Age, Survivors, and Disability Insurance. I deeply believe that this is a very necessary and desirable program and that it is now, and has always been, soundly financed. I believe, as you may know from some of my writings, that there are grave potential dangers ahead because the political liberals, or expansionists, when they get in office again will make strenuous efforts to change the program so that it will no longer be a floor of protection.

Instead, these proponents wish to see the Government provide virtually complete financial security to non-working members of our society through governmental means. In the process, they would destroy almost completely all individual efforts through private savings, private insurance, and private pension plans. I believe that this would have catastrophic effects on people as individuals and, further, that it would have the side effect of greatly weakening or destroying our private enterprise system because of drying up much private investment capital.

The thing to beware of is the introduction of government subsidies into our social insurance systems that are now supported entirely by payroll taxes. Such subsidies give the appearance of being a painless way to expand greatly the benefits of the program, since nobody *appears* to have his pocketbook tapped therefor, whereas increases in payroll taxes are easily discernible and, accordingly, subject to taxpayer resistance.

[From the Washington Post, June 16, 1970]

AMA, BLACK DOCTORS' GROUP JOIN TO SEEK HEALTH INSURANCE

(By Victor Cohn)

The American Medical Association and the far smaller predominantly black National Medical Association joined forces for the first time yesterday to seek a federally subsidized health insurance program to replace Medicaid.

Before a Senate Finance Subcommittee, they backed a plan much like one President Nixon proposed last week as a substitute for the present Medicaid help for low-income persons.

The President said he will submit a detailed plan in January to either buy health insurance or subsidize it, on a sliding scale, for between 5 and 6 million families with incomes below $5,620.

Yesterday AMA President Gerald D. Dorman (representing 223,000 doctors) and NMA President Julius W. Hill (representing 6,000) urged:

A federal certificate for every "low income" individual—defined as all who pay $300 or less in federal income tax—to buy a "qualified and comprehensive" health insurance policy at government expense.

Federal tax credits, on a sliding scale based on their income tax payments, to help the moderate or higher-incomed buy health plans. As one example, a family of four with $6,500 in income and a $493 federal income tax bill would get a 73 per cent credit toward health insurance.

The AMA has proposed what it calls this "Medicredit" plan in the past. But not until now has it had the backing of the NMA. The NMA long backed fully tax-paid government health insurance for all—on the Medicare principle—and generally has stood well to the left of the conservative AMA.

Yesterday, Dr. Hill, a Los Angeles physician, said the AMA–NMA proposal would work far better than Medicaid in the ghettos.

He strongly defended doctors who care for the poor against accusations that they have been profiteering under Medicare and Medicaid. Restrictions on doctors' fees—recommended in a Finance Subcommittee staff report—would only "make more acute" the ghettos' doctor shortage, he maintained. He called it "bitterly ironic" for that report to suggest that "to work 60 and more hours a week in the ghetto and be fairly paid" is "suddenly prima facie evidence of wrongdoing."

Dorman and Hill also urged statewide panels by which medical men themselves review the cost, quality and need for other doctors' services.

Both said doctors have been smeared by intimations that anyone earning $25,000 or more a year from federal health programs is profiting unduly.

# SENATE—*Friday, June 19, 1970*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O Thou Creator Spirit, who at the beginning said, "Let there be light; and there was light," shine into and search out all the dark places of our time—the places of poverty, of injustice, of despair, and spiritual desolation. Reawaken us to the faith of our fathers, that people of all ages and all faiths may cherish all true values of the past and become alive to all redemptive measures for the future. Illuminate our personal lives by a fresh allegiance to Him who said, "You are the light of the world—Let your light so shine before men, that they may see your good works and glorify your Father." Give us strength and wisdom to do the good works which bring light and healing and redemption.

In the Master's name. Amen.

## DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., June 19, 1970.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
*President pro tempore.*

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

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, June 18, 1970, 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 be authorized to meet during the session of the Senate today.

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

## THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 931, to skip No. 932, and then take up Calendar Nos. 933, 934, 935, and 938.

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

## RETIREMENT AGE FOR CAREER MINISTERS OF THE FOREIGN SERVICE

The bill, S. 3691, to amend the Foreign Service Act of 1946, as amended, to lower the mandatory retirement age for foreign service officers who are career ministers was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3691

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That sections 631 and 632 and the headings thereto of the Foreign Service Act of 1946 (22 U.S.C. 1001 and 1002) are amended to read as follows:

"FOREIGN SERVICE OFFICERS WHO ARE CAREER AMBASSADORS

"SEC. 631. Any Foreign Service officer who is a career ambassador other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall be retired from the Service at the end of the month in which he reaches age sixty-five and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty-five shall be retired at the end of the month in which he completes such service.

"PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM WHO ARE NOT CAREER AMBASSADORS

"SEC. 632. Any participant in the Foreign Service retirement and disability system, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador shall be retired from the Service at the end of the month in which he reaches age sixty and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such participant's service for a period not to exceed five years. Any such officer who hereafter completes a period of authorized service after he reaches age sixty shall be retired at the end of the month in which he completes such service."

SEC. 2. The amendment made by section 1 shall be effective upon enactment, except that any Foreign Service officer who is or becomes a career minister and who is not occupying a position to which he has been appointed by the President, by and with the advice and consent of the Senate, shall be mandatorily retired for age in accordance with the schedule below and receive benefits under section 821 of the Foreign Service

Act of 1946, as amended, unless the Secretary determines it to be in the public interest to extend his service for a period not to exceed five years.

Retirement Schedule

(1) Any career minister who reaches age sixty-five during the month of enactment of this Act shall be retired at the end of such month;

(2) Other career ministers who are age sixty or over as of the date of enactment of this Act shall be retired at the end of the month which contains the midpoint between the last day of the month of enactment of this Act and the last day of the month during which the officer would reach age sixty-five, counting thirty days to the month; and

(3) On the last day of the thirtieth month which ends after the date of enactment of this Act, all other career ministers who are age sixty or over shall be retired, and thereafter the amendment made by section 1 shall be applicable in all cases.

(4) Any career minister who completes a period of authorized service after he reaches mandatory retirement age as provided in the above schedule shall be retired at the end of the month in which he completes such service.

## SUSPENSION OF DUTIES ON CERTAIN FORMS OF COPPER

The bill, H.R. 17241, to continue until the close of June 30, 1972, the existing suspension of duties on certain forms of copper was considered, ordered to a third reading, read the third time, was passed.

## SUSPENSION OF DUTIES ON MANGANESE ORE

The Senate proceeded to consider the bill, H.R. 14720, to continue until the close of June 30, 1973, the existing suspension of duties on manganese ore—including ferruginous ore—and related products which had been reported from the Committee on Finance with an amendment at the top of page 2, insert a new section, as follows:

SEC. 2. (a)(1) Section 1006 of the Social Security Amendments of 1969 is amended by—

(A) inserting "(1)" immediately after "paid to any individual";

(B) striking out "(1)" and inserting in lieu thereof "(A)";

(C) striking out "(2)" and inserting in lieu thereof "(B)"; and

(D) by inserting immediately before the period at the end thereof the following: "; or (2) as annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, if such amount is paid in a lump-sum to carry out any retroactive increase in annuities or pensions payable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 brought about by reason of the enactment (after May 30, 1970 and prior to December 31, 1970) of any Act which increases, retroactively, the amount of such annuities or pensions".

(2) The heading to such section 1006 is amended by inserting immediately before the period at the end thereof the following: "AND OF RAILROAD RETIREMENT BENEFIT INCREASE".

(b)(1) Section 1007 of the Social Security Amendments of 1969 is amended by—

(A) striking out "July 1970" and inserting in lieu thereof "November 1970";

(B) inserting "(1)" immediately after "also receives in such month";

(C) inserting immediately before the period at the end thereof the following: ", or (2) a monthly payment of annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 which is increased as a result of the enactment (after May 30, 1970, and before December 31, 1970) of any Act which provides general increases in the amount of the annuities or pensions payable under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, the sum of the aid or assistance received by him for such month, plus the monthly amount of such annuity or pension received by him in such month (not including any part of such annuity or pension which is disregarded under section 1006), shall (except as otherwise provided in the succeeding sentence) exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for March 1970, plus the monthly annuity or pension which would have been received by him in such month without regard to the provisions of the Act enacted by such enactment, by an amount equal to $4 or (if less) to such increase in his monthly annuity or pension under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935 (whether such excess is brought about by disregarding a portion of such annuity or pension or otherwise)"; and

(D) by adding at the end thereof the following sentence: "If, in the case of any individual, the provisions of both clauses (1) and (2) of the preceding sentence are appliable to him with respect to any month, any increase in the annuity or pension (referred to in clause (2) of the preceding sentence) of such individual for such month shall, for purposes of such sentence, be treated as an additional increase in the amount of his monthly insurance benefit under title II of the Social Security Act for such month in lieu of an increase for such month in his annuity or pension (as so referred to).".

(2) The heading to such section 1007 is amended by inserting "AND RAILROAD RETIREMENT RECIPIENTS" immediately after "RECIPIENTS".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to continue until the close of June 30, 1973, the existing suspension of duties on manganese ore—including ferruginous ore—and related products, and for other purposes."

## VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES

The Senate proceeded to consider the bill, H.R. 16739, to extend for a period of 10 years the existing authority of the Administrator of Veterans' Affairs to maintain offices in the Republic of the Philippines which had been reported from the Committee on Finance with amendments in line 4, after the word "out", insert "June 30,"; and in line 5, after the word "thereof", strike out "'1980'" and insert "'July 3, 1974'".

The amendments were considered and agreed to en bloc.

The amendments were ordered to be engrossed and the bills as amended to be read a third time.

The bill as amended the third time, and passed.

The title was amended, so as to read: "An act to extend until July 3, 1974, the existing authority of the Administrator of Veterans' Affairs to maintain offices in the Republic of the Philippines."

## DEFERRAL OF WHEAT REFERENDUM

The Senate proceeded to consider the the bill, S. 3978, to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971.

Mr. YOUNG of North Dakota. Mr. President, our present farm price support program expires at the end of the current crop year. Unless new legislation is enacted during this session of Congress, we will revert to permanent legislation now on the statute books. In the case of wheat, this is the mandatory wheat certificate program.

This program involves the imposition of mandatory acreage controls on wheat producers if they approve them in a grower referendum. Under the law, that referendum must be held before August 1 of this year.

At the present time, every effort is being made to write new farm legislation. I am optimistic that these efforts will succeed. Because this has not yet been accomplished, however, the Department of Agriculture is faced with the necessity of calling a referendum before August 1.

There is a considerable amount of administrative detail that must be carried out before a referendum can be conducted. Ballots must be printed, information on the program must be made available to farmers and a public announcement of the referendum must be made. It is estimated that this work requires about 6 weeks time and would cost $2 million.

In order to remove the necessity of calling a referendum at this time, the Senate Agriculture Committee has approved this resolution delaying the deadline for a referendum from August 1 to October 15 or 30 days after the adjournment of this session of Congress, whichever occurs first.

Hopefully, during this period, new farm legislation will be enacted. If it is not, there would still be an opportunity for wheat farmers to decide in a referendum whether or not to accept the provisions of the mandatory program. This legislation has been requested by the Secretary of Agriculture. I feel this is a necessary move, Mr. President, and I hope it can be speedily approved.

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

S. 3978

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 336 of the Agricultural Adjustment Act of 1938, as amended, is amended by adding at the end thereof the following: "Notwithstanding any other provision hereof the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1971, may be conducted not later than the earlier of the following: (1) thirty days after adjournment sine die of the second session of the Ninety-first Congress; or (2) October 15, 1970."

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the distinguished Senator from Ohio (Mr. YOUNG) is now recognized for not to exceed 20 minutes.

Before the Senator from Ohio begins his remarks, may the Chair inquire of the distinguished majority leader whether there is to be a period for the transaction of routine morning business following the remarks of the Senator from Ohio.

Mr. MANSFIELD. That is correct.

The ACTING PRESIDENT pro tempore. The Chair thanks the distinguished majority leader.

## SINK THAT NERVE GAS TO THE BOTTOM OF THE PACIFIC

Mr. YOUNG of Ohio. Mr. President, it is outrageous that the Defense Department would contemplate shipping 13,000 tons of lethal nerve gas from our chemical stockpiles in Okinawa to Kodiak, Alaska, or to any other part of the continental United States.

The Pentagon should put its stockpiles of nerve gas and chemical weapons in tightly sealed air tanks and sink them to the bottom of the Pacific.

Pete Resoff, mayor of Kodiak, Alaska, a fishing town 250 miles southwest of Anchorage, has already announced his opposition to Pentagon's plans. He said that selection of Kodiak as a storage site for nerve gas would be like "getting a Christmas present of a sack full of snakes."

Mr. President, I think that mayor is a pretty smart fellow.

Deadly chemicals should not under any circumstances be transported to the United States. I am cosponsor of an amendment to the Foreign Military Sales Act (H.R. 15628) introduced by the distinguished Senator from Alaska (Mr. GRAVEL) that would prevent the shipment of lethal nerve gas to the continental United States. It is equally important that the nerve gas and chemical weapons should not remain on the island of Okinawa where they constitute a clear and present danger to the safety of the people who live there.

In Japan, the nerve gas issue is threatening to develop into a serious political problem. The Okinawan chapter of Japan's National Congress Against Atomic and Hydrogen Bombs has pledged to make an islandwide issue of the continued presence of the nerve gas.

At present, the gas on Okinawa is stored in the 276th Chemical Company, in a pine forest near Kadena Air Base. Within several miles of the depot are three of the five cities on the island, one with a population of 300,000 only 15 miles from the storage area.

President Nixon has the power to order the destruction of these lethal chemical weapons. He should immediately order the disposal of these deadly weapons which imperil the safety of millions of people.

Mr. President, it is unconscionable that the United States would continue to stockpile nerve gas. Indeed, we should never have had lethal nerve gas in the first place. We should put ourselves squarely on record against the use of nerve gas in international warfare, the most heinous form of man's inhumanity to man.

So I say, let us, without delay, sink all the nerve gas we have to the bottom of the Pacific.

## ARMY DESERTERS

Mr. YOUNG of Ohio. Mr. President, with President Nixon expanding our undeclared war in Southeast Asia by invading Cambodia with 27,000 men of our Armed Forces and bombing Laos, another nation whose neutrality we had guaranteed, more Americans question our country's right to ask them to bear arms. More than 12 years ago military advisers were sent into Vietnam. No combat troops. At that time military service was an unchallenged institution among young Americans. Now, with an undeclared, immoral, unpopular war expanded by President Nixon's aggression or intrusion into Cambodia and around-the-clock bombing in Laos, millions of American youngsters are deeply troubled over Uncle Sam's call to the colors.

More startling than fine young men resisting the draft is the unparalleled rate of desertion among draftees. From May 1969 to April 30, 1970, more than 70,000 GI's deserted. Desertion means illegal absence from military duty for more than 30 days. Many boys AWOL for a week or so returned voluntarily, as do some deserters. Many do not. Of course, that 70,000 figure seems to be a tremendous number. But it is rather minimal when we contrast it with the more than 380,000 Vietnamese friendly troops—too friendly to fight—who have deserted from the armed forces of that country. The men who desert from our Armed Forces now that the war is being waged risk sentences up to 5 years in the stockade at hard labor. In a war declared by Congress the penalty for desertion could be death.

Where are these deserters? Some go underground in our own country, from one hiding place to another. Many flee to Canada and Sweden. Colonies of young Americans in Canada and Sweden are growing week after week. Many of these deserters may never return to our country. A large number already have planned to or have already become citizens of Sweden and Canada.

It is saddening to report that here is a grave loss sustained by our country. Many of these young men driven by conscience are among the cream of the younger generation. Future generations of Americans may well wonder at the madness and blindness of Presidents Johnson and Nixon which has led to this catastrophe. President Johnson brought the level of our combat troops in Vietnam to more than 550,000. Now President Nixon, instead of ending the war, has in truth and in fact expanded it so that it now covers the vast area of the old Indochinese colonial empire, including Cambodia and Laos. I am glad to report, however, that President Nixon has reduced the total number of American troops very markedly. I sincerely hope that he will continue this reduction, and I believe his statement that he intends to try to do that.

Mr. President, very definitely, Congress should consider granting amnesty to all youngsters of draft age and draftees who in good conscience were morally unable to participate in that undeclared war that we have been waging in Vietnam which has now spread into all the territory of the French Indochinese colonial empire.

## THAT TRAGEDY AT KENT STATE UNIVERSITY

Mr. YOUNG of Ohio. Mr. President, directly after noon on Monday May 4, 1970, a beautiful sunshiny day, Ohio National Guardsmen ordered to Kent State University by Governor Rhodes on the previous Saturday hurled tear gas canisters into a crowd of girls and boys demonstrating on their own campus between classes then being held. Some of the students hurled back the partially filled tear gas canisters at the guardsmen. The distance between the students and the guardsmen was so great at that time that the half-filled canisters rolled on the ground close to the guardsmen, affecting some of them with their own tear gas.

The infuriated National Guard platoon fired a volley at pointblank range killing four students, two girls and two boys, none of whom had participated in any violent acts, and seriously wounded 10 other university students. Not one National Guardsman sustained an injury or even required first-aid treatment at any time from noon to 12:22 in the afternoon.

Men and women and college students throughout the United States were shocked. President Nixon in a statement to the American people said he proposed to appoint a high-level Commission to thoroughly investigate this tragedy. He has failed to do that.

A short time after this tragedy Vice President AGNEW stated when asked if he thought the guardsmen "went too far" in their response, "Oh yes, there is no question about that." I agree with his views. He went on to say, however:

> Where there is no premeditation but simply an over-response in the heat of anger that results in a killing, it's murder.

In Ohio it is second degree murder, not for guardsmen who obeyed orders, but for the officers who gave the orders and permitted the platoon of soldiers to fire that volley.

President Nixon to this good hour has failed to appoint a high-level commission to investigate and report whether murder was committed on the Kent State University commons early that afternoon.

A few days after the President made his first statement, local policemen in Jackson, Miss., at night without provocation or justification pumped bullets from their guns into a college dormitory housing black students, killing two students. This act was also murder. Did President Nixon, because of this, change his mind about establishing a high-level commis-

sion similar to the Warren Commission? I say this because here is precisely what President Nixon did, instead of what he said he was going to do.

On June 15 President Nixon announced:

(A) There is hereby established the President's Commission on Campus Unrest (Hereinafter referred to as the Commission).

(B) The Commission shall be composed of a Chairman to be appointed by the President, and of so many other members as the President may appoint.

SEC. 2. Functions of the Commission. The Commission shall study dissent, disorder, and violence on the campuses of institutions of higher learning or in connection with such institutions, and report its findings and recommendations to the President. The duties of the Commission shall include, but not be limited to, the following:

(1) Identifying the principal causes of campus violence and the breakdown in the process of orderly expression of dissent on the campus.

(2) Suggesting specific methods and procedures through which grievances can be resolved by means other than the exertion of force.

(3) Suggesting ways to protect academic freedom, the right to obtain an education free from improper interference, and the right of peaceful dissent and protest.

(4) Proposing practical steps which can be taken by government at all levels, by the administrations of institutions of higher learning, and by students, through student governments or otherwise, to minimize dangers attendant upon expressions of dissent.

As Chairman of this Commission on Campus Unrest he designated William W. Scranton, former governor of Pennsylvania. He appointed eight other members, including two city chiefs of police. In designating this Commission on Campus Unrest he only made passing reference to the tragedies at Kent State University and Jackson State College in Mississippi and he directed that the Commission report to him before the beginning of the coming academic year.

This procedure was a disappointment to me; I had higher expectations.

Mr. President, I report I feel deeply that the leadership of the Senate, the majority leader and the minority leader, should appoint a special committee of the U.S. Senate to investigate fully the killing of four students, including two girls, and the wounding of 10 other students at Kent State University on May 4 and the murder of two students at Jackson State College on May 15. Such special committee of the Senate should be granted the power to subpoena and to employ counsel, and should procede with an investigation without delay and then file their findings and report.

In fact, shortly after the murder of these four students on the campus of Kent State University I introduced Senate Resolution 404 to establish a Special Committee on the Kent State University Disorders. At that time I stated that there are many important questions which should be answered by such a committee. Who gave the guardsmen the order to carry live ammunition in their guns? Who, if anyone, gave guardsmen the right to fire at individual demonstrators? What kind of training did these young men have in controlling civil disorders? Could local and State policemen have done the job without help from the National Guard?

In Ohio it is my opinion that Governor Rhodes made a grave blunder in calling out the National Guard following disorder, rioting, and destruction of property by Kent State students in downtown Kent, a city of approximately 45,000.

On Friday and Saturday nights the students were demonstrating, a majority in a peaceful manner; a small minority when attacked by the local police burned the 21-year-old ROTC building, broke windows, and responded with violence to acts of violence on the part of the police.

That was a terrible thing to do. I have friends who could not have made it through college except for the ROTC. I think the ROTC does wonderful work for American youngsters. Any students who broke windows or did violence or burned buildings, even though responding to violence on the part of the police, should not only be expelled from the university but they should be prosecuted for the crimes they committed.

The mayor imposed an 8 o'clock curfew. As a result of that many boy and girl students particularly on Saturday night directly after 8 o'clock were arrested, taken to jail for violating the curfew, held all night and released on payment of $50 the following morning.

The Portage County sheriff failed to swear in additional special deputy sheriffs to help restore order. Governor Rhodes as early as Friday could have summoned hundreds of men of the Ohio State Highway Patrol to come into the city of Kent without delay and help restore order. In Ohio we have a very fine State highway patrol composed of hundreds of trained and experienced civil service employees and officials with a fine record and traditior of maintaining law and order and preventing criminal acts along our highways throughout the entire area of Ohio.

Unfortunately, the Governor called out the National Guard. His adjutant general, a political appointee, Sylvester Del Corso, made a poor choice by including in the selection of guardsmen the National Guard outfit which had been on duty in Cleveland at the teamsters wildcat strike and had been given a hard time by teamsters who stopped battling each other long enough to fight the guardsmen. Late at night they were dispatched directly from Cleveland to Kent and the platoon guilty of shooting and killing four students, two boys and two girls, and wounding 10 others on the following Monday afternoon was a platoon worn out by its arduous service in Cleveland.

Some years ago I was a member of the National Guard. We have a good National Guard in Ohio. But a bad choice was made for these tired and worn out National Guardsmen had been mauled around and some had been injured in Cleveland.

I realize, Mr. President, that hindsight is better than no foresight whatever, but in Ohio there were an abundance of National Guard companies enjoying inactive status which Governor Rhodes and the adjutant general could have and should have called on.

Also on May 6, the distinguished majority leader (Mr. MANSFIELD) called upon President Nixon to establish a high-level commission to investigate the Kent State tragedy. Either my proposal or that of the distinguished Senator from Montana (Mr. MANSFIELD)—and I would give preference to his proposal—would have provided an opportunity to investigate and make a complete and impartial determination of the facts of the killing of four students and wounding of 10 on the campus of Kent State University May 4, 1970, and of the unprovoked killing of two black students at Jackson State College in Mississippi by white policemen shooting volleys into the dormitory in the night.

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

Mr. YOUNG of Ohio. Mr. President I ask unanimous consent that I may proceed for 5 additional minutes.

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

Mr. YOUNG of Ohio. Mr. President, Americans were encouraged when, on May 24, Herbert Klein, the administration's director of communications, announced that the President would, indeed, appoint a blue ribbon panel to study the Kent slayings. Mr. Klein, appearing on the CBS television program "Face the Nation," said the commission would be "a group which has prestige and has the ability to look with a thorough and unquestioned investigative mind at all the facts in the case."

Some 3 weeks after the announcement by his assistant, President Nixon established a "President's Commission on Campus Unrest." He designated William Scranton, former governor of Pennsylvania, as Chairman and a group of eight citizens to this investigating committee, including two experienced and outstanding chiefs of police.

However, the duties of the commission are so broad that a serious and detailed analysis of the tragedy at Kent State University on May 14, I am afraid, may be sidetracked. According to the President's Executive order establishing the panel:

The Commission shall study dissent, disorder, and violence on the campuses of institutions of higher learning or in connection with such institutions.

This sounds familiar. A few years ago the Kerner Commission made an extensive, in-depth study of riots and civil disorders. More recently, Father Hesburgh's Commission on Violence probed the causes and consequences of unrest. Both of these groups made thoughtful and valuable recommendations. For all practical purposes, they have been ignored in their entirety.

The only official investigations now in progress regarding the Kent State murders are those being conducted by the National Guard and the FBI. It would be ludicrous to believe that the National Guard could conduct an impartial objective investigation of itself.

In this connection it is interesting to note that Adjutant General Del Corso, commanding officer of the National Guard, has alleged all along that a sniper from a rooftop had fired on the National Guardsmen shortly before the Guard fired a volley and killed and wounded boys and girls on the campus or commons at Kent State. The State Highway Patrol, which had at least seven helicopters in the air above the area throughout Monday, May 4, reported through the pilots of the planes that there was no sniper fire whatever. FBI investigators also made the same report, and finally Del Corso admits that his repeated allegations to the contrary were not factually correct. He now admits there was no sniper.

FBI investigators have been accumulating large volumes of information, but have shown only minimal interest in the activities of National Guardsmen on the day of the murders. Most of the FBI's efforts have been directed toward questioning students and faculty at Kent State about the teaching techniques and political beliefs of some professors. The killing of four innocent young people has been made the excuse for an inquisition of the Kent State faculty and students.

FBI Director, J. Edgar Hoover, recently congratulated former Kentucky Governor and baseball commissioner A. B. (Happy) Chandler for punching a student demonstrator. Given Director Hoover's predisposition against student demonstrators, it is very doubtful that the current FBI inquiry will result in anything more than a whitewash of the Ohio National Guardsmen or a mild slap on their wrists. At the same time it is fair to predict that J. Edgar Hoover's inquiry will try to show that the Kent students were inspired by leftist elements intent on creating violence. It is an old FBI technique reminiscent of the witch-hunting years of the 1950's, the days of "Joe McCarthyism."

Prompt action should be taken by the Senate to guarantee that a genuine investigation of the Kent State disorders is undertaken—an investigation with a specific purpose instead of a fancy title.

Furthermore, I again assert that the U.S. attorney for the northern district of Ohio should convene a Federal grand jury to investigate and determine whether murder was committed on the campus of Kent State University shortly after noon on May 4. I hope the recently appointed U.S. attorney for the northern district of Ohio, Robert B. Krupansky, who is a very able and experienced trial lawyer and a man of integrity, will convene a Federal grand jury to investigate thoroughly this tragedy of May 4. Or that officials of the Department of Justice in Washington will complete the investigation they have been making and then spearhead the prosecution of those guilty of murder at Kent State University. It is my judgment as a lawyer and former chief criminal prosecuting attorney that there is probable cause warranting a grand jury to determine whether or not Adjutant General Del Corso, Deputy Adjutant General Canterbury, and the officer who gave the order to fire a volley at the boys and girls on the campus of the university committed the crime of murder in the second degree.

Mr. President, this type of investigation would certainly be more meaningful than another vague exercise in research.

Mr. President, on May 15 less than 2 weeks after the Kent State slaying, two more young students were shot to death at Jackson State College in Mississippi. The circumstances surrounding these tragedies in Mississippi and Ohio were dissimilar. Local policemen shot up the dormitory of Jackson State University in the nighttime killing two black students who were asleep in their dormitory.

Of course, if President Nixon were to begin a serious and thorough investigation of the Kent State murders around noon of May 4 he would be obligated to do no less in regard to the killings at Jackson State College perpetrated during the darkness of night. Could it be that the President is fearful that the inevitable public disclosure of the facts surrounding the tragedy at Jackson State College would in some way be harmful to and impede his "southern strategy?"

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the bill (H.R. 16298) to amend section 703(b) of title 10, United States Code, to extend the authority to grant a special 30-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas.

## ORDER OF BUSINESS

Mr. FANNIN. Mr. President, I ask unanimous consent that I be recognized for 20 minutes.

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

## AMENDMENT OF THE FOREIGN MILITARY SALES ACT

### PRESIDENTIAL POWERS

Mr. FANNIN. Mr. President, we have heard the supporters of the Cooper-Church amendment state that the amendment did not bind the authority of the President to act when necessary to protect the lives of Americans.

The dividing line is never easy to trace. In President Wilson's term, when we were dealing with a war in Europe, there were repeated incidents that threatened war with Mexico.

One of these incidents involved the Armed Forces under General Pershing in pursuit within Mexico of the bandit Villa. That thrust, called an intrusion involved a pursuit taken by American forces more than 300 miles into Mexican territory.

The intrusion of our troops in Cambodia has been restricted by President Nixon to a little more than 21 miles, and he already has withdrawn more than half the American troops from Cambodia, far ahead of his promised deadline.

I would like to read from a report made by Representative Claudius U. Stone, of Illinois, a member of the majority party, in 1916 concerning the Villa incident.

It illustrates how fundamental it is that "intrusion" and military acts to protect American soldiers and American lives must be within the discretion of the Executive.

If the Congress is to bind the President with rigid, inflexible rules, such restrictions can benefit only the enemy.

And if Congress is to reserve to itself any departure from such inflexible rules, the long deliberative process itself only further jeopardizes the American lives the President is charged with protecting.

In reading the report by Congressman Stone, I wish to emphasize that Congress, if given the same mood in which we face the Southeast Asian situation today, never would have authorized an intrusion that involved a 300-mile pursuit into Mexico. But President Wilson in his wisdom and with his flexibility avoided expanding the war into Mexico.

And it is noteworthy that President Nixon, under pressure of his critics, has felt it necessary to place himself and our American forces under a rigid 21-mile limitation, yet he is committed to the same determination of no expanding war:

Venustiano Carranza had been the civil leader of the revolutionary movement which had come into control of the government at Mexico City upon Huerta's withdrawal. His chief military commander was Francisco Villa, who had made a brilliant record as a strategist and a leader of the Constitutionalist soldiers. They were jealous of one another, and Villa's recalcitrance was intensified by his belief that Carranza intended to relegate him to a subordinate position not in keeping with his achievements as a leader of the victorious army. Weeks passed, however, without an actual break between the two, and with Huerta gone, the United States had no reason to retain possession of Vera Cruz, so on November 23, 1914, the port was evacuated and turned over to the representatives of the new government at the Mexican capital.

The Constitutionalist movement did not fulfill the bright promises which it had held out for the future of Mexico. Dissension and discord broke out within its ranks. The jealousy and envy which Villa and Carranza entertained for one another came to a head in a convention at Aguascalientes, which had been called to choose a provisional President pending a general election. Defeated in this convention, Villa withdrew and went to northern Mexico to organize the soldiers in that region who were loyal to him. Open warfare between the two divisions of the Constitutionalists followed, although Carranza remained in control of the capital and gradually gained other advantages over his opponent.

### CARRANZA'S RECOGNITION

For a year the administration held aloof, playing no favorites in the matter of its control of shipments of arms into Mexico and hoping that the opposing factions would bring order out of chaos without any activities on the part of the United States. A year sufficed to disillusion the President and his advisers, however. Thereupon the administration consulted with the six ranking diplomatic representatives of th. Latin-American countries as to the practicability of recognizing a government in Mexico. The Latin-American representatives and Secretary of State Lansing invited both Villa and

Carranza to participate in a conference designed to adjust their differences. The manner in which this invitation was received decided the conferees of the United States and the Latin-American countries. Villa's followers accepted, apparently without reference to the wishes of one another or their chieftain. Carranza's followers deferred to his wishes in the matter and indicated that they represented a united front. To the United States and the six Catholic countries engaged in the peace conference the inference was plain that the side which gave evidence of such superior organization, unity, and harmony, held out the brightest promise for Mexico's salvation. As a result, Carranza was recognized as head of the de facto government of Mexico by the United States and the countries with which we were advising.

Thereafter Carranza's campaign against Villa was more successful. Gradually Villa's disintegrated into independent bands, and the territory he controlled diminished. He became little more than a leader of bandits, who skulked in the mountains and in the thinly populated areas of Northern Mexico, where they were able to elude the forces of the de facto government.

Villa, hopeless of making headway against Carranza as things stood, adopted Huerta's policy of attempting to provoke American intervention. He hoped by arousing their national pride to rally to his standard many of Carranza's soldiers and to present himself to the ignorant Mexican people in the guise of their would-be savior from a foreign invader. The bandit leader went about his work with deadly earnestness. January 12, 1916, he caused the murder of 17 American citizens near Piedras Negras, Mexico. March 9 he personally led a raiding band across the border and attacked the town of Columbus, N. Mex., which was guarded by a detachment of American Cavalry.

The conscience of the American people demanded that the perpetrators of this outrage be given swift punishment. Villa's conspiracy to provoke intervention had fallen short of its goal, but he had brought about a situation wherein it was evident that the United States could not rely upon Carranza's soldiers, who were few in number along the international boundary, to suppress the brigands of northern Mexico. The President dealt with this situation in the same firm manner in which he had dealt with Huerta's offenses against American sovereignty. He ordered an adequate armed force under Gen. Pershing to pursue Villa into Mexico and to crush or disperse his lawless bands. Pershing's instructions also were to get Villa, if possible, dead or alive.

PROMPT PUNISHMENT

The Pershing column was ready in 10 days. It had to be a complete little army, equipped for any sort of emergency, for the danger existed that once on Mexican soil our forces might, through misconception of its purpose, be attacked from other quarters than by the followers of Villa.

President Wilson took all available means to convince the Mexican people that the Pershing expedition was directed solely against the persons responsible for the Columbus raid, and by careful handling he reduced to a minimum the possibilities of a rupture with the Carranza Government. Formal assurances were conveyed to Carranza that the sovereignty of Mexico was not to be trenched upon. So favorable was the impression made at Mexico City that the chief of the de facto government suggested the negotiation of a reciprocal agreement to provide for the pursuit of raiders across the border by either Government. In that tense period also the President reaped the harvest of the good seed which had been sown throughout Latin-America by his policy of cooperation. Carranza was encouraged to defer his efforts to procure the withdrawal of the Pershing expedition by the attitude of the Latin-American Governments and by the official utterances with which the President and the State Department followed up their first assurances to the Mexican Government. The propriety of the American policy was emphatically set forth in a statement made public by Secretary of State Lansing, March 13, in which it was said that "what is now being done is deliberately intended to preclude the possibility of intervention."

Meanwhile, the soldiers under Gen. Pershing engaged in a vigorous pursuit of Villa and his outlaws. Unassisted by the Carranza soldiers, the hard-riding American cavalry clashed frequently with bands of Villistas and drove them into the hills. Villa was wounded and sought refuge in some mountain retreat where he was enabled to avoid capture.

The pursuit had taken the American forces more than 300 miles into Mexican territory. As time passed without the capture of Villa, the Mexican populace became more and more restless, and it became evident that they regarded the expedition as an affront to their national pride. Events gradually assumed a more ominous aspect. The increasing suspicions and complaints of the Mexican people brought such pressure to bear upon Carranza that it looked as if his control of the executive authority would be lost unless he took steps to bring along Pershing's withdrawal. Carranza himself was forced to assume an attitude which seemed to indicate a total lack of appreciation of the patience and forbearance which the American Government had displayed in the past. He opened a series of interchanges which began with inquiries as to how long the American troops were to stay in Mexico, and culminated in a demand for their withdrawal. An attempt was made in May to work out an agreement for the joint patrol of the border through a series of conferences between Gen. Obregon and Gen. Scott, the Chief of Staff of the United States Army. Carranza repudiated the arrangement which these officers had agreed upon and returned to his note writing. In April word was conveyed by Gen. Trevino to the officers of the American forces that if they moved in any direction save toward the American border, their movement would be regarded as an unfriendly act. Pending some determination of the questions which Carranza had raised, the American troops were warned to avoid clashes, if possible, and to keep in mind "the single purpose of the expedition." The President was wholly intent on avoiding any mischance which might subject the future of relations between Mexico and the United States to its full influence.

THE CARRIZAL EPISODE

In March a body of American troopers had clashed with the inflamed inhabitants of Parral. The tension produced by this incident and by the attitude of the Mexican Government was increased to the breaking point on April 12, when an engagement occurred at Carrizal between a detachment of American Calvary, under Capt. Boyd, and a considerable number of Carranzista soldiers. Capt. Boyd was in pursuit of bandits. The engagement followed efforts by the Carranzista commander to prevail upon Boyd to turn back. The Mexican soldiers have steadily charged that Boyd provoked the fight through disobedience to his instructions. The American Government has never conceded the justification of this charge.

It looked like war for a while. Impassioned by the reports of the death of American troopers at Carrizal, the American people were prepared to make short shrift of Carranza's explanations. To the public mind there appeared but one proper method of dealing with the situation; it was to hold the Mexican Government to strict account for the acts of its soldiers, if it assumed responsibility for these acts. It was the course the President decided upon.

Delaying only long enough to get official information as to what had occurred, the President sent an ultimatum to Carranza, demanding the release of the American soldiers captured at Carrizal and the return of all their equipment and the property of the United States taken with them. At the same time he ordered the National Guard to the Mexican border and prepared to enforce his demands unless Carranza assented to them voluntarily.

The crisis was robbed of its acuteness by Carranza's yielding to the American ultimatum. He did release the prisoners and returned them to American territory, thus turning back the relations between his Government and the United States to their former status.

Mr. President, we have heard a great deal about the relationship between our two great countries, and this is just an instance where we did, through action that was necessary, afford the Republic of Mexico assistance that many considered was in violation of precedents that had been established in previous years as far as agreements were concerned.

However, I think the good relationship of our two countries today is illustrative of the requirement for the action to have been taken; and certainly we are proud that we do now have a wonderful association with our friends south of the border.

Mr. President, we have heard of dire consequences that would follow our action in Cambodia. Our critics have said it would drive Peking and Moscow together, and that it would enlarge the war in Southeast Asia.

Instead, Pravda has continued its denunciation of Mao, charging that the Red Chinese leader was trying to rule the world, or at least all Asia. And the Communist forces in Indochina have been disrupted and weakened, and their timetables torn asunder.

The best message that has been delivered to the Communists is that American moves cannot be predetermined by Marxist textbooks. They had relied on American principles of politeness even in warfare and upon the loud cries of American critics of any action in Southeast Asia to maintain the security of their Cambodian sanctuaries.

The last thing the Communists had counted upon was that American troops would be sent across the Cambodia border to oust those sanctuaries—created, of course, brazenly for years in violation of Cambodian neutrality. The decision was as unpredictable as President Truman's move to send troops to Korea in 1950.

The Communists will treat us more carefully hereafter, and they will learn that they cannot rely on the loudness of the vocal minority in the United States to determine American policy.

The Communists in Indochina are spread thin and hurting. It will be months before they can regain their Cambodian losses—and meanwhile, the South Vietnamese can gain needed time, strengthened by the gain in their own confidence to handle their own affairs and provide protection.

In addition, the all-Asian conferences can provide guidance and some assur-

ance for a better and more peaceful future for Southeast Asia. Mr. Suharto of Indonesia learned in his U.S. visit that American policy does not run counter to the nationalist ambitions of the people of Asia.

Mr. President, I wish to read two newspaper articles—one, an Associated Press report from Phnom Perh, dated May 19, 1970, stating that a Communist source admits that the Cambodian venture may have set back the Communist timetable "possibly for years"; the other, an article by Orr Kelly writing in the May 17, 1970, issue of the Washington Star, providing an excellent response to those who belittle our objectives:

A Communist source said today that the allied offensive in Cambodia might have upset Hanoi's timetable for Indochina.

The source, who is in frequent contact with the North Vietnamese high command, said Communist intelligence learned of the allied plans several days in advance and all major units were out of the path long before allied air and ground forces hit.

Reports from the field indicated that allied kill claims were overly optimistic but that North Vietcong casualties had been serious nonetheless, according to the source. The heaviest blow was the large amount of stockpiled weapons and food captured, plus a major disruption of Communist communications in the onetime sanctuaries of eastern Cambodia.

If the North Vietnamese and Vietcong units had been conventional rather than guerrilla units, the allied thrust might have destroyed them. As it is, the source speculated, the Communists' timetable was considered to be knocked back possibly for years because of lost supplies and because the Communist-command troops now were fighting on more fronts.

The source claimed that the advance Communist intelligence permitted East Bloc diplomats to inform Lon Nol one day before the invasion started. The Cambodian government was warned it was "playing with fire" if it went along with the invasion. The initial Cambodian reaction was to say any violation of its neutrality would be protested. Later the government gave tacit approval to the offensive.

The source also said that East Bloc intelligence agents here closely investigated the March 18 coup that brought Lon Nol to power and concluded the United States played no part in it.

This is the article by Orr Kelly:

Along with all its other troubles, the Nixon administration is taking a bum rap for the failure of American soldiers to find anything in the jungles of Cambodia that can be clearly labeled as enemy headquarters.

What has evolved is an almost classic case of a credibility gap created by the press, with only modest help from the government.

In effect, the argument goes like this: President Nixon and his advisers said American troops were going into Cambodia to find and destroy the enemy headquarters, known as COSVN, an acronym for Central Office for South Vietnam. COSVN has not been found. Therefore, the Cambodian operation has been a military failure.

Somehow, the impression was created that the enemy had something as solid and visible as the Pentagon stashed away in the jungle with the letters COSVN chiseled in granite over the front door.

It is instructive to go back to what the President and his advisers actually said they were seeking in the Cambodian operation. In his speech the night of April 30, Nixon said:

"Tonight, American and South Vietnamese units will attack the headquarters for the entire Communist military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Viet Cong for five years in blatant violation of Cambodia neutrality . . .

"Our purpose is not to occupy the areas. Once enemy forces are driven out of these sanctuaries and once their military supplies are destroyed, we will withdraw."

In the hour preceding the President's televised speech, a top White House official, who cannot be identified by name or quoted directly, talked over the purposes of the operation. In answer to a question, he said the targets in the Fishhook area were those often described as COSVN I and II.

But he emphasized that the operation was directed against the base areas from which military activities are being conducted into South Vietnam and that American forces would remain only long enough to destroy supplies in those areas.

The area contains major supply dumps and the communications network for the headquarters, he said. The personnel in the headquarters rotate around in the area, on both sides of the border.

The purpose of the operation was not the personnel, but the supply depots and communications equipment.

This was the goal of the operation, stated before it had been publicly announced.

Two days after it began, in a Pentagon briefing, Col. F. H. Thrush, an operations briefer for the Pentagon joint staff, described the purpose this way:

"These allied operations in the Fishhook and the Parrot's Beak areas will have a long-lasting effect on the enemy's aggressive operation in South Vietnam. Hopefully, it will destroy his political and military command posts, his supplies, base camps, training areas, and disrupt his lines of communications . . ."

A week after the operation began, Defense Secretary Melvin R. Laird said the "primary mission is to destroy facilities so that they can't be used for six to eight months."

The attention focused on the failure, at least in the early phase of the operation, has obscured the degree to which the operation has succeeded in achieving the goal of disrupting enemy activities for at least six months.

Actually, some of the best-informed officials in the Pentagon believe that the time gained by the operation has been generally understated. Instead of the 6 to 10 months commonly mentioned, they think the attacks across the border may well have provided a breathing spell of at least 12 months, and perhaps as much as 18 months, for the South Vietnamese to take over their own defense.

The price paid for this breathing spell has been fearful—in the cost of relations between the President and the Senate, and in the cost of relations with other countries.

But, in assessing the long-term effects of the operation, the failure to find something clearly identifiable on COSVN should not lead to the conclusion that the operation itself was a failure. All the evidence, in fact, suggests that, from a strictly military point of view, it has been even more successful than might have been hoped.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

## A BILL INTRODUCED

A bill was introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. PERCY (for himself and Mr. PROXMIRE):

S. 3992. A bill to amend title 23 of the United States Code to authorize the inclusion of the cost of providing replacement housing as part of the construction costs of federally aided highway projects; to the Committee on Public Works.

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

## S. 3992—INTRODUCTION OF THE HOME CONSTRUCTION FUNDING BILL

Mr. PERCY. Mr. President, in meeting of the Joint Economic Committee on May 4, discussion turned to a problem that has been one of the most serious problems in the whole urban renewal program—that of destruction of housing due to Federal highway construction.

Today, on behalf of Senator PROXMIRE and myself, I am introducing legislation which effectively deals with and rectifies the problem.

Too often in the past, federally aided highway construction has pushed through cities, forcing many people out of their homes and literally into the streets.

Too often these people have had no home to go to and no shelter to replace their homes which had been destroyed so that highways could be constructed.

Certainly, the highways have been necessary; however, we seem to have put more concern in the construction of the highways than we did in the welfare of those people whose homes were destroyed. We provided the millions of dollars necessary for the concrete, and yet we have provided no funds to provide housing to replace that which has been destroyed.

Far too few people are either aware of this problem or concerned about it. Yet, we all know that too frequently it is the poor man whose home is torn down. He has had too little opportunity to make known his very real problems. And it is this same poor man who must face the very real and difficult problem of finding a new home for his family.

When I visited in West Virginia a short while ago, I learned of families who had been put out on the street and had no place to go for shelter. Their homes were the victim of highway construction. This happens all across this country.

I decided then, and I reiterated by commitment May 4, to introduce legislation that would authorize the use of highway funds to construct housing where necessary in order to assure that there is a satisfactory, decent, safe, and sanitary house comparable to the one from which the person is being displaced before the program can go ahead.

The Government's right of eminent domain has long been recognized. It is time now that the Government face up to the responsibilities that this right imposes. The Government has the obligation to provide a house comparable to the one it destroys. No family should be forced to leave their home until it is provided with a suitable alternative.

Mr. President, this legislation which I introduce today would insure that the Government meet its responsibility. It provides that the funds needed to replace the housing would be included in the construction costs of federally aided highway projects.

I hope that we in the Congress will meet our responsibility and deal quickly and favorably with this much-needed legislation.

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

The PRESIDING OFFICER (Mr. SPONG). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, in accordance with the Senator's request.

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

The bill (S. 3992) to amend title 23 of the United States Code to authorize the inclusion of the cost of providing replacement housing as part of the construction costs of federally aided highway projects; introduced by Mr. PERCY (for himself and Mr. PROXMIRE), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3992

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That sections 510 and 511 of title 23, United States Code, including all references to such sections, are redesignated as sections 511 and 512 respectively.

SEC. 2. (a) Chapter 5 of title 23, United States Code, is amended by inserting immediately after section 509 the following new section:

"§ 510. Construction of replacement housing

"(a) The Secretary may approve as a part of the cost of construction of any project under any Federal-aid program which he administers the cost of (A) constructing new housing, (B) acquiring existing housing, (C) rehabilitating existing housing, and (D) relocating existing housing, as replacement housing for individuals and families where a proposed project on the Federal-aid system cannot proceed to actual construction because replacement housing is not available and cannot otherwise be made available as required by section 502 of this title. For the purposes of this subsection the term 'housing' includes all appurtenances thereto.

"(b) State highway departments shall, wherever practicable, utilize the services of State or local governmental housing agencies in carrying out this section."

(b) The analysis of chapter 5 of such title is amended by inserting after the item describing the content of section 509 the following:

"510. Construction of replacement housing."

SEC. 3. The definition of the term "construction" in section 101 (a) of title 23, United States Code, is amended to read as follows:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the Coast and Geodetic Survey in the Department of Commerce), costs of rights-of-way, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, and acquisition, and rehabilitation, relocation, and construction of replacement housing."

Mr. PERCY. Mr. President, I point out to my distinguished colleague from West Virginia (Mr. BYRD), who was necessarily engaged in conversation at the time I commented on his State, that the inspiration for this legislation, which is now cosponsored by the Senator from Wisconsin (Mr. PROXMIRE), came when I was in West Virginia last month at a housing conference, and saw for myself the disruption that the Federal Government can cause in the housing market when a Federal highway construction program puts many people out of their homes without adequate provision for rehousing them.

I believe this bill will take care of West Virginia as well as many other States with the same problem.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator.

## SENATE RESOLUTION 420—TO PERMIT SENATOR McCLELLAN AND SENATE EMPLOYEES TO TESTIFY IN A CRIMINAL ACTION

Mr. McCLELLAN submitted a resolution (S. Res. 420) to permit Senator McCLELLAN and Senate employees to testify in a criminal action, which was considered and agreed to.

(The remarks of Mr. McCLELLAN when he submitted the resolution appear later in the RECORD under the appropriate heading.)

## ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT 708

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the names of the Senator from Arizona (Mr. FANNIN) and the Senator from Arkansas (Mr. McCLELLAN) be added as cosponsors of the Byrd-Griffin amendment 708.

The PRESIDING OFFICER (Mr. SPONG). Without objection it is so ordered.

## ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## CRIMINAL JUSTICE—PRETRIAL DETENTION AND CRIME IN THE DISTRICT OF COLUMBIA

Mr. SAXBE. Mr. President, I hold some clippings in my hand concerning the shooting yesterday in Washington, D.C., of Ronald R. Watson.

I raise this matter at this time because it is particularly appropriate that we have before us in our committee a bill concerning the comprehensive reform of the criminal justice system in the District.

As a former attorney general, I am vitally interested in this subject and feel that I speak with some experience, in trying to improve and develop the police departments and systems of criminal justice in the State of Ohio.

I am now engaged in putting together what I hope will be a model State bill concerning the handling of criminal justice at every step of its development.

Mr. President, reform must include efforts to modernize and expand the role of the courts so that they can achieve new levels of efficiency and achieve the objective of speedier trials. It must include an adequate provision for counselors and public defenders so that every defendant will be guaranteed a full and fair representation in court.

True reform must also include revision of criminal procedures wherever revision is necessary.

The rule by which we administer criminal law must strike a fine balance between the rights of the individual and the rights of the public.

Patrolman Watson, now in the hospital fighting for his life, was shot as he attempted to apprehend two men who had robbed a liquor store and were fleeing.

The interesting thing is that if we had preventive detention in 1970 in Washington, Patrolman Watson probably would not be in that hospital today, because the man he shot, after he had been shot three times, had the following record.

He was convicted in December 1965 of assault on a police officer. He was sentenced from 15 to 45 months.

In June, 1967, he was paroled.

In August 1967 he was convicted of assault. On January 23 of this year, 1970, he was arrested for a $1,400 armed rob-

bery in a hot pursuit chase. He was captured with a part of the proceeds. He was released prior to trial on a $150 cash deposit.

Subsequently he was indicted on this charge, and was again released on the same bond.

On June 1, 1970, this month, he was arrested when caught in the act of robbery. He was again released on a $2,000 bail.

If there is one thing that this record should call to our attention it is the fact that this man was a dangerous man. He was a danger to society, and so we come to the dread conflict of whether society is entitled to be protected against such people, taking into consideration the civil rights of the charge.

This man was released because the judge could not hold him under the present Bail Bond Act in the District of Columbia.

We have a number of legal and constitutional arguments as to the detention of a man prior to his actual trial.

The PRESIDING OFFICER (Mr. SPONG). The time of the Senator has expired.

Mr. SAXBE. Mr. President, I ask unanimous consent that I may be permitted to continue for 3 additional minutes.

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

Mr. SAXBE. Mr. President, one of the reasons that this is important is the fact that in many of our courts the time of trial is continued and continued until a man could be held in jail for a year without trial. This is abhorrent to all who are interested in the civil rights of people.

Mr. President, I am more firmly convinced than ever that pretrial detention in such cases as involved this man is necessary if we are going to do anything to control the crime rate in Washington, D.C.

I do not find a conflict with the constitutional rights of individuals if the man is given a speedy trial. This act calls for 60 days. I believe if it is known that men will be turned loose on the streets if they are not tried within 60 days, we will see a response and additional judges and an urgency to bring these men to trial within 60 days.

There is nothing automatic about this. The judge in his discretion can look at the record and at the individual and say that he, the judge, cannot release this man because he would be a danger to society.

There is pretty good evidence that this man was a narcotics addict. We know that persons who are narcotics addicts have to steal to support an expensive habit. It has been reported that even a moderate habit in the District of Columbia costs $50 a day. To support that habit, a man would have to steal $150 worth of merchandise because $50 would be the most that he could get for that merchandise.

We need only to look at the papers to see that not only armed robbery, but also burglary and other acts that are committed to secure money for this purpose are particularly prevalent in the District. I want to express at this time my strong support for the Court Reform and Criminal Procedures Act of 1970, as passed by the House. It is a measure which I believe incorporates the fundamental reforms of which I speak here this morning.

It is a comprehensive bill which provides for a comprehensive reorganization of the courts in the District of Columbia, increasing the number of judges, increasing their pay, and increasing their tenure.

Under this bill, speedy trials should become a reality, and delays of 9 months, which we find at the present, should become a thing of the past.

The District of Columbia crime bill provides for a full-fledged public defender service consisting of 50 attorneys for indigent defendants. It also expands the District of Columbia bail agency.

But other reforms are needed, and some of these reforms constitute revisions in criminal procedures.

One of these reforms is the provision by which courts may consider a defendant's danger to the community in setting conditions of pretrial release. And when no condition or combination of conditions of release will reasonably assure the safety of the community, then society should have the means to detain a dangerous defendant for a limited period before trial. The bill provides that.

For well over a year, the President of the United States has asked Congress to give courts the authority to hold hardcore recidivists for a limited period before trial. Everyone who has advocated this proposal has taken a great deal of heat.

A great deal of mythology has developed about safety and the trustworthiness of defendants before trial.

But my experience as an attorney general of one of the more populous States has been that in trying to raise the lot of police and the morale of police, I find it is a discouraging prospect to have policemen know, when they bring this man into court on one of these serious charges, that he is going to walk out of that court probably with the policeman or very shortly thereafter.

In at least 35 percent of the cases, he is going to commit another crime of the type that he was apprehended for. We do not know how many crimes he commits that he is not apprehended for.

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

Mr. SAXBE. Mr. President, I ask unanimous consent that I be permitted to continue for an additional 3 minutes.

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

Mr. SAXBE. Mr. President, the recidivist rate in the District of Columbia on felonies of the type that would be subject to this act is about 35 percent. That means that they have been again arrested. And we have no way of knowing how many crimes they commit that they are not apprehended for.

A search of the historical background of this matter, I believe, does not present a conflict. We know that most of these crimes, even if the eighth amendment of the Bill of Rights is to be considered as limiting in this area, were capital cases at the time this provision was written, and the Bill of Rights does not say that they are not bailable offenses, or limited or especially enumerated.

In the ordinance of 1787 and in the Judicial Act of 1789, it specifically sets out crimes that were not to be bailable. They did not do this in article VIII of the Bill of Rights. Therefore, they must have comprehended that there were certain areas in which the people demanded protection.

I feel that in this particular area and in this particular instance, if we are really serious—and I sometimes wonder if we are—about combating crime, we have to be very practical and pragmatic about it.

We must recognize that there are persons who are chronic criminals and who are dangerous to society. They must be kept off the streets and tried as soon as possible; and they must be held in such a manner as to protect society.

Patrolman Watson, as he lies in that hospital today, is one of the examples of what has happened in Washington, D.C., and what can happen all over the country if we break this down so that anybody who has the money to go into court can go free. With the emphasis here on seeing that everybody is bailed out, it means to me that we are not serious about combating crime. We are fascinated by the idea that somebody's civil rights are going to be invaded, and perhaps we should be, but I submit that the right of the public to enjoy the freedom of our streets and the sanctity of their homes must be protected.

I feel this act is one of the best ways to begin.

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

Mr. SAXBE. I yield.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The time of the Senator has expired.

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

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

Mr. GRIFFIN. Mr. President, I wish to commend the Senator from Ohio for focusing attention on the incident he has referred to, which illustrates so clearly the need for the legislation he has discussed.

The distinguished Senator from Ohio has served very ably as attorney general of the State of Ohio and he understands the crime problem very well. I did not hear his complete statement and I do not know whether he made reference to the fact that in Washington, D.C., studies have shown a 70-percent rearrest rate for indicted robbers released prior to trial.

All who commit robberies would not be denied bail under the legislation proposed. I understand it would apply only to those accused of a few enumerated crimes, the most violent crimes against

the person. Earlier in our history all of crimes to which the legislation would apply were capital offenses.

If one realizes that the legislation would apply only to those violent crimes against the person, which at one time were capital offenses and which could be capital offenses again through legislative enactment, it is easier to understand and support a proposal under which bail could be denied for a period of 60 days.

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

Mr. GRIFFIN. I yield.

Mr. SAXBE. I think there is another element here that is significant, and that is because of the tremendous load in the courts many of these men who are arrested and rearrested will build up several felony cases against them and then be tried for only one felony, or given concurrent sentences when convicted. So the defendant says, "Well, I might as well be tried for three felonies as for one." It is crooked thinking and we know this, but when the man is released, as this man was, in connection with two felonies—one an indictment and the other a charge—then released again, he is probably thinking, "Well, I am going to be tried on two felonies, and I will take the chance on the third." It may be he has committed crimes daily and was not captured on them.

Mr. GRIFFIN. We might add further, that, some of the judges, in this jurisdiction particularly end up by ordering that the sentences of one who has been convicted of two felonies shall be served concurrently.

Mr. SAXBE. Yes; that is quite a common practice.

Mr. GRIFFIN. And as these people are aware of that they are not taking much risk.

The PRESIDING OFFICER (Mr. SPONG). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

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

Mr. GRIFFIN. Mr. President, the legislation proposed is liberal in terms of the civil rights of the individual. I say that for this reason. If capital punishment were involved there would be no question but that a judge, without any adversary proceeding, could refuse bail and hold the accused in jail. Under this legislation, which would apply only to those violent crimes against the person, which were or could be capital offenses, there is a provision for an adversary proceeding in which evidence can be presented following which the judge must make a finding before he can order that the accused be held without bail.

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

Mr. GRIFFIN. I yield.

Mr. SAXBE. I think there is another aspect to this matter. How much of a favor would be done for this man or how much would his civil rights be protected? Here is a 23-year-old man with a drug habit who is dead. There is now no way they could treat this drug habit and he continued it and continued his ways until the point where he was finally killed by a policeman's bullet. There is a wasted life, where this life might have been saved, and certainly the policeman would not have been shot if the judge had had the power to hold this man, give him treatment, and try to break this drug habit. But no, supposedly to protect his civil rights, he is released and finally he meets death with the policeman's bullet.

Then, we have the bleeding hearts who say, "We must protect this man's civil rights and freedom." What freedom? Freedom to be killed? Because that was the ultimate end.

Mr. GRIFFIN. Mr. President, once again I wish to commend the Senator from Ohio for taking the floor and discussing this subject. I hope, as he does, that this legislation will soon be enacted into law. It is certainly needed.

Mr. SAXBE. Mr. President, at this point I ask unanimous consent to have printed in the RECORD the article from the Washington Post this morning reporting the shooting to which I have referred. I also ask unanimous consent to have printed in the RECORD the statements of the Deputy Attorney General which more fully sets out the conditions and terms that would prevail in connection with the proposed legislation.

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

WOUNDED OFFICER KILLS HOLDUP SUSPECT

(By Alfred E. Lewis and Martin Weil)

A Washington policeman shot and killed a fleeing robbery suspect at New Jersey Avenue and K Street NW yesterday after the officer had been shot twice by the suspect, police said.

The officer, Ronald R. Watson, 25 of the traffic division, was shot in the neck and chest about 3:15 p.m. after he stopped a Volkswagen that matched the description of the getaway vehicle in a robbery that occurred minutes earlier, police said.

After being hit, Officer Watson fired six shots at two men who ran from the car, police said. They said three of the shots hit and killed Franklin E. Moyler, 23, of 1805 Belmont St. NW who, they said, had shot the officer.

Watson, a District Heights resident and a member of the force for four years, was reported in critical condition at Washington Hospital Center last night. He is married and the father of four.

A second suspect, a 23-year-old man, was arrested at 7th and S Streets NW and was being questioned by police late last night.

Moyler was pronounced dead at Rogers Memorial Hospital at 3:30 p.m. with gunshot wounds in the right shoulder, chest and right arm.

Police said Moyler was free on personal bond after being arrested June 1 on a charge of robbery and carrying a dangerous weapon.

They said he had previously been convicted of robbery and assault on an officer and of assault. Capsules suspected of being heroin were found in his pockets yesterday, police said. They said $918 was found in the car.

Police said Moyler, who collapsed about 30 feet from the southeast corner of New Jersey and K Street NW after being shot, had been identified by a witness as one of the two men who earlier yesterday held up the G and B Liquor Store a few blocks away at 300 Massachusetts Ave. NW.

The robbery of the liquor store, in which an undetermined amount of money was taken by two men, one armed, touched off the chase that led to the shootings, police officials said:

This is the account they gave:

As the robbers fled the store with the money, Adela Gotkin, co-owner, and one of four persons inside at the time of the robbery, ran from the store in pursuit.

She saw the pair come out of an alley in the 800 block of 4th Street NW in a light tan Volkswagen, with the license plate 697-468.

She returned to the vicinity of the store just in time to flag down three motorcycle officers that had just finished their 7 a.m. to 3 p.m. tours of duty.

Armed with Mrs. Gotkin's description of the getaway vehicle, the officers split up and fanned out through the neighborhood.

One of the three officers was Watson.

Shortly after starting north of 4th Street NW, police said, he caught sight of the alleged getaway vehicle.

At the intersection of New Jersey Avenue and K Street NW he caught up with the car and stopped it in the middle of the street.

Dismounting from his motorcycle, he approached the auto, gun drawn.

He told the driver to turn off the ignition and hand him the keys.

When the driver attempted to pull away, police said, Officer Watson grabbed for the keys.

At that point, police said, the man on the back seat of the car fired three shots at Officer Watson, hitting him twice.

Then, the two men bolted from the auto and ran south on New Jersey Avenue.

Hit in the neck and chest by the suspect's shots, Watson leaned against the left side of the Volkswagen's hood and fired six shots.

Moyler fell about 30 feet from the corner, in the driveway of a service station.

Two bullets hit the window and grill of a taxicab northbound on New Jersey Avenue NW, apparently causing no injury.

A revolver, which police said belonged to the dead suspect, was found in the intersection beside the opened door of the abandoned Volkswagen.

Police said that the wounded officer's prospects were improved at the hospital when 23 blood donors responded to a call for six donors of AB negative blood.

Yesterday's incident appears to mark the second year that a Washington police officer shot and killed a man in the line of duty.

The number of such killings declined last year to 6, from 13 in 1968, despite an increase in the size of the force.

After a brief civil disturbance followed one of the 1968 shootings and public outcry followed others, one of the city's actions was to issue new guidelines on the use of firearms by police.

The new guidelines state than an officer may fire at a fleeing suspect if the crime involved "an actual or threatened attack which the officer has reasonable cause to believe would result in death or serious injury."

---

STATEMENT OF RICHARD G. KLEINDIENST, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE, MAY 22, 1970

Mr. Chairman and Members of the Subcommittee: The Administration has been anxious for some time to present its views on our pretrial detention bill before this subcommittee.

We have been anxious to testify because we believe the bill is constitutional, workable, and urgently needed, and that rather than transferring it "to some sort of Smithsonian Institution of legal curiosities," the Congress should incorporate it promptly into the U.S. Code.

We are also anxious to set the record straight about several misconceptions which have achieved notoriety in the public dialogue.

Since some members of the subcommittee

have indicated that they perhaps hold views different from ours on the wisdom of this legislation, these hearings should provide a welcome opportunity to examine the issues squarely and honestly.

In 1965, Robert M. Cipes, a distinguished legal scholar, wrote in Moore's Federal Practice that:

"The formulation and expression of a public policy favoring pretrial release without pecuniary conditions, and the consequent pressure on traditional bail practices, may eventually require open consideration of preventive detention. As parole for the poor defendant increasingly becomes the rule, rather than the exception, the means of detaining the allegedly dangerous person will disappear. At the same time, the rate of recidivism of released defendants may give rise to counter-reform. . . ."

This brief quotation sums up precisely what has happened in the federal system. In 1966, under the leadership of Senator Ervin and members of the subcommittee, Congress approved the Bail Reform Act, a historic bill which sought to minimize the use of money bond as a means of detention and a barrier to freedom.

As we review that Act today, no one disputes the merit of its basic objectives.

As written by the Congress, however, and as interpreted by the courts, the Bail Reform Act absolutely precludes a trial judge from considering danger to the community in setting conditions of pretrial release in a non-capital case.

This development, together with the virtual elimination of money bond, has indeed put pressure on traditional bail practices; for, historically, danger to the community has been considered by trial judges who could manipulate money bond to effect detention.

We believe that bail manipulation for this purpose is undesirable, not because it successfully detains some dangerous defendants before trial, but because in practice it is unreliable, discriminatory, and utterly hypocritical. It provides no set standards or due process safeguards to protect a defendant under suspicion; and because it lacks an open, visible determination of dangerousness, it offers almost nothing for a court to review.

But eliminating money bond does not eliminate the social need to detain those persons who pose a serious threat to the public safety. This is the issue in pretrial detention.

Under the Bail Reform Act, every defendant charged with forcible rape, arson, kidnapping, armed robbery, burglary, bank robbery, mayhem, manslaughter, and assault with intent to kill has an absolute, unequivocal statutory right to *release* before trial, unless there is substantial evidence that he will attempt escape. The almost inevitable result of this statutory mandate has been an unacceptable incidence of pretrial recidivism among felony defendants who have been released.

The imperative necessity to deal with these dangerous defendants in federal courts, and the deep desire of this Administration to root out the hypocrisy of money bail in the legal system, impelled our sponsorship of this legislation.

Let me be explicit.

This Administration did not invent pretrial detention. It was considered by this subcommittee and by the House Judiciary Committee in the mid-1960s as a logical component of bail reform. At hearings before you in 1965, former Attorney General Ramsey Clark said that the Department of Justice had "given much consideration to legislation which would expressly permit preventive detention." He described a plan quite similar to our bill, saying:

"This is a straight-forward approach. It is similar to the system used in most parts of the world. It promotes candor, eliminates indirection, and abolishes money or lack of it as the determinant of release before trial . . . [I]t specifically authorizes the courts to hold a highly dangerous defendant who has adequate funds to meet any bail imposed."

Although Mr. Clark did not endorse the proposal, it should be noted that he spoke before the Bail Reform Act was passed and without the ability to foresee the appalling 122 percent increase in the District's serious crime since 1965.

In 1966, the President's Commission on Crime in the District of Columbia recommended that legislation be adopted to authorize the pretrial detention of those defendants who present "a truly high risk to the safety of the community." It further observed that, "After considering the opposing arguments, the majority concludes that the courts are presently capable of identifying those defendants who pose so great a threat to the community that they should not be released, and that a constitutionally sound statute authorizing detention in certain cases can be drawn."

In July of 1968, the D.C. Metropolitan Police Department undertook a study of 130 persons indicted for armed robbery and released during fiscal 1967. The department determined that 34.6 percent of those defendants were indicted for at least one felony while on bail.

In a later study, the United States Attorney's Office collected data on 557 robbery defendants indicted during calendar 1968. Some 70 percent of the 345 defendants released before trial were reportedly rearrested for a new crime.

Subsequently, the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia reviewed the U.S. Attorney's investigation. Taking a sample of 140 of the 557 robbery defendants, the Committee determined that 63.7 percent of the 105 defendants released were rearrested while on bail, thus confirming the substance of the original findings.

It is important to note that while these studies were confined to robbery defendants, they focused upon all the defendants indicted within a given category over the course of 12 months. One assumes that a study which considers the total number of defendants within a category will be more accurate than a study which considers only part of the number.

These studies and statistics prompted two distinguished members of the Judiciary Committee, Senator Joseph Tydings of Maryland and Senator Robert Byrd of West Virginia, to sponsor legislation on pretrial detention. Senator Byrd told the Subcommittee on February 4, 1969, that ". . . there has now been sufficient experience under the 1966 law to demonstrate certain of its weaknesses and the fact that it is proving a windfall to the chronic violent criminal." Senator Tydings testified that "Recidivism during bail is an especially acute problem in the District of Columbia."

This was the situation that confronted the new Administration when it assumed office 16 months ago. On the basis of the disturbing evidence before him, the President concluded, as Senator Tydings and Senator Byrd had concluded, that legislation was needed to authorize the limited pretrial detention of dangerous defendants.

Since the President's call for this legislation on January 31, 1969, two additional crime commissions—the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia and the Advisory Panel Against Armed Violence—have openly supported pretrial detention.

On April 7, 1970, the National Bureau of Standards published the preliminary report of its study of criminal court data relating to the pretrial release of defendants in the District of Columbia. This study was made to analyze what could be learned from criminal justice records about the rearrests of a small sample of defendants given pretrial release. It also analyzed the concept of "dangerousness" to the extent possible from the limited data collected.

The study focused on 426 defendants who were released before trial during four weeks in the first half of 1968. The Report revealed that 17 percent of 147 felony defendants were rearrested during pretrial release. Seventeen percent of the defendants charged with "violent crimes" and 25 percent of the defendants charged with "dangerous crimes" were rearrested on bail. Altogether, 11 percent of the 426 defendants, including those charged with misdemeanors, were rearrested for new offenses. If nothing else, the NBS Report confirms our contention that a substantial amount of crime is being committed by persons released on bail; correspondingly, it undermines the assertion that "offenses committed by persons released on bail are approximately 6 percent of the total crime figure."

Of special significance is the Report's estimate of recidivism as related to important crime factors that were beyond the scope of the study. The Report indicated that, given the low crime clearance rate by police (29 percent for the period covered) and the fact that some 30 percent more rearrests would have been identified had the analysts been able to extend their data search outside the District, the true recidivist rate would be much greater than that reported. The rate would approach 40 percent. Moreover, if the data could account for the amount of crime actually committed but not reported and for the amount of crime which would probably have been committed by the defendants in the study who were not released, the recidivism rate would be considerably higher than 40 percent. (A separate statement on the NBS Report is submitted to the subcommittee with this testimony.)

These figures are consistent with the experience in other cities. For example, officials in Philadelphia report that in 1969, 37 percent of the persons arrested on burglary charges were on bail at the time. Thirty-four percent of the suspects in robbery cases had been free on bail. Twenty-nine percent of the homicide suspects were free on bail at the time of the crime. (See Philadelphia Inquirer, April 20, 1970, at 31.)

However, we believe a compelling rationale exists for amending the Bail Reform Act without a panoply of studies and statistics. Accurate statistics on crime and recidivism would require complete reporting of criminal offenses, plus a police solution rate of 100 percent. They would also require a perfectly coordinated interchange of data among different jurisdictions. This we cannot provide.

On the basis of experience and common sense, we know that a small number of highly dangerous, recidivistic non-capital defendants exist in the federal system. Under present law, the Government of the United States is legally powerless to detain any of these non-capital defendants on grounds of dangerousness before trial.

A defendant charged with any of the serious non-capital offenses that were listed earlier has a statutory right to pretrial release. Thus, according to the language of the Bail Reform Act, a defendant could be caught in the middle of an armed robbery—he could shoot at citizens and police—he could be desperately addicted to heroin—and he could have a long record of violent crime—and he would still be entitled to pretrial release.

Senator Scott observed recently that John Dillinger robbed at least 13 banks, three supermarkets, a mill, a drugstore, and a tavern before he was first captured in 1933. Today, under the Bail Reform Act, John Dillinger would be a guaranteed pretrial release in the District of Columbia.

Police have arrested a person charged with planting 35 bombs in buildings around New York City, including one that exploded in the Public Library. The man was purportedly apprehended while planting a bomb at an Army recruiting booth. At the present time, the federal government—though not the New York State government—has no power whatever to detain such a person on grounds of dangerousness pending trial.

Police in New York City are also said to be looking for a man suspected of giving repeated heroin injections to an 8-year-old girl as well as several of her classmates. In federal jurisdictions under the Bail Reform Act, a court would be forbidden to consider potential danger to the community in granting such a person pretrial release.

Without a change in the present law, the sudden abolition of capital punishment by legislative action or judicial decision would render the government incapable of detaining *any* defendant before trial, regardless of the threat he posed to others.

Society has the inherent right to protect its members, for limited periods through due process procedures, from persons who pose a serious threat to life and safety. It is unconscionable for the Congress of the United States to deny the federal government the legal authority to exercise this right.

No extensive studies were needed by this subcommittee five years ago when it authorized the pretrial detention of defendants charged with kidnapping and rape. Today, however, it is argued that our proposal to authorize the pretrial detention of these same offenders is "unconstitutional, unworkable, and unjustified" and "smacks of a police state." All that has transpired between then and now is the Supreme Court's decision in *United States* v. *Jackson*, 390 U.S. 570 (1968), which invalidated the statutory clause making kidnapping a capital offense.

As a consequence of the *Jackson* decision, rape cannot be punished capitally in the District of Columbia because the penalty provision in the District's rape statute is likewise invalid. It is my understanding that unless the Supreme Court reverses the decision of *Alford* v. *North Carolina*, 405 F. 2d 340 (4th Cir. 1968), the same result will obtain in North Carolina.

We reject the theory that governments are forbidden by the federal Constitution from making these serious, non-capital offenses bailable as a matter of sound judicial discretion rather than a matter of absolute right. New York courts have been vested with such discretion since colonial times.

There is little to indicate that speedy trials, by themselves, are a satisfactory answer to these recidivism problems. Of course, they will be helpful; but the type of person about whom we are concerned is not likely to suspend his criminal activity for 60 days while awaiting trial. On the contrary, the narcotics addict, the incorrigible troublemaker, the defendant who wishes to "bank roll" his family, and the man out for a "last fling" have every motive to accelerate their offenses. Any notion that a heroin addict, with a $100-a-day habit, is suddenly going to control himself for eight weeks is somewhat at odds with the real world.

There is a third rationale for pretrial detention. Even under the Bail Reform Act, many felony defendants are being detained before trial in the District of Columbia and perhaps elsewhere. Inasmuch as there is only one capital offense in the District (first degree murder) which permits the courts to deny bail, the great bulk of defendants not released are being detained through the historic expedient of setting money bond.

The United States Attorney's study of 557 robbery defendants in calendar 1968 revealed that 212 defendants were not released.

The National Bureau of Standards Report indicates that money bond was required of 52 percent of the 217 felony defendants eligible for release. Altogether, of the 654 defendants eligible for release, at least 186 were held in custody.

While there is no doubt whatever that many of the defendants thus detained were dangerous and should not have been released, the Bail Reform Act forbids detention on these grounds. Consequently, in every situation where a defendant was detained on grounds of dangerousness, the legal system was grossly dishonest.

As the Washington Post puts it, the Bail Reform Act is "a constant irritant in the judicial process." Today, federal judges are faced with an agonizing decision when a dangerous defendant stands before them. They must either disregard the mandate of the Bail Reform Act by setting bail beyond the defendant's means, or they must shut their eyes to community danger. One course perpetuates hypocrisy; the other course is hazardous to society.

Open pretrial detention would eliminate hypocrisy from the bail system. Under the legislation we propose, defendants would be afforded a due process hearing in which they would gain a significant measure of protection against arbitrary determinations.

The Administration is opposed to a system in which a rich dangerous defendant can gain his freedom but a poor non-dangerous defendant cannot.

CONSTITUTIONAL QUESTIONS

We find nothing in the Eighth Amendment or the Due Process clause of the Fifth Amendment that bars the enactment of pretrial detention.

The Eighth Amendment provides that "Excessive bail shall not be required. . . ." This language does not establish a right to bail; it forbids judges from requiring excessive bond in cases where the defendant has a statutory right to bail. In *Carlson* v. *Landon*, 342 U.S. 524 (1952), the Supreme Court stated that:

"The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the Amendment fails to say all arrests must be bailable."

This interpretation was reaffirmed in the recent case of *United States ex rel. Covington* v. *Coparo*, 297 F. Supp. 203 (S.D. N.Y. 1969), in which the court said:

". . . Congress could, without running afoul of the Eighth Amendment, . . . provide . . . that persons accused of kidnapping, bank robbery with force and violence, or other serious non-capital crimes are not entitled to bail as a matter of right."

This view of the Amendment is supported by several considerations. For example, in 1789, when the Eighth Amendment was drafted, contemporary constitutions in Pennsylvania, North Carolina, and Vermont set out an absolute right to bail in non-capital cases. The right to bail language in these constitutions, in the Northwest Ordinance of 1787, and in the Judiciary Act of 1789 was familiar to the framers of the Bill of Rights, but it was not selected for the Eighth Amendment. Instead, the framers relied on the "excessive bail" language from the English Bill of Rights.

Every state except Illinois has an "excessive bail" clause in its state constitution. More than 35 states also have clauses which establish an absolute right to bail in non-capital cases. The likelihood that the men who wrote these constitutions intended the two bail clauses to mean exactly the same thing is remote. In any event an "excessive bail" clause has never been construed in any state to establish by itself a right to bail in non-capital cases. On the contrary, state court decisions are consistent with the interpretation advanced by the Supreme Court in *Carlson* v. *Landon*.

Historical research reveals that early American bail provisions all excepted capital offenses from a right to bail. This is significant, for at the time these measures were drafted, most serious offenses, including robbery, rape, and arson, *were* capital offenses and thus not bailable as a matter of right. See Mitchell, *Bail Reform and the Constitutionality of Pretrial Detention*, 55 Va. L. Rev. 1223 (1969). It passes belief to suppose that Congress must now retain its power to execute a dangerous rapist in order to hold him before trial. If this were what the Amendment required the easy way to skirt it would be to classify all serious offenses as capital offenses. No one would actually have to be executed to create the authority in courts to deny bail.

But if the Eighth Amendment really established a "right" to bail, it is hard to conceive how Congress could create exceptions to that right simply by penalizing offenses with death. Nowhere does the Eighth Amendment authorize exceptions for capital offenses. Nowhere does it authorize the denial of bail when witnesses or jurors are threatened, or when a defendant is charged with an offense during his parole, or when extradition proceedings are pending—yet these exceptions have frequently been approved.

If the Eighth Amendment established an absolute right to bail, one wonders how the American Law Institute, as far back as 1927, could have included a provision for pretrial detention in its Model Code of Criminal Procedure. One wonders how the American Bar Association today can advocate the revocation of bail when a defendant commits a crime during his pretrial release.

It has sometimes been argued that if Congress can determine which offenses are bailable and which offenses are not, then it could abolish the right to bail and the Eighth Amendment would become meaningless. But that is not the case. Although no one has ever contemplated abolishing the right to bail completely, the Due Process clause would certainly bar a total abolition, for such an extreme move could not be defended for *all* offenses. Even if bailable offenses were wholly abolished by Congress, judicial history demonstrates that courts would have inherent power to bail defendants. They have done so repeatedly throughout the country, even when expressly forbidden by statute.

The extreme interpretation of the Eighth Amendment favored by opponents of pretrial detention would have disastrous consequences if the Amendment were applied in the states. For example, the bail provision in the Michigan Constitution would be unconstitutional, for it authorizes the denial of bail to defendants accused of murder, although murder in Michigan is a non-capital offense. The bail provisions in the constitutions of Florida, Rhode Island, and Maine would be unconstitutional because they permit the denial of bail in certain non-capital cases. Voters in Oregon would be denied the right next week to approve Section 11 of the proposed Oregon Bill of Rights:

"Every person, before judgment of conviction, is entitled to bail by sufficient surety,

but excessive bail shall not be required. Bail may be denied to a person charged with a crime or offense punishable capitally or by life imprisonment, giving due weight to the evidence and to the nature and circumstances of the event . . ."

These and other points, which are amply supported by authority, substantiate our position on the Eighth Amendment. And this is crucial. For if it is determined that Congress can create categories of offenses which are not automatically bailable, the Due Process objections begin to fail. The Due Process clause has not barred other instances of custody before trial. Given proper procedures, juveniles may be detained; sexual psychopaths and the mentally disturbed may be detained; aliens, addicts, parolees, and accused persons who have fled across state lines may be detained. The Bail Reform Act permits preventive detention to prevent flight. People may be detained in official custody if the interests of society so require.

What remains is a concern for the fairness and reasonableness of the procedures by which this detention is lawfully consummated.

Under the legislation we propose, no one will be held in pretrial detention unless (1) he comes within one of a group of carefully chosen categories of defendants who may pose a danger to society, (2) the judge finds that the defendant cannot be released on any condition that would reasonably assure the safety of the community, and (3) there is a "substantial probability" of the defendant's ultimate conviction.

Under S. 2600, the government must proceed against a defendant in a hearing of record. It must bear the burden of producing evidence and produce persuasion to a "substantial probability". At the hearing the defendant is entitled to counsel. He may present witnesses on his behalf and cross-examine witnesses against him. He will not be detained unless the court finds in writing that *no condition or combination of conditions of release will reasonably assure the safety of the community*—a decision that may be appealed.

If the defendant should be detained, he may not be held for more than 60 days. During his confinement, he is to be set apart from convicted offenders to the maximum feasible extent. He may have virtually unlimited access to counsel. He may be released for short periods in custody to secure witnesses and procure evidence. Every effort will be made by the prosecution and the courts to schedule and hold a speedy trial.

The soundness of the categories we have created is confirmed in the study by the NBS. Our theory was that persons in the "dangerous crimes" category were the most likely to be recidivists. The Report stated that "the evidence seems sufficient to conclude that those in the dangerous category can be expected to produce a much higher recidivism rate—about three or four times as much—than those in the non-dangerous category." The data also indicates that those in the "violent" category can be expected to produce a recidivism rate two times as great as those in the non-violent category. As the bill is drafted, detention of persons in the violent category requires definite additional evidence of recidivism.

Some critics have argued that the court's ruling that a defendant is dangerous and that no condition of release will reasonably assure the safety of the community makes the judge a prognosticator of future behavior—which is allegedly unprecedented and unreliable. But, in truth, the legal system has always called upon the trial judge to make predictions of future behavior, from the first appearance after arrest until final sentencing.

Under the Bail Reform Act, a judge is authorized to predict the likelihood of flight. In effect, he is authorized to predict whether the defendant is going to commit the offense of jumping bail. When a capital offense is charged, the judge is directed to take danger to the community into consideration and assess whether the defendant will present a threat to the community if released.

Moreover, every time a judge imposes or suspends a sentence or grants or denies probation he makes a prediction about future behavior and the possibility of rehabilitation. Less than six months ago, the Senate voted in S. 30 to permit a judge to sentence a "dangerous special offender" for up to 30 years in prison. This is permitted when "a period of confinement longer" than the period provided for by the felony statute under which the defendant is convicted "is required for the protection of the public from further criminal conduct by the defendant."

Balancing the interests of the individual and the public is a dilemma inherent in a free society. The choices are difficult for conscientious men. Today, as we reconcile the tensions between order and liberty, the pestilence of crime weighs heavily in the balance; for it threatens important liberties as well as our lives.

Mr. Chairman, S. 2600 is a thoughtfully considered, carefully drafted response to the serious problem of crime on bail. It is a small but essential part of the comprehensive legislative program against crime sponsored by this Administration. I urge the subcommittee to act favorably and promptly on this bill.

---

DEPARTMENT OF JUSTICE ANALYSIS OF THE RELATIONSHIP OF THE NATIONAL BUREAU OF STANDARDS STUDY TO THE DEPARTMENT'S PRETRIAL DETENTION PROPOSALS

The discussion following the April release of the National Bureau of Standards limited District of Columbia study of recidivism while on pretrial release suggests that additional perspective is necessary in assessing the report. The NBS study focuses primarily on some 426 defendants who were released prior to trial in 4 weeks of 1968. Let us step back a moment and view the larger crime problem confronting the country and this city today.

The FBI, in a release dated March 17, 1970, reported that serious crime in the United States increased 11%, forcible rape increased 16%, robbery increased 13%, aggravated assault 9%, murder 7%. Crimes against property increased 11% as a group. Compare this distressing resume with that of the District of Columbia:

UCR KNOWN OFFENSES, 1968 AND 1969

| | Murder, non-negligent manslaughter | Forcible rape | Robbery | Aggravated assault | Burglary-breaking or entering | Larceny $50 and over | Auto theft |
|---|---|---|---|---|---|---|---|
| Washington D.C.: | | | | | | | |
| 1968 | 195 | 260 | 8,622 | 3,103 | 17,957 | 7,876 | 11,354 |
| 1969 | 287 | 336 | 12,423 | 3,621 | 22,992 | 11,548 | 11,364 |

While serious crime in the United States increased 11% in 1969, serious crime in the District of Columbia increased 27% in 1969, or 2½ times more than the national increase. This city has faced a horrendous crime burden that has manifested an intolerable upward trend.

This Administration has sought from the Congress a comprehensive package of resources and changes for the criminal justice system of the District of Columbia, of which pretrial detention is one. We sought more police resources so that, among other things, the low crime clearance rate of some 29% or less could be improved. We sought greater resources and responsibilities for the D.C. Bail Agency and D.C. Legal Aid Agency, the latter to be expanded into a Public Defender Service. We sought a major reorganization and upgrading of the local court system; and we sought more resources for this system and all supporting agencies. We sought also a carefully circumscribed procedure for pretrial detention of persons accused of certain crimes and posing a serious danger to the community if released awaiting trial.

These legislative objectives are essential to the goal of speedy and effective justice. No one of these proposals is itself sufficient to meet the needs of the community, nor have we suggested otherwise. The crime problem amply proves that it does not respond to staggered, or tentative, or piecemeal remedies. All parts of the criminal justice system must improve together and be made to respond together, for even modest gains in the war on crime.

Pretrial detention is only one component of this comprehensive approach, but, we contend, a most necessary and valuable component. We proposed pretrial detention provisions because we were convinced, by judgment, experience, and such studies, data and recommendations as are extant on the subject, that pretrial detention is justifiable, constitutional, workable and necessary, as indicated in my testimony. However, no rational and informed person would suggest that there has been, or is now, any sufficient body of data, or statistical analysis or predictive tools regarding criminal behavior, that can substitute for informed judgment and experience. It has not been demonstrated, either that data in the criminal justice system could be used for meaningful statistical analysis without major revision in the data system, nor that statistical analysis of data could resolve or "demonstrate" an issue of broad dimensions like recidivism. An evaluation of the feasibility of such data collection and statistical analysis was the primary purpose behind the commissioning of the National Bureau of Standards study by the National Institute of Law Enforcement and Criminal Justice: "This pilot study was commissioned to assemble and analyze a sample of the available data to determine if a full scale data collection and analysis effort would be worthwhile." (NBS Report, p. 1)

We state unequivocally that the NBS study could not, and of course did not, determine all of the facts of crime and recidivism which must be considered in resolving the policy issues in pretrial detention. Nor did anyone at the Department of Justice or the National Bureau of Standards assume otherwise. Indeed, the NBS Report explicitly notes its many limitations in terms of the larger crime problem that pretrial detention addresses, as follows.

(1) Studies conducted by the National Crime Commission indicated that only about half of all serious crimes committed are reported to the police. In the period covered by the NBS Report, data showed that police made arrests in only 29% of the offenses reported to them. It can be inferred, on the basis of these points, that police made arrests in D.C. in fewer than 15% of the crimes committed. There is no factual basis for directly equating rearrest during pretrial release with crime committed while on pretrial release. Rather, the most reasonable inference is that a great deal of crime, either unreported or not cleared, is committed by persons in a pretrial release status. The NBS Report suggests that if the defendants who were *not* arrested in over 71% of the cases were distributed between recidivist and non-recidivist cases in the same ratio as the sample,

"then the true recidivist rate for pretrial detention would be much greater [than 11% ]—approaching 40 percent." (Report, p. 110)

(2) The NBS study of persons on pretrial release, by definition, did not relate to a significant set of defendants who especially had in their number the persons for whom pretrial detention is specifically required—those charged with serious crime and dangerous to society if released. The study involved 654 defendants charged with offenses, 426 of whom were released prior to trial. Study records indicated that 176 defendants were never released and 10 others were probably not released. Thus, 29% of the sample of 654 were not released. By virtue of the scope of the study, many defendants in the sample to whom the criteria for pretrial detention would certainly apply were excluded from the study.

(3) NBS examined information from the FBI Crime Career record which indicated that approximately 30% of the offenses in the record occur in geographic jurisdictions other than the residence location. If this factor were applied to the NBS sample of released defendants, then the rearrest rate would increase from 11% to 14.3%. Moreover, this would increase the rearrest rate of persons charged with crimes of violence from 17% to 22%, and of persons charged with dangerous crimes from 25% to 33%. Therefore, if the important crime data factors in points (1)–(3), which were beyond the scope of the NBS study, were considered the true rate of recidivism for pretrial release cases would be considerably greater than 40%.

Finally, the Report notes that its data base is so small that the results of the study may not be representative of the current situation or even of the 1968 time period. NBS does not suggest, nor can anyone validly defend, the application of the percentages derived from the 4-week sample in 1968 to the years 1969 or 1970. It has already been noted that crime in the District of Columbia increased 27% in 1969, or 2½ times the national increase in 1969. Moreover, 1968 was an aberrant year statistically in D.C. because of the April riots. This induced NBS to select 4 weeks for its sample removed from the April riots' time period. The first two weeks in January and February occurred at a characteristically low crime-rate period. This is seen graphically in the FBI's Uniform Crime Report's charts for the year 1968 at pp. 20–21. The UCR charts also indicate peak crime periods for serious crimes (e.g., homicide, negligent manslaughter, forcible rape, aggravated assault, robbery, burglary) most of which occur at time periods different from those covered by the sample weeks. We note also that the last two sample weeks in May and June, occur at low points in the data curve graphed at p. 97 in the NBS Report.

All of this suggets that generalizations from the data cannot be validly and reliably made regarding 1970 and the current crime and residivism situation. Furthermore, if one were to suggest that the data in the NBS Report is applicable to other or larger sets of defendants, or criminals, or recidivists, even in the same time period (January-June, 1968), it would be incorrect to use the specific percentages appearing in the Report. NBS, when it released its preliminary Report, indicated confidence ranges for certain key percentages in the Report. Confidence ranges reflect a spread of percentages within which a similar sized but different sample of defendants are likely to fall. If the sample were enlarged, the ranges would spread.

The ranges are as follows:

(1) The overall rearrest rate of 11%, has a confidence range of 8–14%.

(2) The rearrest rate (of persons released after an initial felony charge) of 17% has a confidence range of 11–23%.

(3) The rearrest rate (of persons released after an initial violent crime charge) of 17% has a confidence range of 10–24%.

(4) The rearrest rate (of persons released after an initial dangerous crime charge) of 25% has a confidence range of 15–35%.

Because of the many limitations surrounding the study, it is folly to use individual percentages based on small numbers of defendants in the sample and generalize to a much larger population, such as, regarding the 5% figure on persons charged with violent crimes who were rearrested for a violent crime, to suggest that 5 in 100 or 1 in 20 persons can be expected to commit subsequent violent crimes if released. Failure to note these serious qualifications in using or relying on specific data would be the casual use of averages which NBS cautioned against throughout its Report.

The NBS study concludes that its data strongly support the "dangerous" criterion as a predictive device. It must be noted that there is no system anywhere for determining *in advance* that a given individual will engage in a specific form of behavior, be it criminal or non-criminal. Prediction devices at best *estimate probabilities*. Seat belts in autos are advised not because it is known in advance that an individual will be killed or injured if he doesn't wear them. Rather, they are advised because if the driver gets into an accident, and if the accident is serious enough, there is real danger (i.e., a degree of probability) that he *may* be killed or injured. This advice is premised on a combination of elements: *experience, judgment,* and *data*. These same elements, to the extent possible, have been brought to bear in the Administration's formulation of pretrial detention. We don't need statistics (although we seek and welcome them) to conclude that crime is a major threat to life, limb and property in our society and that it imposes intolerable social and economic burdens. There is ample evidence that every criminal justice system is a treadmill in which persons accused and convinced of crime reenter the system with tragic regularity.

The NBS Report states the Administration's definition of dangerous crime in our proposed amendment to the Bail Reform Act of 1966. It then states (at p. 70 of the Report):

"Such definitions, based upon experience and knowledge of officials in the Criminal Justice System, may well be necessary in lieu of more precise statistical formulations because of the limited data currently available upon which to base these formulations."

Significantly, the Report draws some general conclusions based on its various tests and analyses which materially support the Administration's judgment in developing its criteria of dangerousness in the proposed amendments. The Report states:

"The above data (at p. 113) strongly suggests that the 'dangerous' criterion is the best predictor of rearrest among the three criteria (felony, violent, dangerous); the evidence seems sufficient to conclude that those in the dangerous category can be expected to produce a much higher recidivism rate—about 3 to 4 times as much—than those in the non-dangerous category."

The NBS data also indicates that those in the violent category can be expected to produce a recidivism rate 2 times as great as those in the non-violent category. NBS's conclusions on the felony category are likewise meaningful:

"The rearrest rate for defendants on felony charges is much higher than that for misdemeanants—probably twice as high.

"Rearrest for the more serious charges is strongly associated with defendants initially charged with felony. Thus, a recidivist on an initial felony charge is just about as likely to be charged again for a felony as for a misdeameanor, while recidivism by initial misdemeanants involved a felony in only about ¼ of such instances."

The NBS study sheds some perspective on the propensity of the sample defendants to be rearrested *over time*. Rearrests were calculated per 1,000 days of pretrial release after presentment for 10 periods of 28 days each. The data suggests that the longer a defendant is released the more crimes he is likely to commit, i.e., crime and duration of release are related. However, the data shows that crime occurs reguarly and without significant increases or decreases for the sample defendants from the *first period* of 28 days and thereafter. Hence, there is no period of time after release that is more "critical" than others, rather, the danger of crime exists upon release and continues throughout release. The obvious conclusion shown by the data is that the propensity for rearrest of the sample defendants is manifest immediately in the first 28 days and continues for subsequent periods.

Some have contended that the reason for crime after release is lack of a speedy trial, and have suggested that speedy trial will cure the bail recidivism problem. These contentions are unfounded. The NBS data indicates that the incidence of crime is not caused by delay of trial, and is not cured by a speedy trial, e.g., a trial in 30, or 60, or 120 days, because crime occurs in all periods, including the first 30 days after release. The data is also significant in showing that the overall average index of crime per 1,000 days of release for defendants classified *dangerous* is substantially higher than for those in any other category. These findings support the proposition that dangerous defendants should be detained immediately after charged and tried as quickly as possible.

---

STATEMENT OF RICHARD G. KLEINDIENST, DEPUTY ATTORNEY GENERAL DEPARTMENT OF JUSTICE, JUNE 17, 1970

Mr. Chairman and Members of the Subcommittee: During my appearance before the Subcommittee on May 22, Senator Bayh expressed doubt whether the Department of Justice had formulated a comprehensive program to reduce crime. Indeed, he implied in the statement he submitted for the record that pretrial detention was the Department's chief solution to the crime problem. He said in that statement:

"Other methods of dealing with the (crime) problem are available and they must be embodied in meaningful legislation."

This morning I would like to review briefly some of the crime legislation the Department has introduced or supported and some of the actions we have taken since January 1969. This review will demonstrate that the Department of Justice does have a comprehensive program against crime. It will also show that while pretrial detention is not the central feature in this program, it is an essential ingredient in any *complete* program to combat crime.

Crime is a product of complex social forces as well as individual propensities. Poverty, inadequate education and housing, and unemployment are causes of crime, but there are many others. They include family dissolution, boredom, urbanization, rootlessness, and moral decay. The breakdown of the criminal justice system is a cause of crime. And crime itself which aggravates existing social problems, sedulously fosters its own perpetuation.

The Department of Justice is primarily a law enforcement agency. We recognize the vital importance of treating and removing the causes of crime. But we recognize too that eliminating these causes does not always fall within our jurisdiction. Often it does not.

For example, the Department will prose-

cute cases of discrimination in education, housing, and employment with vigor and determination. We will do whatever we can to minimize these factors as contributors to crime. But the major responsibility in these areas rests with other agencies, not the Department of Justice, for that is the way the government is organized.

From the beginning, the Department of Justice has been assigned the responsibility of enforcing the law, particularly the criminal law, as a mechanism of social order and of assuring the quality, efficacy, and fairness of institutions in the criminal justice system. This is our continuing mission today.

In his statement of May 22, Senator Bayh indicated his concern about the backlogs and delays in the federal judicial system. "Pretrial detention," he said, "won't help us shorten the time between arrest and trial—that is a reform the Administration should be pursuing with at least equal vigor."

As a matter of fact, the Department of Justice has addressed this problem on countless occasions. A desire to reduce lengthy delays in the system was the chief reason why we drafted our sweeping proposal for reorganization and expansion of the courts in the District of Columbia. It was also the main reason why the Administration supported the Omnibus Judgeship Bill, which the President recently signed into law. It is indisputable that the Department of Justice has been very active in court reform.

Senator Bayh also asserted that "Pretrial detention won't help us begin improving our absurd 17th Century prison facilities. . . ." This statement is true. But no inference can be drawn that the Administration is not active in the area of correctional reform. On the contrary, in mid-November, the President issued a 13-point directive to the Attorney General aimed at improving the federal correctional system. In the near future, the Attorney General will release a comprehensive report of his recommendations and plans to implement that directive. Where new legislation is required, new legislation will be forthcoming.

The President's Task Force on Prisoner Rehabilitation issued a valuable report several weeks ago. Plans are now being made to follow through on its recommendations.

The Department of Justice has expressed strong support for Senator Burdick's bill to authorize the use of residential community treatment centers by persons who are placed on probation, released on parole, or mandatorily released, as a means of easing their return to society.

In addition, the Administration has championed amendments to the Omnibus Crime Control and Safe Streets Act to allow the Law Enforcement Assistance Administration to make grants on the basis of need to State and local governments to modernize their correctional facilities. As the Attorney General noted in submitting these amendments to Congress: "The criteria for the awarding of grants . . . would require assurance that the programs and projects funded would incorporate advanced techniques in design and advanced practices in personnel standards and programs."

To improve operations in the federal judicial system, the Administration has pressed for additional Assistant U.S. Attorneys. In January 1969, 716 Assistants were on the job. Today, there are 800. We have requested an authorization of 900 Assistants for fiscal 1971. In the District of Columbia, 25 new Assistants have been secured, and more have been requested. Added manpower in the prosecutor's office is an absolute prerequisite to reduced backlogs in this jurisdiction.

In a parallel move, the Administration has introduced amendments to the Criminal Justice Act to increase the scope of legal services available to indigent defendants in federal criminal cases and to increase rates of compensation to appointed counsel. The D.C. Crime Bill provides for a full-fledged public defender service in the District of Columbia; and it expands the size and function of the D.C. Bail Agency as well.

After careful consideration, the Department of Justice has authored legislation to give the government an enlarged right to appeal adverse rulings in matters of law.

The federal government moves against street crime chiefly through its LEAA grants to the States and through its efforts in the District of Columbia. In fiscal 1969, LEAA's total budget was $63 million. In fiscal 1970, it is $268 million. For fiscal 1971, the Department has requested $480 million. Our desire is to increase these federal grants at a pace that assures their productive utilization, and no faster.

In the District of Columbia, the Department has encouraged a massive recruitment program to increase the Metropolitan Police Department to 5100. We have drafted a new, modern Juvenile Code. We have also revised some of the District's criminal procedure.

Organized crime is a serious problem. Our best estimate is that the various activities of organized crime gross $50 billion each year. To meet this challenge, the Administration worked closely with Senator McClellan and the Judiciary Committee on S. 30, the Organized Crime Control Act of 1970, which has passed the Senate and is now pending in the House.

With the help of Congress, the President has fulfilled his pledge to provide increased resources in money and manpower to the struggle against organized crime. The number of attorneys in the Organized Crime Section of our Criminal Division is expected to reach 100 by the end of this month. This is a 33 per cent increase over January 1969. Forty-one additional attorney positions have been requested for fiscal 1971.

Far from dismantling the strike forces developed during the previous administration, we have expanded them, so that there will be at least 20 fully staffed organized crime field offices operating by the end of fiscal 1971. More than 800 defendants were indicted in organized crime cases last year.

Last July, President Nixon submitted a 10-point program to Congress on the problem of narcotics. He called for a broad revision of the nation's patchwork laws regulating narcotics and dangerous drugs. The legislation he proposed, which passed the Senate January 28, attempts to remove harsh inconsistencies from present law. It aims to crack down on the professional narcotics pusher while easing up on the occasional user. It improves enforcement and control procedures but stresses education and research.

On other fronts, the Attorney General has submitted for the consideration of state lawmakers a model law on narcotics control for use at the state level.

For the first time, the United States has embarked on a major program of cooperation with concerned foreign governments to reduce the illegal importation of narcotics into this country. We have established good working relationships with France, Turkey, and Mexico in this regard. Locally, the Administration has committed unprecedented amounts of money to control the narcotics traffic and expand treatment facilities in the District of Columbia.

Unlike the previous Administration, the present Department of Justice has used the authority granted by Congress to engage in limited electronic surveillance as a weapon against the organized narcotics traffic and organized crime. The prudent use of this weapon has been instrumental in smashing several major narcotics operations in the District of Columbia.

We have introduced or supported other measures against crime, including bills on pornography and bombing.

This brief reveiw should dispel any notion that the Administration lacks a comprehensive program to combat crime. But the truth is, the federal government will best be able to contribute to a significant reduction in crime if the President's legislative program is enacted into law. That has not happened to date. In fact, not one major crime bill has been approved by the Congress. This interminable delay cannot continue if lawmakers expect us to make progress.

Assuming, however, that this entire legislative program is passed, there will still be a need for pretrial detention.

The Bail Reform Act provides that every defendant charged with a non-capital offense—that is, every defendant charged with forcible rape, arson, kidnapping, armed robbery, burglary, bank robbery, mayhem, manslaughter, and assault with intent to kill—has an absolute, unequivocal statutory right to *release* before trial, unless there is substantial evidence that he will attempt escape. The Act forbids the trial court from considering a non-capital defendant's danger to the community in setting conditions of pretrial release.

In *United States* v. *Leathers*, 412 F. 2d 169, 170–171 (D.C. Cir. 1969), the Court of Appeals said:

"The Bail Reform Act specifies mandatorily that conditions of release be set for defendants accused of non-capital offenses. When imposing these conditions, the sole concern of the judicial officer charged with this duty is in establishing the minimal conditions which will 'reasonably assure the appearance of the person for trial . . . .' The structure of the Act and its legislative history make it clear that in non-capital cases pretrial detention cannot be premised upon an assessment of danger to the public should the accused be released."

The Act thus commands that many dangerous defendants be released before trial. In considering this fact, let me quote from the testimony before this Subcommittee of James V. Bennett, former Director of the Federal Bureau of Prisons. While opposing parts of S. 2600 as drafted, Mr. Bennett nonetheless said:

"I am not so naive as to believe that everyone charged with crime can be released on his own recognizance. There are some so threatening, so dangerous, so unreliable they must be kept in custody until the case against them is speedily disposed of."

The great deficiency in the Bail Reform Act is that it mandates the release of obviously dangerous persons and strips society of the means to protect itself from such persons before trial. To risk the lives and safety of law abiding citizens on the alleged presumptive innocence of vicious criminals who may have been caught in the act, is madness.

Let me illustrate the type of person who should be detained and afforded a speedy trial.

The recent death of former Representative Clifford Davis brings to mind the tragic incident in the House of Representatives on March 1, 1954. Three radical extremists opened fire from the House gallery wounding five members of Congress. Clifford Davis was one of the victims. The three assailants were booked on charges of assault with intent to kill, a non-capital offense. Under the Bail Reform Act, those persons would be entitled to pretrial release.

Early this month, police in New York arrested Richard Robinson, an 18-year-old postal clerk who was identified by seven victims as the rapist who had terrorized West Side women for six months, slipping up behind them and forcing them at knifepoint into their apartments to be raped and robbed. Robinson was reportedly responsible for at least 25 sex crimes, and every victim was robbed. Under the Bail Reform Act, Robinson would be entitled to pretrial release and the trial court would be forbidden to consider

his danger to the community. (See New York Daily News, June 5, 1970, at 21.)

In mid-May, police in Montgomery County, Maryland, arrested a construction worker in connection with the kidnapping of several small children. Among other things, the man was charged with abducting a 6-year-old girl near Buffalo, New York, driving her around in his car for several hours, then dropping her off a 30-foot bridge into a reservoir. (See Washington Post, May 15, 1970, at B1). In every federal jurisdiction, that suspect would be entitled to pretrial release because kidnapping is not a capital offense. Even the kidnappers of Barbara Mackle, who was buried underground for more than 80 hours would be eligible for release under federal law.

The Department of Justice has been attacked for its pretrial detention proposal time and time again. But we have yet to see a cogent rebuttal to our concern about the release of highly dangerous defendants before trial.

Speedy trials are not the whole answer to this problem. No matter how speedy a trial may be, there will still be a gap between arrest and trial.

Professional armed criminals whose sole occupation is to break into homes or stage holdups on the street will still commit crimes while awaiting trial.

Narcotics addicts who must commit crimes to support their habits will commit those crimes while awaiting trial.

Incorrigible troublemakers with a manifest streak of viciousness and violence will strike again while awaiting trial.

Compulsive sex offenders may lose control and commit new crimes while awaiting trial.

And there are other defendants who have a special motive to engage in crime. They may desire to "bankroll" their families for the time they are in prison. They may want to pay off a bondsman or a loan shark or a gambler. They may simply cut loose on a "last fling."

The Department of Justice is convinced after careful study that limited authority for pretrial detention is the only answer to these dangerous defendants. That is why pretrial detention is essential to any complete program of crime control. And that is why we respectfully urge the approval of S. 2600 by this Subcommittee.

## SENATOR PERCY ANNOUNCES SUPPORT FOR NEW AMENDMENT

Mr. PERCY. Mr. President, on Monday the Senate votes on the new Byrd amendment to the Foreign Military Sales Act, an amendment which would make clear that the Senate in no way seeks to abridge the President's constitutional powers to protect American troops deployed abroad. The amendment, which should have wide support, and which has my own support and cosponsorship, can bring together Members of the Senate who support the Cooper-Church approach and those who oppose it.

In the many discussions which have led to the new language, I have been very much impressed with the sincerity of the participants and with the deep desire of all for an amendment which can, in effect, bring us together. I have particularly enjoyed my contacts with Senator SPONG of Virginia, Senator BYRD of West Virginia, and Senator COOPER of Kentucky, all of whom have worked very hard to reach an agreement.

I had developed language which would have proposed exceptions to the prohibition against U.S. combat activity in Cambodia after July 1, 1970, in order to allow the repelling of clear and direct attacks across the Cambodian border upon U.S. forces in South Vietnam and to allow hot pursuit of enemy troops fleeing from South Vietnam into Cambodia.

Now I believe it is not necessary to pursue this approach, since the new Byrd language adequately emphasizes the need to protect the lives of U.S. forces in South Vietnam.

On Monday I will not be in the Chamber at the time of the vote, due to a previous speaking engagement scheduled in Chicago. Therefore, I wish to go on record now to indicate my satisfaction with the new Byrd amendment and my complete support for it.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. PERCY. I am glad to yield.

Mr. BYRD of West Virginia. First, I want to thank the Senator for his cosponsorship of the amendment.

Second, I wish to express regret that he will not be present on Monday to vote for the amendment.

Third, I wish to express my thanks to him for his pertinent and very incisive observations with respect to the amendment.

Finally, I want to share his hope that this language will indeed bring the two sides together and that we can get a very good vote in support of the amendment.

Mr. PERCY. I think my distinguished colleague, and I hope, furthermore, that this language and the colloquy on the floor of the Senate, which has been exceedingly informative, will make it perfectly clear to Hanoi that the Congress of the United States, and many of us in this body, clearly warn them ahead of time that if they go in and use those so-called sanctuary areas once again to build up and to launch an imminent attack upon our forces and start to move in that direction, we will stand foursquare behind the President of the United States as Commander in Chief of the Armed Forces in his responsibility and duty to protect the Armed Forces and to maintain the deescalation rate that he has planned for our withdrawal from South Vietnam, on an orderly basis, and I hope on an accelerated basis.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield further, his statement precisely states my position and the position I have held all along.

I want again to stress the fact that the able Senator from Illinois (Mr. PERCY) has made exceedingly great contributions to the verbiage of this amendment.

The PRESIDING OFFICER (Mr. GRIFFIN). The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator may have 3 additional minutes.

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

Mr. BYRD of West Virginia. I want to stress the fact that he has made great contributions to that verbiage and that I have had numerous discussions with him following the vote on June 11 by which the original Byrd-Griffin amendment was defeated. Out of those discussions with him and the Senator from Virginia (Mr. SPONG), the three of us working together, over the telephone and otherwise, and working with other Senators, including the Senator from Michigan (Mr. GRIFFIN) and other Senators who supported the previous amendment and some who opposed it, for example, Senators CHURCH and COOPER, came this verbiage. I think it is the language we want, that the administration should have, that our men in South Vietnam want, and that the enemy needs so much to understand.

Mr. PERCY. Mr. President, I not only appreciate those words from my distinguished colleague, but also express appreciation to the Senator from Virginia (Mr. SPONG), with whom I greatly enjoyed working on this matter.

This is not a partisan matter. This is not an ideological matter. We are all trying to protect the best interests of the United States of America and our responsibilities to the free world. I have found both of my distinguished colleagues working in close harmony in that respect.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield for 30 seconds, my reference to the administration was meant to be a reference to the President, acting as Commander in Chief, in whatever administration, and in whatever political party, he may serve.

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

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

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

Mr. PERCY. Yes, I am delighted to yield.

Mr. SPONG. Initially, I should like to thank the Senator from Illinois for his gracious remarks about my participation in discussions concerning this new amendment. Since the vote of last week the Senator from Illinois has been diligent in talking with the sponsors of the Cooper-Church amendment, with the Senator from West Virginia (Mr. BYRD), with myself and others in order that we might agree on some language that would say to the people of the United States, and to Hanoi, that the President as Commander in Chief has authority to protect the troops in the field.

The Senator from Illinois and I, in our amendments, sought to do this in a more specific manner. I have enjoyed very much working with him, and I share his hope that Senators on either side of this question will be able to support the amendment.

Mr. PERCY. Mr. President, I appreciate the distinguished Senator's comments. I feel, once again, that the colloquy is very important so that we fully interpret the meaning of the Byrd amendment to encompass the authority that those of us in the Senate believe the Commander in Chief should have to protect American forces.

## TEXTILE IMPORTS

Mr. PERCY. Mr. President, I have read with interest in this morning's newspapers that Foreign Minister Kichi Aichi of Japan is coming to this country with a Japanese delegation to try to re-

solve the question of textile imports into the United States from Japan.

I welcome this visit and welcome this friend of the United States to our country. I trust that his visit will lead to a voluntary agreement on textile imports from Japan. That would be far preferable to a legislated quota solution to this problem. But Japan must be prepared to bargain realistically. The real initiative is still with the Japanese to make a reasonable offer. If Japan does not make a realistic proposal, then there will be serious economic consequences for both the United States and Japan.

I have talked to Foreign Minister Aichi in the past and told him that Japan cannot have it both ways. Japan cannot expect unrestricted access to the American market and at the same time have very restrictive import and investment policies in its own country. Japan is one of the major industrial powers in the world but on the question of allowing imports and investment into its own country its acts like a developing country. Japan has an elaborate system of export preferences, restrictions on direct foreign investment, and a variety of nontariff trade barriers more appropriate to acountry that is in its initial stages of economic growth.

In fact, it is almost ludicrous when we consider the unrestricted access that Japan has to the steel market in this country. Japanese steel will be shipped into this country by such manufacturers as those which make refrigerators. The steel from Japan is embodied into those articles, and then when American manufacturers try to ship those refrigerators, which include Japanese steel from Japan, into that country, Japan restricts them from coming in under its particular restrictive system.

To repeat, I welcome the Japanese visit to this country and hope that it leads to a negotiated settlement to the textile problem. But Japan must be prepared to bargain realistically to settle this problem or there will be a severe blow to our mutual trade and continuing friendship and interdependence.

## AMENDMENT OF THE FOREIGN MILITARY SALES ACT

Mr. McCLELLAN. Mr. President, I was not present in the Chamber yesterday when the unanimous-consent agreement was entered into for a vote on the amendment (No. 708) of the distinguished Senator from West Virginia (Mr. BYRD) at 2 o'clock next Monday afternoon. Had I been present, I would have urged that this vote not be taken until the following day, Tuesday, the 23d. I have a longstanding speaking engagement to address the National Sheriffs' Association, which is convening at Hot Springs, Ark., on Monday, the 22d, and I feel that I should keep that engagement, Mr. President.

However, from discussions and comments that I hear, I am persuaded that the amendment of the distinguished Senator from West Virginia will likely be adopted. I hope it will be. I cannot possibly support the Cooper-Church amendment as originally presented, or as modified up to this time. With the amendment of the distinguished Senator from West Virginia incorporated in the original Cooper-Church amendment, I might find it possible to vote for it. Anyway it will improve and make palatable the original amendment.

However, I reiterate at this time that I do not agree with the amendment in that I do not find there was or is any necessity for it. I think it was precipitated solely by the fact that the President, as Commander in Chief, took the action in ordering those sanctuaries in Cambodia cleared out. That action, I think, has contributed greatly to the security and protection of our troops in South Vietnam. It was an action that I think, had the President not taken, he would have been derelict in his duty as Commander in Chief; and I am not convinced yet that I should support the Cooper-Church amendment even if the Byrd amendment is adopted.

I can come nearer supporting it with the language that is proposed by the distinguished Senator from West Virginia. I shall still have time to consider my position before a final vote on the Cooper-Church amendment as amended. But in the meantime, the amendment as originally presented was, in my opinion, tantamount to an official censure of the President of the United States by the U.S. Senate. I want no part of it as long as it carries with it that connotation, or as long as it may be susceptible of that interpretation.

I do not know that our getting into the war in South Vietnam was a wise course. I feel constrained to believe, and have many times said, that we should not be over there in this war unless the rest of the free world is there also. The issue is either that big—that of Communist aggression against the free world, or a phase of Communist aggression gainst the free world—or it is not big enough to justify our presence there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLELLAN. I ask unanimous consent to proceed for 3 additional minutes.

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

Mr. McCLELLAN. However, we are there, Mr. President, and in my judgment the President of the United States, who inherited this war—it is not his war; he did not get us into it, but, in my judgment, is doing all he can do and the best he can do to extricate our forces from that conflict—He should have our support in that effort. He has already withdrawn a great number of troops. He promises to withdraw another 150,000 within the next year. Unless we just want to move out and risk another Dunkerque, or retreat in humiliation and disgrace, I think we need to support the President in the course he is pursuing, in the hope that ultimately, or during this period of time, the South Vietnamese can become strong enough to defend their own country.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. BYRD of West Virginia. I certainly want to thank the Senator for his very strong statement in support of the amendment, and I regret that he will not be here on Monday to vote for it; but I certainly can understand his absence, in view of the explanation he is making.

Mr. McCLELLAN. I thank the Senator. I authorize the Senator from West Virginia, if he can, to secure a live pair for me, so the RECORD will reflect my position at the time of the vote and the RECORD today, of course, will reflect the reasons why I shall be absent.

Mr. BYRD of West Virginia. I shall do everything I can to accommodate the Senator.

## SENATE RESOLUTION 420—TO PERMIT SENATOR McCLELLAN AND SENATE EMPLOYEES TO TESTIFY IN A CRIMINAL ACTION

Mr. McCLELLAN. Mr. President, I send to the desk a resolution, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SPONG). The resolution will be stated.

The assistant legislative clerk proceeded to read the resolution.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with. I shall make a brief explanation of it.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCLELLAN. Sometime last year, during the course of conducting an investigation, the Senate Permanent Subcommittee on Investigations was confronted with two witnesses who defied the committee in refusing to comply with a subpena to present certain records and documents in their possession.

Thereafter, there was presented to and agreed to by this body an appropriate resolution charging those witnesses with contempt of the Senate. Thereafter, they were indicted in due course. That indictment is still pending, and the case has now been set for trial next Monday.

Certain members of the subcommittee staff named in the resolution have been subpenaed as witnesses, together with the chairman of the committee and certain other members of the subcommittee staff have been asked to appear by the request of the Government. This resolution is appropriate because the subcommittee has no authority to release these documents or its staff to appear in court without the permission of the Senate. This resolution is the routine procedure that is required in these cases, and I ask for its immediate adoption.

The resolution, Senate Resolution 420, was considered and agreed to, as follows:

*Resolved*, Whereas the case of the United States of America vs. Alan McSurely, Criminal Action No. 1376–69, and the case of the United States of America vs. Margaret McSurely, Criminal Action No. 1377–69, are pending in the United States District Court for the District of Columbia; and

Whereas subpoenas have been issued out of said court and addressed to Senator John J. McClellan and to John Brick, a staff employee of the Senate Permanent Subcommittee on Investigations; and

Whereas, the attorney for the United States has requested that the said Senator John L. McClellan and certain staff employees of the said Subcommittee, specifically the said John Brick, and LaVern J. Duffy, and Ruth Young Watt, appear as witnesses and testify during the trial of the aforementioned cases; and

Whereas by the privilege of the Senate and by Rule XXX of the Standing Rules of the Senate, information secured by staff employees of the Senate pursuant to their official duty as employees may not be revealed without the consent of the Senate; Therefore be it

*Resolved*, That Senator John L. McClellan, and the following staff employees of the Senate Permanent Subcommittee on Investigations, John Brick, LaVern J. Duffy, and Ruth Young Watt, be authorized to appear and testify at the aforementioned proceeding; and be it further

*Resolved*, That if it should appear by order of the court in the aforementioned proceeding that documentary evidence in the possession and under the control of the Senate is needful for use in said court of justice for the promotion of justice, the Senate authorizes such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

*Resolved*, That if the said court should determine that any of the papers or documents in the possession and under the control of the Senate have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and offical transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the Rules of the Senate, and, further, that such papers and documents are material and relevant to the issues pending before said court, then copies of such papers and documents in the possession or control of the aforementioned Senator John L. McClellan, or Jack Brick, or LaVern J. Duffy, or Ruth Young Watt, may be produced, excepting any other papers and documents which are within the privileges of the Senate.

## THE CAMBODIA DEBATE AND THE ABM DEBATE

Mr. DOLE. Mr. President, last year, when the military procurement bill was considered, there was extensive debate in the Senate, commencing on July 7, 1969. This measure was finally passed by the Senate on September 18, 1969. A large part of that debate was consumed by discussion of the so-called ABM Safeguard system. Some suggested the discussion was, in fact, a filibuster.

While I am in accord with the unanimous-consent agreement reached yesterday by the majority leader and the acting minority leader, I would point out that last year, for some 60 days, this body debated the ABM Safeguard system without any such arrangement. There has been discussion of the so-called Church-Cooper amendment to the Foreign Military Sales Act, but limited by comparison to those spearheading the anti-ABM debate last year.

At this time, Mr. President, I ask unanimous consent to have printed in the RECORD the record votes taken during consideration of the ABM discussion last year, to emphasize that some little progress was made with other legislation.

I applaud the majority leader and the acting minority leader for reaching agreement to take up other business at 5 p.m. each day so long as debate on the Foreign Military Sales Act continues, as other measures are pending which should be dealt with expeditiously.

I again ask unanimous consent to have printed in the RECORD a list of the record votes between July 7, 1969, and September 18, 1969; I would add that a few other measures, upon which there were no record votes, were also considered during that period of time.

There being no objection, the list of record votes was ordered to be printed in the RECORD, as follows:

RECORD VOTES, JULY 7, 1969 TO SEPTEMBER 18, 1969

Military Procurement (S–2546) taken up July 7, 1969. Passed September 18, 1969.

During that period the Senate passed the following measures by record vote:

July 8, 1969: National Stockpile—Release of Lead. Vote on House amendment striking Senate language Williams (Del.) amendment to require that sale of such lead be to "the highest responsible bidder," and authorizing sale by negotiation or otherwise. Yeas, 58; Nays, 32.

July 29, 1969: Carl J. Gilbert—Nomination to be Special Representative for Trade Negotiations with rank of Ambassador.

Nomination confirmed. Yeas, 61; Nays, 30.

July 31, 1969: Federal Unemployment—Accelerated Collection (H.R. 9951) Long amendment to extend the 10% income surtax through December 31, 1969. (Amendment agreed to.) Yeas, 51; Nays, 48.

July 31, 1969: Federal Unemployment Taxes—Accelerated Collection (H.R. 9951) William (Del.) amendment to extend the income surtax for the first 6 months of 1970 at the rate of 5 percent. (Amendment rejected.) Yeas, 41; Nays, 59.

July 31, 1969: Federal Unemployment Taxes—Accelerated Collection (H.R. 9951). Mansfield motion to table Williams (Del.) amendment to repeal the investment tax credit. (Motion to table agreed to.) Yeas, 66; Nays, 34.

July 31, 1969: Extension of Income Surtax through December 31, 1969; Federal Unemployment Taxes—Accelerated Collection (H.R. 9951). Yeas, 70; Nays, 30.

August 7, 1969: Pay Increases for the Vice President and Certain Officers of Congress (H.R. 7206).

Williams (Del.) et al. amendment to repeal provisions of Federal Salary Act of 1967, establishing Commission on Executive, Legislative, and Judicial Salaries. Yeas, 47; Nays, 50.

August 7, 1969: Pay Increases for the Vice President and Certain Officers of Congress (H.R. 7206).

Dirksen motion to table Williams (Del.) amendment striking from the bill all salary increases except that for the Vice President. Yeas, 68; Nays, 25.

August 12, 1969: Incentive Allowances for Lenders under Insured Student Loan Program; and Increased Authorizations for Student Loans and Grants.

Dominick amendment to strike provision that Secretary of HEW prescribe procedures to the effect that lenders eligible for interest subsidies under the bill did not, as a condition precedent or subsequent to making such loan, require a student or member of his family to carry out any other business activity with the lender. (Amendment rejected.) Yeas, 21; Nays, 72.

August 12, 1969: Incentive Allowances for Lenders under Insured Student Loan Program; and Increased Authorizations for Student Loans and Grants.

Dirksen amendment to strike the bill's increases of $295 million in authorization for the national defense student loan program, the educational opportunity grant program, and the work-study program. (Amendment rejected.) Yeas, 38; Nays, 56.

August 12, 1969: Incentive Allowances for Lenders under Insured Student Loan Program; and Increased Authorizations for Student Loans and Grants. Passage. Yeas, 92; Nays, 1.

August 12, 1969: Adjournment of Congress from August 13 to September 3, 1969 (H. Con. Res. 315).

Vote on agreeing to resolution. (Resolution agreed to.) Yeas, 76; Nays, 14.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Mr. DOLE. Mr. President, I ask unanimous consent to proceed for 10 minutes.

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

Mr. DOLE. Mr. President, for several weeks the Senate has debated the meaning of the Cooper-Church amendment to the Foreign Military Sales Act. There have been many attempts to further alter the proposal to assure that its meaning is in congruence wtih the spirit and letter of the Constitution. Now, after listening to hours of debate on the measure, it seems reasonable to conclude that the differences between proponents and opponents are at most, minimal, and perhaps nonexistent.

Since the debate commenced on May 13, those who opposed this legislation in part, as an unwarranted challenge to Presidential authority have sought a full explanation of the true intent of the sponsors of the proposal. After reviewing the legislative history of the amended Cooper-Church amendment, I have concluded that many of the original implications in the language of the amendment have been resolved in favor of preserving the constitutional powers of the Commander in Chief.

As debate proceeded, the proponents and opponents have recognized the constitutional powers of the Chief Executive. They have recognized the necessity of upholding the President's power to protect American forces in Southeast Asia. In accordance with this determination, the distinguished Senator from Montana (Mr. MANSFIELD) stated on June 9:

> The President has unilateral Constitutional powers as Commander-in-Chief to take measures to protect the lives of U.S. Servicemen, not only in Vietnam, but also U.S. citizens, including servicemen, anywhere in the world. He does not need Congressional sanction for that purpose because he already has the power, authority and responsibility.

The Senator from Idaho (Mr. CHURCH) one of the principal sponsors of the amendment, affirmed on June 10:

> 1. The Cooper-Church amendment does NOT prevent the U.S. airpower from attacking the sanctuary areas;
>
> 2. Retaliation or protection reaction . . .

in response to enemy attacks originating from across the border, is not prohibited"; and

3. Hot pursuit of enemy forces, which cross into Cambodia, is not barred.

Mr. President, the proponents have gone further. On June 11 the Senator from Idaho (Mr. CHURCH), when questioned about an intrusion into Cambodia for the protection of American forces, answered that whatever authority the President has in that regard would be unaffected by the Cooper-Church amendment. This would include, the Senator from Idaho affirmed, air strikes and other military or tactical maneuvers, not simply those limited to the use of ground troops.

During the same exchange between the Senator from Idaho and the junior Senator from Kansas, the Senator from Idaho said:

The legislative history of the amendment makes it clear that the Amendment does not attempt to reach the use of American airpower for the protection of our own forces, the interdiction of supplies, or for any purpose other than a purpose related to the support of Cambodian forces.

And on June 8, the Senator from Kentucky (Mr. COOPER) agreed that the amendment "provides that air power can be used—as well as artillery across the border"—again referring to the protection of American forces.

The Senator from Idaho had stated earlier, on May 26:

Nothing in the amendment prevents the transfer of weapons to the Cambodian Government if the President should see fit to do so.

In fact, the Senator from Idaho and other proponents of Cooper-Church have said, as does the language of the mansfield amendment as adopted, that the measure does not deny the President any of his powers to protect American forces. Further, the Senator from Idaho has said that the Cooper-Church amendment is prospective in nature. It does not, the Senator has admitted, question the constitutionality of President Nixon's limited operation in Cambodia.

Indeed, the original proponents of the Cooper-Church amendment have gradually admitted the constitutionality of the President's action. They have realized, after weeks of discussion, the futility of attempting an itemized list of the President's powers under the Constitution. Furthermore, they have agreed that the President's powers to protect Americans cannot be impaired in the future—whether he orders air support, artillery, or ground pursuit.

On June 11, an amendment to the Cooper-Church amendment, offered by the distinguished Senator from West Virginia (Mr. BYRD), was defeated by a vote of 47 to 52. It addressed itself to the power of the President to retain U.S. forces if necessary to protect American forces in South Vietnam. The Senate did not accept this provision. Both the Senator from Kentucky and the Senator from Idaho—the principal cosponsors of the Cooper-Church amendment—voted against the Byrd amendment.

Now, many who helped defeat the original Byrd amendment are apparently having second thoughts. The people of America are saying: "Support the determination and right of the President to protect American lives. Do not tie the President's hands." Many Senators, who voted against the more limited Byrd amendment on June 11, are now showing a favorable inclination toward the new, broader Byrd amendment—No. 708. Unlike the original amendment proposed by the Senator from West Virginia, which applied to South Vietnam alone, the pending amendment reaffirms the President's constitutional power to safeguard American forces, wherever in the world they may be deployed.

Mr. President, this is an important affirmation of the President's Constitutional powers. The American people strongly support such an affirmation. Americans are encouraging Senate support of the President's determination to protect American forces in whatever manner he, as Commander in Chief, deems appropriate.

I hope that a majority of this body will support the pending amendment. For its adoption will bring us one step closer to final agreement on the Foreign Military Sales Act.

Mr. President, there is no doubt in my mind that we have now come full circle in debate on the Cooper-Church amendment to the Foreign Military Sales Act. There has been a recognition by every Senator that Congress could not, if it wished, impair the rights and the powers of any President to protect American forces.

Therefore, I am pleased to join the Senator from West Virginia (Mr. BYRD) in his second effort to reaffirm that right, and to write specific language into the Cooper-Church amendment. This will be clearly understood, not by those in the Senate, because we understand it now, but by the American people and others; namely, that the Senate will not desert American forces and that Senators recognize the rights and the responsibilities of the President to protect American forces wherever they may be.

Accordingly, Mr. President, it seems obvious the debate has been meaningful and helpful. The 5 weeks of debate have been fruitful because now there appears to be complete accord in an important area which, 4 weeks ago, was rather clouded.

At that time some were saying only that the President had certain constitutional rights. Now many of these persons agree that this specifically includes the right to protect American forces.

This is encouraging to all for I am of the opinion that every Member of this body wants the President to protect American forces.

As stated many times, I question no one's motives on patriotism. I have and still do question the timing of the Cooper-Church amendment, because President Nixon is committed to disengagement in Southeast Asia.

The facts bear him out.

He has kept his word to the American people.

The facts bear him out.

He has reduced our troop level by 115,500 men since last June 8. He has kept the withdrawal schedule on time.

I have confidence that President Nixon will continue, as he has announced, to remove 50,000 men from Southeast Asia by October 1, and another 100,000 by next spring.

To me, that is tremendous progress. It is disengagement.

Let me close by saying that what we now need in the Senate and in the country is unified support of the President.

I believe that we are on the way out of Southeast Asia.

I applaud the President, the present occupant of the White House, for his efforts on behalf of all Americans.

## JOE BARTLETT—A TRIBUTE

Mr. GRIFFIN. Mr. President, I understand that a voice, familiar to all of us—a personality we all respect and admire—will soon be missing.

But, happily, it is a pleasant leavetaking and a farewell only in the narrow sense of the word.

I speak of Joe Bartlett, the senior reading clerk of the House of Representatives, who has been a daily visitor to the Senate Chamber delivering to us various messages from the House.

In recognition of long and faithful services, Mr. Bartlett was recently elected by the House Republican conference to be the minority clerk of the House of Representatives which is the senior minority staff position. He is in the process of transition, and, to our regret, we will not be seeing him as regularly as in the past.

Many of us have known Mr. Bartlett for a long time. We know him as a friend, as an individual of great good humor, of tact, and of wisdom.

In fact, Mr. Bartlett's service in the House extends much longer than many of us can claim in Congress.

He came here more than 30 years ago as a House page, at the age of 14. That was in the months just before Pearl Harbor.

Mr. Bartlett graduated from the page school and later joined the Marine Corps in World War II.

When he returned from service in 1945, there was a vacancy in the position of chief page. Many thought that he was too young for the position—he was then 19—but the late Joe Martin, then the House Republican leader, appointed him to the position anyway.

Of course, no one was surprised when Mr. Bartlett carried out his duties with responsibility.

When the Korean war occurred, Mr. Bartlett once again demonstrated the patriotism, which is one of his chief characteristics, and served again in the Marine Corps.

When he returned, there was in the House a vacancy for which, of course, he was qualified. This was the position of reading clerk.

From among some 20 applicants, Mr. Bartlett was selected by a committee

which had only one reservation—his age.

He received the position and over the years, as we all know, he has been doing an outstanding job.

So we rejoice with Mr. Bartlett as he assumes his new work. We are glad that he will remain close at hand and that we can look forward to many years of continued close association with a close and loyal friend.

## ADDITIONAL STATEMENTS OF SENATORS

### PANAMA CANAL MODERNIZATION: U.S. TREATY COMMITMENTS AND OBLIGATIONS

Mr. THURMOND. Mr. President, in June of 1967, the President of the United States and the President of Panama announced the completion of negotiations for three proposed new Panama Canal treaties. These agreements, negotiated without the authorization of Congress and in disregard of article IV, section 3, clause 2 of the U.S. Constitution vesting the power to dispose of territory and other property of the United States in Congress, provided for basic alterations in the juridical structure, ownership, management and protection of the Panama Canal. The projected changes include: First, surrendering by the United States to Panama of sovereignty over the Canal Zone; second, making that small and technologically primitive country a partner in the maintenance, operation, and defense of the canal; third, granting the United States an option on a site in Panama for a new canal of so-called sea level design; and fourth, eventually giving to Panama not only the existing canal but as well any new canal that may be constructed in that country, all without any compensation whatever.

In these connections, I invite attention to the fact that the taxpayers of the United States have a total net investment in the Panama Canal, including defense, of more than $5,000,000,000—a sum which, if converted into 1970 dollars, would be far greater.

Exposed as the result of journalistic initiative of the Chicago Tribune, the 1967 treaty proposals created national sensations in both the United States and Panama. Quoted by me in statements to the Senate in the CONGRESSIONAL RECORDS of July 17, 21, and 27, 1967, the indicated agreements armed hostile reactions in the Congress and in Panama and, for different reasons, were never signed.

Since that time significant political changes have occurred in Panama, including the election by an overwhelming majority and the inauguration on October 1, 1968, of Dr. Arnulfo Arias as President and his overthrow 3 days later by a military junta that is still in power. Notwithstanding these changes, pressure for resumption of treaty negotiations still exists and the treaties yet hang like a sword of Damocles over the strategic Panama Canal.

In addition, the last 3 years have witnessed a growing opposition by eminent scientists to the construction of a canal of the so-called sea level type because of the potentially disastrous effect that it would have on marine life of the nearby oceans and the sufficiency of food for human consumption as summarized by me in my statement to the Senate on April 15, 1970. Other scientists also oppose the use of nuclear explosives for its excavation, rendering even more remote the likelihood of any such construction project. In fact, because of these scientific findings, the Atlantic-Pacific Interoceanic Canal Study Commission, whose Chairman was also Chairman of our diplomatic negotiating team and agreed with the vicious treaty proposals previously mentioned, seems to have entirely abandoned the idea of a "sea level" canal.

Thus, with this ancient confusing issue out of the way, the road is clear for action on pending measures in both the Senate and House for the major modernization of the existing Panama Canal. The proposal embodied in these measures, known as the Terminal Lake-Third Locks plan, I would respectfully submit, is both timely and feasible, and can be undertaken with every assurance of success and without treaty involvements.

In this connection, Mr. President, I invite the attention of Senators to the fact that when the present program for the enlargement of Gaillard Cut is completed in 1971, this will mean a total of more than $157 million already spent toward such modernization: about $76 million mostly on lock site excavations at Gatun and Miraflores for the Third Locks project and over $81 million on Gaillard Cut. Moreover, the full modernization of the existing canal is the only satisfactory solution of the interoceanic canal problem; and, most importantly, no new treaty with Panama is required.

The above-enumerated facts make timely and pertinent an examination of our treaty commitments and obligations at Panama. The answers to these questions, including the rights of Great Britain and Colombia, have been supplied in two scholarly articles prepared in 1968 before the overthrow of President Arias by Dr. Donald M. Dozer, an eminent authority in Latin American policy and former State Department official. Because of their fundamental nature and authoritative documentation, they are just as applicable today as when written.

Mr. President, as these articles and the text of the pending measures for the Panama Canal Modernization Act will be of interest to all Members of Congress, officials of executive agencies of Government concerned with canal policy matters and the Nation at large, I ask unanimous consent that all three be printed in the RECORD.

I also ask unanimous consent that the recent article in the Baltimore Sun by Richard Basoco, entitled "Canal Report Will Lack Data on Atomic Blasting," be printed in the RECORD. This article again shows the problems of the sea level canal from a moral and ecological standpoint.

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

[From the Chicago Tribune, Oct. 6, 1968]

TREATY COMMITMENTS AND PANAMA CANAL

(By Donald M. Dozer)

What will Arnulfo Arias, the new president of Panama [inaugurated on Oct. 1], do with the treaties negotiated by President Robles with the Johnson administration and announced a year ago last June?

The treaties remain officially secret and are still unsigned. Will the new president accept them, or will he insist upon renegotiating them in order to obtain additional concessions from the United States? The concessions already made in the draft treaties, as published by THE CHICAGO TRIBUNE, not only abandon our former position in the Panama Canal Zone but seriously violate our international treaty obligations.

From the earliest date when the United States took a policy position on an interoceanic canal thru Central America, it envisaged such a canal as an international waterway serving all nations on an equal basis. This principle was asserted by Secretary of State Henry Clay in 1828; it underlay the provisions of the treaty which the United States concluded in 1846 with New Granada, now Colombia. . . .

In 1901, the United States concluded with Great Britain the so-called Hay-Pauncefote treaty, in which it agreed to assume the exclusive authority and responsibility for constructing a canal across the Central American isthmus and operating it in accordance with the rules prescribed for the free operation of the Suez canal in the convention of Constantinople of 1886. These rules, which the United States freely accepted, obligate this government to keep the canal "free and open to the vessels of commerce and of war of all nations . . . on terms of entire equality." They permit the United States to levy only "just and equitable" tolls on vessels using the canal. They provide that the United States alone must safeguard and maintain the neutrality of the canal. The rules also impose other assurances that the United States will operate the canal as an international public utility.

In the Spooner act of 1902, Congress stipulated that the United States, in order to discharge the international obligations it was preparing to assume, must acquire "perpetual control" over a canal zone across the isthmus. In the competition for the route, Panama gave the United States a grant in perpetuity of a strip of Panamanian territory in which the United States would possess and exercise "all the rights, power, and authority" which it would have "if it were the sovereign of the territory." In this Hay-Bunau-Varilla treaty, Panama assumed the same obligations as the United States for keeping the canal "neutral in perpetuity" and allowing it to be operated "in comformity with all the stipulations" of the Hay-Pauncefote treaty.

To an audience in Panama in 1910, President William Howard Taft said, "We are here to construct, maintain, operate, and defend a world canal, which runs thru the heart of your country, and you have given us the necessary sovereignty and jurisdiction over the part of your country occupied by that canal to enable us to do this effectively."

From the beginning, the United States recognized that the canal should be kept immune from belligerent action and free for impartial service to world shipping. This policy was reaffirmed as recently as Jan. 14, 1964, when President Lyndon Johnson ringingly declared: "The United States cannot allow the security of the Panama canal to be imperiled. We have a recognized obligation to operate the canal efficiently and se-

curely, and we intend to honor that obligation in the interests of all who depend on it."

This was the last correct statement of our traditional interoceanic canal policy—a policy to which the United States had adhered for approximately 140 years. In September, 1964, President Johnson reversed himself and announced the opening of new negotiations with Panama which would abrogate the Hay-Bunau-Varilla treaty of 1903, repudiate the obligations of the United States in the operation and defense of the canal, and recognize Panama's sovereignty over the Canal Zone.

Three new treaties were subsequently negotiated in conformity with President Johnson's new guidlines. The treaties create a new joint United States-Panamanian administrative board for canal operations, consisting of five members appointed by the President of the United States and four appointed by the president of Panama. This board is expected to operate the canal under permission of "the Republic of Panama, as sovereign over the canal area."

The Johnson administration thus proposes to submit to the mercy of this board the shipping of the United States [which constitutes 72 per cent of the vessels transiting the canal] and to renounce our responsibility to operate the canal as a world service as established by treaty and by usage for more than 60 years.

If this board should impose discriminatory tolls upon the vessels of certain nations, or levy tolls which are not "just and equitable," could it be brought to account by a complaining nation for violation of a treaty? Obviously not, for it is not a party to any treaty. Would not the complaint of the aggrieved nation lie against the United States, which is entrusted with the responsibility of operating the canal and of complying with the treaty conditions laid down for its operation? Are we as a nation prepared to abandon our position of strength as defenders of treaty pledges and the law of nations?

---

[From the Chicago Tribune, Oct. 13, 1968]

THE U.S. IS OBLIGATED TO KEEP PANAMA CANAL

(By Donald M. Dozer)

Where large responsibility is vested, large authority is needed. British shipping interests have already mounted strenuous protests against the unilateral abdication by the United States of its authority over the Panama Canal. Vessels of British registry are the third largest users of the canal [after those of the United States and Norway].

"Now that Suez is closed," declares a spokesman for British shipping interests, "the Panama canal is definitely the world's No. 1 artery." The British have a large stake in the continued efficient and equitable operation of the Panama canal, and they possess adequate treaty rights to insist upon it.

Recent experience with the Suez canal proves that only a responsible nation can fulfill international obligations like those which the United States assumed in undertaking to build and operate the Panama canal. How can little Panama be expected to discharge those obligations?

Colombia has a direct and vital treaty interest at least equal to Great Britain's in the continued operation of the Panama canal under the sovereign control of the United States. In the Thomson-Urrutia treaty signed in 1914 and ratified in 1922, Colombia acknowledged that title to the Panama canal was "vested entirely and absolutely in the United States of America." But as the former territorial sovereign over Panama, she was able to gain recognition from the United States of large privileges in the use of the canal. These included the right to transport thru the canal her troops, materials of war, and ships of war without charge, and to enjoy preferential tariff treatment for her products when passing thru the canal or imported into the Canal Zone. In the event of interruption of canal traffic, the United States must transport free of charge Colombian coal, petroleum, and salt passing from one coast of Colombia to the other over the Panama railway.

Under the new treaties, the joint board charged with the administration of the canal is given power "to continue or discontinue any activity" now being conducted in the operation of the canal. Under this blanket authority the board obviously may, if it wishes, terminate the special privileges which Colombia now enjoys under treaty with the United States.

In that eventuality, can the United States sustain these concessions, having abandoned sovereignty over the canal and the Canal Zone? And if Panama chooses not to continue to grant the privileges to the nation against which she rebelled in 1903, would not Colombia have a valid claim against the United States? Her complaints would be directed against the only other co-signer of the Thomson-Urrutia treaty. And how could the United States fulfill its treaty obligation to transport Colombian products over the Panama railway if Panama exercises the option [given her in the new treaty] of discontinuing within two years the operation of the railroad as a common carrier?

Colombia has already officially served notice that she will not relinquish the rights and exemptions granted her in the Thomson-Urrutia treaty. Colombia understandably has failed to respond favorably to the suggestion by the United States ambassador in Bogota that if she wants to continue to enjoy her privileges she will have to conclude a new treaty with Panama. If the United States abrogates the Thomson-Urrutia treaty, Colombia would be no longer bound to recognize the independence of Panama, for Colombia's recognition of Panama was one of the conditions of that treaty. Colombia then could reassert her former sovereignty over Panama, under the principle of titular or residual sovereignty.

The increase in tolls provided for in the new treaties will bear with special hardship upon all the countries on the west coast of South America, the bulk of whose foreign commerce passes thru the Panama canal. The discouragement of this trade can only retard progress toward the Latin American common market which President Johnson indorsed in April, 1967.

The United States should neither expect nor allow any other nation or group of nations to assume the responsibility for the Panama canal which the United States itself is obligated to exercise under international law. Quite apart from our own large strategic interest in the canal, policy makers cannot flout with impunity our solemn treaty pledges to maintain the canal as an interoceanic highway of world commerce, now the most important in the world. For more than 60 years the United States has executed its trust with respect to the Panama canal.

But now, in its pusillanimous efforts to cater to Panamanian extremists, the United States is failing in its responsibilities to world shipping. The assumption of these responsibilities by Panama or even by Colombia can lead in the end only to another victory for soviet imperialism.

The United States can avoid formidable international complications by continuing to exercise over the Panama canal and the Canal Zone the measure of sovereign control to which it is entitled by treaty. Such control has been shown by experience to be necessary to operation and protection of the canal as a highway of world commerce for the use of all nations.

Because of the increasing demands of world commerce, Congress should proceed without delay to complete improvements in the canal authorized during World War II as a post-war project. This modernization plan can be carried thru without any new negotiations with Panama and would render the three Johnson treaties superfluous.

---

S. 2228

A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Panama Canal Modernization Act".

SEC. 2. (a) The Governor of the Canal, under the supervision of the Secretary of the Army, is authorized and directed to prosecute the work necessary to increase the capacity and improve the operations of the Panama Canal through the adaptation of the third locks project set forth in the report of the Governor of the Panama Canal, dated February 24, 1939 (House Document Numbered 210, Seventy-sixth Congress), and authorized to be undertaken by the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), with usable lock dimensions of not less than one hundred and forty feet by not less than one thousand two hundred feet by not less than forty-five feet, and including the following: elimination of the Pedro Miguel locks, and consolidation of all Pacific locks near Miraflores in new lock structures to correspond with the locks capacity at Gatun, raise the summit water level to its optimum height of approximately ninety-two feet, and provide a summit-level lake anchorage at the Pacific end of the canal, together with such appurtenant structures, works, and facilities, and enlargements or improvements of existing channels, structures, works, and facilities, as may be deemed necessary, at an estimated total cost not to exceed $850,000,000.

(b) The provisions of the second sentence and the second paragraph of the Act of August 11, 1939 (53 Stat 1409; Public Numbered 391, Seventy-sixth Congress), shall apply with respect to the work authorized by subsection (a) of this section. As used in such Act, the terms "Governor of the Panama Canal", "Secretary of War", and "Panama Railroad Company" shall be held and considered to refer to the "Governor of the Canal Zone", "Secretary of the Army", and "Panama Canal Company", respectively, for the purposes of this Act.

(c) In carrying out the provisions of this Act, the Governor of the Canal Zone may act and exercise his authority as President of the Panama Canal Company and may utilize the services and facilities of that company.

SEC. 3. (a) There is hereby established a board, to be known as the "Panama Canal Advisory and Inspection Board" (hereinafter referred to as the "Board").

(b) The Board shall be composed of five members who are citizens of the United States of America. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) one member from private life, experienced and skilled in private business (including engineering);

(2) two members from private life, experienced and skilled in the science of engineering;

(3) one member who is a commissioned officer in the Corps of Engineers, United States Army (retired); and

(4) one member who is a commissioned officer of the line, United States Navy (retired).

(c) The President shall designate as Chair-

man of the Board one of the members experienced and skilled in the science of engineering.

(4) The President shall fill each vacancy on the Board in the same manner as the original appointment.

(e) The Board shall cease to exist on that date designated by the President as the date on which its work under this Act is completed.

(f) The Chairman of the Board shall be paid basic pay at the rate provided for level II of the Executive Schedule in section 5313 of title 5, United States Code. The other members of the Board appointed from private life shall be paid basic pay at a per annum rate which is $500 less than the rate of basic pay of the Chairman. The members of the Board who are retired officers of the United States Army and the United States Navy each shall be paid at a rate of basic pay which, when added to his pay as a retired officer, will establish his total rate of pay from the United States at a per annum rate which is $500 less than the rate of basic pay of the Chairman.

(g) The Board shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, a secretary and such other personnel as may be necessary to carry out its functions and activities and shall fix their rates of basic pay in accordance with chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The secretary and other personnel of the Board shall serve at the pleasure of the Board.

SEC. 4. (a) The Board is authorized and directed to study and review all plans and designs for the third locks project referred to in section 2(a) of this Act, to make on-the-site studies and inspections of the third locks project, and to obtain current information on all phases of planning and construction with respect to such project. The Governor of the Canal Zone shall furnish and make available to the Board at all times current information with respect to such plans, designs, and construction. No construction work shall be commenced at any stage of the third locks project unless the plans and designs for such work, and all changes and modifications of such plans and designs, have been submitted by the Governor of the Canal Zone to, and have had the prior approval of, the Board. The Board shall report promptly to the Governor of the Canal Zone the results of its studies and reviews of all plans and designs, including changes and modifications thereof, which have been submitted to the Board by the Governor of the Canal Zone, together with its approval or disapproval thereof, or its recommendations for changes or modifications thereof, and its reasons therefor.

(b) The Board shall submit to the President and to the Congress an annual report covering its activities and functions under this Act and the progress of the work on the third locks projects and may submit, in its discretion, interim reports to the President and to the Congress with respect to these matters.

SEC. 5. For the purpose of conducting all studies, reviews, inquiries, and investigations deemed necessary by the Board in carrying out its functions and activities under this Act, the Board is authorized to utilize any official reports, documents, data, and papers in the possession of the United States Government and its officials; and the Board is given power to designate and authorize any member, or other personnel, of the Board, to administer oaths and affirmations, subpena witnesses, take evidence, procure information and data, and require the production of any books, papers, or other documents and records which the Board may deem relevant or material to the performance of the functions and activities of the Board. Such attendance of witnesses, and the production of documentary evidence, may be required from any place in the United States, or any territory, or any other area under the control or jurisdiction of the United States, including the Canal Zone.

SEC. 6. In carrying out its functions and activities under this Act, the Board is authorized to obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of title 5, United States Code, at rates not in excess of $200 per diem.

SEC. 7. Upon request of the Board, the head of any department, agency, or establishment in the executive branch of the Federal Government is authorized to detail, on a reimbursable or nonreimbursable basis, for such period or periods as may be agreed upon by the Board and the head of the department, agency, or establishment concerned, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions and activities under this Act.

SEC. 8. The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 9. The Administrator of General Services or the President of the Panama Canal Company, or both, shall provide, on a reimbursable basis, such administrative support services for the Board as the Board may request.

SEC. 10. The Board may make expenditures for travel and subsistence expenses of members and personnel of the Board in accordance with chapter 57 of title 5, United States Code, for rent of quarters at the seat of government and in the Canal Zone, and for such printing and binding as the Board deems necessary to carry out effectively its functions and activities under this Act.

SEC. 11. All expenses of the Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the Chairman of the Board or by such other member or employee of the Board as the Chairman may designate.

SEC. 12. Any provision of the Act of August 11, 1939 (53 Stat. 1409; Public Numbered 391, Seventy-sixth Congress), or of any other statute, inconsistent with any provision of this Act is superseded, for the purposes of this Act, to the extent of such inconsistency.

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Any sum appropriated to carry out the provisions of section 2(a) shall remain available until expended.

---

[From the Baltimore Sun, Apr. 15, 1970]

CANAL REPORT WILL LACK DATA ON ATOMIC BLASTING

(By Richard Basoco)

WASHINGTON, April 14.—After five years of study and the expenditure of $22.5 million, the Atlantic-Pacific Inter-Ocean Canal Study Commission will be unable to suggest the feasibility of using nuclear excavation techniques when it submits its final report on a new canal through Central America.

John P. Sheffey, executive director of the canal commission, said today that "political constraints and budgetary problems" at the Atomic Energy Commission have made it impossible to collect the kind of data required to make a responsible recommendation regarding the use of nuclear explosions to create a "second" Panama Canal.

The AEC's nuclear cratering test program "has fallen behind the planned schedule so that the [canal] commission won't have enough information to find it either feasible or unfeasible," Mr. Sheffey said.

If construction of a canal across Panama—where two routes are under consideration—or across Colombia were deferred "for a large number of years," he said, the use of nuclear energy may be feasible, Mr. Sheffey said.

But, he added, if a decision were made to go ahead with a new canal project in the near future, "there is no question about it, it would have to be done through conventional excavation." A canal project would have to be delayed "a minimum of ten years" for nuclear blasting to become a realistic alternative, he said.

Created in September, 1964, the commission is scheduled to submit its final report to President Nixon by December 1, 1970. Congress charged it with the responsibility of recommending which of several possible routes for a new canal seemed preferable, and to consider, in reaching that conclusion, the feasibility of using nuclear excavation methods.

Mr. Sheffey said that the commission's total authorization for its work was $24 million and that he expected it would return some $1.5 million to the government. Most of the $22.5 million that will have been spent by December 1, he said, was allocated to extensive field surveys which probed the difficulties involved in the use of nuclear excavating techniques.

Most of the data required to assess conventional excavation methods was already available he said, but the possible use of the atom required studies of wind currents, the food chain from plant to animal to man, and the like.

But the Atomic Energy Commission was able to conduct only two significant tests, Mr. Sheffey said, when at least five had been anticipated and more than that preferred.

John Kelly, an AEC official involved in the testing program, said, "We are encouraged by what we've been able to do," but conceded that not enough experiments have been conducted to make realistic recommendations.

He said his agency has conducted about half a dozen nuclear cratering tests and "a substantial number" of cratering tests with conventional explosives, such as TNT.

SEVERAL MILLION PER TEST

But much more testing with higher yield nuclear blasts are required and they are more expensive, he said. There is no money for any excavation testing at all in the AEC's budget for fiscal 1971, he said, although the current budget had more than $7 million for that purpose.

Each of the tests conducted, Mr. Sheffey said, "runs several million dollars."

Both Mr. Kelly and Mr. Sheffey expressed the hope that the AEC's test program would continue, although Mr. Kelly suggested that one reason no funds were provided in next year's budget was that the data would not have been available for the canal commission anyway and the urgency for continuation of the testing had therefore melted away.

COMPARISON ESTIMATE

A new canal dug by conventional means would take some 10 to 15 years to complete at a cost of perhaps $3 billion, while, "if everything went perfectly," Mr. Sheffey said, nuclear excavation would take six to nine years and save about $1 billion.

The difficulties in negotiating the use of nuclear devices, however, could mean that the length of time from inception of the project to completion might not be any shorter than by conventional means, he added.

The present canal is reaching the point of saturation usage by shipping and is too small to accommodate either the large tankers or big aircraft carriers already afloat.

---

## TEXTILE IMPORTS

Mr. TALMADGE. Mr. President, we are all familiar with the textile import problem. Pending in the Senate is legislation, of which I am a sponsor, to establish import quotas and slow down the excessive flow of cheap, foreign-produced goods—

principally from Japan—into the United States. Moreover, in the House of Representatives, more than 250 Members have signed import control bills.

This is a tremendous show of force and concern about a problem that has reached critical proportions. It is a problem that cannot be ignored any longer.

The President recently indicated that he would withdraw his previous opposition to import control legislation. This was a very encouraging sign. It prompted the Atlanta Journal and the Atlanta Constitution to issue editorials favoring the President's apparent decision.

This means jobs to American citizens who are being put out of work because of foreign competition—at a time when unemployment in the United States already is becoming perilously high. The Atlanta Journal expressed it well in stating:

We no longer are rich enough to sacrifice local payrolls for international ideals.

This is a problem that is particularly acute in Georgia. Textiles and apparel compose the State's largest employer, providing jobs for more than 180,000 people. So far this year, textile employment in Georgia is down nearly 5,000 from 1969.

I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Atlanta Journal, June 15, 1970]

TEXTILES NEED HELP

The word from Washington is that President Nixon is favorable to the idea of quotas on textile imports.

This suits us.

It is a good idea as this is the leading Southern and Georgia industry. The textile payroll is basic to this state's economy and the textile industry is unhappy.

The chief reason is the entry into this country of foreign goods produced more cheaply than we can produce the same goods. Efforts to bring about voluntary restraint here have failed, due mainly to the Japanese refusal to voluntarily control their exports to us.

So? Voluntary controls having failed, the President is willing to go along with mandatory ones, a thing desired by textile men.

This is good if you think that what is good for textiles is good for this country, and at this time and from Georgia's point of view this is true.

However the move will be resisted by those in favor of freer trade to build up the economies of other nations and good will around the world for Uncle Sam.

The point of view of these people is thoroughly admirable, of course, and from the long term point of view they could be right.

However this view is a luxury only the rich can afford, and we no longer are rich enough to sacrifice local payrolls for international ideals. There also is the sound argument that Japan, the chief beneficiary of our generosity, may be in better economic shape today than we are.

There is also, of course, the political angle.

This administration seeks Southern favors, and this is a very good way to gain the friendship and gratitude of an important bloc of Southerners.

Textile employment in Georgia is off nearly 5,000 over this time last year. We'd all be very pleased to see these people back at work and hope these restrictions will help bring this about.

[From the Atlanta Constitution, June 16, 1970]

THE TEXTILE TRADE

The problems of international trade among nations are with us yet, ranging from Britain's possible entry into the Common Market to the current hassle over textile imports from Japan.

The textile controversy is particularly pertinent to Georgia; the textile industries are the state's number one employer, providing more than 180,000 jobs.

President Nixon indicated this week that he will likely withdraw opposition to action to restrain the flow of foreign textile goods—primarily from Japan—to this country. It means, probably, that Congress will indeed pass legislation limiting textile imports to this country.

It's our view that, in the long run, all such limitations on international trade are self-defeating.

That is, industries in this country must be able to compete on a cost basis with similar industries in other countries. Yet . . . and it should be said . . . objectively, there are situations in which some countries are able to compete because of their relatively low wage scale.

Mr. Nixon pledged during his campaign that, barring some voluntary agreement on the part of textile-exporting countries (like Japan), that he would go along with legislation to restrain the import into the United States of some textiles, primarily woolens and synthetics. (There are already such controls on cottons.)

Japan has refused to agree to any voluntary controls in this area. On this basis, we think President Nixon is right to withdraw his opposition to congressional action.

## VICE PRESIDENT AGNEW'S REMARKS AT ITT SEMINAR

Mr. GRIFFIN. Mr. President, on Wednesday, June 17, Vice President AGNEW spoke at the annual ITT seminar here. I ask unanimous consent that the text of his remarks be printed in the RECORD.

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

ADDRESS BY THE VICE PRESIDENT

You have heard this morning some very perceptive and lively analyses of the nature of power and decision-making in Washington. This afternoon, you will consider some of the more urgent problems and several of the more controversial institutions of our government. My comments today will be addressed to what correlates the problems and the institutions—the governmental system. It is through the system that we ultimately bring together our problems, our people and our institutions in such a way as to make a resolution of our difficulties possible. I shall concentrate specifically on changes in the system, because the efficacy of the system is a topic of great importance to most Americans today, in particular, the young. There are a few who attack the system and demand its elimination, but I have been greatly encouraged in recent months by those students and other young people who have announced their resolve to work, as they put it, "within the system." Their task will not be easy. Indeed, most of them know this already, for many of them tried two years ago to get candidates of their choice elected, and they were defeated. But they have not given up, and I praise their willingness to try again.

It is not only their willingness to work within the system that I commend, but also their great desire to change that system for the better.

And here I should like to say that we in the Administration have also been trying to change the system for the b ter. We recognize that institutions and their relationships cannot remain rigid, that they must alter with the changing circumstances of those they serve or they will cease to serve.

To begin, this Administration has been particularly concerned with the relationship of the Federal government to the state and local governments. It is this relationship that is the fundament of our Nation' government, and for this reason President Nixon has made it the heart of his program, The New Federalism. Recognizing that too much power had over the years become centralized in Washington through the power of taxation, this Administration has proposed that a portion of its revenue be given back to the states and cities. Our federal system requires strong state and local governments, but they cannot meet their responsibilities if they do not have the adequate resources. We propose to give them those resources.

Revenue sharing is not the only program, however, through which we are trying to realign the balance between the state and local governments and Washington. In the Family Assistance Program there are provisions that put new emphasis on state and local management of manpower training efforts. Earlier Administrations tended to place the power and control of these programs in the hands of those in the Federal government. We are trying to reverse that trend.

On the other hand, we feel that in specific areas it's better if the Federal government take over certain functions earlier left to state and local government. In particular, this Administration was worried by the lack of equity in welfare payments, which varied widely from state to state. We felt that the Fedearl government had a responsibility to assure that all beneficiaries under this program received fair and equal treatment, no matter where they lived. Consequently, we are moving toward equalizing the benefits of the welfare program across the nation. We attempt this not through blind allegiance to any political ideology, but out of a desire to assist all the citizens of this country to become self-sufficient and productive.

A second area in which this Administration has worked to improve the governmental system is in the relationship of the individual citizen to his government. In the matter of welfare, for instance, the programs that had accumulated prior to this Administration were often degrading to the recipient, always confusing. President Nixon has taken bold steps to simplify the welfare program. He has proposed a minimum income for every family in America. He has proposed reform of the food-stamp, rent subsidy and other assistance programs. He has proposed a comprehensive package of health services for all poor families with children. He has done this in order to help the needy citizen to obtain the best assistance in the simplest way. And again I stress, he has done this not out of allegiance to some ideology, but in order to aid more effectively those who need help.

A totally different matter, yet one that also affects the relationship of a citizen to his government is the matter of the Electoral College. The President has pledged his support of Electoral College Reform, and he has demonstrated his willingness to compromise on methods which will achieve the desired result. He has done this because he knows that in order to have confidence in his government, every citizen must have confidence that his vote will be weighted equitably in the final tally.

One final topic can be mentioned here: the issue of the 18 year old vote. I have repeatedly said, and I continue to believe, that America's most valuable resource is her

young people. The greatest challenge facing American government is to find ways to render that resource productive—ways which satisfy both the idealism of youth and the practical demands of governing the Republic. By lowering the voting age to 18, the Federal government can encourage young people to direct their tremendous energies toward constructive participation. The President has asked that a top-level study be conducted to determine how best to effectuate the extension of the franchise to this group of citizens.

As Governor of Maryland, I supported a Constitutional reform to allow 18 year olds to vote. My position on the issue has not changed. If a man is old enough to serve his nation at arms at 18, is he not old enough to vote? If a woman is considered mature enough to enter a lifetime contract of marriage at 18, is she not mature enough to vote? The voting age should be lowered, and I believe that once our young people can sound off at the polls, there will be less need to sound off in the streets. They'll have the chance to be counted where it counts.

These are changes that this Administration has already made or is considering presently. They are changes that affect the system as a system. They will alter the relationships at the Federal government to the state and local governments, and of the citizens to his government. Such changes are important.

But they will have little significance, if the citizens themselves show no concern. And that is why I am so encouraged by the positive involvement of most of the young people in this country. They are showing a spirit of inquiry and concern, a spirit that will not accept the institutions of the past unquestioned. They are proposing changes and they are working to effect those changes. They have shown an unprecedented interest in political affairs. They have revealed a determination to become active participants in our government. This activity is positioned on the assumption that politics is important and demands the attention of all citizens. It is a new attitude, a trend away from the traditional view that politics is a dirty business fit only for the politicians. I welcome it. I welcome this new interest in politics, and I should like to urge all citizens to join in the current examination of our government, to join in our efforts to reshape this one part of our American system.

These efforts are not easy, and I must add two words of caution to those who would bring change into our system. First, change comes slowly. This can be frustrating, especially to young people with high hopes. To those who believe in the rightness of their cause, the inertia of the system may appear to be a brutal weakness. But I submit that what appears to be a weakness is in reality a strength. I will concede that sometimes beneficial changes are impeded by the structures of our government, to the detriment of the Nation. But for every good proposal that is hindered, ten bad ones are sufficiently retarded that the citizens and their representatives can take the time to consider them and ultimately to reject them. That is why the men who wrote our constitution took great pains to build into our fundamental law impediments to rapid alteration, and the history of our Nation, guided by the concepts that form the oldest written constitution in the world, is proof that those men were wise.

My second word of caution refers to the principle on which our government is based, the principle of majority rule. In a democracy like ours change cannot come without majority consent. It is not enough to dissent if you want new laws, new structures, or new men. Concern about the issues and a desire for reform must be coupled with persuasion. Here it is that I must urge some of my countrymen to refrain from thinking that if they are not heeded, they have not been heard. It is one thing to be listened to, another to be obeyed. Those who are deeply concerned about substantive issues will often find that others disagree, not because these others do not understand, but because they feel honestly that a different path is better. The fair-minded man will recognize this fact. Nothing is more vital to the functioning of a democracy than a generous spirit of compromise, a willingness to yield to the wishes of the majority and to do so without rancor, without harboring the bitter thought that we have not been heard or understood.

It is vital that we retain a faith in the basic soundness of our governmental system, even when distressed by its decisions. And I refer not only to decisions of such a nature that no one can say with certainty that they are right or wrong. I refer even to decisions that are wrong. In 1920 our constitution was amended to forbid the sale of liquor in this country. In 1933 that act was nullified. Certainly one of those decisions was a bad one. But is there anyone who would therefore discard our constitution, because it proved a vehicle to error?

And that is the issue today. Will the critics of the war in Vietnam condemn our entire governmental system because of their belief that this war is wrong? I am confident that the majority of them will not, for they, as well as I, realize that it would be folly. I, for one, believe that our presence in Southeast Asia is warranted, is necessary, is moral. But let that pass. Much more do I believe that our system of government has proven itself to be the surest legal instrument to human welfare that the world has ever known. I do not say that it can give us happiness, for it cannot, and that is why I have called it a *legal* instrument to human welfare, for its laws provide the framework within which each one of us can pursue his own happiness. In our belief, this is the fundamental role of government, to give the citizen the greatest possible opportunity to lead his own life in a way that he sees fit. It is toward this end that our proposals for changes in the governmental system are aimed, and we believe that the energetic young people of this country who are dedicating themselves to working within the system, have the same goal that we do. We ask them to join us.

## THE DEBT CEILING

Mr. BYRD of Virginia. Mr. President, on Thursday, June 18, Secretary of the Treasury Kennedy and the Budget Director, Mr. Mayo, testified before the Committee on Finance.

They advocated that the ceiling on the national debt be increased $18 billion—from the present $377 billion to $395 billion.

I ask unanimous consent that some of the questions put to them, and their replies, be printed in the RECORD.

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

Senator BYRD. Thank you, Mr. Chairman.

Mr. Secretary, I think the debt ceiling is a very important tool that can be used to hold down government spending. I think this very hearing today is of considerable importance because it focuses, or should focus, attention on the fact that while the public has been given the impression that we are operating somewhere near a balanced budget, the government actually is operating under a very heavy deficit.

Now, am I not correct that your federal funds deficit for the fiscal year which ends the 30th of June, the end of this month, will approximate $11 billion.

Secretary KENNEDY. That is right, Senator.

Senator BYRD. So the federal funds deficit will be $11 billion for this fiscal year which ends the 30th of June.

Secretary KENNEDY. That is our present estimate, that is right.

Senator BYRD. Now, according to your estimate, as I understand it, the federal funds deficit for fiscal 1971 you estimate to be a little over $10 billion.

Secretary KENNEDY. About $10 billion, that is right, Senator.

Senator BYRD. So this year we will have a deficit of 11 billion, next year we will have a deficit of more than $10 billion.

Secretary KENNEDY. On a federal funds basis.

Senator BYRD. On a federal funds basis.

So I think it very important that the general public understand that, understand that we are nowhere near a balanced budget. The only way that we can be construed as being anywhere near a balanced budget is by taking the roughly $9 billion of surplus in the trust funds, and applying that against the federal funds, and yet the trust funds consist, for the most part, of social security funds and, secondly, of highway funds.

Now, if the Congress approves your request for an increase of 18 billion dollars in the debt ceiling, will this not mean that the debt ceiling has been increased by $30 billion within the last 15 months. Or to put it another way, did not the Congress increase the debt ceiling at your request last year by $12 billion?

Secretary KENNEDY. That is right.

Senator BYRD. What month was that done, do you recall.

Secretary KENNEDY. It was about this time of the year, but it was earlier than that April.

Senator BYRD. April.

Then in a matter of 15 months, assuming the Congress acts favorably on today's request, the debt ceiling will have been increased by $30 million in a matter of 15 months.

Secretary KENNEDY. That is the peak debt ceiling, the peak to which we can go. The standard debt ceiling was not increased last year but we are proposing an increase this year.

Senator BYRD. Yes.

Well, in any case, does this not dramatize that the government is operating heavily in the red, that we are nowhere near a balanced budget? Does it not dramatize the fact that the government is spending way beyond its means, and is coming to the Congress to increase the debt ceiling so as, as you express it, to restore much needed confidence in the business community.

Secretary Kennedy. Under the standard or the definition that Congress has set for the debt limit we must have this kind of an increase with our budget prospects because the debt limit is, as it is on the statutes today, consistent with the federal funds basis. The other measure that you talk about, the trust funds, is a measure that determines the effect on the economy of the total of all government operations. It is a measure of whether the government itself, including the trust funds, is taking out of or putting into the economy funds. On that basis, we are in a position now in the budget of a slight deficit. On the basis of the statutory debt limit we are in a position of a larger, large deficit.

Senator Byrd. You stated that the enactment of this legislation would "restore much needed confidence in the business community."

Secretary Kennedy. Well, the point there, Senator, that I had in mind is that the confusion that we may have over not extending this, and what would happen if it were not extended would cause chaos in the financial markets because come June 30, when we are

over the debt limit, we will actually be over the debt limit, we would not be able to finance in the market legally Treasury bills, notes or bonds and which would mean we would just not be able to pay bills.

Senator Byrd. I concur in that context of restoring confidence in the community, but it seems to me the very fact that you have to come here and seek an $18 billion increase in the debt limit, that you come here and point out, as you must do, that there will be an $11 billion deficit this year, and at least a $10 billion deficit next year in the federal funds, it seems to me that is not going to restore confidence in the business community. As a matter of fact, as these figures become better known, and I don't think they are known, as these figures become better known, it seems to me that it is going to decrease confidence in the business community.

Senator BYRD. May I ask the Budget Director this question: Mr. Mayo, the Department of Health, Education, and Welfare has sent to the Congress a new welfare program that is before this committee now. The cost will be, in round figures, approximately double the cost of the present welfare program.

My question to you is this: Do you think the Government can afford, at this particular time, to double the cost of welfare?

Mr. MAYO. We have a very serious problem in our welfare program. Although we are putting quite a bit of money, as you have suggested, into that program, we do not feel that in its present stage it is an equitable program, nor do we feel that it gives proper encouragement to the underprivileged who are working but are still in the poverty category, for them to get out of their present status.

We need to encourage them in many ways through manpower programs, child care centers, indeed to try to discourage breaking up of homes. That has been one of the unfortunate attributes of the present program.

This will require additional money. The major burden of it, because of even greater stresses at the state and local levels, the major burden must, if we are to do this, fall on the Federal Government.

As to whether we can afford it, I think the answer is, yes. If in the process of our need to do something like the Family Assistance program, our need to finance a huge water pollution abatement program, to meet dozens of other——

Senator BYRD. That is not part of the welfare program.

Mr. MAYO. No, no.

Senator BYRD. Let us stick to the welfare program.

Mr. MAYO. Let me finish my sentence, if I may. In order to finance the great needs that are being pressed upon us at this time, we have to reexamine our position and our revenue structure. I think we have to face up to just that in order to impress upon everyone in this country that if we want these things we must pay for them.

I am spiritually with you, Senator Byrd, that we do not want to get into the business of, well, we want these things, we do not want to pay for them, let us just go ahead and increase the debt some more.

Senator BYRD. I feel that our present welfare system is outmoded, outdated, needs to be modernized, it must be changed. But I feel that if we are going to change it, we want to be sure we change it for the better and not for the worse.

Mr. MAYO. Yes, sir; I agree with you.

Senator BYRD. I still am concerned as to whether, with the Government's finances being what they are, and in my judgment we are in bad shape fiscally, I have considerable doubt as to whether we should go into a welfare program that will cost double the present welfare program. I just wanted to get the view of the Budget Director as to whether, in his judgment, we can afford at this time, or should at this time, double the cost of welfare.

Mr. MAYO. My opinion is that we have to go ahead with the program such as this, Senator Byrd. I am one of those who wants to move cautiously here. I want to see us develop, just as you do, the best way of doing this, and I know you just do not like things better because they are postponed, but I will say that in fiscal 1971 we are not ready fiscally to go into this new program, nor are we ready on many other grounds.

I do not want to see us leap into something where we have not examined very carefully not only the philosophy but the operation of this program.

We are guilty in the United States in not just welfare but in so many other areas of being so perceptive that we see a problem, that is fine. But then we tend to stand up and throw money at it and hope that the problem will go away. This is one of the reasons why the President has felt so strongly that he must stress even more the management of the Government in the new office within the Executive Office of the President because if we do not get ahold of our delivery systems and make them work, we are indeed wasting billions of dollars of the taxpayers' money.

Senator BYRD. Let me ask you this question: How do you reverse the trend to the welfare state by increasing the welfare rolls from the 10 million persons to 24 million persons?

Mr. MAYO. Many of the additions to those rolls are purposely in trying to bring in further incentives to those in the poverty areas, to make it on their own either through manpower training, giving them some encouragement to try to give them some light at the end of the tunnel, not just pay more money. That is why we are doing it this way.

Senator BYRD. I received a letter from the Governor of California in which he said that under the present welfare system, 8 percent of the population of his state is on welfare, and if the Finch proposal is enacted, 14 percent will be on welfare. Here again I find it difficult to understand how we reverse the trend to the welfare state by so substantially increasing the welfare rolls.

Now, let me ask you this: You have started a new system which, I think, is a good one, where you list the total for the initiatives in the upcoming budget——

Mr. MAYO. Yes.

Senator BYRD (continuing). Of the 1971 budget, the one we are working on now; and then you carry that forward to 1975, which is a four-year period.

Mr. MAYO. Yes, sir.

Senator BYRD. I think that is very helpful.

Now, as I understand it, the initiatives, namely new programs, in the current budget, the budget Congress is now working on, fiscal 1971, will total $3 billion.

Mr. MAYO. That is correct.

Senator BYRD. And these same initiatives will grow to $18 billion in the next four years?

Mr. MAYO. That is our best estimate at this time. We thought it was high time, Senator Byrd, that we not only described the nose of the camel but the entire animal.

Senator BYRD. I think that is a very desirable thing to do, and very important and I, for one, am glad that you have done that.

It does show that in that four-year period that these new initiatives will increase say, 600 percent, from $3 billion to $18 billion and that, of course, is a very substantial increase and of considerable interest to the taxpayer.

Mr. MAYO. Yes, sir.

Senator BYRD. May I ask you the figure in the fiscal 1971 budget for the interest on the public debt, just in round figures?

Mr. MAYO. Yes. The figure, as I recall it, is $19 billion for the fiscal 1971 budget.

Senator BYRD. $19 billion.

Mr. MAYO. Yes. It is what it was when we made the estimate in January. It is now $20 billion even, I believe, with the revisions we published in May 19th.

Senator BYRD. Let me get this straight now. Fiscal 1971 will call for interest payment of $20 billion?

Mr. MAYO. I believe that is correct. Yes, $20 billion.

Senator BYRD. $20 billion. What were the interest payments for fiscal 1970?

Mr. MAYO. Let me see here. Current estimates, $19,350,000,000.

Senator BYRD. $19.3 billion. What have you for fiscal 1969?

Mr. MAYO. $16.6 billion.

Senator BYRD. Fiscal 1968?

Mr. MAYO. $14.6 billion.

Senator BYRD. So that in that four-year period—fiscal 1968 through fiscal 1971, that four-year period, the interest on the debt has increased from $14.6 billion to $20 billion?

Mr. MAYO. Yes, sir.

Senator BYRD. An increase of $5.4 billion or percentagewise in that short period of time it has increased about 40 percent.

Mr. MAYO. Yes; that is correct.

Senator BYRD. 40 percent in that short period of time.

So am I correct in this assertion that the $20 billion interest charge figure in the fiscal year 1971 budget will be the second highest non-defense item in the budget, the highest being for HEW?

Mr. MAYO. I think that is a correct statement, lumping it in that way.

Senator BYRD. And for that $20 billion the taxpayers get no programs, and they get nothing for that interest payment of $20 billion.

Mr. MAYO. Well, they are paying, in a sense, Senator Byrd, for programs that they wanted earlier before they could afford them.

Senator BYRD. They are paying out in interest charges, the wage earners are paying out in interest charges $20 billion, for which he receives no precise program other than the privilege of paying the interest on the debt. Some way or other we have got to get our fiscal house in order and, in my judgment, it is not in order.

## SPEECH BY KENNETH N. DAVIS

Mr. THURMOND. Mr. President, in a speech delivered in New York on Thursday, June 18, 1970, Kenneth N. Davis, Assistant Secretary of Commerce for Domestic and International Business, stated that certain assistants to the President of the United States are doing a "disservice" to the President in the advice they are giving him in respect to the Mills bill. In doing this, Mr. Davis performed a courageous act.

This man, who has impeccable credentials as a businessman, felt that it was his obligation to stand up and to speak his mind concerning the political intrigue surrounding the efforts to curb excessive textile and footwear imports. He did this to alert the President, to make him aware. He did not do this to embarrass the President, but to help him.

Mr. President, I have a copy of the address that Mr. Davis gave in New York. It required courage to deliver this address, which was not an official statement but one of his own convictions.

I ask unanimous consent that Mr. Davis' speech be printed in the RECORD.

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

THE CONSUMER, IMPORTS, AND THE U.S. ECONOMY

Gentlemen, this is the most difficult and important speech I have yet given since joining the Nixon Administration 15 months ago. Because, today I am trying to reach you, but I am also trying to reach the President. You have heard some Cabinet officers say they cannot reach him and you have heard his own staff say that he is accessible, but of course can't always see everyone who has a legitimate need to see him. The problem is obviously one of priorities, and Vietnam, Cambodia, and the Middle East have necessarily had first priority on the President's time schedule in recent months. But let me tell you, the big issues do get through, and when they do and are presented well, the right decisions are made. I have been in a lot of decision meetings during my business career—meetings like the ones you men know so well—and I've seen a lot of able executives at work running these meetings. I have also been in enough meetings with our President now to have tremendous respect for his ability to reach the right decision after he reviews all of the facts, opinions and estimates. This is why I have confidence that he made the right decision on the move into Cambodia—I have no greater military knowledge or competence than you, but I have seen how the President goes about making a decision. If it was humanly possible to make a right decision on Cambodia, I believe that the President made the right one.

A MAJOR ECONOMIC DECISION FOR THE PRESIDENT

In the next few days the President must make a decision in the field of foreign economic policy that relates most importantly to your consumer conference. He must decide whether to back the so-called Mills Bill, which would create Presidential authority to limit the imports of textiles, apparel, and footwear. This bill has been branded by a carefully organized opposition as an anti-consumer bill that is not in the national interest. I am here today to do my best to convince you, and through you, help convince the President that this should not be looked at as an anti-consumer bill at all, but rather as legislation that is of crucial importance to the well-being of the American economy. And a healthy economy is what we all need most, both as citizens and as consumers. After Vietnam, the overriding concern of the nation's leaders today is the state of the economy—you know how deeply the President feels about this from his statement yesterday.

I am convinced that one of the most important direct steps that must be taken if we are to preserve our economic strength is to stop the deterioration of those of our major domestic industries which are being unduly and unfairly impacted by foreign imports. I am referring to a few huge industries with hundreds of thousands of employees whose jobs are at stake. Textiles and apparel have 2.5 million workers (1 out of 9 of all U.S. factory employment) and these industries have lost 65,000 jobs in the last year rather than growing to provide the additional jobs the nation needs. Their workers are consumers just like all of us. An unemployed consumer is not a good customer for any company's product—domestic or imported. A U.S. economy with high unemployment cannot and should not be tolerated, particularly if an excessive flood of imports is a major cause.

THE ISSUES BEFORE THE PRESIDENT

Some press reports have played up the political and foreign relations aspects of the Mills Bill. They have said that in taking his position on this bill, the President must choose between southern textile interests on the one hand, and foreign relations interests with Japan, a vitally important friendly nation, on the other hand. Will he put the so-called "Southern Strategy" ahead of the best interests of the nation, they ask? This is not the real decision before him at all—I am convinced—and those in business and government who are playing up the political and foreign relations aspects of his decision are doing a serious disservice to the President. I want to say a bit more about these people whose campaign could mislead the President, but first let's examine the merits of the case.

MAJOR DOMESTIC INDUSTRIES—THEIR IMPORTANCE TO THE NATIONAL INTEREST

Earlier this week, Senator Norris Cotton of New Hampshire made a ringing statement in favor of the Mills Bill, and this rock-ribbed New Englander quite obviously is not a part of any "Southern Strategy." He is the Republican leader on the Senate Commerce Committee and one of the wisest and most experienced men in government, especially in the fields of business and the economy. The Senator noted that the international business world of the 1970's is a very different one from what we have known in the past—"We have entered a new era of world business competition," he said, and, he continued "There are strong foreign competitors in virtually every field. They have the factories, the labor force, and the financial resources to compete with us across the board. Instant communications, and jet aircraft make it easy for them to reach our markets." "Unfortunately," he said, "many other nations have lower working standards and wage rates than ours and they also have different government ground-rules such as lax anti-trust laws, subsidies, and non-tariff barriers to protect their own industries." In about as strong words as I have ever heard him use, he summed it up this way, "We can no longer afford to squander economic advantage for uncertain political or foreign relations gain. We should hesitate no longer in insisting on fair treatment in trading terms and conditions in all of our international dealings." The Senator went on to explain the seriousness of the U.S. balance of payments deficit and the threat it holds to the very strength of the dollar and the world monetary system. He referred to data which was presented at a major business conference at the Commerce Department last month. Five hundred of the nation's top business leaders met with Cabinet and subcabinet officers of Commerce, State, Treasury and with the President's Special Trade Representative to consider U.S. international business problems and prospects. There was no doubt at the end of that meeting that the nation does, in fact, have a serious problem in its international dealings particularly in foreign trade and especially in certain major industries. I have brought with me today the key chart that we used at that meeting.

U.S. TRADE BALANCE—FIVE MAJOR INDUSTRIES

Here you see that for 5 industries alone—automotive, steel, textiles and apparel, radios and TV, and shoes—we have gone from a one-half billion dollar surplus to a $4½ billion deficit between 1964 and 1969. This $5 billion deterioration has wiped out the surplus needed to cover overseas travel, foreign aid, and other government expenditures abroad, not to mention foreign investment by our companies. Foreigners are piling up more and more dollars which they could one day decide to cash in. With increasingly strident voices, foreign bankers are telling us that we must cure the U.S. balance of payments deficit if we are to maintain world confidence in the dollar and order in the international money markets. Put in another way, they might say, "How long can you expect us to give your consumers the benefit of low-priced imports while we pile up dollar holdings? The U.S. must earn as much as it spends just like everyone else, and do it soon."

Gentlemen, the best way to answer this charge is to "earn" more through technological innovation and increased exports. But it is clear to me, after being deeply involved in the extensive export promotion programs of the Commerce Department and studying the full range of American industry, that exports cannot be made to grow fast enough, nor our foreign income increased rapidly enough, nor new technology introduced quickly enough to offset the massive flood of imports which is engulfing these industries. The effect on employment is far too great. Conservatively estimated, if we had been able to retain the lost production represented by the $5 billion trade balance deterioration here in the United States, it would have meant another 400–500 thousand jobs for our economy. Fortunately, all that need be done is to moderate the growth rate—not turn back to the protectionism that ruined world trade in the 1930's. One point I want to underscore right here is this—every serious U.S. Government proposal including the Mills Bill—has called for foreigners to share with us fully in the growth of our market. The U.S. is by far the largest and most open market in the world. It is not "protectionism"—I repeat is not "protectionism"—to offer to share in the growth of our great market. This is the key point that the President should emphasize, I believe, in making his decision on the Mills Bill. He should feel no embarrassment at all in asking other countries to refrain from building factories on the assumption that we will close modern, efficient facilities here. He need not ask other countries to reduce their employment and they should not expect us to do so either. He should point out to these other nations that it will be to no one's advantage anywhere if the U.S. economy loses its vitality. Our market and our industry must continue to expand and prosper for the good of all of the world's producers and consumers.

I could give you many statistics to describe the situation in the textile, apparel, and footwear industries. Let me cite just a few. For example, in textiles and apparel there are 35,000 companies spread through all 50 States. There are big garment districts in New York, Los Angeles, and in many other cities. Their factories provide extensive employment opportunities to minority citizens, opportunities which are critically needed in these times which are so troublesome for our cities. The footwear industry actually faces an even more serious economic situation than textiles and apparel. Imports have skyrocketed in the last few years, increasing from a few million pairs of shoes in the early '60's to over 200 million pairs in 1969. Employment has been steadily declining in this industry of some 600 companies, even though the overall U.S. shoe market has been growing even faster than our population growth. In such areas as St. Louis and Boston, whole communities have been hard hit by the shoe industry's difficulties. The Mills Bill would by no means assure an easy future road for these industries. Instead it would only moderate the impact of foreign competition, which will inevitably continue to grow. It would give the industries and the government valuable time to work out ways to adjust to the new global marketplace.

THE OPPONENTS OF THE MILLS BILL

I referred earlier to the organized campaign against the Mills Bill and those whom I believe are doing the President a disservice in the way they are presenting the pros and cons of this legislation to him.

What about the organized campaign? Who is behind it and what are their interest? You need only review the list of witnesses before the recent Ways and Means Committee hearings to find out who is against the Bill. The strongest opposition has come from the so-called ECAT group—the Emergency Committee for American Trade. Here is one of their brochures which has been given wide distribution—"Trade War—No Power, No Glory, No Need." This group is composed mainly of international companies and banks

which quite sincerely believe that any form of protection for domestic U.S. industry will injure their own interests in expanding their overseas busnesses. Much of this group's action has been acceptable, although very one-sided in its approach. However, some things they have done have seemed to me to be highly unfair. In particular, when this group engaged in talks with the Japanese government on possible solutions to the textile problem without including any member of the textile industry in their discussions, it seemed very wrong to me. The resulting publicity and confusion has hurt rather than helped to bring about a solution. If I were a member of the textile industry, I would have objected strenuously to this action as unjustified meddling in my business.

Another group that has been very active has been the U.S.-Japan Trade Council. You may have read that last week Congressman Byrnes, the ranking Republican on the Ways and Means Committee, labelled this organization as a "front" for Japanese interests. They had appeared before his Committee claiming to represent 800 companies, but failed to disclose that 98% of the funds which they spent for publicity, promotion, and lobbying in 1969 came from the Japanese government—a total of over $350,000 essentially for propaganda to convince the American public that unlimited Japanese imports should be permitted. Their so-called member companies pay only nominal $10 or $20 dues and do not participate in any way in running the Council. Here is some of their literature—"How much would textile quotas cost the United States?", the "U.S.-Japan Agricultural Newsletter" (showing an editorial opposing textile quotas in the first paragraph), and an American Retail Federation folder favoring unlimited imports which was given wide dissemination by the U.S.-Japan Trade Council. Gentlemen, I don't know how much impact this organization has had on the American consumer and farm groups which now oppose the Mills Bill. I do know that the American public does not like to be deceived; and that this organization has been far less than open-and-above-board in its recent conduct.

Just one more comment on how this issue has been presented to the President so far, and then I will conclude my statement to you. Unfortunately, the President's time is so limited that there has been only one opportunity for industry representatives to meet with him personally since he took office. The textile people met with him two weeks ago and the shoe industry almost a year ago. He has, of course had reports from the various agencies and from key White House Staff people. But from what I have seen of the material prepared for the President and from what I have observed in the actions and attitudes of many officials outside the Commerce Department, I do not believe that the fundamental economic issues which are at stake have been adequately presented to the President yet. I am hopeful that his review of what has gone on before the Ways and Means Committee and also statements like Senator Cotton's and my own to you here today will help him weigh these fundamental issues in reaching his final decision.

CONCLUSION

And now I want to close with a personal observation. Gentlemen, after 20 years of experience in a major international company and now with over a year to observe the problems of our great domestic industries, I have had a singular opportunity to judge the merits of their respective arguments—pro and con—on import restraints. I am convinced now that the future economic strength of our great nation requires some form of limitation on the rate of growth of imports for a very few key domestic U.S. industries. I am convinced that legislation along the lines of the Mills Bill is needed and I sincerely hope that the President will decide to back both the textile and shoe portions of that bill. Voluntary agreements are not enough to meet the situation. In 16 months we have been unable to obtain a voluntary agreement with the Japanese and we would still have many other countries to negotiate with even if Japan now accepted voluntary limitations.

This will be a most difficult decision for him to make, particulary in view of the unusual, special trip being made here by top-ranking Japanese government officials to dissuade the Administration and Mr. Mills from proceeding with the legislation. It is unfortunate that they may have to return home empty-handed, but it would be far more unfortunate for the United States and the world as a whole if we did not move firmly now to assure the continued strength of the U.S. economy.

## MORE FUNDS NEEDED FOR PROVIDENCE VA HOSPITAL

Mr. PELL. Mr. President, I am alarmed by recent reports that the quality of patient care in our Nation's Veterans' Administration hospitals is deteriorating because of shortsighted and misguided efforts at economy by the Nixon administration.

I, for one, join the Senator from California (Mr. CRANSTON), chairman of the Subcommittee on Veterans, who recently held extensive hearings, and Representative OLIN E. TEAGUE, chairman of the House Veterans Affairs Committee, who has stated his determination not "to sit idly by and allow shortsighted policies to destroy a medical program that is absolutely necessary to care for America's veterans," in support of their effort to provide quality medical care for our Nation's veterans.

Chairman TEAGUE recently sent a questionnaire to the director of each of the Nation's 166 VA hospitals. The report he received from Dr. James A. Black, director of the Providence, R.I., VA hospital, is dismaying.

Here I must express my own regard for Dr. Black and respect for the way he is handling his job. I would add that I personally went through the hospital on an unscheduled visit and talked to more than half the patients there. They all had high regard for the care they were receiving. I can vouch, too, for the cleanliness of the rooms, wards, halls, and kitchens. Nevertheless, there is a funding deficiency of more than $650,000 at this 364-bed hospital in Providence, which is responsible for providing health services for 130,000 Rhode Island veterans.

What is more, this workload is expected to increase because many Vietnam veterans are expected to apply for benefits.

Shockingly, Dr. Black reported he will not fill certain presonnel vacancies—positions he terms "absolutely essential to the efficient operation of this hospital"—in an effort to save $161,000 to cover other expenses. Among these unfilled positions are 10 nurses and 12 nursing assistants. Not infrequently one nurse and one nurse's aide are expected to care for 43 to 45 acutely ill medical or surgical patients. This staff-to-patient ratio does not even meet the standards for a medicare approved nursing home, not to mention a hospital.

In addition, the morale of the professional staff is evidently on a downward trend. This is natural enough in view of the frustrations that arise when doctors, nurses, and technicians compare what needs to be done to give good care and what cannot be done because of understaffing.

While our Rhode Island Veterans' Administration Hospital has its problems, reports indicate that the problems of other veterans' hospitals around the country are far worse.

I am told we are approaching the point at which the dedicated physicians and nurses who have been willing to forego the financial rewards of private practice can no longer be recruited. That is simply because the intangible rewards of practicing the best kind of medicine in an environment in which money was not a principal consideration will no longer exist.

I think one further fact also should be brought out. Starving the VA hospitals can only result in veterans and their families losing confidence in them. With the advent of medicare and medicaid, these veterans now have other alternatives. They will seek treatment in private community hospitals at a cost of $60 to $75 a day, exclusive of medications, special treatment, and physicians fees. For the same care, the cost at VA hospitals is less than $50 a day.

The point is, the taxpayers pick up the bill in either case. So there is little economy in this economy move.

Mr. President, the evidence developed by Senator CRANSTON in 6 days of hearings in January shows clearly that the veterans hospitals need more money. Senator CRANSTON has asked the Senate Appropriations Committee for increased funds for the veterans hospitals, and I support him in these moves.

Our veterans hospitals face the same problems as the rest of the Nation's health care delivery system. Everywhere we turn there are shortages of doctors, nurses, medical equipment, physical facilities, and outpatient care. The situation in our veterans hospitals, however, is compounded by the needs of Vietnam veterans.

They are victims of what is probably the Nation's most crippling war. It is estimated that perhaps 10 percent of the men who survived serious wounds in Vietnam would have died in previous wars. Their lives were saved, but they will need for years to come, the care and rehabilitation services of VA hospitals.

I do not believe that returning veterans, or veterans of previous wars, should be volunteered for frontline duty in this administration's so-called war against inflation. I believe one tour of frontline duty is enough.

## THE SUEZ CANAL: A LESSON FOR THE PANAMA CANAL

Mr. THURMOND. Mr. President, one of the vital truths that I have learned since undertaking this serious study of interoceanic canal problems is the interaction between the Suez and Panama

Canals. What occurred at one inevitably had its effect on the other.

The Suez Canal operated satisfactorily in both peace and war from its formal opening in 1869 until its first prolonged closure in 1956. The reason for this was that it was protected by British military forces based in the Suez Canal Zone.

When British troops were withdrawn in the early 1950's as the result of Egyptian demands, astute observers then clearly foresaw and predicted that there would be grave consequences involved. Egypt nationalized the Suez Canal in July 1956 and later the same year following the Anglo-French-Israel attack, closed it and the canal remained closed until April 1957.

Again, in the Arab-Israel war of 1967, it was closed a second time and yet remains blocked, causing enormous losses not only to Egypt but also to world commerce that used the canal. This closure has encouraged the construction of super vessels that can navigate around the Cape of Good Hope more economically than by transiting the Suez Canal and paying tolls. Thus the loss to the Suez Canal of much of its former traffic seems permanent regardless of whether it is opened in the future.

The great lesson to be derived from events at Suez is that vital interoceanic water lines should be controlled by strong powers capable of defending them. As well as anything I know, the experience of the Suez Canal has its lesson for the Panama Canal; the United States must never surrender its sovereign control over that key waterway and its protection frame of the Canal Zone. This is absolutely necessary not only for the defense of the Western Hemisphere, but also for the benefit of world shipping.

A recent summary of Suez Canal history by Noel Mostert should be of interest to all Members of Congress and others who are concerned with Panama Canal problems.

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

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

[From Reader's Digest, May 1970]

SUEZ CANAL—THE BROKEN LINK

(By Noel Mostert)

Three years ago, it was thronged with ships in transit—the jugular vein of world commerce. Today it is a mere trench of war.

Nightfall on the Suez Canal. At Great Bitter Lake, 14 ships lie under the desert stars, their congregated lights a cheerful exclamation in the hostile dark. These, with an abandoned freighter on Lake Timsah, ten miles farther north are the only vessels afloat in Suez, an unhappy distinction they have held since June 6, 1967, when the Arab-Israeli Six Day War trapped them.

On the 10,000-ton British liner *Port Invercargill*, the maintenance crew of 11 men is assembling for a film show. As the credits start to roll, so does a more ominous rumble. Heads turn. "Blimey, they're at it again!" says a young steward.

The roaring increases. Flares soar and light the sky. As the Egyptian and Israeli artillery hammer away at each other from their respective sides of the lake, the ships shudder from the impact of the reverberations. The firing dies at dawn, and the Suez Canal is still again from one end to the other—the fretful, watchful silence of war.

Less than three years ago, Suez was the world's greatest maritime junction. A magnificent achievement, one of the colossal works of man, it cut a broad blue sluice 100 miles long across the barren yellow of the desert isthmus separating the Mediterranean from the Red Sea and Indian Ocean. Thus it provided the shortest navigable distance between East and West, cutting the open-sea journey around the tip of Africa by more than half.

If ever the world could be said to have had a jugular vein, Suez was it, pumping immeasurable wealth across all seas, to all shores. Open, the canal was the axis upon which revolved the stability of world trade. Severed, it convulsed economies, threatened the fate of nations and the peace of the world. In 1966, the canal's last full year of operation, 21,250 ships carrying 242 million tons of cargo—including 40 percent of Europe's incoming oil—passed through Suez. Now it is as ruminatively empty as the tombs of the Pharoahs at Giza. Only the 14 ships (flying the flags of eight nations and ironically spawning an air of international camaraderie) remain patiently at anchor, their once smart paintwork rusty and faded, lingering ghosts of what used to be. Every so often they get up steam to keep the engines ticking over, raise anchor and navigate as far as a few slow turns of the screw will take them. A forlorn, despairing gesture, it is the only movement in Suez.

MAN OF PURPOSE

It was just 101 years ago, in 1869, that the canal opened—and Ferdinand de Lesseps, French diplomat and dreamer, was hailed, much as today's astronauts are hailed, for having changed the geography of the world, breached an impossible frontier.

Until then, passengers and mail had used an overland route between Alexandria and the port of Suez to reach connecting steamers. East-West trade was doubling every decade. But the idea of moving sea traffic across the isthmus (some geologists believe that it was once a strait that slowly silted up) remained dim and discounted—until de Lesseps, a man of astonishing resource, tenacity and charm, took on the Suez project in 1849, at the age of 44.

When Mohammed Said, an old friend of de Lesseps from the latter's days in the diplomatic service, became Khedive of Egypt in 1854, he granted the Frenchman a concession to build the canal. In de Lesseps' concept, the canal was to be a neutral waterway, open to all, and administered by the world's first truly international enterprise—named La Compagnie Universelle du Canal Maritime de Suez. Capital would be raised by selling 400,000 shares, with blocks reserved for the principal powers who used the canal. The concession would last 99 years from the date the canal opened, after which the waterway would revert to Egypt.

Far from pleasing the world, the proposed canal provoked suspicion and hostility. Britain, in particular, saw it as an open door to unfriendly navies challenging her supremacy in the East, refused to buy shares, and put pressure on the Turkish sultan (Egypt was still part of the Ottoman Empire) to quash the project. France refused official support, though more than half the shares were taken up by individual Frenchmen out to twist the British lion's tail.

DIGGING THE BIG DITCH

Undaunted, de Lesseps set about pushing the whole project himself: surveying the isthmus, assessing the complicated assembly of geological and engineering facts, planning the harbors and installations, conducting a diplomatic and publicity campaign, and managing the venture's finances.

At 11 digging stations established at regular intervals across the isthmus, 200 Europeans supervised up to 15,000 Egyptian *fellaheen* (peasants) conscripted by the Khedive to work on the project. They laboriously filled baskets and toted them away on mules or on their own backs. In this painfully literal sense, the canal was Egypt's own creation. The *fellaheen* swarmed across the desert like ants, bearing it away grain by grain, in scenes of wasteful human effort reminiscent of the construction of the Pyramids.

The actual engineering offered no great technical difficulties, except for sheer size. The course, following the natural depression between the two seas, ultimately connected the three large dry lakes, Timsah and the Bitter lakes. Next to building the harbor at Port Said, the biggest job was the transporting of food, water and equipment across the burning desert to the digging stations.

Then British agitation about the "forced labor" of the *fellaheen* brought an ultimatum from the Turkish sultan. All work stopped. But in arbitration proceedings de Lesseps was awarded a huge sum of money, which he used to recruit European workmen and to buy new machinery. Hundreds of dredgers and steam-driven excavators were soon laying a line of smoke across the isthmus—past the mid-point station at Ismailia, and up from the Red Sea exit at Port Tewfik, adjoining the town of Suez. In all, 97 million cubic yards of soil were removed, 19 million by hand. Finally, in August 1869, Red Sea waters were ceremoniously loosed into the Bitter lakes, to mingle with those of the Mediterranean.

HINGE OF THE HEMISPHERES

Despite a slow start, the canal soon flourished. A total of 486 ships used it the first year, but in five years traffic had quadrupled. In 1875—only a few years after she had spurned the venture—Great Britain bought all of the bankrupt Khedive's shares, thus becoming the majority stockholder in the company.

Until now, shipowners had largely stayed in sail, because, on the long route around the Cape, the wind was free and coal wasn't. But, with fuel costs cut by the canal, profit came to lie in steamers. Shipyards hummed, technology advanced, production rose. And, as ship decks widened and draught increased, the canal itself grew: it is now over three times as wide and twice as deep as de Lesseps' original waterway.

The canal soon acquired a romantic aura that lingers to this day. For every traveler the Suez passage was the most emotional and anticipated part of his voyage. When the Eastbound ship nosed into the Red Sea, the strange cultures, exotic landfalls and pungent smells of Asia lay ahead. Conversely, when the Westbound vessel slipped past the Port Said breakwater, the European was home. There was something uncanny about the canal's strange disoriented beauty, a sustained weirdness about moving through the desert aboard ship: a feeling that the blue sea had suddenly turned to sun-sizzled sand even as one continued to glide across it.

The array of shipping at either end of the canal waiting to enter was like no other; a dense composition of masts, funnels, fluttering ensigns; empty tankers as well as stylish liners; a confluence of commerce and craft and continents. All the proliferating imperial trade routes met in the canal: P & O liners, with their rich smell of curry, bearing the mails from India; white British troopships, all bunting and brass, bound for Hong Kong; cruisers, destroyers and gunboats watchfully on guard. When they passed lean, gray and purposeful, passengers of the liners rose from their teacups to stand respectfully and cheer them on.

The transit of every ship—whether an aging Greek tramp or a cruise liner—was one of the most brilliantly coordinated of all

maritime operations. To anyone sipping an iced drink on the observation deck of a liner, the long blue ribbon of water reaching ahead, so comfortably wide, would seem to require nothing more than the simple caution of slow speed. Actually, navigating in a canal presents special complications. The trained pilot who took over from the ship's master knew that a brief misjudgment, or couple of seconds' hesitation, could veer a ship toward the bank and block the isthmus—with worldwide repercussions in losses to shippers and commodity markets. Visibility might be reduced to a quarter of a mile or less by *khamsin* winds blowing up sandstorms. (The canal provides mooring positions along its entire length for vessels to use in such emergencies.)

Ships passed through in convoys—after assembly at either end of the canal for assessment of "transit dues." The canal gave no credit: it was cash on the barrelhead, and in hard currency at that. Three convoys departed daily, two southbound one north. The last, most important because it was composed mostly of loaded tankers, sailed from Suez at 5 a.m. and proceeded directly to Port Said without stopping. The southbound convoys halted at fixed points to allow the northbound express to pass. Speed was rigorously controlled at seven or eight miles an hour by observers at 11 signal stations and, in the gleaming white Pilotage Building at Ismailia, the time and passing of each ship were noted on huge gold and green charts.

DIM, DISPUTED FUTURE

According to the terms of de Lesseps' concession, Egypt would have taken over the canal in 1968. But, as a British protectorate since World War I, Egypt feared that the canal had become a guarantee against its own independence—because the West felt that the Egyptians were not strong enough to run this installation upon which so many nations were economically dependent. In the 1950s, Egypt's demand that Britain withdraw its troops provoked an international crisis. President Nasser nationalized the canal in July 1956. French and British forces launched a military assault, but merely succeeded in closing down the waterway, which was what their exercise had been designed to prevent.

When Egypt reopened Suez in April 1957, the West predicted chaos—after all, the majority of skilled canal pilots and technicians had walked out, on orders of the Suez Canal Co. But, with a nucleus of Egyptian pilots, and others recruited from the Egyptian navy and abroad, a brilliant young engineer, Mahmoud Younes, kept ships moving. New pilots were trained in night and day sessions; the experienced worked double shifts. Ships trickled back reluctantly and doubtfully, to find the canal working as smoothly as ever.

Today, close to three years after the 1967 shutdown, ten wrecks and block ships obstruct the silent, useless waterway. Can no compromise be reached to restore this vital passage? "Let the Israelis pull back and we'll restore it fast enough," says an Egyptian spokesman. As if in rebuttal, one Israeli commander has said, "It's the finest antitank ditch in the world."

But couldn't the United Nations take over the canal, arranging a suitably wide strip on each bank to guarantee safe navigation? "Having lost so much of our territory, you want us to give up still more?" asks the Cairo spokesman impatiently. In Israel his opposite number says, "Our position is what it has always been. We want to use the canal like everyone else. After the 1956 Suez crisis, we got that guarantee, we thought; but later, when we sent a ship through, the Egyptians arrested it. This time we're going to be sure we get our rights."

London shipping experts estimate that it would take from six months to a year to restore Suez. Not so, declare the Egyptians: it should take no more than four months. Preliminary discussions have been held with a Dutch salvage firm, which proposes to raise the wrecked ships by pumping them full of billions of tiny polystyrene balls whose buoyant pressure will lift them from the bottom.

Still, the question of whether the waterway has a commercial future is in doubt. The West's life-and-death reliance on the canal has finally been thrown off. Supertankers now bring oil around the Cape for less than the cost of a trip through Suez, with its tolls. But by 1972 about a third of the world's tankers, representing two thirds of the world's total tonnage, will be too large to use the Suez at its present size. Egypt had under way a giant expansion program, the "Nasser Plan," to double the canal's width and depth. This would be one of the biggest and most expensive engineering jobs in the world, and work had begun on it. But the long closure of the canal has meant loss of the two essentials; time and cash.

As the world for the first time actually contemplates living entirely without the canal, most Suez signal stations have been reduced to rubble by artillery fire; revetments are torn by shells. The men of the U.N. Observer Corps—assigned to police the Arab-Israeli "cease-fire"—huddle for shelter in dugouts as the apparently irreconcilable foes wage their artillery duels. "Not so long ago, busloads of visitors used to come down to the canal," one observer told me. "Soldiers moved around in full sight of one another. Now there's a sniper behind every rock, and nobody raises his head. There's water in Suez, but that's *all* that's left."

In Port Said and Suez, the bazaars and cafés that used to be crammed with tourists from passing liners lie gutted and blasted from Israeli shellfire. The hordes of merchants, postcard vendors, guides and conjurers who lived off the ships are there no more. Ismailia, prettiest of the three canal towns, is the saddest. The sun blazes upon empty streets; the wind riffles through gardens long gone to seed. The magnificent, 13-story Pilotage Building is shell-pocked. In the big operations room on the top floor, from where the convoys were controlled, the desert breeze blows through a shattered window and gently lifts the corners of those green and gold charts, which lie where they were left, marked with the positions of the last day's traffic.

## OPENING STATEMENT ON THE SECOND SUPPLEMENTAL APPROPRIATION BILL, FISCAL YEAR 1970

Mr. BYRD of West Virginia. Mr. President, on Monday evening next, the Senate will consider the second supplemental appropriation bill, for fiscal year 1970. I shall make my opening statement now, as chairman of the subcommittee having immediate jurisdiction over the bill.

The first supplemental appropriation bill for fiscal year 1970 passed the Senate last December and was signed by the President on December 26, 1969. The bill which the Senate will consider next week passed the House of Representatives on May 7 and was received and referred in the Senate on May 11, 1970.

The bill was reported to the Senate on Monday, June 8, and recommends appropriations in the amount of $6,453,764,083. As the bill passed the House of Representatives in May, appropriations in the amount of $5,764,115,791 were recommended. The increase by the Senate committee over the House bill is $689,648,292.

As is the case in connection with all appropriation bills, since they originate in the House of Representatives the Senate committee invariably considers a budget estimate figure much higher than the budget estimate figure considered by the House. This is due to the fact that the administration submits supplemental budget estimates to the Senate after the bill has passed the House of Representatives. In this instance, the Senate committee considered in excess of $662 million in budget estimates which were not considered by the House of Representatives.

I will highlight the important changes which have been made in the bill by the Senate Committee on Appropriations, and I will be glad to try to answer any questions which Members may have with respect to any of the items in the bill.

The Senate committee increased the Federal payment to the District of Columbia by $4,042,000 and has allowed the 475 police positions requested to bring the force to a total of 5,100 men by the end of June. The committee has also increased the sum for capital outlay by $7,110,000, including $4.5 million for Federal City College and $1,890,000 for the Washington Technical Institute.

Pending in the Senate is H.R. 15628, the Foreign Military Credit Sales Act. It would authorize an appropriation of $250 million. At the request of the President, we have included $250 million in this bill, and the sum will be available only upon enactmnet into law of the authorizing legislation.

A supplemental request of $157,816,600 for payment to the civil service retirement and disability fund was considered favorably by the committee. These are mandatory payments to cover the additional unfunded liability created by the recent pay increase enactments and certain retirement credit amendments.

The committee is recommending an appropriation of $50 million for summer youth programs, to remain available until September 30, 1970. This will provide $35 million for about 80,000 additional job opportunities for disadvantaged youths and $15 million for a Neighborhood Youth Corps support program, to be administered by the Department of Labor in cooperation with the Bureau of Outdoor Recreation of the Department of the Interior.

The bill includes $8,703,078 to provide funds for some 35 selected hospital construction projects, which are listed on page 21 of the committee's report. There was no budget estimate for this item. However, several Senators brought to the attention of the committee the importance of making this appropriation at this time. These 35 hospitals had based their funding requirements on the assumption that the Hill-Burton hospital grant program would be continued at the 1969 level of $254 million. The 1970 appropriation of $172 million for hospital construction grants has resulted in a lower level of funding available to these hospitals than they had anticipated. The amount included in the bill is designed to provide for those hospitals that are already under contract for construction and that we are faced with funding deficits unless relief is provided.

In a supplemental budget estimate to the Senate—Senate Document 91–83—the President requested $150 million for

emergency school assistance to meet the additional costs which will be encountered by approximately 1,000 school districts which are expected to desegregate by September 1970. The request for these funds was transmitted to the Senate on May 25, 1970, and obviously was not received in time for consideration by the House. The supplemental request is the first part of the President's announced plan to ask for a total of $1.5 billion for this purpose over the next 2 years. Senators will find on pages 22–23 of the committee report a rather complete explanation of this item. The committee recommends the full amount of the budget estimate.

By custom, the House does not consider requests for the Senate. The committee has included in the bill $4,645,574 for increased pay costs for Senate items under the "Senate" and "Architect of the Capitol" heads. The committee has also increased the amount in the bill for claims and judgments submitted to the Senate after passage of the bill in the House in the amount of $16,887,055.

The items I have mentioned total approximately $642 million of the overall increase by the committee of $689 million.

Under the Department of Defense, the House made a reduction of $102 million for increased pay costs. The committee considered the fact that the Department had previously absorbed in excess of $319 million of pay costs, and on the urgent request of the Department of Defense has increased the sum in the House bill by $41,020,000.

The committee has concurred with the House of Representatives and recommends an appropriation of $205,880,000 for the Inter-American Development Bank; $714,045,000 for the Veterans' Administration; $75 million for disaster relief; $70 million for homeownership and rental housing assistance; $50 million for unemployment compensation; and, in addition, the committee has concurred with the House and recommends appropriations of $4,402,375,389 for increased pay costs.

It will be recalled that in the second Supplemental Appropriation Act, signed into law a year ago, the Congress wrote into law a limitation on expenditures for fiscal year 1970. The ceiling in that law was $191.9 billion, with a provision for adjustments upward or downward depending upon the action or inaction of the Congress. Also included was a cushion of $2 billion for increases in uncontrollables over the revised April 1969 budget figures. The President and the Bureau of the Budget have brought to the attention of the Congress repeatedly that the increase in uncontrollable expenditures has made the limitation completely unrealistic. As early as February 1970, it was known that expenditures estimated at that time on uncontrollable programs appeared to be $4.3 billion higher than the estimate of April 1969. In the pending bill, the House has restated the language of this ceiling in last year's law, but has superseded the old ceiling with a new ceiling of $197.885 billion. In addition, the House has included a prudent management cushion of one-half of 1 percent, which amounts to approximately $1 billion, along with another $1 billion cushion for any further increases in uncontrollables—for a total of approximately $199.9 billion, excluding the effect of congressional changes. It appeared to the committee that the House bill was reasonable and the committee concurs in title IV of the bill.

With respect to title V of the bill, which is a limitation on fiscal year 1971 budget outlays, the committee believes the House provision to be too restrictive. The House provision placed a ceiling on expenditures in fiscal year 1971 of $200.771 billion. In addition, the House provided a $3 billion cushion for increases in uncontrollables. The ceiling placed in the bill by the House is the precise amount of the President's budget submitted on February 2, 1970. The committee has been advised that as of May 19 the uncontrollables had increased by $1.8 billion. Consequently, almost two-thirds of the cushion has evaporated prior to the beginning of the fiscal year. For these reasons, the committee has increased the amount of cushion for uncontrollables from $3 billion to a more realistic figure of $6 billion.

As has been the custom for several years, a validating clause has been included in the bill which will authorize the obligation of funds until July 1, 1970 or for 5 days following the date of approval of the second Supplemental Appropriation Act, whichever is later, together with language validating obligations incurred in anticipation of the act if the obligations are in conformance with the terms of the act.

This concludes my opening statement.

## CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. HOLLAND). Is there further morning business? If not, morning business is concluded.

## AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. HOLLAND). The hour of 12 o'clock having arrived, and under the previous order, the Chair now lays before the Senate the unfinished business, which the clerk will state.

The BILL CLERK. A bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment, No. 708, offered by the Senator from West Virginia (Mr. BYRD) to the pending business, H.R. 15628.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

## ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## LEGISLATIVE PROGRAM

Mr. BYRD of West Virginia. Mr. President, I am authorized by the majority leader to make the following statement with respect to the program for next week.

On Monday next, we will vote on the Byrd-Griffin amendment, No. 708, at 2 p.m. Time on the amendment will be controlled, beginning at 1 p.m.

Anent the evening meetings which have already been discussed by the majority leader, it is the plan of the joint leadership to consider, on Monday evening next, Calendar No. 918 (H.R. 17399), an act making supplemental appropriations for the fiscal year ending June 30, 1970.

On Tuesday evening, and possibly on Wednesday evening, in the event action is not completed on Tuesday evening, the Senate will consider Calendar No. 875 (H.R. 16919), a bill making appropriations for the Office of Education.

On Wednesday evening, next, the Senate will consider Calendar No. 878 (S. 3074), a bill to provide minimum standards for guaranties covering consumer products.

On Thursday evening next, the Senate will consider Calendar No. 892 (S. 3302), a bill to amend the Defense Production Act of 1950.

On Friday evening next, the Senate will take up Calendar No. 913 (S. 3842), a bill to establish the U.S. Postal Service.

Sometime during the week, the Senate will also consider Calendar No. 939, the bill (H.R. 17868) making appropriations for the government of the District of Columbia.

Mr. President, these are the scheduled dates for the consideration of the legislation which I have mentioned, as well as we can foresee the program as of now. It is possible that the sequence of the measures may be altered, depending upon the circumstances as we proceed with the business of the Senate next week. Of course, Senators are on notice that rollcalls will in all probability be occurring daily throughout next week.

## ADJOURNMENT UNTIL MONDAY, JUNE 22, 1970, at 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and (at 12 o'clock and 5 minutes p.m.) the Senate adjourned until Monday, June 22, 1970, at 10 a.m.