are always composed of an organized elite that uses various techniques of psychological warfare and sometimes violence to impose their views upon the multitude.

It is a basic tenet of American society that we are bound by our Constitution, our laws, and our democratic process. If any of these are subverted, our freedom will be lost. Our system of social justice assumes the basic rectitude of our social system. If injustices are present, we work to change these through the democratic process. At one time, the integrity of the Constitution was guarded by the U.S. Supreme Court; but now the Court can interpret the Constitution as it pleases, without regard to its original meaning and interpretation. The judicial branch of the Federal Government is specifically nonrepresentative. And, because it specifically does not represent the people, the judicial branch has become the target for action-minded advocacy groups that claim to represent special interests. In other words, intense pressure upon the judiciary through legal action is the weak point in our national structure. It circumvents the democratic process. It unbalances the system of checks and balances. And it nullifies the delicately interconnected legislative system that has been our pride and heritage since 1789.

It is the wholesale attack upon the will of the people—as expressed through State legislatures, through the House of Representatives, and through the Senate—that is the fundamental error of the proposed Legal Services Corporation. Advocacy groups are restrained somewhat by the multitude of their numbers, their lack of real support from their self-selected constituency, the difficulty of organizing legal talent across the board, and the problem of coordination of legal strategies. Until recently, their funding came from private and charitable sources. They were simply one other voice in our pluralistic society advocating their own view, and had to contend in the struggle on the same basis as every other point of view. But if they are able to tap Federal money without Federal restraint—and that means money taken from all taxpayers, even the majority that they oppose—then they become an unelected fourth branch of government accountable to no one. They become the only branch which is unrestrained by the democratic process.

So, even though the Legal Services System does indeed represent individuals in individual cases, it has, in the past, represented advocacy groups and will continue to represent them. Moreover, legal representation of advocacy groups, as specifically permitted by the conference bill, is the strongest weapon these groups have to attain their partisan goals.

Yet, the Legal Services Corporation set up by this bill goes beyond mere representation of other advocacy groups; it becomes the most powerful such advocacy group in the Nation. It has its staff of nearly 3,000 lawyers, joined together in a supernetwork by various communications techniques: Clearinghouse services, conferences, and the employees of the national corporation. In addition to the lawyers, the legal services network has the assistance of thousands of trained activists and paraprofessionals who are not members of the bar. Is it for this reason that proponents of the Legal Services Corporation concept have been so anxious to keep authorization and funding for "training programs" and authority for funding attorneys who are "admitted or otherwise authorized by law, rule, or regulation to practice law?" Thus, a legal services attorney does not have to be admitted as a member of the local bar, or, indeed, any bar; and paraprofessionals not admittable to the bar can perform functions designated by the guidelines.

Behind this broad field of operations, of course, are the so-called backup centers. It is in the backup centers that the legal strategy is prepared to attack the laws passed by Congress. But their functions go beyond ostensible research. The backup centers provide the initiative for law reform; they write amicus briefs; they engage in advocacy training so that the trainees can do the things that the corporation itself and its recipients are prohibited from doing; they draft model legislation on the State and Federal level; they draw up proposed changes in the regulations of executive branch agencies, and so forth. The backup centers are the think tanks for the program, but they operate in many fields other than mere research.

The conference bill provides that the authority of the Corporation to make contracts for research terminates on January 1, 1976. But, in further language that is a masterpiece of sleight of hand, the next paragraph after this authority provides that during the 6 months previous to that date, Congress, by concurrent resolution, may end or extend that authority. And further: That if Congress fails to take action, the authority is automatically extended for 1 year.

Bear in mind that this authority is authority to make contracts, so that the actual operation of backup centers for research could extend for 2 or 3 years or more beyond. Yet, this insignificant restriction applies only to research functions, and not to the myriad of other functions which they presently perform. So, even if the backup centers were to be eliminated for research, they could remain for other purposes, or the functions could be transferred to other legal services recipients.

Mr. President, it is a vain hope that the appointment of a "responsible" Board of Directors—that would write purportedly "tight" guidelines—would place restraints upon the proposed Corporation and its recipients. In the first place, there is no political control over the directors once they have been appointed. And even if they wished to write tight guidelines, they are prevented from doing so by this bill, which lacks in permissive standards on lobbying, picketing, outside compensations, and other forms of social manipulation.

In the second place, most of the present personnel will be carried over en masse into the new Corporation, with special protections written into this bill enabling them to have a special status conferred by regulation.

In the third place, there is a grandfather's clause protecting the grants of present recipients whose boards of directors do not have the requisite number of attorneys to qualify.

Finally, funding cannot be suspended for recipients. The bill provides for automatic interim funding of any current recipients until their applications for refunding have been approved or denied; if refunding is denied—even for violating regulations and prohibitions—the recipient still has a lengthy process of trial-like proceedings before the funds can be cut off. Therefore, the present employees and recipients, with their peculiar views of social activism, are locked in for as long as they want to stay.

Mr. President, the issue here is not the delivery of legal services to the poor. If the proponents of this bill really were interested in providing poor people with the same kind of access to the courts as ordinary citizens who engage attorneys in private practice, then they would have provided a client-oriented system. They would have chosen a system that would allow the poor client to choose the attorney that he wished to work on the type of problems that were important to his individual needs. They would have chosen a system responsive to the democratic process.

But they did not. They chose to perpetuate a staff-attorney bureaucracy. Under their system, the client has no choice whatsoever. If he wants help, he must go to the local project, where only the staff attorneys or paraprofessionals are available to him; and often as not he does not even have the choice of which one will work with him. Indeed, he has no guarantee that they will take his case, if the quotas of cases in the area of his need have been exhausted.

And, at the same time, the proponents of this bill have chosen to institutionalize legal advocacy for social change and manipulation. They are setting up a system that circumvents the normal and proper democratic process, and that is insulated from the normal accountability channels of our political system. For, even though there are apparent prohibitions on partisan political activity, the

broader political questions, the politico-philosophical questions about the distributions of rewards and benefits, are what is at stake. Are we to handle these questions through political give-and-take of our system, thereby achieving a strong consensus of popular support? Or shall the taxpayers set up and finance an unaccountable independent agency—an instrument that is not even a Federal agency—to attack the basic interests of the majority?

Mr. President, the only way to settle this question equitably is to vote to reject the conference report on H.R. 7824.

Mr. NELSON. Mr. President, I ask unanimous consent that I may yield 3 minutes to the distinguished senior Senator from California without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from California is recognized.

Mr. CRANSTON. I thank the Senator very much. I thank the Senator from Wisconsin for his very long, hard, and arduous work in this matter. And I want to note, too, the great contribution of the Senators from Minnesota (Mr. MONDALE), New York (Mr. JAVITS), and Ohio (Mr. TAFT), in bringing us to this point today.

Mr. President, it is with a heavy heart that I rise to urge the Senate to support the tabling motion of the distinguished Senator from Wisconsin (Mr. NELSON), the floor manager of the Legal Services Corporation Conference Report on H.R. 7824, in which motion I most reluctantly join. The best judgment of those best able to make a judgment about the likely action of the President with respect to this conference report is that the President will veto it. There is, of course, no way to know this for sure expect for the Senate to approve the conference report and send it down to the President.

But, Mr. President, we have heard the viewpoints expressed by the senior Senator from New York (Mr. JAVITS) and the senior Senator from Ohio (Mr. TAFT) that, based on their best judgments after consultations with administration officials at the highest level, the conference report as is, would, in fact, be vetoed by the President.

Mr. President, based on the 223 to 146 vote in the House of Representatives, which would act first on a vote to override a Presidential veto on this bill, there seems little possibility that the votes would exist in the other body to override a Presidential veto of the conference report. The alternatives available to us if this conference report were thus so defeated would be, I am sorry to say, very much more unfortunate—under any realistic assessment—than the compromise which we have agreed to with the President and with leaders of the other body on this conference report; that is, to revert to the language of the original House bill prohibiting grants or contracts for backup centers.

Mr. President, there is absolutely no valid reason for the deletion of this provision except to bring about the enactment of this measure. Backup centers have placed a useful constructive responsible role in providing justice for the poor.

Mr. President, the alternatives that would be available after the demise of this conference report would be to attempt to deal with the future of legal services programs in the context of the legislation to extend the Economic Opportunity Act provisions or reenact them in a new piece of legislation as the House has already done in H.R. 14449. Since the House bill contains new provisions dealing with the legal services program, we in the Senate would be at an extraordinary disadvantage in any conference and subsequent action in attempting either to develop further legislation to establish an independent Legal Services Corporation or to transfer the program from the Office of Economic Opportunity to the Department of Health, Education, and Welfare. In either case, such a legal services provision would almost certainly have to go back to the House floor for separate consideration and separate voting outside of any conference report on that OEO legislation.

Thus, Mr. President, we have come to a conclusion, albeit hesitantly and sorrowfully, that we have no alternative but to proceed with this compromise procedure so that the House may act expeditiously to add a substitute amendment after the bill is returned to it which would contain the provision of the conference report on H.R. 7824 modified so as to adopt the House provision on backup centers.

Mr. President, this sort of procedure should never had been necessary if we had had a President and an administration truly committed to equal justice under law. When we worked out a compromise with the administration on the Senate version of the bill, they agreed they could live with it. Now they say they will veto a bill very substantially altered to reflect numerous provisions of the weaker House version. This is hardly good faith negotiation. Neither the 1971 nor the 1973 bills which the President submitted to establish an independent Legal Services Corporation included these kinds of restrictions on the funding of backup centers.

I will not make my basic floor statement on the legal services bill at this time but will do so upon final Senate action on this compromise version.

LEGAL SERVICES CORPORATION ACT: A POSITIVE STEP

Mr. PROXMIRE. Mr. President, our legal system is based upon the principle that every American is the equal of all his fellow citizens in his relation to the laws of this Nation. But this theoretical equality is hollow unless every American has access to the tools which can make our courts work toward truly just ends. I am supporting the Legal Services Corporation Act of 1974, recently approved by a House-Senate conference committee, because it establishes an important mechanism for insuring that such tools are made available to all Americans.

The act creates a nonprofit corporation to provide low-cost legal services to American citizens. The Corporation would be able to contract with individual attorneys or with firms to provide this assistance, and would also serve as a national clearinghouse and research center for legal aid programs. An especially important focal point of this research would be the analysis of alternative means of furnishing adequate legal assistance for every American.

In addition the act defines the boundaries of federally supported legal aid efforts. It prohibits lawyers employed by the Corporation from engaging in any partisan political activities during the time of their employment, and from encouraging or participating in any form of civil disobedience. And it forbids expenditure of Federal moneys on criminal proceedings, abortion litigation, and school desegregation cases. Under the terms of the act the Corporation has the power to establish eligibility criteria which would permit those with incomes above the poverty level to qualify for help. Also, persons who refuse to accept or seek a job would be ineligible for federally financed legal aid.

The Legal Services Corporation Act is an important step toward adjusting our legal system to meet the needs and demands imposed by contemporary mass society. It establishes an institutional framework which can provide our citizens with the capability to seek the full protection and relief to which they are entitled under our laws. In sum, it can give substance to our traditional dedication to equality and justice under law.

Mr. COOK. Mr. President, it is very likely that the Senate will soon vote on H.R. 7824, which will establish an independent Legal Services Corporation within the Economic Opportunity Act. As we all know, this legislation has been the subject of much controversy, and the supporters of this bill have delayed this final vote because they were afraid the President would veto it, even though it is very similar to the administration's proposal.

I have favored legislation of this nature since I came to the Senate, and in 1971, I introduced a bill which would have established an independent Legal Services Corporation.

I still strongly support legislation of this nature, and as a member of the Subcommittee on Representation of Citizen Interests, I have attended hearings which have repeatedly stressed the impotrance of providing legal services to those unable to afford representation by an attorney. I believe this bill will make such assistance possible.

I urge my colleagues to support this bill and vote for its final passage.

At this time, I ask unanimous consent to include in the RECORD several letters which I have received in support of H.R. 7824.

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

[From the Courier Journal, July 9, 1974]

WILL MR. NIXON DARE REPUDIATE "LEGAL SERVICES"?

The votes of all four Kentucky and Indiana senators most likely will be cast in favor of creating an independent legal services corporation to serve the poor, when a

bill on that subject comes up for consideration tomorrow. Both senators from each state were on the right side on January 31, when the upper chamber finally approved the measure. We hope all four senators will vote tomorrow—when the Senate-House conference report on the bill will be considered—since the highest possible total is needed to discourage a presidential veto.

In the January vote on final passage, Senator Hartke was paired for the bill, and Senator Cook was announced for it. Senators Bayh and Huddleston were on hand to vote "yes". The final count was 69-17 for passage.

According to the Action for Legal Rights lobby in Washington, an even bigger margin is "imperative" this time. Since mid-May White House officials have warned of enormous pressure exerted on the President to veto this bill, and the pressure is supposed to be coming from the very conservative members of Congress on whom Mr. Nixon might depend for survival in an impeachment trial. The President's Domestic Council has had heated debates on this question, almost daily.

BILL ALREADY WEAKENED

The friction within the administration is understandable, since to veto the bill the President would have to repudiate his own past position. Moreover, he would have to desert a compromise arranged for his benefit. The President had refused to sign any bill which wouldn't give him the power to appoint all members of the legal services corporation board, so the bill was rewritten to meet his objection, even at the price of giving the President too much control over the corporation.

The bill ought to be passed in its present form and sent to the President. More weakening simply isn't justified. The bill has been over-compromised to achieve a broad range of support. And the current support is extraordinarily broad, including governors from South Carolina to Massachusetts, bar associations from Arizona to New York and newspapers from Indianapolis to Washington.

If that sort of support out in the country won't convince the President he should sign the bill, maybe the roll call in the Senate chamber tomorrow will do the trick.

AMERICAN BAR ASSOCIATION,
Washington, D.C., July 8, 1974.

DEAR SENATOR COOK: I am pleased to transmit herewith a resolution urging favorable Senate action on the Conference Report on H.R. 7824, the Legal Services Corporation Act.

The resolution was adopted by the Board of Governors of the American Bar Association at its meeting on May 23, 1974, in Washington, D.C.

Sincerely,

HERBERT E. HOFFMAN,
Director.

AMERICAN BAR ASSOCIATION RESOLUTION

Whereas, The American Bar Association since 1970 has vigorously supported the enactment of legislation authorizing a federally-funded, nonprofit corporation to succeed the Legal Services Program of the Office of Economic Opportunity; and

Whereas, The U.S. House of Representatives on May 16, 1974, passed H.R. 7824, the Legal Services Corporation Act of 1974, as reported by a Committee of Conference of the House and Senate; and

Whereas, H.R. 7824 reflects a compromise of differing versions of legislation passed by both Houses of Congress after four years of Congressional consideration of the concept of a legal services corporation during which period the interests and concerns of all interested constituencies, including the organized bar, have been fully considered, debated and resolved; and

Whereas, H.R. 7824, in its current form provides a framework which will allow the continuation of a professional program of legal services to the poor;

Now, therefore, be it resolved, That the American Bar Association reaffirms its support for a National Legal Services Corporation; and

Further resolved, That the American Bar Association urges the United States Senate to expeditiously act favorably on H.R. 7824: and

Further resolved, That the President of the United States is urged to approve and enact H.R. 7824 if and when it is approved by the Senate; and

Further resolved, That the President of the American Bar Association is authorized to communicate the position of the Association to the Senate, the President and to state and local bar associations.

APPALACHIAN RESEARCH AND DEFENSE FUND OF KENTUCKY, INC.,
Prestonsburg, Ky., July 5, 1971.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: I appreciated speaking with you in Washington recently, and I want to thank you again for your continued support of the Legal Services program and the current proposed legislation to create an independent legal services corporation.

As you know, the Legal Services Corporation bill is scheduled to come up for a vote in the Senate on July 10. I hope you will be able to be present and to speak in favor of the bill, or to submit any remarks that you feel may be appropriate to emphasize to the White House the importance and need for the legislation, for we continue to hear and fear the possibilities of a veto.

To that end I have enclosed a copy of an editorial from the Louisville Courier Journal which appeared prior to meeting of the conference committee but which I hope you will find helpful. I know you realize that the bill, as now written, is virtually the bill as proposed by the White House, and meets the objections of the President's 1971 veto message.

Thank you for your continued assistance in this matter.

Sincerely,

JOHN M. ROSENBERG,
Director.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, D.C., July 8, 1974.

DEAR SENATOR: It is our understanding that the Conference report on H.R. 7824, the bill to establish the National Legal Services Corporation, is scheduled to be considered by the Senate shortly, probably this Wednesday, July 10.

On behalf of the 135 member organizations of the Leadership Conference on Civil Rights, I want to express our support for the measure. Legal Services has proved to be one of the most effective programs ever developed by the Office of Economic Opportunity. It must be continued. H.R. 7824, in spite of its shortcomings, would continue this vital program. The demise of Legal Services would be a tragedy not only for the Nation's poor who look to this program to help them win their rights, but for every American who believes that all citizens are entitled to a system of equal justice. The issue is so clear, we see no reason to belabor it with a lengthy letter. We urge you to be present when the Senate takes up the Conference report and to vote for it.

Sincerely,

CLARENCE MITCHELL,
Chairman, Legislative Committee.

Mr. McGEE. Mr. President, I rise in support of the conference committee report that is before the Senate today. The legal services program was begun as a modest experiment under title II of the Economic Opportunity Act of 1964. I believe that it has developed into one of the most successful programs funded through the Office of Economic Opportunity—one well worth continuing.

In my State, the legal services programs are small. Nevertheless, the handle over 3,000 cases per year, thereby making an important contribution to the welfare of those who cannot afford an attorney. These programs have been popular in the communities they serve, both with clients and with the bar. For example, the local bar in Casper has contributed over 700 hours of work, serving clients referred by the legal services program. In addition, the director of that program is working with our State bar to implement a statewide program to provide legal assistance for the poor.

The bill we have before us is the product of months of negotiations and compromises. While no one is completely satisfied with the conference report, I believe we must adopt it in order to insure the continuation of the legal services program. Hopefully, within the framework we are creating, the work of providing meaningful access to our legal system for the millions who have always been unrepresented will be developed and expanded.

For the same reason, I fully expect that the President will sign the legal services corporation bill. The conference report is essentially the same as the bill he sent to Congress back in May 1973. It incorporates the structure he requested, and provides for an independent corporation, free from political pressures, and with more than adequate safeguards to insure that legal services programs will operate in a responsible manner.

Mr. MONTOYA. Mr. President, I am pleased to speak once again in support of the Legal Services Corporation Act (H.R. 7824) and to indicate to my colleagues the broad-based support this meaningful piece of legislation has in my home State of New Mexico.

The cornerstone of American jurisprudence—equal justice under law—has little meaning to those deprived of access to our system of justice because of their inability to afford legal counsel. During the past 9 years the noble experiment which is the OEO legal services program has demonstrated that equal justice can be a reality for the poor as well as the rich, and that opening the doors of justice to the poor is of vital importance to society as a whole. I agree wholeheartedly with President Nixon's summary of our experience with legal services when he said in his message of May 11, 1973:

> [M]ore than anything else, we have learned that legal assistance for the poor, when properly provided, is one of the most constructive ways to help them to help themselves. During this period, we have also learned that justice is served far better and differences are settled more rationally within the system than on the streets. Now is the time to make Legal Services an integral part of our judicial system.

The Legal Services Corporation Act of 1974 can insure that legal services becomes an integral part of our judicial system, and I urge that this body forthwith adopt the conference report accompanying that act. In so doing, I note that this bill is markedly similar to the original bill submitted by the President in May 1973; that differing versions have passed both Houses of Congress; and that the conference committee after full and fair consideration has resolved those differences. The good faith efforts to preserve the independence and integrity of this vital program require our wholehearted support.

There are currently six legal services programs serving the poor of six counties and two Indian tribes within the State of New Mexico. These programs are providing high quality and effective services to the low-income citizens in their respective areas, and the support for their continued efforts is widespread. I have received numerous letters of support for this bill from individuals and community groups throughout our State. The dean and faculty of the University of New Mexico Law School have endorsed this legislation.

The Governor, Lieutenant Governor, and Speaker of the House of Representatives of the State of New Mexico have endorsed the Legal Services Corporation Act. Mayors, local bar associations, church and civic leaders have all expressed support, and the Albuquerque Tribune editorialized its support for the Corporation.

I know that the support for this program in New Mexico is typical of the support which exists throughout the Nation. By responding to that support with an affirmative vote on this measure we are in a sense reaffirming our belief in the American system of justice.

I ask unanimous consent that a numbers of letters, telegrams, and documents in support of the Legal Services Corporation Act be printed in the RECORD.

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

THE UNIVERSITY OF NEW MEXICO,
Albuquerque, N. Mex., October 31, 1973.

Hon. JOSEPH M. MONTOYA,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MONTOYA: The undersigned members of the faculty of the University of New Mexico School of Law urge your support of the Legal Services Corporation bill without further restrictive amendments.

We would also like to take this opportunity to thank you for your continued support of Legal Services.

Fred M. Hart, Hunter L. Geer, Pamela B. Minzner, Hugh B. Muir, J. Michael Norwood, Robert J. Desiderio, Leo M. Romero, Robert W. Walker, Cruz Reynoso, Albert Utton, Leo Kanowitz, Anne K. Bingaman, Helene Simson.

President RICHARD M. NIXON,
The White House,
Washington, D.C.:

As president of the Albuquerque Bar Association, the largest local bar association in the State of New Mexico, I urge you to sign the Legal Services Corporation Act. It represents a good compromise between House and Senate versions, and is markedly similar to the administration bill offered in March 1973.

Quality legal services on behalf of the poor is important to the bar and public alike, and enactment of this bill is necessary to assure that those services continue.

PHILLIP D. BAIAMONTE,
President, Albuquerque Bar Association.

JOINT TELEGRAM TO HOUSE AND SENATE CONFEREES FROM STATE AND LOCAL BAR PRESIDENTS

We support the legal services program and endorse the concept of an independent and professional legal services corporation. Thus we were disturbed when the corporation bill reported by the Education and Labor Committee was so destructively amended on the House floor last June. The constructive compromise of the Senate Committee on Labor and Public Welfare and the Administration recognizes the concerns of House members, yet restores to the bill the balance which the House Committee worked so hard to achieve. The Senate-Administration bill provides a framework for the delivery of services in accordance with the Code and Canons of our profession. We therefore urge its prompt adoption by the Conference Committee meeting later this month.

JOHN F. MCCARTHY, Jr.,
President, First Judiciary District Bar Association, New Mexico.

[From the Albuquerque Tribune, March 6, 1973]

LAWYERS FOR THE POOR

President Nixon's proposal to improve and expand legal services to the poor—under a new name and with independent status—deserves the support of both parties and swift action in Congress this year.

The program is based on the sound principle that every American, rich or poor, should be given reasonable access to legal counsel, even if it requires a tax-financed subsidy in some cases.

In 300 cities around the country, 2,500 young lawyers have been offering advice and services in non-criminal matters to the neighborhood people who simply couldn't afford legal aid if they had to pay for it themselves.

That's why it's important that legal services be maintained during the current dismantling of the Office of Economic Opportunity (OEO).

Under questioning by Congress, the OEO's new Acting Director, Howard J. Phillips, has promised to extend the old program for as long as a year. This should give Nixon's new program a chance to take root.

No one denies that poverty lawyers have been an irritant to public officials—especially in California, where they've often successfully challenged the welfare policies of Governor Ronald Reagan.

Vice-President Agnew has called some poverty lawyers "ideological vigilantes" more interested in social change than in the day-to-day needs of their clients.

But for every "vigilante" in the program, there must be 50 or 100 lawyers who help poor families get into public housing projects; or protect them against loan sharks; or make sure they are being treated fairly in city halls and county courthouses.

In his budget for 1973, President Nixon has set aside $72 million for a new legal services corporation—a separate agency with its own board of directors and operating staff.

The new agency, as visualized by the President, would be an independent organization, insulated as much as possible from political agitation and from any partisan point of view.

In the meantime, the administration should continue the existing legal services program until the new corporation can be formed.

JOINT TELEGRAM TO THE PRESIDENT FROM GOVERNORS AND MAYORS

We have long supported the national legal services program as an instrument which moves our nation toward its ideal of "equal justice under law." We therefore applaud the constructive efforts made during the last few months by representatives of your Administration and the Senate Committee on Labor and Public Welfare to fashion a workable compromise on the legal services corporation bill. The Senate-Administration compromise not only eliminates Senate and Administration differences regarding the composition of the Board, it also incorporates the concerns expressed by House members when they considered similar legislation last June. The Senate-Administration compromise is the culmination of a three year legislative process which now deserves enactment.

We understand that the legislation goes to conference shortly, and we urge your support of the Senate-Administration version of that legislation.

Hon. Bruce King, Governor of New Mexico, Hon. Philip Cantu, Mayor, Taos, New Mexico, Hon. Ray Baca, Chairman, City Commission, Albuquerque, New Mexico, Hon. Joseph E. Valdes, Mayor, Sante Fe, New Mexico.

JOINT TELEGRAM TO HOUSE AND SENATE CONFEREES FROM CHURCH, LABOR, CIVIL RIGHTS, AND OTHER CIVIC LEADERS

We strongly support the national legal services program and endorse the concept of a legal services corporation. While the compromise bill worked out by the Administration and the Senate Committee on Labor and Public Welfare establishes a corporation which is less independent and more restricted than we had hoped, it still provides the framework for a viable program. Since the Senate-Administration bill already reflects the concerns expressed by House members, we trust it will be adopted by the Conference Committee without further restrictive changes.

Hon. Robert Mondragon, Lieutenant Governor and President of the State Senate, New Mexico, Hon. Walter Martinez, Speaker, House of Representatives, New Mexico, Hon. Leo D. Catanack, Chairman County Commission, Sante Fe County, N. Mex., Father George Salazar, Arroyo Seco, N. Mex., Rev. Robert Salazar, Taos, N. Mex., Rev. Martin Graebner, Taos, N. Mex.

Mr. GRAVEL. Mr. President, the Senate will be voting soon on the conference report of H.R. 7824, the Legal Services Corporation Act, and I want to take this occasion to urge Members to approve of this vital measure.

I speak with particular reference to the work of the Legal Services in my State where since 1966, the program has ably represented Alaskan indigents, particularly in bush areas where no such service previously existed.

Alaska Legal Services has been a model of intergovernmental cooperation. Earlier this year, ALS joined with the State of Alaska in a suit to delineate the rights of minor shareholders under the Alaska Native Land Claims Settlement Act who were in the State's custody. In a similar fashion ALS is cooperating with the Bureau of Indian Affairs in representing Native allotment applicants in the Department of Interior appeal process. The assistance provided by Legal Services in the proper implementation of the Native Claims Act has been invaluable and has often served to clarify provisions of

that complex and historical law which settled a century-old dispute of land ownership.

Another valuable service which ALS has rendered is the work on routine problems that would go unsolved without the presence of the legal services program. For example, in 1973 Alaska Legal Services processed 143 adoptions, most of which involve the legalization of traditional Native adoptions. Without such legalization there could be no proper disposition of benefits under the Alaska Native Claims Settlement Act.

The economic disaster in Bristol Bay and the ever increasing legal demands of village people in Alaska have necessitated opening offices in Dillingham and Kiana, two remote locations. Bristol Bay, an area comprised of about 10,000 Native fishermen and their families, is facing a season of near-depletion salmon runs and has been declared a national disaster by the President. Despite the addition of these needed offices, Alaska Legal Services program budget has not been increased to handle the expansion nor the growing allotment caseload due to th unsettled situation of the legal services program nationally.

Further, Legal Services' staff in Alaska earn from 25 percent to 50 percent less than comparable attorneys in other agencies. The present circumstances hinders retention and recruiting at a time when legal expertise for eligible Alaskans is urgently needed. I have been advised that the present quality and level of service will be difficult to maintain unless the national program of Legal Services is secured.

Therefore, I urge speedy passage of the conference report and plead with the President that the legislation not be vetoed. Legal Services has proven its usefulness nationwide and to lose this opportunity for attaining justice for all, regardless of financial ability, would be a tragedy.

With permission, I would like to insert in the RECORD an editorial from the Anchorage Daily News of June 26, 1974, which attests to the responsiveness of the Legal Services program in Alaska.

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

LEGAL ACTION

The justice in the bush conference in Minto this month could have been all wind-up and no delivery. But that hasn't been the case.

Within two weeks after the close of the conference, Alaska Legal Services has announced the opening of a new office in Kiana to serve the Kotzegue area. This little Kobuk River village will be the legal seat of a region that extends from Point Hope to Selawik. The action divides up the unwieldy Nome district which took in the entire poor, sparsely populated and almost exclusively Native northwest section of the state.

With an honest regard for human needs, setting up an office in a small village will bring legal services closer to the Native people. It is part of Alaska Legal Services plan to decentralize their program and "bust" the concept of the big agency town that draws scattered villagers to it. To bring two trained attorneys to the tiny settlement of Kiana should raise local pride a few notches, as well as serving some serious needs.

The two attorneys, a man and wife team, have already spent almost three years in Nome, circuit-riding to neighboring villages. In taking this new position, the two have also agreed to a cut in salary, to bring their income down to a more typical village level.

The Kiana office should open in late summer, followed by the opening of another similar office in Barrow to serve the Arctic Slope.

Once a substantial case load is built up in these areas, a legal center may grow, with the court system and other agencies pulled in to aid villagers. This of course could mean faster and more satisfactory resolutions of legal problems in these regions—and more justice in the bush.

There was much protest in Minto over the sad lack of adequate legal representation in the bush. Alaska's outback is awesome in the disparity between its size and population, and getting legal skill to the people is not easy. But Alaska Legal Services acted promptly and resolutely with an answer to the problem, and they are to be commended.

Mr. NELSON. Mr. President, before I make the motion to table, I wish to make one other point so that the RECORD shows that the language permitting contracting for research backup centers is almost identical with the language that was used in the administration bill. In fact, we are now removing the right of the Legal Services Corporation to contract for backup centers under the threat of a veto, even though that right was in every bill ever proposed by the administration.

Mr. President, I move to lay on the table the pending conference report on H.R. 7824, the Legal Services Corporation Act.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I move that the Senate further insist on its amendments to the bill H.R. 7824, the Legal Services Corporation Act.

The PRESIDING OFFICER. The question is on agreeing to the motion.

CLOTURE MOTION

Mr. MANSFIELD. Mr. President, I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXIII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion that the Senate further insist on its amendments to the bill H.R. 7824, to establish a Legal Services Corporation.

Mike Mansfield, Gaylord Nelson, Jacob K. Javits, Edmund S. Muskie, Alan Cranston, Thomas J. McIntyre, Claiborne Pell, Harold E. Hughes, Dick Clark, Jennings Randolph, Walter D. Huddleston.

Vance Hartke, Richard S. Schweiker, Edward M. Kennedy, Clifford P. Case, Robert Taft, Thomas F. Eagleton, Hubert H. Humphrey, Harrison A. Williams, Hugh Scott, Marlow W. Cook, John V. Tunney.

Mr. HELMS. Mr. President, let me say further that I find myself a bit astonished at the suggestion voiced several times here this afternoon that the President has made some sort of agreement that he will sign this particular Legal Services Act, provided only the backup centers are eliminated. This is not the information available to me. As I said earlier, there are many, many reasons the President should veto the measure—in addition to the backup centers. So removal of the backup centers—and they are not really being removed, only consolidated—will not make a silk purse out of this sow's ear.

Some Senators are suggesting that if only H.R. 7824 is changed to eliminate direct funding of the so-called backup centers there would be no real difference between the conference report on H.R. 7824 and the original administration proposal. That simply is not accurate. I wish to mention only some of the fundamental differences.

First. The administration bill prohibits all lobbying, except testimony before legislative committees. H.R. 7824 permits all kinds of lobbying when done on behalf of a client—with eligible clients including such groups as the American Indian Movement and the National Welfare Rights Organization.

Second. The administration bill bars representation of juveniles without parental consent. H.R. 7824 permits representation without consent for emancipated juveniles or in cases where it is claimed that the loss of a benefit or service might otherwise result. This opens the door to involvement, as in the past, on behalf of May Day demonstrators, student protest cases, sterilization and abortion issues, and a host of others.

Third. The administration bill prohibits involvement in "prisoners' rights" issues, including organizing and representation. H.R. 7824 permits such activity, except in the minority of cases where the conviction of the prisoner is also being challenged.

Fourth. The administration bill places control over general policy on when appeals may be taken to higher courts in the hands of the national board of directors and its staff. H.R. 7824 lets the grantees establish such policies on appeals and class actions.

Fifth. The administration bill prohibits involvement in State ballot proposition campaigns; H.R. 7824 permits such involvement when representing an eligible client.

Sixth. The administration bill prohibits the "outside practice of law"—the customary cover story to which staff attorneys resort when accused of improper activity. H.R. 7824 permits use of the "outside practice" cover, as long as the attorneys are not compensated. This provision is nothing other than a license to circumvent the prohibitions, since it is unlikely that many of the political action groups to which they lend assistance "on their own time" would be in a position to pay for all the resources and services they could now receive free. The staff attorney does not need compensation because he has a full-time salary anyway.

Seventh. The administration bill required lawyer majorities on the boards of local Legal Services projects. H.R. 7824 waives such requirements for all present grantees and some future ones—and, unlike the Administration bill, guarantees almost perpetual refunding.

Eighth. The administration bill requires that no less than 10 percent of available funding be reserved for client-oriented Judicare plans. H.R. 7824 locks in the staff-attorney system.

Ninth. The administration bill provides for citizen suits against the corporation to enforce prohibitions at a local level. H.R. 7824 includes no such provision.

Tenth. The administration bill requires that all persons providing legal services be admitted to practice law in the jurisdiction where representation is initiated. H.R. 7824 permits waiver of such requirement by rule, regulation, or similar authorization, thus permitting a lower standard for delivery of legal services to the poor than the standard available to private legal practice.

Eleventh. The administration bill permits revenue-sharing approaches to legal services, approaches which would decentralize program control away from the national staff bureaucracy. H.R. 7824 allows grants only to private groups and not to State and local elected officials, except to supplement existing grantees—grantees often controlled by such groups as the National Lawyers Guild and the American Civil Liberties Union.

The most important difference between the administration bill and H.R. 78244 is that the administration bill flatly prohibits the funding of public interest law firms. H.R. 7824 broadly authorizes such funding. Thus, even if the backup centers were eliminated in name, the functions they have performed could be carried out in the guise of public interest law. The same functions could also be distributed into the activities of other Legal Services grantees. Indeed, for some months now, the Office of Economic Opportunity has, in fact, been converting programs which were not intended originally as backup centers to include many backup center functions. Thus many staff programs which represent individual clients have also become involved in "law reform," amicus briefs, advocacy training, issue advocacy research, draft model legislation, proposed changes in regulations of executive branch agencies, and so forth. So if the backup centers are eliminated in name, their substance will be around for a long while anyway.

It is clear that the elimination of the backup centers from Legal Services legislation would not be sufficient to bring the bill in line with the administration bill introduced last year. Nor, as I indicated in my statement on the Senate floor on Monday, would it bring the conference report in line with the bill which passed the House on June 21, 1973. The conference report is far to the left of both bills, and minor surgery can never bring it in line with the President's pledge to veto anything to the left of the administration bill, or to the left of the House bill.

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

Mr. HELMS. I am glad to yield to my distinguished friend from Mississippi.

Mr. STENNIS. Mr. President, I associate my thoughts and position with the Senator from North Carolina. He has done a lot of fine work on this matter.

Mr. HELMS. I appreciate the Senator's gracious remarks and his support. The Senator knows of my immense admiration and affection for him.

Mr. STENNIS. I endorse his position.

Mr. HELMS. I do thank the Senator.

Mr. McCLURE. Mr. President, will the Senator yield to me briefly for a comment?

Mr. HELMS. I yield to my distinguished friend from Idaho.

Mr. McCLURE. Mr. President, first I wish to join in the comments expressed by the Senator from Mississippi (Mr. STENNIS) for the very fine work the Senator from North Carolina has done in the analysis and presentation of criticisms of this legislation.

I would like to join with an earlier statement that the Senator made that while the senior Senator from New York may have had the assurances from the White House that the President will, indeed, sign this legislation if the backup centers are eliminated. I, too, have had assurances from the White House that the President will not sign this legislation simply with the deletion of the backup centers. We all recognize the White House has many voices and several occupants.

Mr. HELMS. That is one of the problems.

Mr. McCLURE. That is one of our problems in determining where the White House really stands and what will happen. Of course, only one man will ultimately decide what the White House will do and that is the man the people of the United States elected as President of the United States.

But the assurances that have come to me from people within the White House have been unequivocal. There is no room for any doubt concerning their position, and there is no doubt that those assurances given to me are that the President will veto this measure without the backup centers. Perhaps the Senator from New York or the Senator from Wisconsin have different assurances. Ultimately, that will be resolved if we pass this legislation.

I assume the vote count indicates they have the vote to pass the legislation or they would not be indulging in this exercise. I do not think it is intended to be simply a waste of time. I suspect they believe they have the gouge and they know how it is going to go.

Mr. President, I only want to make this record as plain as it could possibly be for those who may pay attention to the debate on the floor of the Senate, that at least some Senators have had assurances different from those already expressed emanating from sources in the White House, those assurances from people whom I regard as credible. They are people whom I think are in a position to speak with authority. They are people with whom I have had a number of conversations, and I believe them to be honest and honorable people.

I thank the Senator for yielding to me. I take this time to make the record abundantly clear at this point at least as to what my understanding of the White House position is.

I thank the Senator for yielding.

Mr. MANSFIELD. Will the Senator yield?

Mr. HELMS. Let me make one final comment and then I will be delighted to yield. There were contradicting reports about the President and his purported position on this bill at the time of final passage of H.R. 7824 earlier this year. Now we have the same contradictory reports. Mr. President, I am running into some of the most curious lobbying activities that I have even seen on any level of Government. I have received letters from presidents of State bar associations of a number of States indorsing this legislation. On just a spot check basis I called presidents of five bar associations and asked simply, "Have you read the bill?" I put it to them squarely. I asked, "Do you honestly know what you are endorsing?"

I would say to the distinguished Senator from Montana that five out of five said "No," that they knew nothing whatsoever about it.

What had occurred, I surmise, Mr. President, was this: A very small clique in the American Bar Association decided that this was the kind of legislation that they wanted, so they, in typical association style, shoved it through, and it carried all of the prestige of the ABA—whatever that is. It filtered down to the State bar associations and automatically went to committees composed of people who favor the most liberal kind of legislation in this field.

It was reported out of these committees, few of whose members, I daresay, had even read the legislation.

Then I began to get letters in support of this legislation. This is the curious thing, Mr. President: I would say to the distinguished Senator from Ohio, who is on the other side of this proposition, that five out of five State bar association presidents acknowledged to me that they knew nothing whatsoever about the substance of this bill. Yet they signed letters endorsing it.

Mr. President, this is why we should not have this bill before us. It certainly should not be enacted into law. We should take a fresh look at this legislation and let all sides be heard, not just one side.

I submit, with all admiration and respect for the distinguished colleagues who are proponents of this legislation, that both sides have not been heard, certainly not since this Senator has been a Member of the U.S. Senate.

I do not think this is the way to legislate. I certainly do not think this is the way to make good legislation.

Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I appreciate the courtesy of the distinguished Senator from North Carolina.

It appears from what I have heard on the floor this afternoon—and I do not know too much about this legislation or what has been going on in conference or between Members of Congress and the White House—that evidently if the conference report had been sent down as reported back to this body, it would have been vetoed by the President.

Mr. President, there are various stories as to what would happen with the motion, if it is agreed to, which is now before the Senate, if that is agreed to by the House and goes to the White House for final disposition.

There are some Members who say that the President will sign the bill on that basis. Others, such as the distinguished Senator from Idaho (Mr. McCLURE), and the distinguished Senator from North Carolina (Mr. HELMS), have indicated an opposite point of view.

May I suggest that, in order to resolve this question that the Senate agree to the motion before it, that the matter then go back to the House, which I understand the House will agree to, and that the matter then be sent to the President.

As the Senator from Idaho (Mr. McCLURE) has said, the President is the only one who knows what he is going to do. Why do we not both take that chance?

Mr. CURTIS. Will the Senator yield?

Mr. HELMS. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I want to commend the distinguished Senator from North Carolina (Mr. HELMS) for his work on this legislation. There is always confusion about whether or not the President is going to sign or veto certain legislation.

The White House has gotten to be a good-sized bureaucracy. I suppose on any subject you can get a sympathetic reply to any question that might be proposed. None of this relieves the Senate and the House from acting responsibly.

Mr. President, this is not good legislation. It is not good legislation in the form agreed to by the conference committee. It is not good legislation were it to be sent to the White House under the arrangement now proposed.

Mr. President, I have a strong feeling that any objective study of the bill on the part of the advisers to the President would result in a veto of the bill. As a matter of fact, much has been said here concerning the elimination of the backup centers. I am sure that what is in the minds of those who have objected to this is a certain procedure or a certain practice—or the opportunity for certain practices—to which they are opposed. It is not based merely on words.

I believe that they could remove the backup centers, and, by organizing public interest law firms in the same strategic points, they can carry on the work of the backup centers. In other words, what is proposed here is a change in words but not a change in the proposed law under which our people must live.

This matter took many of us by surprise. We had every reason to believe that the conference report would be voted upon, as such. I could not support it. I do not favor this legislation. But I certainly believe that if, after the legislation has proceeded this far, some other proposal is offered in lieu thereof, there should be hearings and a chance for those entities in the country who are opposed to this legislation to examine the legislation and come in to an open hearing and state their objections to it.

I do hope that there will be a change in what is proposed to be done. I think we will be sending to the House of Representatives a very bad piece of legislation.

I thank the distinguished Senator for yielding.

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

Mr. HELMS. I am delighted to yield to the able distinguished Senator from Wyoming.

First, let me say that I appreciate the comments and the very fine assistance of the distinguished Senator from Nebraska.

Mr. HANSEN. Mr. President, I simply want to say that, insofar as I am aware, there is nothing new in the proposal now being discussed to indicate that by eliminating the direct funding of the backup centers, the President will sign this measure. I think that numerous differences still would occur between the position of the White House and as it was spelled out in the proposals that were called for in the first place and what would remain in this bill.

I compliment the distinguished Senator from North Carolina for his interest in this matter, the followthrough that he has given it, his taking the time to inquire of various State bar associations. We have no indication in my office that this legislation is desired by the Wyoming Bar Association.

I hope very much that we do not hastily agree to a compromise or two that in the judgment of some would make it acceptable and warrant its being acted upon by the Senate.

I thank the Senator from North Carolina very much.

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

Mr. HELMS. I yield.

Mr. TAFT. Mr President, I have no desire to belabor this matter.

For the edification of those who want to see what the details of the matter are, as to whether there is a similarity or lack of similarity with respect to particular provisions, I invite attention to the fact that on June 6, on page 17958 of the RECORD, I introduced an analysis of the Legal Services Corporation bill as introduced, as passed by the House, as passed by the Senate, as approved by the conference.

I also have made comparisons with the original bill as introduced in 1971 and 1973, at both of which times there was general approval of the concept by the administration.

It is unfortunate that we have on the floor of the Senate a discussion back and forth as to what the position might be with regard to assurances as to the signing of this bill. Obviously, I do not wish—and I am certain other Members of the Senate do not wish—to put on the spot, so to speak various representatives of the executive branch insofar as the public record is concerned.

I would repeat again, however, that I have had personal assurances from a number of authorities in the White House for the positions I have indicated, and I have no doubt about them. It may be that the positions have changed from what the positions were thought to be at an earlier time. The assurances I have received have been within the last day or so with regard to the representations that have been made, and I do not think there is any doubt about the representations that have been made on the floor of the Senate.

If the Members of the Senate who have indicated to the contrary wish to consult with me or with the distinguished Senator from New York, I think they can receive assurances that will quickly resolve any doubts they might have as to what this position is, and they will find out that it is as has been represented on the floor of the Senate.

So far as the backup centers are concerned, one thing ought to be said that is perfectly clear, and that is that the House language that is expected to be adopted still permits a full degree of research and backgrounding by the corporation itself. It merely prevents the contracting out of that service to other institutions, and I think that is very proper. If any legal services organization does not want to duplicate the work it has been involved in previously, it should have a source, as any good law firm should have, of research that has already been done by that organization.

I also invite the attention of some of the recent speakers to the fact that the bill, as it came from conference, has already received many assurances and changes in language that I think prevent the corporation from misusing the program.

It is basically a good program, as we have experienced, but there have been problems with it. In the colloquy earlier, I discussed with the distinguished Senator from Arizona the problems I had in my own campaign in 1966 with the Legal Services operation running a registration drive on a very selective basis, obviously a very partisan basis.

I think we have put in the language of the bill, as it came from the conference, all kinds of assurances that it cannot be misused into an improper use, politically or otherwise, or misused for purposes about which some Members have been concerned in the past, in connection with broad use in class actions. These assurances—if Senators will study the bill—are all in the proposed legislation.

If we see further abuses, we can call them to the attention of the Corporation and can take further action very quickly. I am sure that we will wish to do so, if we see that happen.

This bill represents the best possible compromise we could get in this direction at this time. It has been debated on

and on, and I think that it is time we brought it to a close.

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

Mr. TAFT. I yield.

Mr. JAVITS. Mr. President, I am pleased that the Senator has spoken as he has. I have not heard anything back and forth on our assurance that we are acting on a measure in a way which will bring about enactment into law by the President. I repeat that. The Senator from Ohio has repeated that. There is nothing back and forth on it.

If anybody has any doubts about it, why do we not do exactly as Senator Mansfield has said? Or would we rather, as those who oppose this measure today, try to kill the measure by having this conference report accepted because everybody knows it is going to be vetoed?

It seems to me that if one thing has been confirmed here today, it is that the opponents of this measure want this conference report accepted. That is pretty telltale and pretty clear, and it hardly ever has to be put into words.

Mr. President, one other thing: This measure has very substantial and distinguished support. I ask unanimous consent to have printed in the RECORD the resolution of the American Bar Association, adopted by its board of governors, dated May 23, 1974, approving of this measure, even containing the specific authority for backup centers. The ABA had not become a wildly radical organization by May 24, 1974.

I also ask unanimous consent to have printed in the RECORD a summary of the major provisions of the conference agreement—which will be modified by the proposed action in respect to item 4 dealing with the backup centers authority—prepared by counsel for the minority on the subcommittee, Mr. Scales, who is sitting beside me.

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

AMERICAN BAR ASSOCIATION RESOLUTION ADOPTED BY BOARD OF GOVERNORS

WASHINGTON, D.C.,
May 23, 1974.

Whereas, The American Bar Association since 1970 has vigorously supported the enactment of legislation authorizing a federally-funded, nonprofit corporation to succeed the Legal Services Program of the Office of Economic Opportunity; and

Whereas, The U.S. House of Representatives on May 16, 1974, passed H.R. 7824, the Legal Services Corporation Act of 1974, as reported by a Committee of Conference of the House and Senate; and

Whereas, H.R. 7824 reflects a compromise of differing versions of legislation passed by both Houses of Congress after four years of Congressional consideration of the concept of a legal services corporation during which period the interests and concerns of all interested constituencies, including the organized bar, have been fully considered, debated and resolved; and

Whereas, H.R. 7824, in its current form provides framework which will allow the continuation of a professional program of legal services to the poor;

Now, therefore, be it resolved, That the American Bar Association reaffirms its support for a National Legal Services Corporation; and

Further resolved, That the American Bar Association urges the United States Senate to expeditiously act favorably on H.R. 7824; and

Further resolved, That the President of the United States is urged to approve and enact H.R. 7824 if and when it is approved by the Senate; and

Further resolved, That the President of the American Bar Association is authorized to communicate the position of the Association to the Senate, the President and to state and local bar associations.

SUMMARY OF MAJOR PROVISIONS OF THE CONFERENCE AGREEMENT ON H.R. 7824—THE LEGAL SERVICES CORPORATION ACT

(1) *Board:* Establishes a non-profit corporation governed by a Board of eleven members, appointed by the President with the advice and consent of the Senate; a majority must be lawyers and no more than 6 from same party. (Section 1004(a) at page 3).

(2) *State Advisory Councils:* The Governor of each state shall appoint a nine member advisory council, with a lawyer majority, for the program in each state (after receiving recommendations from state bar associations). (Section 1004(f) at page 3).

(3) *Grantees:* Corporation may provide financial assistance to individuals, partnerships, firms, organizations and state and local governments; in the latter case, a special determination must be made by the Board that the arrangement will provide services that will not be provided adequately through non-governmental arrangements. (Section 1006(a)(1)(A) at page 5).

(4) *Back-Up Centers:* Corporation retains authority to fund back-up centers, provided, however, that that authority terminates on January 1, 1976; during the period June 30, 1975 to January 1, 1976, the Congress may by concurrent resolution act with respect to the duration of the authority, but if the Congress fails to take action, the authority automatically extends until January 1, 1977. The Corporation must conduct a study and report to the Congress no later than June 30, 1975. (Section 1006(a)(3) at page 5; Section 3 at page 14).

(5) *Lobbying:* The Corporation shall not itself undertake to influence passage or defeat of any legislation, but it may testify when formally requested to do so by a legislative body, or so act in connection with legislation or appropriations directly affecting the activities of the Corporation. (Section 1006(c) at page 6).

No funds made available to recipients shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation, except as is necessary to representation by an attorney as an attorney for an eligible client (but nothing shall be construed to permit solicitation) or where a governmental agency, legislative body or committee requests personnel of the recipient to make representations. (Section 1007(a)(5) at page 8).

(6) *Political Activity:* "On-time" political activities are strictly prohibited. With respect to "off-time," staff attorneys (those who receive more than one-half their income from a recipient organized solely for the provision of legal assistance) are subject to the provisions of the Hatch Act, prohibiting interference in an election, coercing of political contributions, or taking an active part in political management or political campaigns, whether partisan or non-partisan. (Section 1007(a)(6) at p. 8).

(7) *Other Restrictions and Significant Provisions*

(a) No class action suits except with the express approval of the project director. (Section 1006(d)(5) at page 7).

(b) Court may assess legal cost and fees against corporation where it finds recipient's plaintiff "maliciously abused legal process". (Section 1006(f) at page 7).

(c) Corporation shall not interfere with any attorney in carrying out his professional responsibilities. (Section 1006(b)(3) at page 5).

(d) Attorneys must refrain from any compensated outside practice of law, and any uncompensated practice except as authorized by the corporation. (Section 1007 (a)(4) at page 8).

(e) Recipients must solicit the recommendations of the organized bar in the community being served before filling staff attorney position and give preference to qualified persons who live in the community. (Section 1007(a)(8) at page 9.)

(f) Attorneys must refrain from persistent incitement of litigation. (Section 1007(a)(10) at page 9).

(g) No funds may be used with respect to any criminal proceeding or in civil cases of persons who have been convicted of a criminal charge, where civil arises on acts or failures to act, and action is brought against officers of court to challenge a criminal conviction (Sec. 1007(b)(1) at p. 9).

(h) No assistance to any unemancipated persons of less than 18 years of age, but with certain exceptions. (Section 1007(b)(4) at page 9).

(i) Funds cannot be used for training persons for the purposes of advancing particular public policies. (Section 1007(b)(5) at page 10).

(j) Funds can not be used to organize any organization except for the provision of legal assistance to eligible clients. (Section 1007 (b)(6) at page 10).

(k) Legal assistance may not be provided with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system. (Section 1007(b)(7) at page 10).

(l) No legal assistance shall seek to procure a non-therapeutic abortion, or compel to perform an abortion contrary to beliefs. (Section 1007(b)(9) at p. 10).

(m) No legal assistance with respect to any proceeding or litigation arising out of a violation of the Selective Service Act or of desertion from the Armed Forces. (Section 1007(b)(9) at page 10).

(n) The corporation will establish maximum income levels for eligibility, but each recipient will apply factors; preference given to persons least able to afford. (Section 1007 (a)(2) at page 7).

(o) Each project will have a governing body, principally of lawyers. (Section 1007(c) at page 10).

(p) Corporation will provide for a comprehensive independent study of existing staff attorney program (including demonstration) and report after 2 years. (Section 1007(g) at page 11).

(q) Attorneys may not engage in any public demonstrations, picketing, boycott or strike. (Section 1006(b)(5) at page 6).

(8) *Financing:* $90.0 million for FY 1975; $100.0 million for FY 1976; and "such sums" for FY 1977.

Non-federal funds must be separately accounted for; and are subject to restriction with two exceptions:

(a) public or tribal funds are exempt; (b) recipients, such as legal aid societies are exempt, (Section 1010 at page 12).

Mr. JAVITS. Mr. President, simply by way of summing up and making clear what has been argued here, I repeat—I do not think we are sensitive around here—that the Senator from Ohio and I have said that we have assurances sufficient to represent to the Senate that if this bill is passed this way—without the

specific authority for backup centers—the President will sign it. I have yet to hear anybody make any comparable assertion to the contrary, and I would like to hear it, if one exists. I believe it is due us as Senators.

I say again that if anybody has any doubt about it, let us do what the distinguished majority leader said: Pass it and send it to him, and we will soon find out.

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

Mr. TAFT. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Roger Carloff and Mark Schneider may have the privilege of the floor during the consideration of this conference report.

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

Mr. TAFT. Mr. President, I yield the floor.

Mr. MANSFIELD. Mr. President, there will be no further business tonight.

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

The PRESIDING OFFICER (Mr. NUNN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 2619

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Calendar Order No. 929, S. 2619, a bill to provide for access to all duly licensed psychologists and optometrists without prior referral, there be a time limitation for debate thereon of 1 hour, to be equally divided and controlled by the Senator from Wyoming (Mr. McGEE) and the Senator from Hawaii (Mr. FONG); that time on any amendment thereto be limited to 30 minutes; that time on any debatable motion or appeal be limited to 20 minutes; and that the agreement be in the usual form.

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

AMENDMENT OF THE COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report on legal services be temporarily laid aside and that the Senate return to the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senate will proceed to the consideration of S. 3355, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3355) to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide appropriations to the Drug Enforcement Administration on a continuing basis.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That section 709 of the Controlled Substances Act of 1970 (Public Law 91–513; 84 Stat. 1284; 21 U.S.C. 904) is amended by inserting immediately before the period at the end thereof the following: ", $125,000,000 for the fiscal year ending June 30, 1975, $150,000,000 for the fiscal year ending June 30, 1976, $175,000,000 for the fiscal year ending June 30, 1977, $200,000,000 for the fiscal year ending June 30, 1978, and $225,000,000 for the fiscal year ending June 30, 1979".

ORDER FOR RESUMPTION OF THE UNFINISHED BUSINESS FOLLOWING TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, the Senator from Wisconsin (Mr. PROXMIRE) is to be recognized for not to exceed 15 minutes after the two leaders or their designees on tomorrow; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I ask unanimous consent that following the remarks of Mr. PROXMIRE, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate resume the consideration of the then unfinished business, S. 3355.

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

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. tomorrow.

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

VACATION OF ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. PROXMIRE on Friday, which order was entered on yesterday, I believe, be cancelled.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 11 o'clock a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each, at the conclusion of which period the Senate will resume the consideration of S. 3355. Yea and nay votes are expected on that bill or on amendments thereto, and presumably Senators will be ready for such yea and nay votes on tomorrow.

ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 5:23 p.m. the Senate adjourned until tomorrow, Thursday, June 11, 1974, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1974:

DEPARTMENT OF STATE

The following-named Foreign Service Officers for promotion from class 1 to the class of Career Minister:

Alfred L. Atherton, Jr., of Florida.
Frank C. Carlucci, of Pennsylvania.
Richard T. Davies, of Wyoming.
Arthur W. Hummel, Jr., of Maryland.
Robert J. McCloskey, of Maryland.
Terence A. Todman, of the Virgin Islands.
George S. Vest, of Virginia.
Charles S. Whitehouse, of Virginia.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Harold Arthur Kissinger, [redacted], Army of the United States (brigadier general, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Leo E. Benade [redacted] Army of the United States (brigadier general, U.S. Army).

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Dale S. Sweat, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

COUNCIL ON INTERNATIONAL ECONOMIC POLICY

William D. Eberle, of Connecticut, to be Executive Director of the Council on International Economic policy. (New position.)