

Roberta was the first black child selected as the NARC poster girl. A new poster girl for 1971 will be selected in February.

Mr. President, I know Roberta Scott, have visited with her, and her mother, when I spoke at the Kansas Association for Retarded Children meeting in Kansas City, Kans., on April 24 of this year. I wish to clarify the confused situation.

The implication, of course, is clear in this story and in other reports the Senator from Kansas has heard: that because Roberta Scott is black, the President refused to have his picture taken with her. Of course, this is ridiculous on its face; but there are those who seek to imply, at every opportunity, that this President is prejudiced and, therefore, failed to respond.

The Senator from Kansas knows that President Nixon personally had no idea of who Roberta Scott was, the fact that she was a poster child, the fact that she was white, black, or brown. In any event, because of a late request by NARC and because of scheduling difficulties, the picture was not taken.

This morning I talked with Mrs. Huey Scott, Roberta Scott's mother, and, of course, they expressed disappointment. Every American would like to visit the President—or almost every American would like the President—whether he be a Republican or a Democrat, whether he be Nixon or Johnson or Kennedy or Eisenhower, or the next President. But almost every American realizes that this is not possible.

The Senator from Kansas simply wants to point out that Roberta Scott is an outstanding young lady who has made great progress in overcoming a very serious handicap. Her parents are hard-working Kansans. Certainly, the Senator from Kansas wants Roberta Scott to have all the recognition she deserves. The Senator from Kansas has a vital interest in handicapped Americans and a particular interest in those handicapped Americans who reside in the

State of Kansas. I would suggest that Roberta Scott may yet have her wish. Roberta may yet see the President of the United States as I understand the disappointment she must feel, and feel certain President Nixon will respond properly when he learns of the incident.

Above and beyond that, I wish to absolve the President himself from any shortcoming in this particular instance and to point out that, with the hundreds and hundreds and thousands and thousands of requests made upon the President for personal visitations or personal appearances or private visits, he does remarkably well.

I recall that a few months ago, the President spent approximately 40 minutes with the mayor of Wichita, Price Woodard, and Mrs. Woodard. The mayor is black, an outstanding citizen and a very outstanding mayor.

So the Senator from Kansas rises at this point to state positively that the wire story implications are patently false. I have indicated as much to Mrs. Scott this morning. She understands that perhaps much may be made of this incident in an effort to embarrass the President of the United States. But, again, let me comment on a positive note that Roberta Scott is an outstanding young lady. We are proud that she is a Kansan, and hopeful that, in the near future, she may have her wish of meeting the President of the United States.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO MONDAY, DECEMBER 7, 1970

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 12 o'clock meridian on Monday next.

The motion was agreed to; and (at 1 o'clock and 59 minutes p.m.) the Senate adjourned until Monday, December 7, 1970, at 12 meridian.

NOMINATIONS

Executive nomination received by the Senate December 4, 1970:

U.S. DISTRICT COURTS

Robert E. Varner, of Alabama, to be a U.S. district judge for the middle district of Alabama, vice a new position created by Public Law 91-272, approved June 2, 1970.

U.S. MARINE CORPS

The following named officers of the Marine Corps for permanent appointment to the grade of major general:

John R. Chajsson	Alan J. Armstrong
Oscar F. Peatross	George C. Axtell
Edwin B. Wheeler	Foster C. Lahue
Robert P. Keller	

The following named officer of the Marine Corps Reserve for permanent appointment to the grade of major general:

Arthur B. Hanson.

The following named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

William C. Chip	Joseph C. Fegan, Jr.
Ralph H. Spanjer	Leslie E. Brown
Robert F. Conley	Jay W. Hubbard
Fred E. Haynes, Jr.	Charles S. Robertson
Lawrence F. Snoddy, Jr.	Duane L. Faw
Ross T. Dwyer, Jr.	Mauro J. Padalino
Samuel Jaskilka	Edward S. Fris
Kenneth J. Houghton	Frank C. Lang

The following named officer of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Richard Mulberry, Jr.

EXTENSIONS OF REMARKS

UNITED SERVICE CLUB INAUGURATES "OPERATION REUNION"

HON. L. MENDEL RIVERS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. RIVERS. Mr. Speaker, on Saturday, December 5, there will touch down in Oakland, Calif., the first of a series of airplanes which will bring to some American families the best Christmas present they could receive—the GI sons and husbands home from Vietnam for the holidays. This is being made possible by the United Service Club's "Operation Reunion"—which provides roundtrip transportation between Vietnam and the United States for as little as \$369.

This \$369 is less than half of the regular air fare to Vietnam and is well below the originally planned "special price" for Vietnam servicemen of \$700. The \$700 price was a mirage. It was just too high to be within the grasp of most GI's. But

\$369 will mean Christmas at home for many who otherwise could not dream of such a trip.

"Operation Reunion" is a cooperative venture by the United Service Club, a nonprofit organization, and Pan American World Airways. The great Pan Am Corp. deserves, I believe, a great deal of credit for making its facilities, including its ticket offices, available for the operation. Pan Am is providing these facilities and services to the United Service Club with the understanding that any certified carrier can be used for flight. The operation is not limited to Pan American aircraft.

Gen. Creighton Abrams, MACV commander, announced the new leave policy for men in Vietnam, which provided that men between the fourth and eighth month of service would be eligible for 2 weeks' leave if their units could spare them. It was designed to give as many men as possible a chance to go home for the holidays. The policy provided that a man must have a return ticket in hand

before he leaves Vietnam. When the new policy was announced it was said that a "cut-rate fare" of around \$700 would be provided for servicemen who could obtain leave. While this is below the lowest regular ticket price—which is some \$969—it was still too high. I am very proud of the fact that our Committee on Armed Services was instrumental in getting a low-priced air fare of \$69 for round-trip chartered flights between Europe and the United States initiated earlier this year. That special fare, which is still in operation, was established by the United Service Club. I asked the United Service Club if they could provide a similar service for the men in Vietnam, and with the cooperation of Pan Am they have come up with the \$369 flight.

I understand that today there are double lines at most of the ticket counters in Vietnam waiting to buy tickets for "Operation Reunion" flights. This would indicate that the low fare has made the flight possible for many GI's, and for their sake I am very happy.

The "Operation Reunion" flights will take men from Vietnam to Oakland, Calif., and additionally will take them as far as Chicago and New York. The total fares are \$442 for those going as far as Chicago and \$479 all the way to New York. These flights will be in modern aircraft with service equivalent to regular civilian transportation—hot meals, beverages, experienced hostesses, and regular luggage allowances. The price includes hotel accommodations for one night and a meal in Oakland, plus bus transportation to ongoing connections. For those who do not require the overnight hotel accommodations, extra meal and extra transportation, there can be a refund of the fare of \$15. I think it is interesting to note that arrangements can also be made for the flight by families of servicemen in Vietnam at Pan Am and United Service Club offices in the United States.

I am very pleased that our Committee on Armed Services has been able in a small way to assist in providing this extra benefit which will mean so much to GI's who are able to take part in it. We have always made an effort, and we shall always continue to make an effort, to provide a better deal for servicemen and to receive the cooperation not only of Government agencies but of business and other private organizations which can assist the members of the Armed Forces.

PROPERTY TAXES: ARE THEY INEQUITABLE?

HON. KEN HECHLER

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. HECHLER of West Virginia. Mr. Speaker, recently a team of students working in Texas for Ralph Nader issued a report as the result of a study on inequities in property taxes. Inequitable assessment practices exist throughout the country. These practices are costing the cities, homeowners, and small businesses a billion dollars annually. It is important, therefore, that this study be made available to the Members and the facts made public in the hope that some constructive change will result.

The study follows:

THE PROPERTY TAX: A STUDY OF INEQUALITY OF VALUATIONS AND ASSESSMENTS IN TEXAS

(Copyright 1970 by Richard Mithoff, Jr.)

Richard Mithoff, Jr., Project Director, B.B.A., University of Texas, University of Texas School of Law (Second year student; Staff, *Texas Law Review*).

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William B. Feather, B.A., University of Texas, University of Texas School of Law (Second year student; Staff, *Texas Law Review*).

Louis J. Sirico, B.A., Yale University, University of Texas School of Law (Second year student; Staff, *Texas Law Review*).

Kim Qualle Hill, B.A., B.S., Rice University (Candidate for Ph.D. in Political Science).

PREFACE

Despite a periodic vigorous attack and occasional demand for its demise, the prop-

erty tax today remains the most important revenue producing source for local governments. In Texas, this ad valorem tax is required by the constitution to be based on the fair market value of real and personal property. But serious neglect and abuse in its administration has resulted in the substantial undervaluation of certain classes of property; when the local taxing districts merely raise the ratio of assessment and tax rate they only worsen the impact of this unequal burden. This report examines the assessed valuation of mineral property in the Permian Basin, timber property in East Texas, and commercial and industrial property in the Houston area. A comparison of these valuations (at full value) with actual fair market values—derived in most cases from actual sales prices or estimates of value from the parties owning or trading the property—reveals a significant undervaluation for taxation purposes. The loser is the homeowners taxpayer, sharing more and more of the burden but receiving less in public services. It is the hope of the members of this project that the results of the study will accelerate reform of the property tax in Texas, and that the study itself may serve as a model for similar studies throughout the United States.

R. W. M.

NOVEMBER 2, 1970.

OIL AND GAS PROPERTY: ECTOR COUNTY, TEX.

(Richard Mithoff, Jr.)

AN INTRODUCTION TO SOME PROBLEMS OF VALUATION AND ASSESSMENT

I. Property subject to taxation, tax assessor-collectors, and independent appraisal firms

Statutory provisions regarding the property subject to taxation are clear:

"All property, real, personal or mixed, except as may be hereinafter expressly exempted, is subject to taxation, and the same shall be rendered and listed as herein prescribed."¹

That a mineral interest, whether working interest or royalty, is defined as "real property" for purposes of ad valorem taxation is well settled.² The standard of valuation for a mineral interest, like that for other real property, is the "true and full value in money."³

The task of assigning property interests and assigning the assessed valuation (the assessed valuation appears on the tax rolls as a given percentage of the fair market value, determined in the county, for example, by the County Commissioners) is the function of some 1500 local assessors (elected to four year terms⁴), as well as the numerous assessors for school, city, hospital, and other special districts.⁵

The County Assessor-Collectors are not licensed by any state agency or board, and therefore are "qualified" for office if duly elected by the voters in the county.⁶ They may rely on the Tax Assessor-Collector Instruction Manual, containing rules, regulations, opinions of the Attorney General, instructions, and forms; they may attend the Association of County Assessor-Collectors annual conference, or the Annual Institute for Tax Assessors (which in 1962 hosted 212 persons, only four of whom were County Assessor-Collectors).⁷

The burden of valuation and assessment, however, in areas where some sophistication in the appraising process is required, is often assumed by an independent appraisal firm. The valuation of oil and gas property for taxing districts is the job of a very few firms. Pritchard and Abbott Valuation Engineers of Texas currently has about 400 contracts with various taxing districts, and consequently appraises about 60 percent of the state. The firm normally appraises all the property within a district, mineral as well

as other classifications, and typically contracts with all the overlapping districts, such as city, county, and school.⁸

II. Equality and uniformity

The state constitutional requirement of equality and uniformity in taxation is of fundamental importance in comparing the mineral valuations with other real property valuations:

"Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law."⁹

The requirement is "imperative under our Constitution,"¹⁰ and clearly applicable to ad valorem taxation.¹¹ Uniformity means that value must be determined by the same standard,¹² and the standard for the property tax in Texas is the fair market value;¹³

"Uniformity in taxation throws the proper burden of taxation on each individual taxpayer, and the principle should never be departed from. The greatest benefit comes to each and all when it is scrupulously observed. The value of property is the correct standard of uniformity and the Constitution has so fixed it. Taxation cannot be in proportion to the value of property unless the value of all property is ascertained by the same standard."¹⁴

"To assess the property of one or a few owners at a materially higher percentage of its value than the percentage of the value at which the property of a great majority of the owners in the city is assessed is unconstitutional, and especially if done in pursuance of some custom, system, or scheme in which values are not ascertained as provided."¹⁵

This concept of uniform assessment is complicated by the rather widespread practice of assessing all property at a percentage of its fair market value. (In Ector County, for example, the ratio of assessment in 1969 for the county was 18%, and for the school board it was 45%.) Reasons advanced for this practice include the desire to minimize taxpayer complaints and to obviate the necessity for readjustment in the event of falling market prices.¹⁶ (More simply, the confused taxpayer is less likely to complain.) Theoretically, of course, the use of assessment ratios should make no difference. The procedure must start with an appraisal of the property at its fair market value. But realistically, as the Advisory Commission on Intergovernmental Regulations reports, this practice is not calculated to alert either the taxpayer or tax assessor to levels of inequality. Moreover, the report continues, "There is a tendency for nonuniformity to increase when property is assessed at low fractions of full value." (Emphasis added.)¹⁷ The commission has recommended full disclosure to the taxpayer, with tax rolls revealing both the full market values as well as the assessed valuations.¹⁸

But the practice of listing only the values at the given ratio of assessment continues, and the confusion persists. Absolute equality and uniformity, of course, is not practicable, and not required.¹⁹ But serious differences in the ratios of assessment are not acceptable. The court declared quite early in *Richardson v. State*²⁰ that the requirement of taxation in proportion to value must yield to the "equal and uniform" requirement where the assessor has generally assessed property at less than its fair market value (i.e., at some ratio of assessment). In *Richardson*, the land in the county generally was assessed at approximately 60 percent of the fair market value, while defendant's mineral property was appraised on the basis of an arbitrary formula, which made the fair market value depend solely upon the average number of barrels of royalty oil produced daily for a period of 92 days preceding the first day of January of each year. The Court of Civil Appeals upheld the trial court's

Footnotes at end of article.

finding that the assessments were void, but reversed and remanded because the trial court undertook to reassess the property, which is the duty of the board of equalization.²¹

One further problem should be discussed. Despite the absolute commandment of "equality and uniformity," a few cases have established that the legislature may make certain classifications of persons and property for purposes of taxation if the legislature does not act arbitrarily or unreasonably, and if there is a reasonable basis for the classification. This has been established at least in the case of franchise taxes,²² inheritance taxes,²³ and occupation taxes.²⁴ A number of courts have refused to enjoin the collection of the property tax where it is apparent that the different classes of property have been assessed at different ratios of full value, but have done so because of the failure of the plaintiff to show substantial injury, or because the plaintiff failed to avail himself of the injunctive remedy before the tax plan went into effect and could not prove the exact amount by which his taxes were excessive.²⁵

One case found in which this classification exception was applied specifically to deny relief in a real property tax suit involved a situation in which "oil in storage" had been assessed at 30 percent of its value, and all other property in the district assessed at 60 percent of its value. The court declared that the assessment ratios need only be uniform within the particular classification.²⁶ This is clearly contrary to the great weight of authority.²⁷

In a rather unusual case decided recently, but involving the city tax, the classification exception was relied on in part to uphold an annexation ordinance, and indirectly to support a property tax classification. (The court did, however, wisely advise the appellee that the taxation matter was premature at this time, and would have to be raised at a later date.) The principal challenge came from a property owner whose property had been annexed by the city of Pasadena, Texas, and thereby made subject to the city taxes. Adjacent landowners, to wit Ethyl, Tenneco, and Phillips, on the other hand, whose property was not to be annexed under an agreement (authorized by statute²⁸) with the city, had only to make payments, as part of the agreement and *in lieu of taxes*, amounting to about 30 percent of the normal rate. The court held that there was a reasonable basis for classification.²⁹

VALUATION OF OIL AND GAS PROPERTY

The valuation of mineral properties is a complex procedure. Unlike appraisals of residential property, and some commercial property, where resort to current selling or leasing prices is a fairly simple matter, valuations of oil and gas property under production are made without the evidence of a recent sales price (sales of producing property are rare, for obvious reasons), and without the aid of industry estimates. Valuation of producing property requires first the technical analysis (considering such data as estimates of reserves, rate of production, price of the product, and cost of operation) to arrive at the future net revenue. Present value is then calculated from future net revenue, discounted either at the prevailing interest rates with subsequent allowance for other factors,³⁰ or at a rate which considers both the prevailing interest and these other factors.³¹

Advocates of the first approach disagree over the rate of interest and the component factors to consider. Some of the risks, or hazards, may include decline in the price of the product, increase in the operating costs, or substantial error in the calculation of reserves. The degree of risk will naturally bear to some extent on the production history.

There is some dispute as to whether federal income taxes should be considered.³²

The second approach eliminates some of the disagreement over which variables to consider. This is the Hoskold, or sinking fund method, which provides for the discount of future net revenue at various interest rates, and the return of capital through a sinking fund invested at four percent.³³ The Hoskold formula is approved as a valid approach, provided the proper rate of interest is selected. Because of the risks involved in oil and gas investment, the rate should be approximately 10 percent.³⁴ The Hoskold method was chosen for this study in order to rely exclusively on industry projections of future net revenue, and to avoid possible disagreement over the size and number of the variables to include in an estimate computed under the first approach.

The valuation of nonproducing oil and gas property is apparently universally ignored for purposes of ad valorem taxation. It is customary in states not having a specific exemption, or special provision such as the mineral documentary stamp, for the non-producing property to be placed on the tax rolls at a nominal value.³⁵ (In Ector County, the nominal assessment varies from \$0.50 to \$1.00 an acre.) Reasons advanced for this practice vary. A spokesman for Pritchard and Abbott declares that, "Until a nonproducing property is developed, it could be worthless. . . . We couldn't afford to have non-producing property assessed."³⁶ The Ector County Tax Assessor states that the property is just "not worth taxing."³⁷ Since non-producing property not voluntarily rendered by the taxpayer is not taxed at all, it is reasonable to assume that the industry renders its non-producing property only to protect against claims arising under adverse possession—a reason supported by the local tax assessor and Pritchard and Abbott. The nominal assessment may be necessary only to cover the cost of recording the assessment.³⁸

Nevertheless, there is authority to support the proposition that nonproducing property has a market value that is easily ascertained. The lessee commonly pays a "bonus" to the lessor as partial inducement for completing the transaction. The bonus may prove to be only a fraction of the value of the property, and does not, of course, include rental payments, or royalty, should the lease prove productive. The bonus value is a fair indication of the value of the property, provided due weight is given to the effect of drilling a successful well, which would enhance the value, or of drilling a "dry hole," which would obviously deflate the value.³⁹

I. Producing property

This study compares valuations by Pritchard and Abbott Valuation Engineers, independent appraisal firm hired by Ector County with valuations based on future revenue projections of the industry itself. The property under study is the Headlee Devonian Unit, covering approximately 15,000 acres in Ector and Midland Counties. The industry revenue projections are taken from the Devonian Report, Headlee and Dora Roberts Field, Ector and Midland Counties, Texas, filed with the Texas Railroad Commission in August, 1956, prior to Commission approval for unitization and gas injection.

The unitization agreement allows the unit operators to pool their production efforts, and to share in the production from any tract on the basis of the proportion that the operator's tract effective acre feet bears to the total unit effective acre feet. The injection of gas under the pressure maintenance approach serves to maximize recovery of the stock tank liquids and plant products.

The reservoir is now classified as a gas condensate rather than oil reservoir, as originally designated, and on January 30, 1961, the Commission authorized the mixed stream production of natural gas liquids and stock tank liquids.⁴⁰ Actual daily average produc-

tion as reported by Pritchard and Abbott corresponds very closely to the daily average production as projected by the operators in the field, in the period under study (1963 to 1970). (See Appendix, pp. A-6, A-8.)

A comparison of the actual valuations of Pritchard and Abbott with those computed from the projected revenue figures of the industry (using the Hoskold method described earlier) reveals a startling undervaluation of approximately 56.19 percent. (See Appendix, pp. A-7, A-9.)

Pritchard and Abbott claim that the liquids currently produced are less valuable than those described in the original report, that the costs of operation have risen,⁴¹ and that therefore the unit has not been as profitable as originally expected.⁴² This is in direct contradiction, however, to the statement (January 13, 1970) from Atlantic Richfield, insisting that, "Profits have proven to be higher than originally estimated for the field at this point in time," and that the "reservoir is currently estimated to be almost double that referred to in the report . . ."⁴³ (Emphasis added.) The conclusion would appear to be, then, if industry sources can be believed,⁴⁴ that the valuations of Pritchard and Abbott are far below the currently accepted measures of fair market value.

II. Nonproducing property

This study compares the valuations of Pritchard and Abbott with the actual "bonus price" paid for an oil and gas lease. The property is classified "nonproducing" for purposes of the study if, after execution of the lease, the property was assessed at a nominal rate, or not rendered for taxation at all, indicating according to Pritchard and Abbott a lack of production. (See Appendix, pp. A-1, A-3-A-5.) In some instances the property assigned a nominal assessment has proven productive in the next year, and "suddenly jumped" in value. (See Appendix, pp. A-2, A-5.)

The "bonus value" is easily determined from the value of the revenue stamps affixed to the lease, which of course is recorded in the County Clerk's office. (The revenue stamps were, however, discontinued after January 1, 1968.)

The nominal assessment of nonproducing property without regarding to market value is admitted by Pritchard and Abbott and the County Tax Assessor-Collector, as is the failure to tax some property even on a nominal basis, which was the case with over \$400,000 worth of Texaco leases in 1965 and 1966. (See Appendix, pp. A-3-A-5.)

The random sample of local homeowners' property, selected from different sections of Odessa, in Ector County (Pritchard and Abbott contracts with the city as well) shows a remarkably close correlation between the valuations of Pritchard and Abbott and the actual sales prices of homes sold in 1969. (See Appendix, pp. A-10, A-11.) All under-valuation is approximately only 7.06 percent.

FOOTNOTES

¹ Tex. Rev. Stat. Ann. art. 7145 (1960).
² Tex. Rev. Stat. Ann. art. 7146 (1960); Liberty Century Trust Co. v. Gilliland Oil Co., 297 F. 494 (D. Tex. 1924); Texas v. Downman, 134 S.W. 787 (Tex. Civ. App.—1911, writ ref'd); Stephens County v. Mid-Kansas Oil and Gas Co., 113 Tex. 160, 254 S.W. 290 (1923).

³ Tex. Rev. Civ. Stat. art. 7174 (1960); Phillips Petroleum v. Townsend, 63 F.2d 293 (5th Cir. 1933); Rowland v. Tyler, 5 S.W. 2d 756 (Tex. Comm'n App. 1928, holding approved); Lively v. M., K., and T. Ry., 102 Tex. 545, 120 S.W. 852 (1909).

⁴ Tex. Const. art. VIII, § 16.

⁵ 2 Advisory Commission on Intergovernmental Relations, *The Role of the States in Strengthening the Property Tax 157* (1968).

⁶ Letter from Robert S. Calvert, Comptroller, to Richard Mithoff, Jr., March 17, 1970.

⁷ 2 Advisory Commission, *supra* n. 5, at 156.
⁸ Interview with Earle Bruce of Pritchard and Abbott (Odessa), November, 1969.
⁹ Tex. Const. art. VIII, § 1.
¹⁰ Breckenridge v. Pierce, 251 S.W. 316 (Tex. Civ. App.—Ft. Worth 1923, writ dismissed). See Lively v. M., K., and T. Ry., 102 Tex. 545, 120 S.W. 852 (1909); Porter v. Langley, 178 S.W. 820 (Tex. Civ. App.—Galveston 1915, writ ref'd).
¹¹ State v. Lowman, 115 S.W. 2d 794 (Tex. Civ. App.—Eastland 1938), *rev'd on other grounds*, 133 S.W. 2d 926 (1939).
¹² Lively v. M., K., and T. Ry., 102 Tex. 545, 120 S.W. 852 (1909).
¹³ Tex. Const. art. VIII, § 1; Tex. Rev. Stat. Ann. art. 7174.
¹⁴ Hunt v. Throckmorton Ind. School Dist., 59 S.W. 2d 470 (Tex. Civ. App.—Eastland 1933, no writ).
¹⁵ Rands v. State, 15 S.W. 2d 715 (Tex. Civ. App.—El Paso 1929, no writ).
¹⁶ Note, *Remedies for Unequal Property Tax Assessment*, 46 Harv. L. Rev. 1001-02 (1933).
¹⁷ 1 Advisory Commission on Intergovernmental Relations, *The Role of the States in Strengthening the Property Tax* 59 (1963).
¹⁸ *Id.* at 63-64.
¹⁹ Nederland Ind. School Dist. v. Carter, 93 S.W. 2d 387 (Tex. Civ. App.—Beaumont 1936, writ dismissed).
²⁰ 53 S.W. 2d 508 (Tex. Civ. App.—Eastland 1932), *aff'd*, 84 S.W. 2d 1076 (Tex. Comm'n App. 1935 opinion adopted).
²¹ *Id.*
²² Calvert v. Capital Southwest Corp., 441 S.W. 2d 247 (Tex. Civ. App.—Austin 1969, writ

ref'd n.r.e.); Crayson County State Bank v. Calvert, 357 S.W. 2d 160 (Tex. Civ. App.—Austin 1962, writ ref'd n.r.e.).
²³ San Jacinto Nat'l Bank v. Sheppard, 125 S.W. 2d 715 (Tex. Civ. App.—Austin 1938, no writ).
²⁴ Sheppard v. Giebel, 110 S.W. 2d 166 (Tex. Civ. App.—Austin 1937, no writ).
²⁵ Although some confusion exists as to whether the taxpayer must always show substantial injury after demonstrating gross inequality, e.g., Waco v. Conlee Seed Co., 449 S.W. 2d (Tex. 1969); State v. Federal Land Bank of Houston, 329 S.W. 2d 847 (Tex. 1959), recent opinions on this issue appear to be that in a direct attack (in a suit to enjoin the collection of taxes before the tax plan has gone into effect), the plaintiff must show substantial injury. Arlington v. Cannon, 153 Tex. 566, 271 S.W. 2d 414 (Tex. 1954); Dietrich v. Phipps, 438 S.W. 2d 900 (Tex. Civ. App.—Houston 1969, no writ). This is distinguished from the collateral attack (in a suit defending an action for delinquent taxes) where the taxpayer has the more onerous burden of showing the precise dollar amount by which he is injured. State v. Federal Land Bank of Houston, 329 S.W. 2d 847 (Tex. 1959); Orange v. Livingston Shipbuilding Co., 258 F. 2d 240 (5th Cir. 1958). *But see* Briscoe Ranches, Inc. v. Eagle Pass Ind. School Dist., 439 S.W. 2d 118 (Tex. Civ. App.—San Antonio 1969, writ ref'd n.r.e.).
²⁶ Feldman v. Bevill, 190 S.W. 2d 157 (Tex. Civ. App.—Beaumont, 1945, writ ref'd w.o.m.).
²⁷ See note 25 *supra*.

²⁸ Tex. Rev. Civ. Stat. Ann. art. 970 a. § 5 (1963).
²⁹ Pasadena v. Houston Endowment, Inc. 438 S.W. 2d 152 (Tex. Civ. App.—Houston, 1969, writ ref'd n.r.e.).
³⁰ DeGolyer, *Evaluation. First Annual Institute on oil and gas law* 591 (1949); Field, *Valuation of Oil and Gas Properties for State Ad Valorem Tax Purposes*. 7 Oil and Gas Institute 483 (1945).
³¹ Campbell, *Oil Property Evaluation* 452-454 (1959); Fiske, *Federal Taxation of Oil and Gas Transactions* 165 (1969).
³² Field, *supra* n. 30.
³³ Fiske, Campbell, *supra* n. 31.
³⁴ Fiske, *id.*
³⁵ Field, *supra* n. 30 at 530.
³⁶ Interview with Earle Bruce of Pritchard and Abbott (Odessa), December 1969.
³⁷ Interview with Curtis Wynn, Ector County Tax Assessor-Collector, December 1969.
³⁸ Field, *supra*, n. 30 at 530.
³⁹ Fiske, *supra*, n. 31 at 169-170.
⁴⁰ Report on Headlee-Devonian Unit filed by unit operators in May 1962.
⁴¹ Report filed by Pritchard and Abbott on August 10, 1970, in response to a request from Ector County Judge Mike Berry to make the specific disclosure requested in the Petition to the Board of Equalization on June 30, 1970. See Appendix, pp. A-15-16.
⁴² Testimony of R. W. Wood before the Ector County Board of Equalization, June 30, 1970.
⁴³ Letter from E. W. Tyler, District Engineer, Atlantic Richfield, to Richard Mithoff, Jr., on January 13, 1970.
⁴⁴ Letter from E. W. Tyler to County Judge Mike Berry on July 6, 1970.

APPENDIX—NONPRODUCING PROPERTIES

Purchaser (1)	Date recorded (2)	Description (3)	Valuation (at 100 percent) for tax rolls (Pritchard & Abbott)	
			Pr. ce (4)	Year (5)
A. Rendered (with little or no apparent production):				
Texaco	June 25, 1965	E/2 of W/2, W/2 of E/2 of Sec. 21, Blk. 44, T-3-S	\$32,500	1966..... \$4,998.00 1967..... 4,440.00
Shell	Jan. 24, 1964	E/2 of Sec. 33, Blk. 41, T-1-S	11,500	1965..... 1,142.40 1966..... 1,142.40
Cities Service	Jan. 30, 1961	E/2 of Sec. 34, Blk. 44, T-3-S	27,272	1962..... 999.60 1963..... 999.60
Shell	Mar. 27, 1957	W/2 of SE/4 of Sec. 34, Blk. 44, T-3-S (below 4,500 ft.)	16,500	1957..... 400.00 1958..... 200.00
Do	Mar. 8, 1957	E/2 of NE/4 of Sec. 34, Blk. 44, T-3-S (below 4,500 ft.)	16,500	1957..... 400.00 1958..... 200.00
Do	Dec. 3, 1956	NW/4 of Sec. 30, SW/4 and W/2 of NW/4 of Sec. 19, Blk. 43, T-2-S	80,000	1957..... 2,000.00 1958..... ()
Do	Sept. 19, 1955	Sec. 12, Blk. 44, T-2-S	100,000	1956..... 3,200.00 1957..... 3,200.00
Do	Sept. 19, 1955	E/2 of Sec. 1, Blk. 44, T-2-S	50,000	1956..... 1,600.00 1957..... 1,600.00
B. Rendered (with some apparent production after the 1st year): Samedan				
	Oct. 21, 1963	NW/4 of Sec. 10, Blk. 35 University Land	11,000	1964 ² 71.40 1965 ² 571.20 1966 ² 71.40 1967 ⁴ 55.50
Continental (assignee)	May 10, 1961	W/2 of Sec. 24, Blk. 43, T-3-S	21,500	1962..... 1,142.40 1963..... 106,386.00
Shell	Sept. 19, 1955	E/2 of Sec. 11, Blk. 44, T-2-S	50,000	1956..... 1,600.00 1957..... 115,200.00

¹ Not carried.
² $\frac{1}{2}$ W.I.
³ $\frac{1}{2}$ of $\frac{1}{2}$ W.I.
⁴ $\frac{1}{2}$ of $\frac{1}{2}$ W.I.

Purchaser (1)	Date recorded (2)	Description (3)	Price (4)	Remarks (5)
C. Not rendered (not carried on the tax rolls as rendered or unrendered property):				
Texaco	Jan. 26, 1966, and Feb. 3, 1966	E/2 of Sec. 22, Blk. 44, T-3-S ¹ W/4 of Sec. 21, Blk. 44, T-3-S E/4 of Sec. 21, Blk. 44, T-3-S W/2 of Sec. 30, Blk. 43 T-3-S ¹ S/2 of Sec. 29, Blk. 44, T-3-S N/2 of Sec. 30, Blk. 44, T-3-S N. 387 ft. of W/2 of SW/4 and N. 952 ft. of E/2 of SW/4 of Sec. 30, Blk. 44, T-3-S, SW/4 of Sec. 30, Blk. 44 T-3-S, except that described in tract 3, and in tract 4, only those rights below 4,500 ft. Sec. 28, Blk. 44, T-3-S.	² \$220,000	Not carried on tax rolls in 1967, 1968, or 1969.
Do	Feb. 21, 1966	S/2 of Sec. 2, Blk. 44, T-3-S ³ Sec. 10, Blk. 44, T-3-S S/2 of Sec. 1, Blk. 44, T-3-S W/2 of Sec. 11, Blk. 44, T-3-S Sec. 11, Blk. 44, T-3-S Sec. 12, Blk. 44, T-3-S, save and except NE/4 of NE/4 of NE/4.	⁴ \$109,500	Do.
Do	June 25, 1965	N/2 of Sec. 38, Blk. 43, T-3-S S/2 of Sec. 38, Blk. 43, T-3-S N/2 of Sec. 29, Blk. 44, T-3-S S/2 of Sec. 12, Blk. 43, T-4-S. ¹	² \$131,000	Not carried on tax rolls in 1966, 1967, 1968, 1969.
Total sales value of leases cited here. ⁵			460,500	

¹ But the royalty interest was recorded with a value (combined total) of \$38,461.50 in 1969.
² Total price.
³ Releases recorded Nov. 18, 1969; Dec. 2, 1969; Dec. 16, 1969 (total price of leases \$100).
⁴ Over.
⁵ Release recorded Oct. 21, 1969.
⁶ On the 1969 tax rolls Texaco included for the first time a category for "nonproducing minerals as rendered"—giving a total value (at 100 percent) of \$85,581, with no breakdown by individual leases. Compare this figure with the total value of just the leases cited here.

Column 1 gives the oil company which purchased (or in some instances took by assignment) the lease or working interest in the property.

Column 2 gives the date the lease (or series of leases) was recorded in the Deed Records, County Clerk's office.

Column 3 gives a description of the working interest.

Column 4 gives the amount of the initial payment, or bonus, made at the time of execution of the lease. (If the property proves to be productive, the bonus value will be only a fraction of the fair market value, because the present value of future royalty payments is excluded.) Although the usual lease recites only "for \$10.00 and other valuable consideration," the revenue stamps (in effect

up until Jan. 1, 1968) can be used to determine bonus value of any lease over \$100.00. The valuation of a nonproducing property should be based on the actual sales price, if available. Leland E. Fiske, *Federal Taxation of Oil and Gas Transactions* (1969), pp. 169-71.

Column 5 gives the actual valuation (at 100%) by Pritchard and Abbott where the property is rendered, or notes the fact that the property is not even rendered at all.

II. PRODUCING PROPERTIES: THE HEADLEE-DEVONIAN UNIT

Year	A. Production				B. Valuations			
	Estimates of operators in the field		Pritchard and Abbott		Estimates based on projections of operators in the field: Valuation of 3/8 mineral interest based on percent value of future net income	Pritchard and Abbott actual valuation (at 100 percent) of 3/8 mineral interest from tax rolls	Approximate percentage of undervaluation (comparing cols 3 and 4)	
	(1)		(2)					(3)
	Projected 8/8 daily average production (in barrels)	Projected number of wells	Actual 8/8 daily average production (in barrels)	Actual number of wells				
1969	17,553	164	15,949	164	\$112,053,000	\$52,009,494	47.2	
1968	17,625	164	17,290	164	117,438,000	53,526,087	48.4	
1967	17,625	164	19,123	164	122,537,000	44,350,771	59.2	
1966	17,625	164	20,980	164	127,506,000	60,135,079	47.1	
1965	17,625	164	22,320	164	132,284,000	62,348,836	47.5	
1964	17,625	164	17,625	(2)	136,911,000	65,486,866	47.0	
1963	17,625	164	15,553	140	141,388,000	51,499,535	59.8	
Total	123,303		128,840				56.19	
Average approximate percentage of undervaluation								

¹ Estimate, no figure available. ² No figure available.

A. Production

The Production columns are included to substantiate the validity of a study comparing actual valuations by Pritchard and Abbott for the tax rolls, and the valuations based on projections by the operators in the field.

Column 1 gives the projected 8/8 Daily Average Production and total number of wells, as estimated by the operators in the field, *Devonian Report, Headlee and Dora Roberts Field, Ector and Midland Counties, Texas*, March, 1956. (Filed with the Texas Railroad Commission, Oil and Gas Division, in preparation for the hearing [August, 1956] relative to the unitization agreement.)

Column 2 gives the actual 8/8 Daily Average Production and the total number of wells, as reported by Pritchard and Abbott.

The seven-year (1963 through 1969) is chosen as representative because the actual daily average production, when compared on an annual basis, corresponds closely to the projected daily average. In fact, the total actually daily average exceeds the estimates during this period.

B. Valuations

Column 3 gives the valuations of the 7/8 mineral interest based on the present value of future net income, discounted at 10 percent using the Hoskold Formula, suggested

as a means of determining the fair market value of oil and gas properties. Fiske, *Federal Taxation of Oil and Gas Transactions* (1969), pp. 166-168. John M. Campbell, *Oil Property Evaluation* (1959), pp. 452-454. Annual estimates of future net income are from the operators in the field. *Devonian Report, supra*.

Column 4 gives the actual valuations (at 100%) of the 7/8 mineral interest as reported by Pritchard and Abbott.

Column 5 gives the annual approximate percentages by which this unit has been undervalued, as well as an average of these percentages.

III. LOCAL REAL ESTATE, HOMES (A RANDOM SELECTION)

Description (1)	Price (1969 sales) (2)	Valuation (at 100 percent) for 1969 tax rolls (Pritchard & Abbott) (3)	Approximate percentage of undervaluation (comparing cols. 2 and 3) (4)	Description (1)	Price (1969 sales) (2)	Valuation (at 100 percent) for 1969 tax rolls (Pritchard & Abbott) (3)	Approximate percentage of undervaluation (comparing cols. 2 and 3) (4)
4009 Pleasant Lot 7, Blk. 27 Terrace Hills	\$8,500	\$7,048.50	17.1	1508 Spur N. 73 Feet of Lot 5, Blk. 93 Crescent Park	\$19,500	\$19,869.00	-1.85
909 E. 21st Lot 21, Blk. 11 Sage Hill	8,150	7,603.50	6.6	Blackstone Lot 31, 504 Blk. 2 Rochester Heights	7,650	7,104.00	7.2
3719 Holly Lot 2, Blk. 33 Windsor Heights	12,250	11,100.00	9.4	2674 E. 25th Lot 23, Blk. 135 Crescent Park	13,950	13,930.50	.15
2702 S. Colonial Lot 12, Blk. 8 Bellaire	7,950	6,549.00	17.6	1309 Westbrook Lot 11, Blk. 9 Westwood	14,500	13,098.00	9.7
2801 Disney Lot 7, Blk. 1 Wedgewood	15,330	14,485.00	5.5	2304 W. 15th Lot 22, Blk. 1 Park Annex	7,500	7,659.00	-2.13
2108 W. 27th Lot 17, Blk. 62 Harrisdale	8,700	8,491.50	2.4	Average approximate percentage of undervaluation			7.06
401 Elm Lot 4, Blk. 14 Ridgecrest	7,600	6,605.00	13.1				

TIMBERLAND IN EAST TEXAS

(Sharon L. Feather, William L. Feather, and Louis J. Sirico)

INTRODUCTION

The taxation of timberland, like other real property in Texas, is based on its current fair market value, that is, what a willing buyer would pay a willing seller for a given tract of timberland. The present study attempts to survey the methods by which East Texas school and county tax assessors evaluate and tax timberland.

Ideally, one would verify sales by asking recent buyers or sellers the price they paid or charged for a particular tract of land. Although specific prices for specific pieces of land proved unavailable, estimates of the current market value were obtained from several reliable sources: a state forest appraiser, a forestry professor at Stephen F. Austin State

University, an independent professional forest appraiser, a tax assessor, and the rolls of school districts following sound assessing practices. Two newspaper articles also cited current market values for timberland.

A state forestry appraiser indicated that timberland in southeast Texas starts selling at \$180 to \$200 per acre, with prices in heavily forested areas sometimes rising to \$300 per acre. Bare land is worth \$85 per acre, and every 1000 board feet of timber adds another \$50 to the acre value. The appraiser gave as an example the recent sale of a large parcel of timberland in Jasper County at \$250 per acre.

A forestry professor at Stephen F. Austin State University informed us that he had just paid \$200 per acre for forest plantation land in Cherokee County, and that International Paper Company was paying a minimum of \$125 per acre for all the timberlands

it could get. These figures reflect values in the northern part of East Texas where the land is less fertile and provides a poorer stock of timber than do other parts of the Piney Woods.

An independent professional forest appraiser living in the same area estimated that all pinewood forestland is worth \$100 to \$300 per acre. He indicated that Southland Paper Mills, Inc., was paying \$180 to \$220 per acre for any land they were offered with minimal marketable timber, and another timber company had recently paid \$195 per acre for a large tract of poorly stocked timberland.

Timberland values in the southern half of the East Texas forest are higher. The county tax assessor for Newton County in Southeast Texas estimated that timberland in his county sold for at least \$200 per acre.

In early July a fire destroyed 300 acres of Angelina County timberland owned by Owens-Illinois Corporation. An area timber man estimating the loss was quoted by *The Lufkin News* (July 9, at p. 1) as placing the value of the timberland in the range of \$250 to \$350 per acre.

On June 12, a United States Senate subcommittee on parks and recreation heard testimony in Beaumont regarding the proposed Big Thicket National Park. At the hearing, Orrin H. Bonney, chairman of the Big Thicket Coordinating Committee testified that present prices on land in the 100,000 acre park area ranged from \$250 to \$350 per acre ("Interests Disagree on Big Thicket Park Size," *Houston Post*, sec. 3, p. 24, June 13, 1970).

As these figures reveal, the market value of timberlands fluctuates greatly, sometimes rising to as much as \$350 per acre. Most estimates, however, center around a \$200 per acre median. This figure provides the conservative estimate of market value that this report uses in comparing actual fair market values with the fair market values that the county and school district tax assessor assign to timberlands.

PRACTICES TAX COLLECTOR-ASSESSORS EMPLOY

Following is a six-county survey of the methods county and school district assessors use in placing a market value on timber acreage. Most tax assessors compute the assessed valuation on a flat rate per acre basis, and make no attempt to assign true market values. The assessors' estimate of fair market value may be derived by dividing the assessment ratio into the assessed valuation. In considering these fair market values, keep in mind that \$200 per acre represents a conservative average estimate of the price such acreage could bring on the open market.

Angelina County County

Evaluation Method: All unimproved acreage outside the city limits is placed on the rolls at \$10 per acre (assessment ratio of 25%), indicating a fair market valuation of \$40 per acre.

Comments: Present rates have been in effect since the 1963 tax roll. The previous rate was \$5 per acre.

Lufkin Independent School District

Evaluation Method: The district ascertains fair market value by using comparable sales methods and personal contacts with buyers and sellers. Assessments of timberlands generally fall into the \$240 to \$313 per acre range for full market value.

Comments: The school district evaluations closely approximate actual market value, and the district makes frequent reassessments.

Diboll Independent School District

Evaluation Method: All unimproved rural acreage outside the city limits is placed on the rolls at \$20 per acre (assessment ratio is 40%), indicating a fair market valuation of \$50 per acre.

Comments: The assessor-collector has many other time-consuming administrative functions, allowing him little opportunity to re-evaluate property.

Hardin County County

Evaluation Method: The appraising firm of Pritchard and Abbott evaluated all property in 1964. Since then, the county has raised the rates. Most timberland is placed on the rolls at \$16.60 per acre (assessment ratio is 20%), indicating a fair market valuation of \$83 per acre. The county evaluates other timberland between \$75 and \$88 per acre fair market value.

Lumberton Independent School District

Evaluation Method: In 1968, the Terry Company of Beaumont, Texas, evaluated all

acreage. Timberland not evaluated at higher use residential development rates was assessed at \$160 per acre fair market value.

Comment: Major timber companies have protested these assessments. Last year they threatened not to pay and withheld needed school funds until June.

Silsbee Independent School District

Evaluation Method: In 1962 a professional forest appraiser valued timberland at \$102 per acre, but the district claims to employ a fair market value of \$90 per acre for taxation purposes. There has been no re-evaluation since. All timberland is actually placed on the rolls at \$32 per acre. Assessment ratio is 55 percent on other property.

Jasper County County

Evaluation Method: All unimproved acreage is placed on the rolls at \$23 per acre (assessment ratio is 25%), indicating a fair market valuation of \$92 per acre.

Liberty County County

Evaluation Method: In 1967, the appraisal firm of Davis and Wilson valued all property in the county at a cost to the county of \$108,000. It evaluated timberlands according to the following schedule:

Timber:	Per acre
A (good quality) (fair market value) -----	\$150
B (fair quality) -----	130
C (poor quality) -----	110

Comment: The county contains little type A timberland, but the county assessor estimates that type B acreage presently sells for \$250 to \$300 per acre.

Liberty independent school district

Evaluation Method: The school district classified timberland quality according to Davis and Wilson's 1967 county-wide evaluations and adopted the following schedule:

Timber:	Per acre
A (good quality) (fair market value) -----	\$130
B (fair quality) -----	110
C (poor quality) -----	90

Comment: This school district is now in the process of re-evaluating all property.

Hardin Independent School District

Evaluation Method: The last evaluation occurred in 1958, although the assessment ratio and tax rates have risen since. The district taxes Kirby Lumber Corporation timberlands according to 1958 market values, but taxes other forest land on valuations as low as \$60 per acre fair market value.

Comment: Kirby Corporation's higher evaluations result from litigation. *Kirby Lumber Corp. v. Hardin Ind. School Dist.*, 351 S.W. 2d 310 (Tex. Civ. App.—Waco 1961, writ ref'd n.r.e.).

Nacogdoches County County

Evaluation Method: All unimproved acreage is placed on the rolls at \$15 per acre for land adjoining paved roads and at \$12 per acre for all other land. The assessment ratio is 30 percent, indicating fair market valuations of \$50 and \$40 per acre respectively.

Comment: Injunctions have prohibited this nearly bankrupt county from reassessing. After the Nacogdoches Independent School District consolidated with another district, the school tax assessor discovered 1200 acres of land omitted from the county's tax rolls in the latter district.

Nacogdoches Independent School District

Evaluation Method: A professional timber appraiser makes evaluations.

Comment: This district contains few acres of timberland.

Newton County County

Evaluation Method: All unimproved acreage is rendered at \$14.50 per acre (assessment ratio is 10%), indicating a fair market valuation of \$145 per acre. The county employs a 15 percent assessment ratio for all other property. This use of two assessment ratios for different types of property is contrary to state law. *Randalls v. State*, 15 S.W. 2d 715 (Tex. Civ. App.—El Paso 1929, no writ).

Comment: The county employed Davis and Wilson to compute their 1966 tax roll. This firm reported timberland in the county worth \$60 to \$70 per acre—approximately half the value past county rolls had employed. When the county refused to accept these figures, Davis and Wilson had to double their valuations before the county would adopt them.

Newton Independent School District

Evaluation Method: Acreage is placed on the rolls at \$23 per acre (assessment ratio is 33 1/3%), indicating a fair market valuation of \$69 per acre, excluding mineral rights.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

Most taxing agencies studied make no attempt to find the true market value of timberlands within their districts. Most compute assessed valuations by multiplying the number of acres the taxpayer owns by a flat rate. A tax assessor applies this flat rate to all land whether stocked with timber or bare, a practice which is clearly illegal in light of the considerable differences in the values of these two classes of land.

Further, the assessed valuation for timberland consistently falls far below a realistic figure (See Table A). Consequently, timberland is valued at a much lower percentage of market value, although the agency claims to assess all property at the same percentage. This illegal practice results in lost revenue (Table B and C) and discriminates against anyone whose property has been fairly appraised.

Many reasons account for these inaccurate and illegal practices.

(1) While all agencies acknowledge the need to reassess periodically, some neglect doing so simply because they happen to be meeting their present expenses. They, of course, will find themselves forced to re-evaluate when their need for money becomes more acute. Some agencies, already feeling the financial pinch, still avoid needed re-assessment by raising the assessment ratio. Although this procedure brings in the needed money without incurring the cost of re-assessment, it continues the same illegal practices. Timberlands are still placed on the rolls at a lower percentage of market value than are other properties.

(2) The difficulty of finding comparable market values for timberland is another reason for failure to re-assess. As one county assessor stated, timber companies ordinarily do not reveal to any tax collector the price they paid for a specific tract of land. Of course, some buyers and sellers do talk enough to allow an assessor to ascertain accurate market values, but eliciting such information can require a great deal of effort.

Since the deed of sale almost never includes the full purchase price, assessors must talk to buyers and sellers to verify sales in order to obtain market values for timberland. It is inconceivable that a state would rely for its income on property taxes and not require that a deed carry the full purchase price on its face. To force an assessor to ask a man how much value he, the owner, wants to place on his property for tax purposes can only be termed ludicrous.

Such malfeasance has stood unchallenged, perhaps because private homes comprise such a large proportion of taxable property,

and are more easily assessed at market value. Most homeowners buy on credit; hence, the deed of trust provides an accessible estimate of the full price.

(3) Most assessors recognize the wisdom of hiring a professional to re-evaluate timberlands. Unfortunately, fear of paying a high price for such a service frequently discourages this course.

Recommendations

Agencies giving the expense of re-assessment as a reason for not re-evaluating timberlands fail to see that the revenues gained will more than compensate for the cost of hiring a professional. A state forest appraiser, experienced in professional land valuation, asserted that an appraisal of the timberland in an entire county would cost \$20,000 at the absolute maximum. This price includes the cost of aerial photographs which some counties already possess. Counties and school districts would recover quickly even the maximum cost of \$20,000, according to estimates of the revenue losses re-assessment would prevent. (See Tables B and C.) In addition, the assessment would be accurate for several years, providing more time to recover the costs.

Counties and the school districts within them could reduce the cost by sharing the expense of the project. But as this study indicates, these agencies do not cooperate, resulting in the same land being assessed twice. School district and county figures on the same parcel of land vary widely, and often both figures fail to approximate realistic values. It is easy to see why school districts resist joining county officials in any projects, for the county most often assigns lower market value to a given tract of timberland. County figures will probably remain the lower of the two in the future since the county tax assessor-collector, an elected official, fears that re-assessing will incur the taxpayers' wrath. The school district's tax assessor, on the other hand, is appointed and

more insulated from the taxpayers. Still it is difficult to imagine why some county tax assessors fail to check their valuations against those of the school districts. After all, the rolls are public record.

To remedy this situation, the state legislature should pass legislation requiring all deeds to include the full purchase price. Then the legislature should make the office of county tax assessor-collector non-elective. The official filling this position would be required to appraise all county lands for both school and county tax rolls.

Short of these reforms, many agencies need to reassess timberlands instead of applying one rendition rate to most property and an illegal lower rate to timberlands. School districts and counties should cooperate in sharing the expense of a re-evaluation to save themselves, and ultimately the taxpayer, the cost of duplicated efforts.

APPENDIX

THE DOLLARS AND CENTS CONSEQUENCES OF UNDERVALUATION

The following tabular study demonstrates the effects of undervaluing timberland upon the finances of six counties and eight school districts last year. Employing faulty and illegal assessing practices year after year has cost East Texas untold millions in potential tax revenue.

Since exact figures are impossible to ascertain due to the constantly increasing value of forest land over the past two decades, we limit our estimates to the past year. The frequent inaccuracy of tax roll entries also makes these figures approximations.

Keep in mind that this study surveys only a sampling of counties and school districts; many other jurisdictions in the 37 counties comprising East Texas are also losing tax revenues of sizeable dimensions.

EXPLANATION OF TABLES

Table A: Survey of Actual Assessing Methods (1969)

TABLE A.—SURVEY OF ACTUAL ASSESSING METHODS 1969

Taxing agency (1)	Assigned by agency			Actual		
	Assessed valuation (2)	Ratio of assessment (percent) (3)	Fair market value (4)	Assessed valuation (5)	Ratio of assessment (percent) (6)	
Angelina County.....	\$10.00	25	\$40	\$50.00	5.0	
Lufkin Independent School District.....	(¹)	30	(²)			
Diboll Independent School District.....	20.00	40	50	80.00	10.0	
Hardin County.....	16.60	20	83	40.00	7.3	
Silsby Independent School District.....	32.00	55	58	110.00	16.0	
Lumberton Independent School District.....	160.00	100	160	200.00	80.0	
Hardin Independent School District.....						
Champion Paper Co.....	50.00	50	100	100.00	25.0	
Kirby Lumber Co.....	70.00	50	140	100.00	25.0	
Jasper County.....	12.50	10	125	20.00	6.25	
Jasper Independent School District.....	23.00	25	150	50.00	11.5	
Liberty County.....						

Taxing agency (1)	Assigned by agency			Actual		
	Assessed valuation (2)	Ratio of assessment (percent) (3)	Fair market value (4)	Assessed valuation (5)	Ratio of assessment (percent) (6)	
A ³	\$37.50	25	\$150	\$50.00	18.75	
B.....	32.50	25	130	50.00	16.25	
C.....	27.50	25	110	50.00	13.75	
Liberty Independent School District:						
A.....	78.00	60	130	120.00	39.0	
B.....	66.00	60	110	120.00	33.0	
C.....	54.00	60	90	120.00	27.0	
Nacogdoches County ⁴	15.00	30	50	60.00	7.5	
Nacogdoches Independent School District.....	12.00	30	40	60.00	6.0	
Nacogdoches Independent School District.....	19.00	75	25	150.00	9.5	
Newton County.....	14.50	{ 15 } { 10 }	145	30.00	7.25	
Newton Independent School District.....	23.00	33.33		66.60	11.5	

¹ No flat rate used.
² Approximate.
³ Lumberton Independent School District values much timberland according to higher residential use value. Figures here reflect values for lands remote from roads valued as timberland only.
⁴ Hardin Independent School District rolls list these 2 major timber companies at different rates.
⁵ Both Liberty County and Liberty Independent School District value timberlands according to good, fair, and poor quality.

⁶ Nacogdoches County places rural acreage on paved roads on the rolls at \$15 per acre and other rural land at \$10 per acre.
⁷ Newton County (illegally) applies a 10 percent assessment ratio to timberlands and a 15 percent ratio to all other property.

Table B: Estimated Revenue Lost through Faulty Valuation of Timberland (1969)

Column 1: Taxing agency.
Column 2: Taxable acres of commercial forest land in agency's jurisdiction—Figures for counties are those the Texas Forest Service reports in *Texas Almanac 1970-1971* (p. 138). The Silsbee Independent School District computes its own forest acreage.
Column 3: County general tax rate per \$100 assessed valuation—This is the general county rate, not including other special taxes, such as hospital and road taxes.

Column 4: Taxes agency could collect using accurate valuations—Estimating full market value at \$200 per acre, number of acres x 200 x assessment ratio x tax rate. \$200 represents a conservative value estimate. Though some acreage would sell for less, much would sell for a great deal more. These sums include the general county tax alone. Special taxes for hospitals, roads, etc. are omitted; however, they are based on the same low assessment rates.

This table lists the fixed flat rates taxing authorities use in placing assessment valuations on the rolls. It compares the fair market values the agencies' records reflect with actual market values and indicates the loss of taxable property that illegal assessing practices cause.

Column 1: Name of taxing agency—county or school district.

Column 2: Assessed valuation—the flat dollar value the agency applies to all timberland regardless of quality. Unless otherwise specified, all agencies derive the assessed valuation of forest land from a flat rate formula.

Column 3: Assessment ratio—the percentage of fair market value at which a taxing agency lists property on its rolls. For example, a county employing a 25 percent assessment ratio would carry a \$10,000 tract on its tax rolls at \$2,500.

Column 4: Actual fair market values—As assigned by the agencies: Dividing assessment valuation by assessment ratio yields fair market value. For example, a county valuing an acre at \$10 and using a 25 percent assessment ratio is assigning that acre a fair market value of \$40.

Column 5: Assessed valuation agency should assign—Assuming a \$200 per acre fair market value, Column 5 shows the average assessed valuation the agency should employ in contrast to the figure in Column 2.

Column 6: Actual assessment ratio for timberlands—Assuming a conservative average value of \$200 per acre for timberland, this column shows the actual percentage of fair market value at which the taxing agency lists this property on its rolls, in contrast to the legal assessment ratio in Column 3. Any substantial discrepancy between the figures in Columns 3 and 6 indicates that the agency is applying—illegally—different ratios and disproportionate tax rates to differing types of property.

Column 5: Estimated total taxes collected on timberland—number of acres x assessed valuation x tax rate. Where agencies used ascending scales of value for different classifications of land, this column employs the highest assessed values, making the estimated loss revenue (Column 6) extremely conservative.

Column 6: Tax money agency lost in 1969—Column 4 minus Column 5. Note again that these figures reflect very conservative estimates.

TABLE B.—ESTIMATED REVENUE LOST THROUGH FAULTY VALUATION OF TIMBERLAND 1969

[Amount in dollars]

Taxing agency	Taxable acres of commercial forest land	Agency's tax rate per \$100 assessed value	Taxes agency could collect on timberland	Taxes agency did collect on timberland	Tax money agency lost in 1969
(1)	(2)	(3)	(4)	(5)	(6)
Angelina County	359,900	1.00	180,000	36,000	144,000
Hardin County	501,600	1.20	240,000	99,900	140,900
Jasper County	541,800	.80	86,700	54,200	32,500
Liberty County ¹	453,600	1.20	272,200	176,900	95,300
Nacogdoches County ²	400,400	.95	228,200	57,000	171,200
Newton County	557,600	\$ 1.00	167,300	80,900	86,400
Silsbee independent school district	80,000	1.85	162,800	47,360	115,440
Total					785,740

¹ Liberty County figures reflect the assessed valuation the county applies to the "fair timber" classification: \$32.50 per acre.
² Nacogdoches County places rural acreage on the rolls at \$15 per acre on paved roads and all other rural land at \$10 per acre. This table uses the \$15 value, making the figure in column 5 high and that in column 6 conservative.

³ Newton County illegally applies the 10 percent ratio to timberlands and the 15 percent ratio to all other property. Column 4 uses the 15 percent ratio while column 5 employs the 10 percent ratio.

Table C: Taxes Major Timber Owners Were Not Charged in 1969 Table C attempts to show more specific examples of tax loss than does Table B. It demonstrates how faulty assessing benefitted certain large timber owners at the expense of specific taxing agencies.

Column 1: Name of company.
 Column 2: Acres—The total number of acres assessed at rural valuations that the agency's tax rolls list under the company's name.
 Column 3: Total taxes agency should have charged Company—Assuming average market value of \$200 per acre, assessed valuation

x number of acres x tax rate per \$100 valuation.
 Column 4: Total taxes charged—Number of acres x assessed valuation x tax rate per \$100 valuation.
 Column 5: Taxes agency lost—Column 3 minus Column 4. Note that these figures indicate tax revenue lost in 1969 alone.

TABLE C.—TAXES MAJOR TIMBER OWNERS WERE NOT CHARGED 1969

Area and company	Acres	Taxes company should have been charged ¹	Taxes company was charged	Taxes agency lost
(1)	(2)	(3)	(4)	(5)
Angelina County:				
Champion-U.S. Plywood	56.91	\$28.50	\$5.70	\$22.80
Owens-Illinois	78,828.05	39,414.00	7,882.80	31,531.20
Southland Paper Mills	14,715.40	7,358.00	1,471.60	5,886.40
Temple Industries	66,268.93	33,134.50	6,626.90	26,507.60
Total				63,948.00
Diboll Independent School District:				
Owens-Illinois	160.00	263.80	59.20	240.60
Southland Paper Mills	54.40	80.52	19.98	60.54
Temple Industries	32,851.00	48,619.48	12,154.87	36,464.61
Total				36,729.75
Hardin County:				
Boise-Cascade	14,565.42	6,991.40	2,861.11	4,130.29
Champion-U.S. Plywood	27,450.98	13,726.47	5,729.81	7,996.66
International Paper	3,211.68	1,541.61	616.80	924.81
Kirby Corp.	127,094.00	61,005.12	26,687.00	34,318.12
Southern Neches	7,267.10	3,488.21	1,545.98	1,942.23
Southland Paper Mills	27,021.20	12,970.18	5,458.32	7,511.86
Southwestern Timber (Eastex)	137,219.81	65,865.51	26,352.28	39,513.23
Temple Industries	8,805.11	4,226.45	1,520.47	2,705.98
Total				98,493.18
Silsbee Independent School District:				
Kirby Corp.	14,079.00	28,650.77	8,517.03	20,133.74
Southwestern Timber (Eastex)	85,887.98	119,837.02	35,216.41	84,620.61
Temple Industries	4,058.37	8,258.79	2,402.60	4,200.42
Total				108,954.77
Jasper County:				
Bleakwood Timber Co.	24,561.69	3,929.87	2,259.40	1,670.47
Champion-U.S. Plywood	20,057.92	3,209.27	1,879.36	1,329.91
Jasper Timber Co.	60,717.48	9,714.80	5,586.68	4,128.12
Kirby Corp.	48,515.00	7,762.40	4,851.50	2,910.90
Reynolds-Wilson Lumber	5,838.35	934.14	534.52	399.62
Southland Paper	125.00	20.00	11.52	8.48
Southwestern Timber (Eastex)	91,352.43	14,616.39	8,516.96	6,099.43
Temple Industries	26,740.18	4,278.43	2,666.01	1,612.42
Total				18,159.31
Liberty County:				
Champion-U.S. Plywood	51,395.10	30,837.06	12,154.92	18,682.14
Kirby Corp.	48,795.00	\$29,277.00	\$16,073.76	\$13,203.24
Owens-Illinois	1,835.25	1,101.15	481.20	619.95
Southland Paper	5,657.75	3,394.65	2,026.32	1,368.33
Southwestern Timber (Eastex)	11,518.19	6,901.91	2,952.84	3,958.07
Temple Industries	2,217.20	1,330.32	744.96	585.36
Total				38,417.09
Hardin independent school district:				
Champion-U.S. Plywood	4,879.42	8,343.81	2,983.29	5,360.52
Kirby Corp.	17,134.00	29,199.14	20,521.36	8,777.78
Total				14,138.30
Newton County:				
Bleakwood Timber	31,269.20	9,380.76	4,534.03	4,846.73
Champion-U.S. Plywood	13,661.09	4,098.33	1,980.86	2,117.47
International Paper	18,258.17	5,477.45	2,647.43	2,830.02
Jasper Timber	66.39	19.92	9.63	10.29
Kirby Corp.	124,930.00	37,479.00	18,114.85	19,364.15
Lutcher-Moore	52,472.96	15,741.89	7,609.08	8,132.81
Newton Timber	56,585.69	16,975.71	8,204.93	8,770.78
Owens-Illinois	2,441.53	732.46	354.02	387.44
Southwestern Timber (Eastex)	31,191.63	9,357.49	4,522.79	4,834.70
Temple Industries	51,296.38	15,388.91	7,437.98	7,950.93
Total				59,245.32
Newton independent school district:				
Bleakwood Timber	28,409.00	37,783.97	13,068.14	24,715.83
Champion-U.S. Plywood	8,344.00	11,097.52	3,838.24	7,259.28
Kirby Corp.	48,820.00	64,930.60	23,433.24	41,497.00
Newton Timber	39,301.00	52,270.33	18,078.46	34,191.87
Southwestern Timber	22,685.00	30,171.05	10,435.10	19,735.95
Temple Industries	7,000.00	9,310.00	3,360.00	5,950.00
Total				133,349.93
Nacogdoches County:				
Owens-Illinois	30,859.88	17,590.13	6,492.25	11,097.88
International Paper	45,554.15	25,965.87	5,506.78	20,459.09
Kirby Corp.	9.00	5.13	.86	4.27
Southland Paper	2,945.40	1,678.88	359.77	1,319.11
Temple Industries	7,835.01	4,465.96	965.84	3,500.12
Total				36,380.47
Grand total				607,816.16

¹ Tax roll entries often do not conform to the rates taxing agencies claim to employ. These figures reflect these discrepancies.

² Some acres are rendered at \$23 per acre and some at \$24. This table employs the \$24 per acre rate, making the figures in col. 5 a conservative estimate of loss.
³ Taxes lost in 6 counties and 4 school districts.

COMMERCIAL AND INDUSTRIAL PROPERTY: HOUSTON AND HARRIS COUNTY, TEX.
 (Kim Quaille Hill)

As is true in most states, the major source of revenue for local governments in Texas is the ad valorem tax. The taxing districts under study here are typical in this regard:

Harris County receives 79 percent of all fund revenues from the ad valorem tax and Houston receives over 50 percent of all general fund revenues from this source. The significant undervaluation of some classes of property for purposes of ad valorem taxation, whether by design or assessment difficulties,

not only distributes the tax burden unequally, but also deprives the citizens of many public services that could otherwise be provided with the additional revenue.

A major concern in regard to unequal tax treatment is the valuation of commercial and industrial property as compared with resi-

dential property. For various reasons the valuation of residential property is relatively simple: the number of transactions (sales) is high, sales prices are readily available, and depreciation techniques are simple. In many commercial property dealings, however, information is relatively restricted. Transactions tend to be fewer in number and sales price information is more difficult to acquire. Most large financial interests prefer that such information remain confidential. It is fairly common practice to avoid recitation of the entire consideration in deed records; furthermore, since the repeal of the federal documentary stamp tax (effective January 1, 1968), the only readily available source of market value documentation has been lost.

Another problem area in the assessment of commercial property is the difficulty in valuing commercial structures such as multi-story office buildings, refineries, pipelines, and factories as compared with valuing typical residential structures. Yet there are accepted techniques for handling such problems and professional tax appraisers should be able to appraise these structures just as readily as the smaller ones. This need for professional tax appraisers points up one of the major problems of property taxation in Texas: with 254 counties, over 800 incorporated municipalities, and over 1,000 school districts, the demand for qualified appraisers is great. Many of the individuals who fill this capacity for various jurisdictions throughout the state are hopelessly ill-suited for the task.

Recognizing that no prior published report has compared the assessment of various classes of property in the Houston area, this study compares the assessment level of commercial and industrial property with that of residential property in the City of Houston and Harris County. The Tax Research Association (TRA) of Houston, a privately funded research group, has for 14 years made an annual study of the assessment levels of Houston, Harris County, and all other taxing bodies within the county. The results of the TRA's studies have shown assessment levels that are reasonably uniform and slightly below stated assessment levels for the major taxing units in the county. The City of Houston has deemed the TRA study sufficiently creditable to publish its results in the Annual Financial Report of the City Comptroller as indicative of the general assessment level for the city. The crucial flaw in the TRA study, however, is that 90 percent of the transactions on which it bases its studies are residential property sales. Consequently, the TRA study is not indicative of the general assessment level for all types of property. Yet it may be taken as an accurate reflection of residential property levels and it will be used as a point of comparison for the commercial property ratios developed in this study. Any wide disparity between the results of the TRA and those of this study should indicate failure to achieve tax equalization between the classes of property so represented.

In order to attain meaningful assessment ratios for commercial property this study had to face all the difficulties discussed above in determining market values in that area. With only one researcher utilizing limited time and funds it was necessary to select only certain types of commercial property. The choice of types was dictated partially by the availability of market value data and partially by the desire to represent several different types of property. As a result, three different samples were chosen generally representing two major types of commercial property.

The first sample was drawn from major exchanges of commercial property as reported daily in the *Houston Post*. These reports of noteworthy sales of office buildings, apartments, shopping centers, and major tracts of land usually give rounded dollar amounts for the exchange price as reported

by the parties to the transaction or by "realty circles." After consultation with members of the real estate and legal profession and with an expert in the area of property taxation, it was determined that such reported prices were generally accurate within 10 percent. Thus a sample was drawn from all such reported sales as published in 1969 in the *Houston Post*. (Traditionally, assessment ratio studies utilize market value data from the last six months of the prior year compared with current tax valuations. Because this sample was drawn from the entire calendar year of 1969, some of the market values represented are older and lower than would ordinarily be used. The result of this difference is a conservative bias in the data that favors the position of the taxing authorities. In other words, this bias is directed toward higher percentage valuations than actually exist on the tax rolls.) Since most of these sales are customarily reported on Sunday, every such sale that was reported on a Sunday in 1969, that was located in Harris County, and that had a total consideration recited was used in the sample. In those instances where the reported information was incomplete or insufficient for positive identification of the property on the tax rolls, the items were omitted from the sample to resolve all doubts in favor of the taxing authorities.

The sample contains 40 items on the Harris County tax rolls and 28 items on the Houston city tax rolls. The assessment ratio was computed for each transaction, and total sales prices and total assessments were used to compute the overall assessment ratio. Harris County has a stated ratio of 22 percent of market value for tax assessments. The TRA study of residential property shows the county taxing at 17.96 percent of market value. The initial sample in the present study (Appendix A) shows an assessment ratio for commercial property of only 7.18 percent.

The City of Houston has a stated ratio of 40 percent of market value. Whereas the TRA study shows a ratio of 31.94 percent, the present study shows commercial property assessed at 16.81 percent of market value. Obviously these differences in assessment rates are quite marked for both taxing districts. *Commercial property in this sample is being assessed at a rate that is approximately half that used for residential property.*

The second sample contains property from industrial parks and districts in the Houston area. Such areas are planned locations for manufacturing, research, distribution, or other commercial operations. In effect, they are commercial property "subdivisions" with land sites, utilities, and railroad service suitable for industrial "homes." As the sample of major transactions reported in 1969 was dominated by sales of unimproved land, this sample is dominated by improved and developed land sites, representing a higher level on the spectrum of types of commercial property. The market values of land in these areas were derived from a report by the Houston Lighting & Power Company and the Houston Chamber of Commerce published in the April, 1969, issue of *Houston* magazine. Costs were given for land in each of 16 industrial parks with most parks reporting both the minimum and maximum cost per acre of land in their development. It is reasonable to assume that since April of 1969 (the date of the report) land costs in these areas have continued to rise; therefore, the use of the April, 1969, figures for comparing the valuation of all land in these parks is a reasonably conservative technique.

This sample (Appendix B) is composed of 45 items in both taxing districts. The values used are only for the land, although most of the items are improved. All of the land was valued at the minimum land cost figure as reported by the industrial parks. The

result of this technique is to introduce a conservative bias into the data in favor of high percentage valuations. For Harris County the sample resulted in an assessment ratio of 10.74 percent (as compared with a stated rate of 22% and a TRA residential property rate of 17.96%). For the City of Houston the sample yielded a ratio of 13.94 percent (with the stated rate at 40% and the TRA rate at 31.94%). Once again the rates for industrial property are quite low; however, two factors make these results even more spectacular. Most of these values on the county tax rolls represent increased valuations for 1970. Since these revaluations come only periodically, the degree of undervaluation is thus heightened, and the accuracy of this revaluation must be disputed. The second factor affecting this sample is the bias resulting from the sole use of minimum land cost figures. A similar valuation using only the maximum land cost figures resulted in even lower assessment ratios (for Harris County 7.37% and for Houston 9.57%). The true ratios should lie somewhere between the two extremes: for Harris County between 9.57 and 13.94 percent.

The third sample used in the study contains valuations of commercial property currently offered for sale. Most studies of assessment levels (and the first two samples in this report) utilize prior year cost information compared with current year assessed valuations. This final sample utilizes current asking prices for property offered for sale and current assessed valuations of that property. It does not represent actual undervaluation in the traditional sense, because next year's assessment could theoretically be increased to follow the actual sales prices. Such a comparison of asking prices with assessed values is, however, an indication of the ability of the taxing authorities to keep pace with rising property values. Some disparity between the two can be expected in the interim between transaction and reassessment, but a wide deviation indicates a notable lag in the ability of the taxing authorities to keep pace with current values.

Naturally it is not the intention of this study to equate the asking price of property with its market value; however, in a sample of sufficiently large size, there will only be a small discrepancy between the two. If the underassessment indicated by such a sample were small, it might be attributed to this discrepancy. If the indicated underassessment is quite large, it cannot be explained by this discrepancy but will clearly indicate the need for increased valuations in that area.

This sample (Appendix C) contains 22 items that were offered for sale during July or August, 1970. Using the asking prices as one would use actual market values in an assessment ratio study, the data yielded a 6.84 percent ratio for Harris County and a 13.01 percent ratio for Houston. This significant disparity is further evidence of the general undervaluation of commercial and industrial property as compared with residential property in the two taxing districts studied. Assuming that the significant undervaluation documented in Appendix A and Appendix B is a fair indication of the assessment levels throughout Harris County, it is fair to estimate undervaluation of commercial property at nearly 70% in the county and nearly 60% in the city. For industrial property the undervaluation is approximately 50% in the county and approximately 65% in the city.

The impact of this grave inequality in the sharing of the property tax burden goes far beyond the inordinate unfairness to the small taxpayer: it deprives the city and county governments of funds for pressing vital programs, such as air and water pollution control. It is regrettable that industrial dischargers have passed on the costs of

policing their wastes to the general public. Doubly inequitable is a valuation system that allows these same industrial polluters to avoid paying their fair share of the public expenditures needed to clean up the dispoiled environment. The results of this abdication of public responsibility by the industrialists are clear. Houston public officials who have been hotly criticized by the state Water Quality Board chairman for failure to deal with the city's water pollution crisis claim that the tax dollars to finance the badly needed cleanup are simply not available. It is inconceivable that the citizens of Houston will tolerate the recurring annual loss of hundreds of thousands of dollars in tax revenue when that city has yet to initiate even a rudimentary water pollution inspection-enforcement program, and when other desperately needed social services continue unremedied.

RECOMMENDATIONS

To rectify the immediate problems of property tax abuse in Texas we make the following specific recommendations:

1. That Chairman Ben Atwell of the State Commission on State and Local Tax Policy discharge the legal responsibilities of his office and order an immediate investigation into the shocking illegalities disclosed in this report.
2. That a state board be established to hear taxpayer grievances, to recommend relief in the form of tax refunds when necessary, and to provide public lawyers to assist the complaining taxpayer.
3. That the practice of delegating the appraisal function to private firms be eliminated, and that the state provide the ap-

praisal service to local taxing districts when requested.

4. That full disclosure of the precise formula used in property evaluations be made by all individuals and organizations performing the appraisal function.

5. That a state board be created to pass upon the qualifications of the local tax assessors, and be given the power to remove such assessors for cause.

CONCLUSION

In nearly every state the property tax provides the overwhelming proportion of the revenue for our cities, counties, and school districts. But the serious inequality in valuations and assessments continues to deprive local governments of funds. The state of Texas, which is first among the states in oil and gas reserves, first in cattle, first in cotton, and first in livestock, is rated near the bottom of the list in its attention to the basic social services. This does not need to remain so. Property tax reform can bring millions in lost revenue.

A report released almost nine months ago alerted state officials to the substantial undervaluation of oil and gas property in the Permian Basin. This report has been ignored by Texas political leadership. In that report, the loss to the school district in one county alone as a result of undervaluation was shown to be nearly one million dollars a year for at least the last seven years. But despite the concern of that county's citizens, and the statement by the local County Judge that a "serious question had been raised" by the introduction of this evidence of un-

dervaluation (Odessa American, June 30, 1970), the state government has remained indifferent and unresponsive. Just one day after the report's release, Speaker of the House Gus Mutscher hastily dismissed the report as "an unwarranted attack on one of Texas's leading industries." (Austin American, Jan. 31, 1970) And, when pressed by reporters, Representative Ben Atwell, Chairman of the Commission on State and Local Tax Policy, promised to make an investigation, but has yet to respond publicly to our letter of January 31, 1970. Chairman Atwell has kept curiously silent about a problem that squarely challenges the respectability of his Commission.

The findings of this latest report now clearly indicate that the inequality of valuation and assessment of property for tax purposes is not an abuse unique to the mineral interests, but is one that is characteristic of timber and commercial-industrial property as well. A projection of this pattern of undervaluation of timber land, for example, applied to the entire 37-county East Texas area, means the annual loss of approximately \$38.4 million a year.

The implication here is great and national in scope: at a time when our cities are facing their greatest crises in history, the local governments can now respond immediately with "money in the pocket" that they never knew they had. Undervaluation of timber interests and undertaxation of corporate industries from oil companies to banks to insurance companies is not just a Texas phenomenon. It is a nationwide injustice that must be resolved as the first, fundamental step toward the solution to the critical problems of our local communities.

APPENDIX A—1969 REPORTED TRANSACTIONS

Description	Purchaser	Date	Price	County assessment		City assessment	
				Total assessment	Assessment ratio (percent)	Total assessment	Assessment ratio (percent)
1. 4 ac. fronting Chimney Rock and Ashbrook	William J. Morgan	Jan. 5	\$175,000	\$14,080	8.04	\$65,930	37.67
2. Valley Forge Apts. (6525 Hillcroft) and circa 10 ac.	Kayvor Co.	Jan. 12	4,000,000	207,770	5.19	415,620	10.39
3. 6 ac. at Winrock and San Felipe	Lawrence Kagan, et al.	Jan. 19	650,000			124,700	19.18
4. 10.83 ac. at SW corner US 75 and FM 1960	Hyman Finger and Mrs. J. Oshman	Jan. 26	270,750	7,760	2.86		
5. Tract at Milam and Drew plus bldg.	LeCorp	Feb. 2	350,000	7,950	2.27	22,230	6.35
6. 129,000 sq. ft. at Airline and Lyerly	Nelson Mobile Homes	do	160,000	7,940	4.96	56,970	35.60
7. Northshore Motor Hotel at Rockglen and Northshore Dr.	Interstate Motor Lodges	Feb. 9	400,000	36,980	9.24	75,180	18.79
8. Apt. complex at Clearwood and Alder	Danny Dror	do	250,000	32,490	12.99	58,460	23.38
9. 84 ac. at Bissonnet and Cook	Bissonnet Ltd.	Feb. 16	630,000	51,070	8.10		
10. 75 ac. fronting Huffmeister Road	Hyman Finger	Feb. 23	150,000	10,860	7.24		
11. 148 ac. north of Little York and N. Rosslyn Rds.	Dan Kennerly, trustee	do	500,000	27,250	5.45		
12. 16 ac., 6000 blk Gulf Frwy	RER Investments	do	675,000	41,090	6.08	198,080	29.34
13. 45 ac. on Bourgeois Rd., south of Champions Golf Course	Jacob Glatch et al.	Mar. 29	200,000	13,920	6.96		
14. 9 ac. at Renwick and Elm	John Jamail	Mar. 23	400,000	13,800	3.00	72,310	18.07
15. Robinwood Motel, 7611 Katy Frwy	LaVergne, McCullough & Ass., et al.	do	450,000	69,170	15.37	134,910	29.98
16. Apt. complex at 800 Heights Blvd.	Barry Bradley trustee	Apr. 6	420,000	23,670	5.63	41,930	9.98
17. Apt. complex at 811 Colquitt	Thomas Osmun trustee	Apr. 20	60,000	10,490	17.48	18,360	30.60
18. 198.5 ac. on Louetta Rd., north of FM 1960	Winston McIntosh, et al.	do	600,000	58,500	9.75		
19. 40 ac. between Strack and Middlestadt Rds.	Vann C. Wilson, Jr.	May 11	165,000	10,560	6.40		
20. Shopping center at Holmes and Golfcrest	Harry Reed, et al.	do	27,000	3,740	13.85	10,780	39.92
21. 265 ac. at Cypress-Rosehill and Juergen Rds.	Land Equities, Inc.	May 25	350,000	23,320	6.66		
22. 25,000 sq. ft. warehouse at 1112 Paige	RCA Transportation Co.	do	100,000	22,850	22.85	\$41,360	41.36
23. 8.5 ac. at Greens and Milner Rds.	John R. Blocker, et al.	June 15	212,500	4,960	2.33	5,300	2.49
24. 1.68 ac. in Sharpstown Center between Gaylynn Center and Goodyear Tire Co.	Richard Minns	do	250,000	24,220	9.68	20,220	8.08
25. 3410 Marquart Bldg	Glenn A. Merrill	July 13	150,000	19,800	13.20	35,600	23.73
26. 245 ac. fronting Westheimer and Buffalo Bayou	Friendswood Dev. Co.	July 20	7,000,000	463,850	6.62	1,287,380	18.39
27. 30,000 sq. ft. at 18th and Mangum	J. S. Waldman, trustee	Aug. 10	120,000	7,860	7.27	12,470	6.92
29. 4.5 ac., 8200 blk. of Park Place	Leon Constr. Co.	Aug. 31	250,000	39,170	15.66	51,300	20.52
30. Apt. complex at 2516 Commonwealth	Milton Bludworth	do	260,000	46,429	17.85	63,110	24.27
31. Apt. complex at 1407 Missouri	Jack Howe	do	160,000	25,320	15.82	46,530	29.08
32. King Edward VI Apt., 7745 Long Point Rd.	Enchanted Homes, Inc.	do	400,000	65,210	16.30	119,120	29.78
33. 15.9 ac. at Brompton and Bellfontaine	Brompton Associates	Sep. 21	1,300,000	193,440	14.88	90,930	6.99
34. Jamestown Apts., 3600 Link Valley	Mel LaVergne	Sep. 28	1,600,000	57,110	3.56	104,390	6.52
35. 100,000 sq. ft. on south side of Westheimer, east of Chimney Rock	Diversified Bldg. Equities Inc.	Oct. 5	500,000	37,730	7.54	58,970	11.79
36. 190 ac. on Freeman Rd. near Grand Parkway site	Robert E. Glaze	do	330,000	12,770	3.86		
37. 4141 Southwest Frwy Bldg	National Realty Investors	Oct. 19	1,000,000	100,010	10.00	351,390	35.13
38. 6 ac., North Belt Drive	Gene Russell, et al.	Nov. 2	180,000	2,640	1.46		
39. 6 ac., North Belt Drive	Property Research Co.	do	180,000	2,640	1.46		
40. 18 ac., East Houston-Dyersdale Rd., north of Tidwell	Sam Meineke et al.	Nov. 9	120,000	4,630	3.85		
41. Shopping center at W. Holcomb and Kelvin	Texas Calculating Services Inc.	Nov. 23	125,000	19,550	15.64	21,520	17.21
42. 66 ac. at Little York Rd., Northwest Frwy, and Hempstead Rd	James Gustafson, et al.	Dec. 7	1,100,000	15,650	1.42		
Harris County Totals (40 Items)			25,570,250	1,838,249	7.18		
City of Houston Totals (28 Items)			21,444,500			3,605,050	16.81

*Item No. 28 omitted.

APPENDIX B—INDUSTRIAL PARKS LAND

Table with 7 columns: Description, Owner, Total land value, County assessment (Land, Assessment ratio), City assessment (Land, Assessment ratio). Lists various industrial parcels with their respective owners and assessment values.

1 Not on tax roll.

2 City.

APPENDIX C.—CURRENT OFFERINGS

Table with 7 columns: Description, Owner, Asking price, County assessment (Total, Assessment ratio), City assessment (Total, Assessment ratio). Lists current offerings for various parcels.

OPERATION REUNION

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. MILLER of California. Mr. Speaker, it is with a great deal of pride I am

pleased to announce that one of my constituents, Trans International Airlines, Inc., headquartered at Oakland International Airport in Oakland, Calif., will carry the first planeload of GI's traveling home from Vietnam under "Operation Reunion" in cooperation with the United Service Groups which handles travel arrangements with the Armed Forces.

The TIA stretch DC-8 jet will first arrive on American soil at Oakland at 3:30 PST Saturday afternoon, December 5, with stops in Chicago and New York, carrying 250 American soldiers under this new program which allows combat troops in Vietnam a 2-week leave in the United States to join families, wives, or sweethearts.

The first planeload will be the van-guard of thousands of GI's to be carried on a series of TIA charter flights over a period of months. I understand the airline is standing by with immediate aircraft available to provide additional flights to these servicemen both prior to and after the Christmas holiday season.

This immediate response on behalf of a supplemental carrier again demonstrates the great public value of the industry in providing low-cost transportation when sorely and quickly needed.

SIMAS AND THE YELLOW-TAILED FLOUNDER CAPER

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. LANDGREBE. Mr. Speaker, the forced repatriation of a freedom-seeking Lithuanian seaman from the Coast Guard cutter *Vigilant* ranks as one of the most sickening, appalling incidents in our Nation's history.

I am told that this incident is just one illustration of a longstanding State Department policy of discouraging defections from Communist-dominated countries. This policy dates back to the days after World War II, when we shipped back thousands of East European refugees in cattle cars. Many of them committed suicide in these cars rather than live under Communist tyranny, but obviously we were as anxious then as now, to accommodate the Soviet Union.

Robert McCloskey of the State Department is quoted in the Washington Evening Star of December 1 as saying "we would not want to encourage defection" because it might constitute a provocation.

Does this mean that we are more concerned with Soviet feelings than we are with the human desires of persons for freedom? What sort of provocation would this constitute? Does not the Soviet Union indulge in such provocations with their parading of American deserters before TV cameras in Moscow?

Mr. Speaker, Smith Hempstone of the Washington Evening Star last night wrote the most eloquent commentary on the Simas affair that I have yet seen. I insert Mr. Hempstone's column at this point in the RECORD:

SIMAS AND THE YELLOW-TAILED FLOUNDER CAPER

(By Smith Hempstone)

Simas was his name, and every flag in the United States should be flying at half-mast today in partial atonement for the shameful way in which this country betrayed him and its own ideals when it permitted six Russian thugs to board an American ship, beat him into a pulp and drag him away unconscious to an unknown fate.

Coast Guard Capt. Ralph E. Eustis and his crew cannot be wholly blamed for complying with a direct order to turn the Lithuanian would-be defector over to the Russians. But Stephen Decatur and John Paul Jones would have broken their swords over their knees before they would have obeyed the craven command of Rear Adm. W. B. Ellis, com-

mander of the 1st Coast Guard District in Boston.

One thing should be made clear about the incident off Martha's Vineyard: Simas—that is all we know of his name—was a refugee in the truest sense of the word. For his nation no longer exists. Its 22 years of freedom ended when it was annexed by the Soviet Union in 1940.

No nation has paid a harsher price for its dedication to its national and religious heritage. The Nazis liquidated the Jewish population and deported tens of thousands of other Lithuanians to slave labor camps during the 1941-44 German occupation. After 1944, the Russians completed the job by exiling tens of thousands of other Lithuanians to Siberia, replacing them with Russian colonists.

The United States never has recognized the illegal Russian annexation of the Baltic states. Lithuania, like Latvia and Estonia, has a legation here in Washington. Its charge d'affaires, Joseph Kajeckas, is fully accredited to the State Department and his name appears on State's official diplomatic list.

And yet Kajeckas, the closest thing to a national representative Simas had in the eyes of the United States, was not even informed of the incident—let alone permitted to interview the defector—before he had been handed back to the tender mercies of the crew of the Russian factory ship *Sovietskaja Litva*.

The fact that the Soviet ship had been invited into United States territorial waters to discuss, in the State Department's words, over-harvesting of yellow-tailed flounder along the North Atlantic coast, seems to me entirely immaterial. The moment Simas hurred himself onto the deck of the Coast Guard cutter *Vigilant*, he was (or should have been) under the protection of the American flag.

Simas made it clear (he spoke English) that he was seeking political asylum. He pleaded and prayed (6 out of 7 Lithuania's 3 million people are Catholics) not to be returned to the Soviet ship.

When all else failed, he fought with his fists for his freedom, while the crew of *Vigilant* looked on. When the Russians finally had subdued their prey, beating and kicking the trussed Lithuanian into unconsciousness, the Americans generously provided them with a lifeboat to carry their bloody prisoner back to captivity.

Adm. Ellis, who is reported to be ill and unable to comment (so is Simas), may be guilty of nothing more than transmission of a sickening and unlawful order. He was in touch with both the State Department and Coast Guard headquarters in Washington; there the decision apparently was made that yellow-tailed flounder were more important than a man's life. It is a decision that stinks worse than a week-old flounder.

More than 1 million Americans are of Lithuanian origin and, like the emigres from other Eastern European captive nations, they have kept alive the dream of America in the hearts of the people in their homeland.

Simas must be a rather confused man today as he lies in irons somewhere in the bucking hold of *Sovietskaja Litva*. The process of his re-education has begun. Just to keep their hand in, the security police will rough him up from time to time on the long voyage home. His rations are unlikely to be tempting.

When the Soviet ship reaches her home port, he'll be turned over to the political police. Since the 12th Century, there has been no love lost between Russians and Lithuanians, and the political police will explain to Simas the error of his ways. He'll never go to sea again. A trip to Siberia may well be in order for a man who has shown a predilection for travel.

Simas is just one man, of course, and his fate is of little consequence when compared

to yellow-tailed flounder. So what if we violated the 1951 Geneva convention on refugees, to which the United States is signatory? It will soon be forgotten.

It ought not to be. For Simas will never forget.

SENATE DEFEAT OF SST

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. HARRINGTON. Mr. Speaker, the Senate today voted to defeat funding for the supersonic transport airplane. I praise them for that action, and I regret that the House did not do the same.

While I recognize that heavy pressure was brought to bear to fund the SST from those who are severely affected by the cutback in defense spending and the consequent loss of jobs, I do feel that the Federal Government should provide jobs in areas that will be constructive to our society. The same skills which build an SST or send a man to the moon could be used to clean up our environment or provide the housing that this country so desperately needs.

Many of the arguments used to support continuing funding of the SST were the same that have been used to bolster a basically wrong system of priorities in this country. It was, for example, argued that since we had already spent money on the SST we would have to continue spending money on it. The argument was also made that we should pay for the development of an SST because this country could not allow other countries to get ahead of it. In this regard, I would like to point out the variance between the projected appropriations of \$290 million for the SST and the \$40 million funding level for the new national railroad corporation which will operate all railroad passenger service in this country.

These arguments ignored the fact that the SST has been seriously questioned both in terms of its utility and its necessity. The pressure for the passage of this appropriation also ignored serious environmental concerns. At a time when we are discovering each day new threats to the environment, it makes little sense for the Federal Government to be engaged in promoting another one.

In a Department of Transportation bulletin urging funding for this program it was stated that the greatest argument in favor of development and production of the SST was that "the plane is a product of the progress of mankind." It has become clear that concentration upon this type of progress has meant the reverse of progress in the deterioration of our environment and in the failure of the Federal Government to meet the needs of the Nation in the areas of education, health, housing, and other domestic concerns. I would hope that the vote in the Senate today is the dawning of a new recognition of what progress in this Nation should be.

In light of the SST defeat in the Senate and the upcoming conference report, I want to insert in the RECORD an ex-

cellent editorial which appeared in the Boston Evening Globe on November 23. This editorial clearly states the case against the SST. I urge the House conference to read this carefully and to vote to retain the cut of SST appropriations.

THE SST: PAY NOW—AND LATER

The Senate will soon vote on a \$290 million appropriation to continue the building of two prototype supersonic airliners, fore-runners of an American SST that would cut flying time across the Atlantic by three hours in the 1980s.

The two test models, being built by Boeing in Seattle and General Electric in Cincinnati, have already cost the taxpayers \$708 million and final bills are expected to top \$1.03 billion with the government, i.e., the taxpayers, paying 90 percent.

The \$290 million appropriation passed the House on May 27 by an eight-vote margin on a rollcall of 176 to 168. The vote in the Senate could be equally close with proponents claiming 65 supporters and anti-SST forces aiming for a "no" vote of 58.

Proponents say the supersonic transport is a long-range investment that would produce a favorable trade balance of \$22 to \$45 billion for the US over a 12-year period, that the SST is the only answer to increased travel loads of the future and that the Boeing SST is essential if America is to maintain its worldwide leadership in aviation.

Opponents say that production of an American SST represents flag waving of the most expensive sort, that it would be a financial bust if it fails to sell, that its effect on the balance of trade 15 years from now is impossible to calculate and could be adverse, that the requested appropriation is out of line with national priorities and that the supersonic transport represents a major threat to the environment.

The Department of Transportation, leading the battle for the supersonic plane, argues that the U.S. SST, which will fly almost three times faster than present jets, is the only answer to a commercial air travel market that is expected to triple in 10 years and to triple again in the decade after that.

Opponents question these growth figures. They also question the SST's potential for increased productivity, arguing that time on the ground between flights will be at least equal to that for present planes and that ground time for maintenance could be greater.

Massachusetts Aeronautics Comdr. Crocker Snow, who supports the SST, admits that because of increased noise on the runway, "I personally question whether the present Concorde will be an acceptable neighbor at any of the existing close-in metropolitan civil airports in the northeast."

Because SSTs create a sonic boom in a 50-mile wide path along their line of flight, it is accepted that they will fly supersonically only over open ocean. British Aircraft Corp., builders of the English Concorde, estimate this would cover 31.5 percent of the world's 1980 air travel market. Yet statistics show that over half of the world's airline passengers now fly within the continental United States. When you combine this with the fact that the world's largest airline is Aeroflot which also flies primarily over land, the percentage of world routes open to the SST appears to be well below one-third.

If supersonic planes cannot be tolerated at metropolitan airports and are banned on more than two-thirds of the world's existing air routes, how can it be a money maker?

DOT has promised that the taxpayer will get his money back on the 300 SSTs; the sale of 500 SSTs will bring the government a profit of \$1 billion in royalties under the contract with Boeing and General Electric, makers of the airframe and engine. That's fine, if 500 SSTs can be sold.

Bo Lundberg, former director of the Aeronautic Research Institute of Sweden, points out that if the American SST costs \$40 million as advertised, 280 planes can be sold. "At that small quantity, the production cost per SST will be \$67 million," he states, "a loss of \$7.5 billion to be borne by the taxpayers."

What about employment? DOT talks about 5000 jobs now, and 50,000 when the American SST goes into production, with an additional 100,000 jobs in support programs. But production will not start for at least five years, which is a long time to be out of work. Meanwhile, Massachusetts taxpayers would pay \$44.2 million as their share of the \$1.3 billion prototype. In return the state would be eligible for \$25.7 million in subcontracts. This adds up to a loss of \$18.5 million.

DOT points out that the requested \$290 million for the SST prototype represents only 2.6 percent of the \$11.2 billion requested by Transportation this year, a miniscule fraction of the 1971 national budget of \$200.8 billion.

Small as the sum may be in these terms, can we afford it? This year the President vetoed a \$2.76 billion hospital construction bill, a \$4.4 billion education appropriation and \$18 billion for housing and urban development. The \$290 million requested for the SST compares with \$204 million for urban mass transportation, \$106 million for air pollution control and \$85 million for consumer protection.

What good will it do to be able to fly to London in three hours if it takes three hours to get to the airport? And, in lines with air pollution, the MIT-sponsored Study of Critical Environment Problems at Williamstown pointed out that the SST, flying twice as high as present jets at 60,000 to 70,000 feet, could increase cloudiness and temperatures in the lower atmosphere. This so-called greenhouse effect could alter the climate "quite possibly on a global scale," say the scientists, who recommend that "uncertainties about SST contamination and its effects be resolved before large-scale operation of SSTs begins."

The thing that has galvanized proponents is news that the Russian, French and British supersonics are really getting off the ground. Both the French and the British planes have now flown supersonically and the Concorde is scheduled to go into service by 1974—which makes the American SST a catch-up program at best. (The smaller Tupolev TU144 has also flown supersonically and could be ready by 1972 but it would probably be used only inside the Soviet Union since foreign certification would require letting outside inspectors into the Soviet factory.)

On July 30 Secretary of State William Rogers wrote the President, "one matter of prime concern is the progress of the British-French Concorde program." On Aug. 1, Treasury reversed its stand (that government sponsorship should be limited to continued design and engineering research only) on the basis of new DOT calculations on the balance of trade. "The key to those assumptions, of course, rests on whether the Concorde will be a commercially viable aircraft; this now appears to be the case," said Treasury Secretary David Kennedy.

Yet, on Nov. 9, a lead article in the Wall Street Journal pointed out that, while the French commitment seemed firm, the British Concorde program remained in jeopardy, with 74 options by 16 major airlines due to expire on March 31. "Options most emphatically aren't firm orders," says the Journal.

An article in Newsweek on Nov. 23 quotes Pan Am's president Najeeb Halaby as saying, "We are confident but skeptical. The airline industry does not want to plunge into this new era." TWA's president, F. C. Wiser, is quoted as saying that the plane could not make money without a 30 to 40 percent premium over present first class fares on the

Atlantic. "Hardly promising," is the comment of George E. Keck of United Air Lines.

DOT argues that the American SST will be "a better mousetrap" than either the TU144 or the Concorde. Because it is built of titanium (based on American ICBM technology) instead of aluminum, it could fly at 1800 miles an hour as compared to 1400 miles an hour, seating 298 passengers as compared to 125 passengers for the Concorde.

But the idea of fighting to maintain a lead in an endeavor fraught with so many questions seems nothing short of reckless folly. Back in the 1950s Congress put up \$1.3 billion to develop a nuclear-powered plane. That far more adventurous project was scrapped in 1961 when the ultimate cost began to add up to \$10 billion. Today's lesser SST program should be scrapped now, in the name of common sense and humanity.

WE'RE THE BLAME

HON. JOHN L. McMILLAN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. McMILLAN. Mr. Speaker, I include in the CONGRESSIONAL RECORD an article prepared by Paul Edgar Gasque, who is a senior at the Latta, S.C. High School.

Paul Gasque is an outstanding student and deserves a great deal of credit for the time he spent composing this poem and we all know that he has a great future.

I hope every Member will take a few minutes of valuable time and read the article.

The poem follows:

WE'RE THE BLAME

(By Paul Edgar Gasque)

Oh what problems we endure
In the U.S.A.
We read about them in the papers
Each and every day.

We read about the riots,
Poverty and pollution;
But no one wants to contribute
To a reasonable solution.

A solution that will put a stop
To these problems we ignore;
To help bring back America
As it was so long before.

You've heard about the riots
From white as well as black;
Surely there's misunderstanding
When you've traced it back.

Misunderstanding comes between
The races and the creeds;
Yet no one seems to realize that
Communication's what we need.

Poverty's the constant fear
Of all the unemployed;
With overexpanding, too much demanding
Why shouldn't they be annoyed?

What about pollution,
A very dumb mistake;
Where has all the fresh air gone?
What's happened to our lakes?

Just look at people on the streets
Or dead fish in the sea;
And then you have the nerve to say
"THE BLAME GOES NOT TO ME!"

We, the people are to blame;
It has been our mistake.
Let's begin to change it all
To make our country great.

OUR NATION'S YOUTH JOIN HANDS
TO SALUTE VETERANS DAY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. BOB WILSON. Mr. Speaker, on Friday, November 6, the students and faculty of James Madison Senior High School presented a memorable tribute to all veterans who gave their lives for their country in the cause of liberty. At the beginning of the school year, September 1970, the students wanted to express their appreciation for the sacrifices that have been made and are being made today by our fighting forces in order that their voices could be heard above the turbulence and disruption of dissidents.

The plans began with the election of a student chairman, Colleen Turner, senior and a faculty chairman, Mr. Oscar Baer, teacher of U.S. history and American government.

All the students and faculty members participated voluntarily and chose their own parts as something they wanted to do.

Through the good offices of Gen. Victor H. Krulack and Mr. Edwin T. Matlin, arrangements were made for a guest speaker, Sando Vargas, Jr., U.S. Marine Corps who was awarded the Congressional Medal of Honor in Vietnam, 1968. Major Vargas joined the students and faculty as coplaner and keynote speaker. It is refreshing to observe how wholeheartedly and with a sense of honor and respect Madison High School of San Diego, Calif., made this special effort to observe a great tradition and a most deserving national holiday: the Armistice or Veterans Day. I include their program in the RECORD:

VETERAN'S DAY PROGRAM PRESENTED BY THE SOCIAL STUDIES DEPARTMENT, MADISON HIGH SCHOOL, PERIOD FOUR, NOVEMBER 6, 1970

Guest Speaker: Major M. Sando Vargas Jr. USMC. Recipient Congressional Medal of Honor.

(Chairman of the program.)

OBJECTIVE

To observe Veteran's Day as a day of tribute and respect for all veterans living and dead who served their country and to unite with all citizens throughout the land, in celebrating the Armistice which means cessation of hostilities.

INTRODUCTION

This program is dedicated to the purpose of furthering our awareness of Veteran's Day. It is a day of remembering past wars and hard won victories. It is a day of peace and thankfulness. It is also a day of looking into the future and wondering what it will bring in terms of peace or war.

We associate Veteran's Day with the many who are fighting and dying every day. Think of their families and loved ones, also. And think too, of the response when these men have been called to serve their country. It is better expressed in a poem by Josiah Gilbert Holland.

(Narrator.)

"GOD GIVE US MEN

"God give us men! A time like this demands strong minds, great hearts, true faith, and ready hands.

Men whom the spoils of office cannot buy,
Men whom the lust of office cannot kill,
Men who possess opinions and a will,
Men who have honor, men who will not lie.
Men who can stand before a demagogue
and damn his treacherous flattering
without winking.

Tall men, sun-crowned, who live above the fog

In public duty and in private thinking—

For while unruly mobs enflamed by those with baseless creeds

Their large professions and their little deeds
Mingle in selfish strife—Lo! Freedom weeps,
Wrong rules the land, and Justice sleeps."

Narrator or chairman: We commemorate Veteran's Day and honor every hard won peace—every effort to overcome aggression, tyranny, injustice. We honor this day in tribute to our fighting forces, their families, sweethearts and friends who stood behind them. We pause as they did in the still Armistice after the conflict: Yorktown, Appomattox, No Man's Land on the morning of November 11, 1918, VE Day, VJ Day, to keep that momentary stillness a memory of an Armistice we hope some day will be permanent.

We also remind ourselves that Armistice or Veteran's Day is a day of peace and high as the price was that we paid for peace, it is our purpose to tread the path of peace and good will among men but we do so as a free people.

Finally, this day draws our attention and respect for all those who fought and are now fighting to keep our country free.

(Music interval.)

Narrator: The day set aside for Veteran's day is November 11. It is significant to remember this Armistice of November 11, 1918 because it symbolizes a peace after World War I that was to be a peace for all time among all nations. It didn't quite turn out that way but we fought that war in a total effort and spirit that the men and women who gave their lives for this cause would not die in vain.

Narrator: We honor all veterans on land, air and sea. It has been exactly fifty-two years since the first World War ended with the Armistice on the battlefields of France. Only a few months earlier, American troops in force broke the three and one-half year stalemate that had soaked the earth of Europe with its blood since August, 1914. Around the world there was a universal joy with the news of peace. The war had been so gruesome and horrible, D. H. Lawrence: "All the great words to describe it had been used for a generation."

Narrator: From March to August, 1918, the Germans massed eighty-two divisions and five great offensives, all aimed at crossing the Marne River and on to Paris. For seventy-two days the Marne River rocked under a succession of major German attacks. "They shall not pass", was more than a byword of the allied defenders.

The first real test for the American force was at Cantigny. Then at Chateau-Thierry and Belleau Wood, the Second and Third Divisions brilliantly smashed the spearhead of an enemy "V" pointing to Paris. Three days after it started, the German drive was crushed and the history of the world was played out in those three days. "Over the top!" was heard all along the trenches as the allies prepared for the St. Mihiel and Meuse-Argonne offensives. The Americans beat their way through the vicious Argonne forest, and in the process they added the heroics of the Lost Battalion and Sgt. Alvin York.

Narrator: American strength and spirit went into the war as though the effort would accomplish something of transcendental benefit for all mankind. When Johnny came

marching home again, there were "welcome home" parades in towns and cities all over the land. At every depot and home port, our veterans hastened to rejoin their families—but for the thousands who would never come back, in our memory of them, we are reminded that winning by arms alone is not enough.

We must still win the peace.

Narrator: The war had its lighter moments. There is the tale of the carrier pigeon direct from the Argonne battle swooping into headquarters with an "urgent" message which read: "I'm tired of carrying this stupid pigeon." Then there were the songs, the memorable unforgettable tunes of World War I—"K-K-K Katy", "Oh, How I Hate to Get Up in the Morning", "You're in the Army Now", "Till We Meet Again", "It's a Long Way to Tipperary", "Pack Up Your Troubles", and "Good Morning, Mr. Zip, Zip, Zip." Those songs all conveyed a deeper meaning beneath the surface they expressed the true nature of the American mood for peace brotherhood with freedom.

(Music interval—World War I songs and marches.)

Narrator continuing: These are the words of Captain John D. McCrae, a great soldier who fought in that war and didn't come back; but he left this message:

"IN FLANDERS FIELDS

"In Flanders Field the poppies grow
Between the crosses, row on row,
That mark our places; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

"We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved and now we lie
In Flanders Fields.

"Take up our quarrel with thy foe!
To you from falling hands, we throw
The torch ——— be yours to hold it high!
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders Fields."

Capt. JOHN D. MCCRAE.

Alan Seeger, a G.I. was among the first American soldiers to see action in France. He fell where he had a premonition he would in the midst of a barbed wire entanglement during the Spring Offensive of 1918 in No Man's Land. A piece of paper dangling out of his back pocket contained his message; a poem that was to become the most famous verse of World War I.

"I HAVE A RENDEZVOUS WITH DEATH

(Alan Seeger)

"I have a rendezvous with death
At some disputed barricade,
When Spring comes back with rustling
shade
And apple blossoms fill the air—
I have a rendezvous with death
When Spring brings back blue days and
fair.

"It may be he shall take my hand
And lead me into his dark land.
And close my eyes and quench my breath—
It may be I shall pass him still.
I have a rendezvous with death
On some scarred slope of battered hill
When Spring comes round again this year
And the first meadow-flowers appear.

"God knows 'twere better to be deep
Pillowed in silk and scented down,
Where Love throbs out in blissful sleep,
Pulse nigh to pulse, and breath to breath,
Where hushed awakenings are dear . . .
But I've a rendezvous with death
At midnight in some flaming town,
When Spring trips north again this year,

And I to my pledged ward am true,
I shall not fail that rendezvous."

(Music interlude.)
(Narrator.)

IN MEMORY OF HAMBURGER HILL

Albert Colletto wrote this poem after he fought in the battle of "Hamburger Hill" shortly before he was killed somewhere in the jungles of Viet Nam.

We owe many thanks to brave men like Albert Colletto.

"As I crouch among the shattered trees
The fallen dead sans shroud nor wreath
A soldier cried out 'Come to me-please!'
There was no need, he ceased to breathe.

"The wounded dying, the dead already gone
A sergeant yelled, 'get up, drive on!'
With lead flying in from every way,
I didn't expect to last the day.

"We fought hard trying to win
Pinned down halfway as night set in
'Dig in deep! Pass the word around.'
Hold your positions and gain the high
ground!"

"They called our assault 'Hamburger Hill.'
It's one to remember as I always will.
Ask the wounded torn limb from limb
What more can they tell you
What could be more grim?"

"The dead left their message
On Hamburger Hill
For the living that is
That we bear no ill will.

"The burden of war could be relieved
If love among man were somehow achieved.
That this be our purpose in word and in
deed
The promise of men as honor decreed."

Narrator concluding program: In our respects to all Veterans on Nov. 11 this year we also respect their message to us which our program has tried to express. We particularly extend our regards and prayers to all Prisoners of War now in prison camps and who are serving their country there perhaps more than anywhere else. This poem was written by a Veteran American: Denise A. McCarthy. She inspires us all to celebrate Veteran's Day with thankfulness and compassion. "The Land Where Hate Should Die."

"This is the land where hate should die—
No feuds of faith, no spleen of race,
No darkly brooding fear should try
Beneath our flag to find a place.

Lo! every people here has sent
Its sons to answer freedom's call;
Their lifeblood is the strong cement
That bulks and binds the nation's wall.

"This is the land where hate should die—
Tho dear to me my faith and shrine,
I serve my country well when I
Respect beliefs that are not mine.
He little loves his land who's cast
Upon his neighbor's word a doubt,
Or cite the wrongs of ages past
From present rights to bar him out.

"This is the land where hate should die—
This is the land where strife should cease,
Where foul, suspicious fear should fly
Before our flag of light and peace.
Then let us purge from poisoned thought
That service to the States we give,
And so be worthy as we ought
Of this great Land in which we live!"

Narrator: We are honored to have with us as our special guest for this Veteran's Day Program Major M. Sando Vargas Jr. who will speak to us about the significance of Veteran's Day as a gallant representative of the armed forces now serving their country.

Major Vargas was awarded the Congressional Medal of Honor for heroism in action against enemy forces in the Republic of Viet Nam, April 30 to May 2, 1968, ignoring his own wounds he sustained his command and personally rescued his commanding officer amidst the cross fire of the three day battle.

The Medal of Honor is the highest award for bravery that can be given to any individual in the United States.

Major Vargas graduated from Arizona University with honors in both athletics and scholarship. His present assignment is at the Landing Force Training Command, Naval Amphibious Base, Coronado.

Major Vargas—
SPEECH OF MAJOR VARGAS TO THE MADISON
HIGH SCHOOL STUDENT BODY, OCTOBER
1967

Thank you, members of the faculty and students of Madison High.

I would first like to express my appreciation for your kind and warm welcome. This morning is certainly a singular pleasure and honor for me in several ways. First, it is a pleasure to be surrounded by the young American students of San Diego's greatest high school—Madison High. Being a loyal and devoted participant to all sports, it is a warm feeling to know I am visiting one of San Diego's powerhouses in football. (6-1) Secondly, I am honored and sincerely proud to share this very special event with you today, "honoring our Nation's greatest sons who have risked their lives for the sake of peace and freedom."

It is indeed significant that on a morning like this Madison High School is displaying to all Americans across our great country its appreciation for the sacrifices each member of our Armed Forces and his family have made and are making today for this nation's freedom. And that you, the youth of our country have a genuine concern for one another, that you care and that you have a high regard for all the efforts to keep our land away from the hands of tyranny; and that is why it is so gratifying to observe this program and be a part of it as we pay tribute to those richly deserving Americans who have not only risked their lives for this Nation's freedom and also stood for the freedom of the oppressed beyond our shores, but who gave and are giving their lives for this cause. It is particularly inspiring that you are emphasizing your sentiments for our prisoners of war and their loved ones who bear the heaviest load.

Knowing that Veterans Day on 11 November will pay tribute to all members of our Armed Forces, today, I want to talk to you about how we can honor those great Americans, who have paid the full price in keeping our freedom alive.

It seems less rather than over a hundred years ago when one of our great Presidents stood upon the Gettysburg battlefield and paid honor to those men who gave their lives so that this Nation could survive. Those final words have as much meaning now as they did November 19, 1863, and they touch every American living today.

That these dead shall not have died in vain.

That this Nation under God, shall have a new birth of freedom.

That the government of the people, by the people, and for the people shall not perish from this earth.

As the years have since passed, I have attended several Veteran's Day and Memorial Day ceremonies; and at each one it seemed that every speaker stated he had difficulty in finding the proper words to honor such great men. Well, I must agree with them—it is difficult. But today we can speak as a

voice of peace honoring them not only with words but with our deeds as well. We can rise to the occasion and clear the fog from in front of our eyes and stop the flow of poison that is threatening this Nation from within.

We should unite this Nation once again as a majority unfragmented by dissident groups of reactionaries to reinforce our original position that regardless of who we are, how much money we have, or whether our accent is different, what books we have read. What church we go to; which way we voted, what color our skin is, whether we mingle with poets, bookkeepers, truck drivers, surgeons, lumber jacks, errands boys, students . . . what really counts is that "I am an American and proud of it." For I feel sure that you believe as I do in the equality of men and women, the promise of men, the duty to live justly with one another and ourselves.

We must work as an American team, in the traditional manner, both young and old, rich or poor and with all races in searching for solutions to the problems we are faced with today.

We have recently concluded a new election period, in which Americans have chosen their candidates to lead this nation. The time, is now, to stop the harassment towards our government officials, school administrators, police officers, and assist them in solving their tasks with favorable support, instead of unfavorable demonstrations.

We should stop the wasted unfavorable enthusiasm displayed at demonstrations and turn it into favorable enthusiasm by telling the world we want our prisoners of war released and properly treated. Support POW's with letters. This program at Madison High puts you among the first in this area to raise an effective voice . . . we should pay our respects to our armed forces, in the course of each day not only on holidays.

In speaking as one voice for world peace, it's so much easier to work together in solving our problems, than allowing ourselves to become separated, because the prevalent turbulence contrary to a "one people" isn't the America I once knew or you should know and be proud of. The time is now to unite under one flag as one people—Americans.

This my fellow Americans is how we can honor our fallen comrades. Before I leave your most gracious company this morning, I want each of you to know that Madison High will always be number one; and on behalf of all the veterans of America, we thank you for remembering.

KEEL LAID FOR THE NUCLEAR-
POWERED MISSILE FRIGATE
"SOUTH CAROLINA"

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. DOWNING. Mr. Speaker, last Tuesday, the keel of the nuclear-powered guided missile frigate *South Carolina* was "well and fairly laid" by the gracious and charming Mrs. L. Mendel Rivers of Charleston, S.C. This traditional authentication of the keel was done under warm, beautiful Virginia skies at the Newport News Shipbuilding and Dry Dock Company in Newport News, Va. Hundreds of outstanding Congressional, Government, industry, and

civic leaders, headed by the Honorable John H. Chaffee, Secretary of the Navy, heard memorable addresses by Senator STROM THURMOND and our own beloved colleagues L. MENDEL RIVERS. Senator THURMOND's remarks will appear in the CONGRESSIONAL RECORD, and I highly commend that you read them. Chairman RIVERS' speech was not previously prepared, but as always, it was a dynamic presentation of oratorical logic which literally rang the bell.

There was another noteworthy happening on this significant occasion. It was the introduction of Chairman RIVERS and his wife by Vice Adm. H. G. Rickover, the "father of nuclear propulsion." All of us have heard our share of many fine introductions of prominent men and women, but Admiral Rickover's presentation of these two wonderful Americans has to be recorded as uniquely classic and memorable. I would like to share them with you:

INTRODUCTION OF MARGARET MIDDLETON RIVERS, VICE ADM. H. G. RICKOVER, U.S. NAVY, KEEL LAYING OF THE NUCLEAR-POWERED GUIDED MISSILE FRIGATE SOUTH CAROLINA

When I asked Margaret Rivers what I might say about her, she said she was most proud of these three accomplishments:

a. When a senior in the Menninger High School, Charleston, she won the Mitchell Award for the best essay at the age of 17.

b. She is the mother of three wonderful children.

c. She is married to Mendel Rivers and this is her greatest pride. She is grateful to have had the good fortune of spending 32 happy and interesting years with this fabulous and fascinating man.

Now, there are many wives who might say similar things. But Margaret Rivers is not an ordinary wife, mother or woman. I have known her for a number of years and so I may be pardoned if I add a little more to her own meager description.

She comes from a famous southern family. One of her ancestors was Dr. Henry Woodward, the first English settler in what is now South Carolina. A pioneer in the truest sense of the word, he lived among the Indians and learned their culture. His friendship with them greatly helped the colony of Charles Town to withstand the rigors of colonization a few years later. An American deputy for the Earl of Shaftesbury, the colony's most influential proprietor, Doctor Woodward introduced the culture of rice, which became a thriving industry. He also promoted the fur trade and helped extend it to the colony's western limits. He met his death in courageous defiance of the Spaniards.

Another illustrious forebear was Lois Mathews Hall. When her husband, one of a group of Charleston patriots, was imprisoned by the British in St. Augustine, she stayed behind with her children and a sister who was married to Thomas Heyward, one of the signers of the Declaration of Independence. Ordered to illuminate their house in celebration of English victories, she refused. Neither penalty of imprisonment nor threats by the soldiery intimidated the two women. Their home, now known as the Heyward-Washington House, is being maintained by the Charleston Museum as an example of that city's early architecture.

Also among her forebears were Huguenots who came to find religious toleration in the New World and stayed to fight courageously in the War of Independence and the War between the States.

Margaret Rivers comes of people who had courage, strength and determination. She has them too. She comes of people who had a sense of noblesse oblige and chivalry which means they set themselves high standards of behavior to others less fortunate. She has these too.

In the early days of our country, women and men worked together and worked hard to clear the land, to build a home, to grow food, to raise their children. The wife was the guardian of home and culture. Many of our great men were reared in this manner. Margaret Rivers is the modern day version of this feminine saga in the structure of America. Her three children, Margaret, Marion and Lucius bear witness to this. And by his devotion to and idealization of her, Mendel Rivers attests to this. Only those women who have the misfortune to be married to politicians can have any conception of the patience, understanding and fortitude she possesses.

She believes in the right and duty of each woman to total human responsibility. And also in the unity of man and wife which makes a marriage good and strong. She knows that to build a decent and humane society men and women are needed who are aware and confident of themselves, as well as sensitive to the needs of others—who know how to preserve their individuality and respect the equal right of others to their own individuality.

INTRODUCTION OF THE HONORABLE L. MENDEL RIVERS, CHAIRMAN, ARMED SERVICES COMMITTEE, BY VICE ADMIRAL H. G. RICKOVER, USN, KEEL LAYING OF THE NUCLEAR-POWERED GUIDED MISSILE FRIGATE "SOUTH CAROLINA"

It is an ungrateful task to try to sum up a man's character in a few words, but in the case of Mendel Rivers much will have been said when I have stated that he is an American and a patriot, because he is one as much as the other, and he is both intensely.

I find it hard to put into words all that I have learned to admire in him. Many men have entered our Congress. The conventional descriptions—ambition, public service, chance, social ardor, eagerness for power—none of these seem satisfactorily applicable to Mendel Rivers.

There is no use trying to explain him by reducing a versatile man to one or two main talents. He cannot be judged in the way some people judge an eagle by noting how he walks on the ground. An eagle must be judged by its majestic flight into the sky.

He has been obliged to make his own way by his own abilities and enterprise, but the advantages in intelligence and ambition were given him by his parents. He has used these well and has augmented them by his own ability and ambition. No smooth path of wealth or patronage was offered to him. Whatever power he has acquired has been grudgingly given. He has had to fight every mile of his road through life; nothing came easily to him, not even oratory in which he excels.

He is one of the great men of our Congress. He is dedicated to peace, but aware of the awesome responsibility our Nation bears in defense of our freedom. Where our national security is involved he is brave, resolute, stubborn. His legislative acts are heroic; they speak of struggle and triumph; they reflect his pragmatic ability.

No man possesses in so high a degree as he the peculiar awareness of military realities. His efforts in behalf of American security are tireless. He has a marvelous gift for stepping beyond the appearance of things, going beyond it, and penetrating to the very essence of the matter.

He speaks as a man of the people—a man for whom the deepest spiritual truth is approachable only through the heart and can be grasped only when embodied in the realities of this world. He does not believe that being serious means going about with a long face. He has always held calmness to be a form of virtue; it is in many cases an extremely difficult form of courage.

He is one of the most unintimidable men in the United States. He knows that a good leader is doing his job when half the people are following him and half are chasing him.

He has an old-fashioned and unqualified love for the United States. This has given him a sense of dedication, responsibility, and purpose. He has the fortitude to stand up to the illegitimate and illegal activity of a tiny minority bent on tearing down every institution we have built and which we cherish.

He believes in fulfilling what you are able to fulfill, rather than running after what you will never achieve; in striving to be as complete human beings as possible. That will give us trouble enough.

He believes in the God-given genius of certain individuals, and he values a society that makes their existence possible. He understands the chasm between men with knowledge who lack power and men with power who lack knowledge; men who are instructed but not educated; assimilative, but incapable of real thought; men who do not want to confuse the ideal with the real; and intelligent idlers who always set their sights high in order to alibi their idleness and demonstrate their intelligence.

He does not agree with many of the pseudo-intellectuals who are drowning in their own words and suffocating in their own documents. Many of them are as ignorant as swans. He knows that we must abandon the prevalent belief in the superior wisdom of the ignorant.

He knows that some students of society and politics among our intellectuals have little contact with life as it is actually lived by most men; that they are more lucid as critics of existing society than as visionaries of a better one; that some of them seem to experience a vicarious pleasure in discrediting everything American; that in their seclusion they are constantly tempted to devise political constructions rooted firmly in mid-air—in which governments and political authority are replaced by communes of free and equal individuals; in which society exists without repression, and domestic policies require no sanctions; a society in which diplomats always tell the truth and a foreign policy is pursued in which the wolf lies down with the lamb, and the leopard with the kid.

Mendel Rivers is aware that without a knowledge of history, we are left with nothing but baseless abstractions with which to compare ourselves; that we then judge the present by the standards of a mythical trouble-free dream world where all mankind is at peace. He believes that in spite of the recent triumphs of science, men haven't changed much, and in consequence we must still try to learn from history.

He knows that a person who is often praised must set stricter standards on himself. He holds a number of beliefs that have been repudiated by the liveliest intellects of our time. He believes that order is better than chaos, creation better than destruction. He prefers gentleness to violence, forgiveness to vengeance. He believes in courtesy, the ritual by which we avoid hurting other people's feelings. He thinks that knowledge is preferable to ignorance; human sympathy more valuable than ideology.

His effort is sincere and profoundly human, it shatters old servitudes, overthrows preju-

dices and idols, and rises little by little toward the light. He lacks any capacity for intrigue; he is innocent and straightforward.

He knows that no country has departed from its basic principles so much, in so short a time and without realizing it, as has the United States; that what we need is simplicity and what we can do without is romanticism.

He understands that if what is needful is to be done, we cannot depend on illusions, especially of an impossible good. A calamity can be brought about by persons of great good will. Too many such persons have set themselves up in the "grievance business." Their job is to find things that are wrong; then attempt to right them. If their efforts only make matters worse, they find something else wrong.

Mr. Rivers knows that the last war has been forgotten, erased from the collective American memory—the most devastating commentary history can render is to be forgotten because no one wants to remember.

He has named, numbered, and made perceptible, even to those who disagree with him, all the national verities that animate and sustain us, and that breathe in our blood.

He does his duty as if he were going to live forever, and casts his plans way ahead. He feels responsible without time limitation; the consideration whether he may or may not be around to see the results never enters his thoughts.

The day will come when this man, one of our great legislators and a prophetic thinker, will be recognized at his true value.

MAN'S INHUMANITY TO MAN—
HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

SENATE—Monday, December 7, 1970

The Senate met at 12 meridian and was called to order by the Acting President pro tempore (Mr. METCALF).

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

God of grace and God of glory, who long ago illumined the nightly sky with the promise of peace, prepare our hearts for the new advent of Him whose rule is the way to a man's freedom and enduring peace. Strengthen in mind and heart all who labor in this place. Amid the bewilderment and uncertainty about many things make us sure of Thee. May we be unafraid because we have heard the ancient message echoing down the years: "Fear not, for behold I bring you good tidings of great joy which shall be to all people." While we work may we also pray and make ready our hearts for the coming again of Him who brings redemption and peace.

In the name of the Prince of Peace. Amen.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 4, 1970, be dispensed with.

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

WAIVER OF CALL OF CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the calling of the calendar of unobjected to bills under rule VIII be dispensed with.

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

TRANSACTION OF ROUTINE BUSINESS

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

The 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 certain bills on the calendar, beginning with Calendar No. 1408.

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

TRANSFER OF PEANUT ACREAGE ALLOTMENTS

The bill (S. 4561) to amend the peanut marketing quota provisions to make permanent certain provisions thereunder, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 4561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 358a of the Agricultural Adjustment Act of

1938, as amended, is further amended as follows:

(1) Subsection (a) thereof is amended by deleting "1969 and 1970" and inserting in lieu thereof "and succeeding".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1401) explaining the purposes of the measure.

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

EXPLANATION

This bill would make the authority of the Secretary of Agriculture to permit transfers of peanut acreage allotments permanent. Section 358a was added to the Agricultural Adjustment Act of 1938 by Public Law 90-211 on December 18, 1967, effective for the 1968 and 1969 crop years. It was extended to 1970 by Public Law 91-122 on November 21, 1969. It should now be made permanent in order to enable peanut farmers to acquire allotments of adequate size for efficient farming operations.

COST

Enactment of the bill will not require additional funds.

WATER BANK ACT

The bill (H.R. 15770) to provide for conserving surface waters; to preserve and improve habitat for migratory waterfowl and other wildlife resources; to reduce runoff, soil and wind erosion, and contribute to flood control; and for other purposes, was considered, ordered to a third reading, read the third time and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1393), explaining the purposes of the measure.

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

SHORT EXPLANATION

This bill authorizes the Secretary of Agriculture to enter into 10 year renewable contracts with landowners and operators in important migratory waterfowl nesting and breeding areas for the conservation of water on specified wetlands.