

freezing numbers of offensive missiles and limiting ABMs if it is not possible to ban MIRVs and if the judgment is reached that an area ABM against China is needed. On our current understanding of the issues most of us favored the first type of agreement.

We believe that the initiatives and agreements we propose will enhance U.S. security by improving the prospects for peace. These efforts can also lead to the wise and prudent use of our national resources. The expenditures thus avoided would amount to at least several billion dollars a year in the short run and much more in the long run if the U.S. and the U.S.S.R. enter into a new and costlier phase of the arms race. The SALT talks, and the clearer assessment of our real security requirements which may result from those talks, may prevent these expenditures. More of our resources can then be devoted to human needs, both at home and abroad. This is an important aspect of our national security. Unless urgent social needs are met, our national security may be progressively undermined, not by external threats but by failure to meet internal and justifiable social needs.

The negotiation of a treaty to end the arms race will involve many complex technical details. But the overriding considerations are not technical; they are deeply political. They require a fresh and clear re-assessment of the fundamentals of U.S. security.

We must recognize that it is at least as dangerous to focus on "worse cases" as it is to overlook significant threats to our deterrent. If one proceeds from the most pessimistic view of U.S. capabilities, and the most generous view of the Soviet capabilities, one arrives at a U.S. second-strike posture that may look to the Soviets so much like a first-strike posture that they will be inclined to

increase their own forces, thereby continuing the arms race and increasing the danger of nuclear war. In fact, the proper test for the adequacy of U.S. nuclear retaliatory power is not the U.S. worst estimate of its effectiveness, but the Soviet estimate of the damage it would suffer in a nuclear exchange. That estimate will not be based on assumptions that take the Soviet performance at its best possible level and the U.S. performance at its worst. If we arm against a "parade of imaginary horrors" on the part of an adversary, the adversary will do the same, and we will have devised a sure prescription for a dangerous and wasteful arms race.

We have made this mistake in the past, from a misdirected sense of caution. In the interests of our own security we must not make this mistake again. We must end the nuclear arms race.

#### PARTICIPANTS IN THE AMERICAN ASSEMBLY ON ARMS LIMITATION—1970

Adrian S. Fisher, Dean, Georgetown University Law School (Discussion Leader and Director of Drafting).

Alexander, Archibald S., Bernardsville, New Jersey.

Bader, William B., New York.  
Broomfield, Lincoln P., Center for International Studies, Massachusetts Institute of Technology.

Brown, Courtney C., Editor, Columbia Journal of World Business.

Daniloff, Nicholas, United Press International, Washington, D.C.

Dudman, Richard, *St. Louis Post Dispatch*, Washington, D.C.

Finkelstein, Lawrence S., Center for International Affairs, Harvard University.

Fischer, Benjamin B., Harriman Scholar, Columbia University.

Fitzgerald, Ernest, Businessmen's Educational Fund, Washington, D.C.

Gulick, Lewis, the Associated Press, Washington, D.C.

Halperin, Morton H., The Brookings Institution, Washington, D.C.

Henkin, Louis, Hamilton Fish Professor of International Law & Diplomacy, Columbia University.

Herzfeld, Charles M., Technical Director, Defense-Space Group, IIT, Nutley, New Jersey.

Knorr, Klaus, Center for International Studies, Princeton University.

Manton, Thomas B., United Church of Christ, New York.

McDermott, Rev. Patrick P., S.J., Assistant Director, Division of World Justice & Peace, United States Catholic Conference, Washington, D.C.

Paffrath, Leslie, President, The Johnson Foundation, Racine.

Palfrey, John G., Professor of Law, Columbia University.

Parrent, Rev. Allan, Department of International Affairs, National Council of Churches, Washington, D.C.

Persinger, Mrs. Richard, Chairman, Committee on Public Affairs, National Board of the Y.W.C.A., New York.

Posvar, Wesley W., Chancellor, University of Pittsburgh.

Rathjens, George W., Professor of Political Science, Massachusetts Institute of Technology.

Scoville, Herbert, Jr., Carnegie Endowment for International Peace, Washington, D.C.

Shulman, Marshall D., Director, The Russian Institute, Columbia University.

Stone, Jeremy J., International Affairs Fellow, Council on Foreign Relations, New York.

Stuhler, Barbara, Associate Director, Minnesota World Affairs Council, Minneapolis.

Yarmolinsky, Adam, Professor of Law, Harvard University.

## SENATE—Friday, April 10, 1970

The Senate met at 9 o'clock a.m. 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:

O Lord, our Heavenly Father, almighty and everlasting God, who hast safely brought us to the beginning of this day; defend us in the same with Thy mighty power and grant that this day we fall into no sin, neither run into any kind of danger; but that all our doings, being ordered by Thy governance, may be righteous in Thy sight; through Jesus Christ our Lord, Amen.

—The Book of Common Worship.

### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 9, 1970, be dispensed with.

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

### ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. MOSS) is recognized for 30 minutes.

Mr. MANSFIELD. Mr. President, will the Senator from Utah yield to me for some unanimous-consent requests?

Mr. MOSS. I am happy to yield to the Senator from Montana for that purpose.

### ORDER FOR ADJOURNMENT TO MONDAY, APRIL 13, AND RECOGNITION OF SENATOR FANNIN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

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

Mr. MANSFIELD. And, that at the conclusion of the approval of the Journal, the distinguished Senator from Arizona (Mr. FANNIN) be recognized for not to exceed 30 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.

### EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the executive calendar.

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

The ACTING PRESIDENT pro tempore. The nomination on the executive calendar will be stated.

### DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

The assistant legislative clerk read the nomination of Stephen S. Davis, to be a member of the Board of Directors of the District of Columbia Redevelopment Land Agency.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the appropriate authorities be immediately notified of the confirmation of this nomination.

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

### LEGISLATIVE SESSION

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

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

#### NURSING HOMES 1969: PROGRESS, CRISIS, AND CHANGE

Mr. MOSS. Mr. President (Mr. GRAVEL), in 1965 the Congress took notice of the fact that there is no more declassified or underrepresented minority group in our society than those who suffer the compound burdens of illness and advance age. It was acknowledged at that time that the elderly are ill three times as often and disabled three times as long as their younger counterparts. Further, the elderly have less than half of the income than those under 65. In passing the medicare law the policy of Congress was clear: reduced ability to pay for services due to age should not result in inferior or a reduced level of medical care.

Last month the Finance Committee of the Senate released a lengthy report which points out that medicare is in financial difficulty. The committee performed a valuable public service by disclosing examples of inefficiency and abuse in the program. The Social Security Administration was well served by the committee's recommendations for eliminating problems in the system.

Certainly I share the hope of the Finance Committee that fiscal responsibility can be restored to the medicare program. There is a definite need for greater efficiency and for eliminating the abuses and fraud that feed on the Federal dollar. In citing my essential agreement with the work of the Finance Committee, let me be quick to point out that I have a wider perspective.

As chairman of the Subcommittee on Long-Term Care of the U.S. Senate Special Committee on Aging, I have been conducting a series of hearings in various parts of the country and here in Washington, and I receive in the mail a great many newspaper articles and letters, some of which I am today including in the Record for the reading of my colleagues.

The jurisdiction of the Finance Committee and its concerns are clearly spelled out by its name. Monetary matters receive priority. In the Senate Special Committee on Aging, the concern is with the human and personal problems of our senior citizens. From this perspective I very much regret the way the medicare nursing home program has been dismantled on a step-by-step basis with the reported goal of saving a few dollars.

Of course, it is true that extended care facilities—medicare nursing homes—received some \$500 million from the Government in 1969, and that there has been a rapid growth of chains of nursing homes. In the first place this \$500 million that medicare pays to nursing homes represents 5 percent of total medicare outlays, according to Commissioner Robert Ball's testimony before the Finance Committee. Second, the question should be asked, why have nursing facilities expanded at such a rapid rate. The simple answer might be that the Federal Government has been making

funds available, but another suggested answer might be that there are a great many senior citizens in need of nursing care who have had no access to it in the past for the sole reason that they were poor.

I take the floor today, Mr. President, to trace the step-by-step erosion of the medicare nursing home program. I speak of the national trend of nursing homes to drop out of the medicare program because of the arbitrary changes instituted by the Government in 1969. I speak of the subsequent unhappy results for patients in need of care, for families without funds to pay for the care of a loved one, and for the nursing home operator called into partnership with the Federal Government by the command of Congress. We can do better than this.

#### NURSING HOMES IN PROFILE 1969

Nursing homes continued to be a controversial entity in 1969, being described variously as "human warehouses where people wait for death" and as "a model health care facility with the unique capability of providing restorative services in a homelike environment."

A few things are certain. Nursing homes represent a new idea with primary growth since 1950, the number of nursing homes continues to grow at a rapid rate, nursing homes are showing great improvement in providing services for the elderly, and the Government continues to be the greatest sole supporter of the nursing home industry.

Nursing home statistics, Mr. President, reflect the controversy inherent in the industry and the ones I set out below are as close to consensus as possible. They do underline the importance of these questions. Nursing homes go by several names including restoriums, homes for the aging, sanitoriums, convalescent centers, convalescent hospitals, hotels, and manors.

Each citizen is likely to come in contact with a nursing home either as a patient or as a friend or relative of a patient.

In 1900 there were about 3 million people over 65. In 1969 the elderly numbered over 20 million, a 667-percent increase in 69 years. Six percent or 1.2 million of our 20 million elderly today are over 85.

There are about 1 million Americans in nursing homes and related facilities. One senior citizen out of 20 is in a nursing home.

Some 88 percent of nursing home residents are over 65. One out of three is over 85. Women outnumber men by two to one.

The average age of nursing home residents is 80 or 82. The average stay in a nursing home is more than a year. Only one-half of nursing homes residents can walk even with the aid of a cane or crutches.

Eighty percent of nursing home residents according to one study could be cared for in their own homes by their relatives. But three-fourths of the over-65 population have some chronic physical ailment or impediment.

Citizens over 65 are three times as likely to fall ill and are disabled three times as long as those under 65.

Twenty-five percent of nursing home patients die within 6 months after admission.

According to the American Nursing Home Association there are 23,013 licensed nursing homes and related facilities in the United States. Health, Education, and Welfare indicates that there is no accurate estimate of the number of places that care for the elderly because there are thousands that operate without licenses.

According to ANHA there are now more than 1 million licensed nursing home beds as of January 1, 1969. The exact total 1,024,510 represents a 12-percent increase over January 1, 1968. The net increase is 110,011 beds or 300 beds a day net growth.

The average size of a nursing home or related facility is 42 beds and assuming a growth rate of 300 beds a day, 7 nursing homes were built every day last year.

ANHA projects that nursing homes will pass the 2 million beds mark by 1975—almost double current totals within 6 years if building continues at the 1969 rate.

According to one source there was a shortage of 130,000 nursing home beds as of February 1969.

Since 1950 nursing homes have increased their earnings from 1.2 percent to 4 percent of the U.S. health dollar. Nursing home revenues for 1969 amounted to more than 2.5 billion dollars. Expenditures for nursing home care in 1969 ran 400 percent of the 1960 total.

Two out of every three dollars going to nursing homes are from the public coffer. Another study indicates that 75 percent of nursing home payments come from public funds.

Ninety percent of nursing homes are run for profit.

Approximately one-fifth of all nursing homes or 4,800 nursing homes were certified for reimbursement under medicare at the end of 1968. Reportedly only one in four or a little over 1,219 fully met medicare standards as of May 1968. The most glaring deficiencies were in the physical environment, social, and nursing services.

There were close to half a million medicare admissions in 1968 and medicare's contribution to nursing homes in 1968 of \$500 million was duplicated in 1969. The \$500 million paid to nursing homes represents 5 percent of total medicare outlays.

The Federal Medicaid programs total for 1968 was 1.1 billion dollars, making a total 1968 Federal outlay to nursing homes of \$1.6 billion. Because Medicaid outlays in 1969 increased to \$1.3 billion, Government payments to nursing homes increased to a total of \$1.8 billion.

Since the creation of Medicaid, federally assisted welfare expenditures have doubled.

Monthly nursing home charges range from \$245 to \$1,000 a month. The president of Four Seasons, a well known nursing home chain, in 1969 estimated a pretax profit of \$1,000 a bed according to one source.

The amount of money paid to a nursing home alone is not an accurate indicator of the quality of care rendered to the patient.



Dr. Alvin Golfarb of the American Psychological Association's Committee on Aging indicates that 86 percent of patients in a nursing home are suffering from some sort of mental disorder that ranges from senility to insanity. The estimate of the Public Health Service is more conservative indicating that 55 percent of people in nursing homes are mentally impaired. It is suggested that any apparent differences above are probably definitional.

On a related point, 26 percent of the people in our mental institutions are confined for the singular reason that they are poor. In St. Elizabeths Mental Hospital in Washington, D.C. there are at least 462 people over 70 who could be released if they had some place to go. Further, the New York Times reports that half of the 6,300 patients in New York's Creedmoor Mental Hospital are elderly and that a great many could be released with very simple treatment but they have no place to go.

According to the U.S. Department of Labor there were 325,000 employees in nursing homes in 1968.

In March 1968 there were some 25,000 vacancies in the industry and it was common for these vacancies to exist for as long as a month. The greatest shortage was for LPN's which registered a 14 percent vacancy rate.

Average wage rates through 1968 varied from a high of \$5.02 an hour for dieticians down to \$1.53 an hour paid nurses aides and orderlies.

The overall national ratio of staff to patients is .6 to 1; hospitals have a 2.6 to 1 ratio of staff to patients.

According to the Department of Labor the turnover rate for all nursing home personnel is 60 percent. For aides and orderlies the turnover is 75 percent; it is 71 percent for RN's; 35 percent for LPN's and 21 percent for administrative and supervisory personnel.

Beginning February 1, 1967, nursing home employees came under the Fair Labor Standards Act and accordingly the minimum wage in these institutions will go up to \$1.60 an hour by February 1, 1971.

Proprietary nursing homes with more than \$100,000 of income are now subject to the provisions of the National Labor Relations Act by virtue of the Board's recent decision. The facilities of the National Labor Relations Board will be available to supervise consent elections and sanction official recognition of large numbers of nursing home staffs.

**PRESIDENT NIXON'S LOW PRIORITY TO HEALTH AND THE ARBITRARY DISMANTLING OF THE MEDICARE NURSING HOME PROGRAM**

Throughout 1967 and 1968 during the Johnson administration, there was in force a liberal admissions policy with regard to the elderly who could quickly be transferred out of the hospital to an extended care nursing facility and receive the same services at one-third the cost to the Government. From this point of view, nursing homes were a good investment because they cut down on the necessary stay in the expensive acute care hospital.

In 1969 things began to change, largely the result of imposition by the new administration of a different set of national

priorities. The recent battle over the Health, Education, and Welfare appropriations bill, the new budget's unhappy cut in allocations to the National Institutes of Health, the Consumer Protection and Environment Health Service, and the Mental Health Administration, and the fact that health was given only two oblique references in the last state of the Union message speaks volumes about where health falls in terms of national priorities.

If health is low on the list, as we must assume, then how much lower are the programs for the elderly, and how much lower still are the programs for the elderly who have the misfortune to fall ill during the current administration. Logic suggests, Mr. President, that programs for the ill and elderly rank in Mr. Nixon's priorities just above raising funds for the Democratic National Committee.

I have alluded to the step-by-step dismantling of the medicare nursing home program and I want to document that at this point in my speech. My point is that even if the dismantling was well intentioned with the ascribed purpose of saving Federal dollars that were finding their way into opportunistic pockets, the tearing down of what could be an effective, viable and beneficial program was done in the most arbitrary fashion available. Let me make clear my belief that most of the physicians in the medicare program are honest and have endeavored to assist our senior citizens to the best of their abilities. Those who have taken advantage of the system, be they physicians, or providers or druggists are in the narrow minority. I regard it as unfortunate to penalize the majority for the actions of the few.

One of the first and most major changes instituted in the medicare nursing home program was that medicare would not pay for patients who were merely custodial. Even if they needed the extension of the kind of care that they were receiving in the hospital, they would not be paid for by medicare unless they were deemed to have rehabilitative potential. By this edict all terminal patients were excluded at once with great savings to the Government.

Another major step was intermediary letter No. 371 which decreed that beyond the requirement of having rehabilitative potential, a patient to be compensable must fall within the narrow category of "skilled nursing care" and covered care as defined within that letter. From a medical and clinical point of view the definition of skilled nursing care is artificial, if not nonsensical, comments Dr. Michael B. Miller, medical director of the White Plains Center for Nursing Care:

The implementation of the present distorted definitions of skilled nursing care propounded by the Social Security Administration can only result in the strangulation in midstream of a good socio-medico program, in complete defiance of the intent of Congress, and the will of the People. Synthetic definitions related to skilled versus custodial care can only be fictitious and misleading. The concept that the more disabled, the more ill a chronic patient becomes, the less need for skilled care, is erroneous and cannot be supported by medical and nursing principles. Indeed, the more handicapped and disabled, the more skilled services are needed,

not the contrary attitude which currently prevails.

Dr. Miller cited a few examples of what he means as follows:

First. Feeding a patient is an unskilled service under current regulations and is not compensable and yet a common problem among nursing home residents is loss of weight. Many patients lose up to 50 percent of their body weight during their stay in a home. "We don't know how to feed patients today because nobody has ever studied it. I have noticed that some nurses can feed certain patients but not others. I'd like to know why."

Second. Giving drugs currently is a skilled service unless given by mouth. According to Dr. Miller this is nonsensical because there are a great many patients who are emotionally sick or with organic brain damage who should not be entrusted to take the medication themselves which is what happens today. Further, science has been working these many years for an alternative to the needle and when we finally succeed, it suddenly becomes an unskilled service. "It is just as easy to give an overdose of insulin by mouth as it is by injection."

Third. The insertion of catheters is a covered so-called skilled service, but the care and treatment of the patient from then on is currently classified as an unskilled service. He said:

The use of catheters is fraught with dangers because there is no way that it can be accomplished without putting infection in the body. Just raise the receptacle of the in-catheter up to bed level and I will guarantee you the patient will have fever and chills within 36 hours. Mishandling in the slightest degree can lead to death and yet this is not classified as a skilled service.

With these new directives the function of the intermediary insurance carrier in the system changed from its passive administrative role to a new aggressive function of determining what is covered care and the amount of compensation, measuring eligibility requirement and judging compliance with social security directives. Naturally administrative costs of the system increased in 1969 in view of the intermediary's new function. According to the Finance Committee the 1968 administrative costs for medicare was \$104 million in 1968. The total cost of administration in the first 9 months of 1969 was \$102 million or only \$2 million less than the entire administrative costs the year before.

Mention should be made of intermediary letter No. 168 which was issued October 28, 1969. The first paragraph of the regulation is self-explanatory. It reads:

While there is no explicit authority which would require a provider of services to open its records to examination by an intermediary, implicit throughout the Title XVIII legislation and regulations by the assumption that such examination will occur and that while a provider is not legally compelled to permit inspection, its failure to do so would subject it to certain significant legal consequences, including termination of its agreement with the Secretary.

By administrative fiat, without legislative authority, failure to allow an inspection of the nursing home books by the intermediary is made a conclusive presumption of guilt. I make it clear,

I do not quarrel with the efficacy of having inspections of the books but I do object to the methods employed by the Social Security Administration.

Then there was intermediary letter No. 173 issued on January 9, 1970, which has the unhappy effect of relegating almost full responsibility for physical therapy to the already overworked nursing staff. This was done by a more than generous definition of "restorative nursing care" giving to nurses duties that were formerly acknowledged physical therapy functions. This action was based on allegations of overutilization and excessive costs in physical therapy programs in the Nation's medicare nursing homes. Little matter whether the allegations are true, for purposes of the patient in need of services, this directive flies in the face of the policy of rehabilitation to the effect that patients should be encouraged to function to the best of their abilities and where possible be discharged to their own homes.

But there is more to the story. On February 2 of this year HEW and Social Security announced new accounting rules designed to restrict payments to profit-making nursing homes and hospitals under both medicare and medicaid. The new rules tighten up procedures for the calculation of depreciation, a significant reimbursable cost. Nursing homes will now have a depreciation base of the lowest of three figures—actual cost, fair market value or replacement cost less depreciation. A second change would prohibit the use of accelerated depreciation by operators of new facilities or facilities expanded to include medicare. In this context I recall the statement of Merlin A. Reeder, president of the Utah Nursing Home Association, who complained of the difficulty in receiving payment from medicare and the attendant delay:

We can't go on living on our depreciation, we have to have a few dollars to be able to render the same service to patients again today and tomorrow.

It looks as if Mr. Reeder and others like him will not even be able to count on the guarantee of that minimal amount representing depreciation of their facilities.

It will also be recalled that on July 1, 1969, the third anniversary of medicare, the decision was handed down to eliminate the 2-percent "bonus" above actual cost. The deletion was announced in customary fashion—abruptly and by administrative fiat. Little matter that Commissioner Ball had indicated that the 2 percent—1½ percent in the case of proprietary institutions—allowance was not a bonus but it represented a finding that some costs were present that were not otherwise expected to be specifically provided for in the costs accounted for and apportioned to medicare. Commissioner Ball told the Finance Committee:

I would not agree that the 2 percent was over and beyond cost. It was over and beyond defined and accounted-for-cost.

Reportedly the change will save the Treasury some \$100 million in fiscal year 1970. The chilling effect on those operators who might wish to stay in the medicare nursing home program is obvious.

In addition to all these changes medicare nursing home providers are soon to face the same probing General Accounting Office which brought out sensational revelations with regard to the C-51 and F-111.

One last directive formulated in late 1969 announced just a few days ago deserves mention. This directive from SSA commands the intermediary to review salaries of all nursing home personnel with particular emphasis on the salaries paid to administrators. The basis for this was a reference in the Finance Committee hearings indicating that some administrators had paid themselves \$75,000 a year.

The changes instituted by the administration which directly affects the pocketbook of the elderly are as follows:

First. In September 1969 the President submitted to Congress a proposal calling for an additional \$136 million in medicare payroll taxes in addition to tax increases already scheduled under the Social Security Act.

Second. By January 1, 1969, the deductible, the initial amount payable by the patient, was raised from \$40 to \$44. Effective January 1, 1970, the deductible has been raised to \$52 with the promise that it would go up to \$84 by 1974.

Third. The part B portion of medicare that the patient pays to get coverage for physicians' charges was raised 32 percent, to \$5.30 a month. This measure will raise some \$600 million annually.

The record then is clear: in the short space of 1 year the elderly faced three substantial increases: taxes, fees, and premiums in support of the medicare program. All these increases were imposed notwithstanding the fact that the elderly received reduced services at least within the narrow context of the availability of the medicare nursing home.

That the directives issued since January 1969 have had a restrictive effect on the use of the nursing home cannot be questioned. Neither physicians nor nursing home operators could predict or guarantee payment by medicare. For this reason, and because all the directives were imposed retroactively with the obligation to pay back payments received from medicare, more than 500 nursing homes have dropped out of the medicare nursing home program. According to Gaylord Shaw who wrote the story for the Associated Press, this is but a prelude to things to come.

What should be made clear at this point is that all of these directives issued in 1969 and earlier this year by the Social Security Administration to the intermediaries have been given retroactive effect. Claims which matured for expenses occurred in 1967 and 1968 have been denied on the basis of a list of criteria announced in 1969. Even worse, a nursing home operator may have received final payment for a patient who received services in 1967, and now in 1970, 3 years later, there are issued new directives which when given retroactive effect require the administrator to "pay back" the money he has received. Small wonder that nursing home administrators complain to me that accepting a medicare patient is about as unpredictable as putting a quarter in a slot machine.

One operator told me in confidence that the way the system is currently being operated with the constant changes in "the rules of the game," it leaves no room for the honest, good-faith operator of a nursing home. "You've got to be dishonest or cut services," he said.

The long-range effects are even more devastating. Since nursing home operators have been given little choice but to drop out of the program and refuse to accept nursing home patients, physicians have had little choice but to retain the patient in the hospital. Paradoxically, at least up to now, the medicare machinery seems quite willing to pay for hospital prices for a patient who could be housed and given adequate care in a good nursing home for one-third the price.

That we are seeing a rise in the average stay in the hospital has been documented by sources as diverse as the Finance Committee and Theodore Schuchat, who writes a column entitled "Retirement and You," which appears in the Bergen, N.J., Record Call, the Washington Star, and other newspapers.

In a recent column which I include with my remarks, Mr. Schuchat documents the following statistics:

The average length of a hospital stay went from 24.2 days in 1968 to more than 27 days in 1969. At the same time, nursing home days for these patients under Medicare declined on the average from 43.7 in 1968 to 35.8 in 1969.

Mr. Schuchat further comments:

If these trends are national in scope, they deserve congressional attention. Shaving 1 day from Medicare's national average would save \$400 million.

I restate at this point that the entire cost of the medicare nursing home program for 1968 was \$500 million, which was equaled in 1969. If it is our intent to save money, we should utilize the medicare nursing home program and minimize the use of the hospital.

#### IN SUMMARY

We have very effectively dismantled the medicare nursing home program for reasons best known to others. If it is our intent to save on costs, efforts have been counterproductive. If our intent was to eliminate corruption and abuse, we are wide of the mark. We must do better.

In the final analysis, it is the patient that suffers. To the elderly, medicare is beginning to take on the color of another broken promise. The administration has not gotten around to telling our senior citizens that their red, white, and blue medicare handbook does not tell it like it is. I can sympathize with the nursing home patient who has it on the authority of this handbook that he is entitled to 100 days in a nursing home. I can sympathize with the nursing home administrator who must break these bubbles of misconception and often suffer financial loss as well.

For the nursing home administrator who is participating in the medicare program in good faith, the new directives are the gravest kind of injustice. In effect there is no predictability as to whether medicare will pay for a particular patient. There is no way to antici-



pate. Additionally, there is no finality with regard to claims. Payment once secured for services rendered to Mrs. X may be reviewed and, with the retroactive effect given the reach of social security pronouncements, the operator can be required to pay back money received in earlier years.

But I have saved the gravest injustice for last. The latest pronouncements by the Social Security Administration ask the intermediaries to review salaries for nursing home personnel with particular reference to the salaries paid nursing home administrators retroactive to January 1, 1967, the date that the medicare nursing home program became effective.

To nursing home administrators this means that they are now faced with the prospect of having their wages reviewed over the last 3 years with the possibility, under a decision rendered today on the basis of present day promulgated standards, of being required to pay back sums as are now decided to have been improvidently paid.

Small wonder that nursing home people like Lee Dalebout, the executive director of the Utah Nursing Home Association have commented that they are both glad and sorry for their experience with medicare. Mr. Dalebout said:

We are glad that we have survived it (medicare) thus far and sorry that we ever heard of it.

I am including for the reading of the Members of the Congress some of the correspondence that I have received and part of the testimony of Mr. Francis P. Dellafera, president of the Connecticut Association of Extended Care facilities who appeared as a witness before my Subcommittee on Long-Term Care at our hearing in Hartford, Conn., on January 15 of this year.

I ask unanimous consent that part of the testimony of Mr. Dellafera referred to above and several letters on this subject which I have received along with various news articles, editorials, and columns be printed at this point in the RECORD.

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

STATEMENT IN PART BY FRANCIS P. DELLAFERA

Mr. Chairman, it has come to my attention just last week that SSA will impose a wage control directive through fiscal intermediaries on a regional basis retroactively to January 1, 1967. These directives will require intermediaries to review by survey and other means that salary scales paid to all employees of ECFs with particular emphasis on the salary allowance for administrators. The wage and salary allowances which were scheduled by the Travelers Insurance Company auditors were considered by them to be extremely conservative; however, it appears the proposed allowances will be a mockery of the professional posture that is demanded by the conditions of participation for Medicare (Title XVII) and more recently the licensing of nursing home administrators law. Salary ranges for administrators as proposed will be below those paid to truck drivers, electricians, plumbers, carpenters and probably equal to that of a laborer.

If it is the intention of SSA and HEW to eliminate the ECF as an integral part of the medical and nursing care delivery system, the

imposition of these limitations of wages will most certainly be a crushing enough blow to effect the withdrawal of many providers of services from the program. Currently, because of the additional burdens placed on nursing homes because of the reduction in admissions of patients to Connecticut ECFs from general hospitals, some 40 ECFs have either voluntarily decertified or have started proceedings to withdraw from the program with others indicating a consideration to withdraw.

I can predict with a reasonable amount of certainty that many more ECFs will withdraw from the program if SSA and HEW continue to apply these pressures making it financially impossible to continue. It would be most difficult for administrators to reconcile the increasing wage scales for employees with these new policies now being implemented. We are very much concerned with this latest development which will have a very severe effect on our ability to provide adequate nursing services on behalf of the patient, and we ask that you use your good office to investigate and consider these latest developments.

Thank you, Senator. That ends the formal part of this testimony. I will be glad to answer any questions you may have.

Senator Moss. Thank you very much, Mr. Dellafera. Just this last part of your testimony is enough to shock us into insisting that we go ahead out of this survey of the trends to get some reversal of policy. To be told that some 40 extended care facilities have either decertified or started proceedings to withdraw from the program is startling and of course most depressing. Your prediction that there will be others would indicate that we have started to unravel the very fine system that you have here in Connecticut.

HAGERSTOWN, IND.,  
January 8, 1970.

Senator FRANK E. MOSS,  
Washington, D.C.

DEAR SENATOR MOSS: I see in the paper where you are scheduling hearings on nursing home care for the elderly. I wish to report that the Chain of National Nursing Homes in Indiana are not participating in the Medicare and Medicaid programs. We only have one nursing home in Wayne County that is participating. I feel it is wrong for elderly people to have this taken out of their Social Security checks and not be able to use it in any nursing homes. Hospitals keep the elderly for such a short time because of their crowded conditions so the elderly are moved into nursing homes whether they want to go or not. Our mother was taken out of a State Mental Hospital and placed into a National Nursing Home without our consent. We now have full responsibility of her care in a nursing home. Nursing homes say they have to wait so long for their money if they participate in the Medicare program and that the forms they must fill out takes too long. I think the Medicare and Medicaid program as it stands now is a great mistake for the elderly. They think they have something and they have nothing. I hope you can straighten out some of this mess through your hearings.

Sincerely yours,  
Mrs. AUDREY HARDWICK.

COMMUNITY SERVICES COUNCIL,  
SALT LAKE AREA,  
December 29, 1969.

HON. FRANK E. MOSS,  
U.S. Senate,  
New Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: The intent of this letter is to inform you of problems brought to our attention concerning misunderstanding and confusion on the part of beneficiaries of the Medicare program, Title XVIII of P.L. 89-87.

We repeatedly receive inquiries from Medicare beneficiaries and their families regarding benefits and procedures in the delivery of services and processing of claims. Occasionally a case history is called to our attention where payments for services rendered in good faith by hospital or nursing home have been denied by the intermediary, leaving the burden upon the serving agency or the patient or his family.

In order to develop a better understanding we have made inquiries of personnel in the District Office of Social Security, State Division of Health, Blue Cross and others involved in the program. We have also reviewed literature available to beneficiaries under the program and have come to the conclusion that information available on the program is confusing and easily misleading.

In our opinion, benefits under the Medicare program have been grossly oversold by said literature and the press in general, which emphasizes the package of benefits available. There is little reference to medical necessity or the powers of utilization review board and intermediary review board to deny claims. Beneficiaries calling this office are unable to understand why claims are denied and why Medicare will not pay for all hospital, extended care facilities or home health agency services. They do not understand that Medicare pays for "skilled care" only. Their feeling is, "I'm entitled to 100 days, why won't they pay for it?"

It has taken considerable effort on our part to find out that a Utilization Review Committee can rule that a patient is not entitled to benefits. We now understand this committee can over-rule the attending physician. We agree this may be a needed part of the program but it provokes misunderstanding and occasional resentment.

We have also determined that the fiscal intermediary, in Utah it's Blue Cross, can deny payment of a claim even where the Utilization Review Committee feels the service is justified. It has been called to our attention that a large number of claims are being denied in hospitals, extended care facilities and home health agencies.

The District Office, Social Security Administration, tells us that new literature is being developed to describe Medicare benefits.

It is our recommendation that programs to disseminate Medicare information be of such a nature that physicians and beneficiaries know that there are defined limitations; that Utilization Review Committees and a Fiscal Intermediary have the responsibility to determine what is meant by "covered care".

It is our hope that you will exert your influence to see that these limiting factors to the Medicare program are well defined in any new literature describing Medicare benefits. We feel helpless in effecting change at the local level.

Sincerely yours,  
MARY HANSON,  
Chairman, Committee on Aging.  
ROGER H. FREUND,  
Coordinator, Programs on Aging.

MAYTIME MANOR NURSING HOME,  
Salt Lake City, Utah, December 12, 1969.  
Senator FRANK E. MOSS,  
Senate Office Building,  
Washington, D.C.

HONORABLE SIR: I am writing to you regarding a very urgent subject.

I was stricken with the most painful bone ailment, osteoporosis, 9/19/69 and was rushed to LDS Hospital. On 10/5/69 I was removed to Maytime Manor Nursing Home expecting to be under Medicare coverage as I had been at LDS Hosp. Two weeks later I was notified that Medicare would not take care of the Nursing Home expenses. I felt badly as I have little income, a small social security check and my deceased husband's railroad compensation. I have explained this in the

letter (copy enclosed) which I sent to Medicare and from whom I have received no reply.

There are many patients in this Nursing Home better able than myself to care for themselves who are under Medicare. It seems unfair that they have apparently discriminated against me.

I am still at Maytime Manor Nursing Home as I cannot care for myself. I still have this painful ailment and am worried about the mounting expenses as they charge \$14.00 per day. This is a great hardship on me, being a widow with such little income (about \$119/monthly).

It is my contention that the government should be able to pay to elderly deserving citizens for all their medical expenses. We have worked all our lives, paid taxes, and contributed so much to the upbuilding of the country. We deserve recognition in medical care which we so desperately need.

There are billions spent by the government on useless projects and wasted: a little more for the aged would be so worthwhile. I do hope you can help me and also further legislation for more medical care for elderly citizens.

I feel as though I know you Brother Moss as your Father James E. Moss was my teacher and principal at Granite High, a man beloved by all the students and all people.

Thanking you most kindly, I hope you will run for re-election next year.

Mrs. FLORA E. THORSON.

P.S.—Please make it possible that Maytime Manor will be reimbursed as per the Medicare provisions.

ALLEN MEMORIAL HOSPITAL,  
Moab, Utah, January 17, 1970.

MR. ROBERT H. FINCH,  
Secretary, Health, Education, and Welfare,  
Washington, D.C.

DEAR SECRETARY FINCH: This is a follow up to my letter of December 23, 1969.

We would like to thank the Utah Medicare intermediary for their time and effort in sitting down with us, January 2, 1970, and trying to explain why some of our inpatient billings are being rejected as "non-covered care". However, we are rejecting their interpretation and consider it erroneous, or if not erroneous, then the Medicare program is a farce to the elderly, the doctors, the hospitals, and the American public. The following is why I make this statement.

Dr. Garner Meads, Medical director for the Utah intermediary, met with me and the hospital medical staff to explain under what conditions the elderly do not qualify for hospital benefits, even though the patient's doctor and the utilization staff says he should be in the hospital. His explanation to us was that chronic ill of the elderly are not covered unless they become acute, even though the combined chronic ill may be serious enough to cause death they still may, or may not qualify for hospital benefits under the Medicare law.

We were also told that the intermediary, and not the patient's doctor, or the utilization review committee, was charged by law to determine if the Medicare patient is acute enough to receive hospital benefits.

Specific case discussed was an eighty six (86) year old male who was admitted with cerebral and generalized arteriosclerosis, mold diabetes, urinary incontinence and malnutrition, and thought to be a terminal patient by his doctor, and by the utilization review committee. While there was very little the doctor could do medically, he and the utilization review committee felt that skilled and continuous close observation by trained personnel was essential for the well being of this patient.

Here was a man who was near death for 112 days, but according to Medicare his ill was "chronic ill of the aged" and, even though sick enough to die (in fact the doctor fully expected him to) his case was clas-

sified by the Medicare intermediary as custodial and as such not qualifying for hospitalization benefits.

This particular case was rejected by the intermediary for hospital benefits in spite of what the doctor and utilization committee determined. If Medicare is not going to respect the doctors judgment or that of the utilization committee, then there is no need for the utilization committee. If you want us to send progress notes, etc., to the intermediary for review every twelve days, and let them review our patients, this is fine, as long as the patient is covered until receipt of any rejection. If Medicare makes the decisions let Medicare have the paper work and the responsibility. As it now stands they are degrading the Medical profession, as explained in the case above. In this particular case the doctor had told the patient's family it was very unlikely he would live and in fact he died shortly after being transferred to a nursing home. Then Medicare comes back to the family and tells them "your father was not sick enough to qualify for hospital benefits under the Medicare program." This is about the best way I know of to destroy the Medicare program and medical profession.

I feel this family, or any other family in this situation, and the American public should be told the truth, and that is, that Medicare in their ivory tower will decide if a person needs hospital care, and not their doctor.

All we hear from Medicare anymore is how they had to add some new restrictions and how expensive it is. I would like to know how much of the Social Security money deducted from the pay checks for the Medicare program is spent on actual medical care for the patients i.e., hospitals, doctors, nursing homes, drugs, etc., and how much for administration and overhead (in percentages).

Sincerely,

J. KAY HAWKS,  
Administrator.

CLEARWATER, FLA.,  
January 14, 1970.

DEAR SENATOR: For years I have been paying for Social Security and Medicare, now I need help from medicare, but they refuse me. My wife was in the hospital here in Clearwater. Medicare paid for most of that but refuse to pay for the nursing home. Why? They give you a lot of poor excuses, I am entitled to this care, but just try to get it. Seems to me that the U.S. Government is in on a crooked insurance deal to fleece the old people. Here is a letter from our Doctor that will show that we should get medicare, it is proof. I am asking for your aid, can we have it?

My wife is 82 years old, she has been a wonderful wife, mother and grandmother, she will soon be going to a much better world where there is no sickness, no sorrow, no more pain, no unfriendly people (as Aetna's Mrs. Jessop here in the medicare office at Clearwater) why does the Government ask us to pay for medicare and then when we need it they won't give it to us old people. Senator, we spend billions on moon trips and wars, why not put that money to work for more hospitals—nursing homes, more schools, why not do as the Russians, take care of its people from birth until death. There are also too many people like Mrs. Jessop who don't produce a thing, fire them and let the Doctors treat the old people free—Have this Government build hospitals for the old people, all over this U.S.A. and have it free for all over 75 and a small fee for those 65 to 75. Stop Foreign Aid and give that to aid the old people in the good old U.S.A.

May I hear from you. Thanks.  
God bless you. We need more like you in Washington.

C. A. THOMPSON.

EXTENDED CARE UNDER MEDICARE

Whereas, It has come to our attention that the Department of Health, Education, and Welfare, through Intermediary Letter #371, has placed severe restrictions on extended care for Medicare Patients, and

Whereas, These instructions have caused much concern and grief and possibly in some cases, the death of unsuspecting patients, who though ordered to nursing homes, were in no financial position to pay the unexpected costs when intermediaries rejected their claims, and

Whereas, Because of these situations many doctors are somewhat reluctant to refer needy patients to nursing homes for extended care and nursing homes are becoming reluctant to accept Medicare patients thereby adding to the confusion, and

Whereas, We understand that similar restrictions are being instituted in hospitals, and

Whereas, We do not believe this was the intent of the Congress when they adopted the Medicare Program, therefore be it

Resolved, That the Winter Park Chapter No. 386 of NARCE go on record as objecting to and protesting these restrictions and appealing to Congress to investigate this matter with a view towards liberalizing these restrictions.

Adopted December 3, 1969.

CARL SETJE,  
President.  
FRANK G. LUCEY,  
Secretary.

GUILFORD CONVALESCARIUM,  
Fayetteville, Pa., January 27, 1970.

Senator FRANK MOSS,  
U.S. Senate,  
Washington D.C.

DEAR SENATOR MOSS: Several days ago a news release by an Associated Press writer, Gaylord Shaw, appeared in many newspapers throughout the Nation regarding "the National trend of nursing homes dropping out of Medicare's Extended Program", which was cited by you and also appeared in our local paper.

The context of the article revealing the experiences, discriminations and injustices inflicted upon ECF facilities throughout our country are shared by our facility as well.

Upon learning of your interest and the launching of Congressional hearings in respect to our problems, I laud your ambition, aggressiveness and offer my support in any way you feel we can serve; financially, organizational or otherwise.

You might wish to consider as follows, several injustices which we are experiencing as part of your fact finding media:

A. Our facility was in operation before the Medicare Program became effective. We were among the first to enroll in their program in our State. Our facility has already established prior to their existence, a depreciation schedule on a 25 year basis which was neither objectionable or questioned at the time we enrolled in the Program.

B. My salary, based upon active participation in the facility as Owner, who establishes and implements policies, procedures, purchasing, coordinator etc., established a salary of \$20,000.00 per year for a 102 bed unit which was never objectionable or questioned at the time we enrolled in the Medicare Program.

Upon filing our first Cost Report it was established by Mr. Frank Ruth, a C.P.A. representing our Firm since its existence, that we operated at a loss of which according to their RCC method of reimbursement caused our Firm to be entitled to approximately \$4,400.00 additional compensation for the period filed.

They dispatched an independent accounting firm to visit our facility to audit all accounts. They could only find three items to contest which was done in an attempt to



cancel out their obligation on the above additional compensation due us. They are as follows:

1. Disallowed advertising expense of approximately \$800.00.

2. Requested that we change our depreciation schedule from 25 years to 40 years.

3. Requested that my salary be reduced from \$20,000.00 to \$15,000.00 annually and that I only be entitled to 75% of the latter amount since I have other interests elsewhere.

They attempted on several occasions to have me accept their terms, adjust our statement to their way of thinking; which I have refused to do—with one exception—I will concede the advertising expense.

I enclose a letter which I received several days ago which speaks for itself—in effect, if I don't agree to change the policies of my privately owned enterprise to conform to our government's desires, they will put me out of business.

We are licensed in our State as a profit making Class III Skilled Nursing Facility. According to the RCC Method of accounting, we are only entitled to 1½% profit above actual cost to say the least. Now it is their desire to remove all profit.

I know of no business man who would want to invest in any enterprise with such a meager potential of profit. I also know that other unrelated firms on government contracts are allowed to earn astounding profits.

In behalf of many other ECF's as well as myself, our desire is to give skilled nursing care and to provide a pleasant environment for our guests at a sensible profit. It is my belief that the program should offer any qualified ECF a flat daily interim rate of \$20-\$22 per day (with cost of living escalator clause), and require the licensed officer of HEW of each State to supervise the program.

Please do not adjudge me a radical. I justly feel the program in its present form is unfair and that some immediate remedial action must be taken before the government is faced with the gruesome facts that we private nursing home operators are not going to accept the financial obligations of our government, which they promise to the public under the Medicare program.

The trend of ECF dropouts will cause our government to spend needless billions of dollars to build and staff new facilities all over our Nation to care for qualified participants. Surely, you would think they would want to avoid this, knowing what problems they have with the present national budget.

Please do not hesitate to advise me of any way that I can be of assistance.

Thanking you for your interest, I am  
Very truly yours,

RICHARD L. MICHAEL,  
President.

EXTENDED CARE CENTER,  
Evansville, Ind., January 30, 1970.

HON. FRANK MOSS,  
Senate Building,  
Washington, D.C.

DEAR SENATOR MOSS: You were quoted in a recent AP syndicated column as having made certain remarks in reference to the Medicare Program as it applies to nursing homes. I thought you might be interested in the details of this specific case taken from our recent files.

The patient, an 82 year old lady, was transferred to Dellaren Extended Care Center from a medically approved hospitalization at a local general hospital. She was admitted on January 22. Application for Advice of Medical Status was filed on January 23. Rejection of claim was received on January 28 marked "stay for non-covered level of care". This patient has hypertension, has had a stroke, has Parkinson's Disease and chronic glaucoma. She is unable to walk alone, requires assistance in feeding and bathing and is incontinent of urine and bowel. She is confused periodically.

Her physician, our Director of Nursing Service, and myself felt that this patient needed skilled nursing care. A nurse at a desk one-hundred fifty miles away felt that she did not; so the claim was rejected retroactive to the date of admission.

I contacted the nurse by telephone and was told that there were two choices in the matter:

1. I could appeal directly to Social Security Administration.

2. I could appeal to a Board of seven physicians.

I was told categorically that the Social Security Administration would reject the appeal and the physicians probably would also.

This case represents a so-called "ambulance cure" and is one of the reasons why nursing home operators are disillusioned with the Medicare program. The results of this type of rejection will be prolonged hospital stay because physicians generally prefer not to get involved in government bureaucracy. It would seem to me that, even if this case does not qualify under the strict application of the Social Security Administration guide lines, the best interest of the patient and the government could be served by approval of payment of this claim when consideration is given to the relative cost of hospital and nursing home care. It further seems unfair that the rejection should be retroactive.

It is not difficult to understand why private enterprise is unhappy with the program when the following facts are considered:

1. The government agencies make the rules and change them unilaterally in the middle of the game.

2. The government buys the majority of the product.

3. No consideration is given the private operator for the financial risk involved.

4. Appeals are costly and time consuming and generally impractical for a private operator.

Frankly, I believe that many nursing home proprietors have been trapped in a financial "box" and would immediately abandon participation under Medicare if bankruptcy were not the only obvious alternative.

Sincerely yours,

ROBERT E. ARENDELL, M.D.,  
Medical Director.

HAVEN HOUSE,  
Kearney, Nebr., January 16, 1970.

HON. FRANK E. MOSS,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: I recently read a very short article in one of our local newspapers relative to the subcommittee on long-term care which will be chaired by yourself which will study among other things the national trend of nursing homes dropping out of Medicare's Extended Care Program.

We are right now contemplating exactly this same move, for two basic reasons:

1. The complete emasculation by the regulations of our physician Utilization Review Committee.

2. The necessity of private patients subsidizing the care given Medicare patients.

In our area, as everywhere, there is a great demand for the expensive acute general hospital bed, therefore, as soon as medically feasible the doctors in the area certify their Medicare Patients into our facility for continued skilled nursing care. Later the Utilization Review Committee of five volunteer physicians review all admissions and all patients who have been in the facility 45 days. This committee meets monthly and is trying to do a professional job with this review. In spite of this, we have just recently been informed that five cases which have been further reviewed by the intermediary in Omaha, Blue Cross Blue Shield, have just

been completely denied benefits retroactive to somewhere between June and October. We have a pending Medicare claim file of 20 individual claim forms, 17 of which we have just been notified we must send in all records, nurses notes, etc. for further review by the intermediary; and we have received less than \$50 for our intermediary on Medicare Claims in the last two months. I think you can understand the position we feel we have put our Utilization Review Committee in, not to mention the attending doctor who knows the individual case best in the first place, and I think you can also understand we are beginning to wonder how we can continue meeting our payroll with this kind of harassment.

Regarding the matter of subsidy of Medicare patients. It is true and we all knew when the program began that it was a reimbursement of cost only, with an additional per cent which was to cover costs not spelled out plus return of investment. The problem arises from the fact that Medicare is not paying its costs and therefore we are either going slowly broke or the patient is picking up the excess we need to prevent this. As an example, I cite the cost of \$750 to prepare the interim cost study required by Medicare. This is a lot of money of course, however, our accountant treated us as well as he possibly could in view of the large amount of minutia which was requested and necessary to be justified. Medicare pays only the portion of that total which our annual Medicare occupancy will bear to the total amount which will be roughly 30%. I think it is a fair statement to say that the other 70% is unnecessarily borne by patients who have no reason whatsoever to be concerned with a Medicare per diem report. You are no doubt aware of that fact that the 1½% and 2% additional allowances were cut back at mid year. In spite of many people attempting to explain this to the officials in Washington and the reasons therefore, of course, we got nowhere. This amount was required for a balanced operating budget and we all are aware of where that amount must come from.

I hope you get many letters from the nursing home operators around the country. The concept of using a \$5,000 bed with no obstetrical or other low paying departments to support, makes a great deal of sense as compared to using the \$30,000 general hospital bed which has all of these facilities to offer the community. The result of all of these things starting with the negating of all Utilization decisions by the attending physician and the Utilization committee is a definite step towards the entire health industry being controlled by non-medical interests.

I am sending a copy of this letter to our good Representatives from Nebraska, and I would be interested in your views on the subject after you have had a chance to hear testimony and weigh the various factors involved.

Respectfully,

HAROLD E. FREESE.

THE HERMITAGE  
NURSING HOME, INC.,  
Worcester, Mass.

THE ROYAL MEGANSETT  
NURSING HOME, INC.,

North Falmouth, Mass., January 16, 1970.  
Senator FRANK MOSS,  
Senate Building,  
Washington, D.C.

DEAR SENATOR: As most nursing homes in our country struggle through crisis after crisis in their dealings with the Federal and State governments, it came as a pleasant surprise this morning to learn that you were shocked by some of the things that are occurring within our segment of the health profession.

We believe that the two nursing homes listed above enjoy having the finest reputations in Massachusetts, and yet in our efforts

to serve the country under the increased costs of Medicare, the Hermitage has dropped from caring for an average of between 40-45 patients in 1969, down to 10-15 at (Medicare) the present time. The Royal Megansett has one patient receiving Medicare benefits at the present time. Now this would not seem to warrant paying the Doctors on the Utilization Review Committee \$50.00 a meeting, or a dietitian \$200.00 a month for 20 hours of work. Yet, either the government or we have to foot the bill for these exorbitant costs. Also, as our costs have increased, our intermediary has arbitrarily dropped our per diem rate to the point where we are losing large sums of money, if we do take care of patients under Medicare or Medicaid.

In an increasingly turbulent world, in which no segment of the population is happy with encroaching government, the most maddening thing is for us to sit by not able to do anything because no one in authority will listen to us in our efforts to tell you how easy it is for the government to save money while at the same time giving better care. Even sadder, is the realization that the government will not pay its way in expecting us to care for patients at a loss, while expecting the private patients to subsidize the services the government demands under Medicare. Government can be made to work if men of decision are willing to take positive action. Do something.

Sincerely,

CHESTER S. WARNER.

COLONIAL TERRACE NURSING HOME,  
Blue Hill, Nebr., January 16, 1970.

Senator FRANK E. MOSS,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: We are vitally interested in the Senate hearings on nursing homes and of the trend of ECF homes to withdraw from the Medicare program.

We are in accord with the intent of the Medicare Program, and feel that it was meant to be a great assistance; however, the implementation of the program is such, that if continued on the current basis will make it impractical for any home to participate.

The purpose of this letter is to advise you of our concern and to offer any assistance that we can in the way of submitting information, cases, or documentations.

Sincerely,

P. C. JONES,  
Administrator.

KEARNEY CLINIC,  
Kearney, Nebr., January 17, 1970.

HON. FRANK E. MOSS,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: Congratulations on your interest in the problems that are confronting the nursing home industry. As part owner of a small nursing home who has tried to give service under Medicare, I heartily sympathize with the many homes who are withdrawing from the program.

Much publicity has been given to the problem of the avaricious nursing home operation, but I think attention should now be focused on the irresponsibility of the fiscal agents and their impact in undermining the Medicare Program. In our experience, we are dealing with a headless body that will not define any clear-cut criteria for a participant's eligibility under Medicare, then will make a unilateral decision that a participant is not eligible after he has been approved by his own doctor and an impartial utilization committee. Further, they then withhold payment to the home for the care furnished from the date that they decide that the eligibility was ended. Since they are no more prompt than other government agencies in making the decision and forwarding it to the home, the home is often stuck with a considerable period of non-reimbursable care, as many of the patients thus cut off by Medi-

care do not have private funds to pay for the interval after the Medicare decides that they are through and the home receives the verdict. If we were dealing with a private party who would not make clear-cut commitments as to his responsibility, would withdraw from a contract whenever he felt like it, and refuse to accept responsibility for the capriciousness of his judgment, we would have recourse. But a little man facing the Government feels helpless.

Yours truly,

L. D. LANS, M.D.

BRUNSWICK, GA.,  
January 22, 1970.

Senator FRANK MOSS:  
Washington, D.C.

DEAR SENATOR MOSS: I have read with great interest an article in my local paper concerning nursing homes and Medicare. I am very happy to learn that the problem is being investigated.

I am president of Brunswick Nursing and Convalescent Center. We entered into an agreement with Medicare several months ago. Since that time we have had nothing but red tape, aggravation and losses on these patients. We now have no Medicare patients and do not plan to admit any.

It seems rather strange that Medicare will pay \$50 to \$60 a day for a patient in a publicly owned hospital (which pays no property taxes and has no mortgage payments to meet) but refuses to pay more than \$12 a day in a privately owned facility—and will only pay this after we've spent more than any profit realized, verifying costs and meeting other absurd requirements.

There are many Medicare patients in hospitals paying huge sums who could be as well or better cared for at 1/2 the cost in private nursing homes, thereby saving taxpayers' money.

Again, I am very pleased that you are carrying out hearings on this matter, and hope that some good will come from your findings.

Sincerely yours,

CARL M. ROOKS.

JANUARY 5, 1970.

HON. FRANK E. MOSS,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: You are coming to St. Petersburg Jan. 9th, to conduct a Hearing with a Senatorial Committee, relative to the deplorable conditions existing in the Nursing Homes.

We appreciate your right desires, and sincere efforts, and expect the right results.

The feeble, unfortunate elderly in Nursing Homes have no Lobby in Wash. D.C. All the heads of so-called Retirement groups are mere window dressing. The Federal Government should enforce strict laws, to curb the possible diverting of funds under "Medicare" and "Medicaid"; the present Administrators responsible for this negligence (revealed in a series of articles by two columnists in St. Petersburg, Times) should be immediately replaced by responsible humanitarians; no law is a law unless it is enforced.

Unless your Committee urges the proper Departments to take immediate action to help our elderly, as soon as your findings are reported, a group of humane citizens like myself will feel that your Committee investigation, would be a travesty on justice and mercy. States' Rights must be scuttled, regarding the worthy needy elderly; we are the wealthiest Country in the World, and have the largest Gross National Product. Therefore, we respectfully request that your Committee be apprised of this fact.

Sincerely,

A Humane Citizen in St. Petersburg.

P.S.—It is highly immoral and inexcusable that our elderly in the Nursing Homes should

be at the mercy of ruthless, callous Administrators in St. Petersburg, or any other City in this Nation.

[From the St. Petersburg Times, Jan. 4, 1970]

#### THE SENATE AND NURSING HOMES

A subcommittee of the Florida Senate opened an investigation of nursing homes two months ago in St. Petersburg.

A subcommittee of the United States Senate will open a hearing on nursing home care Jan. 9—also in St. Petersburg.

Florida Health officials have threatened to close 40 nursing homes for failing to meet decent standards.

Florida fire officials have announced a state-wide crackdown on nursing home fire hazards.

Medicaid will put more money into patient care. So will increased old age assistance under President Nixon's welfare program.

What recently was described as "shame" in this column might well become a source of pride before all is done. The old, the infirm and the helpless no longer are forgotten in depressing cells of sick despair. The state has been stirred and the nation is stirring.

That's good . . . but not enough.

Not a single one of the 40 substandard homes has been identified by the state. Patients still endure within them. Increased federal and state aid are mere pittance compared to what is needed. Apathy threatens to set in.

The state can prevent that by continuing its probe of nursing home treatment and by repealing laws that prevent the public from hearing all the grisly results.

The Federal government, in hearings such as that planned for Jan. 9, should let no cow be sacred in questioning those who own, manage, staff or occupy nursing homes.

You also have a moral obligation. If you know anything about nursing home deficiencies or how they may be corrected, now is your chance to tell it to a panel of United States senators.

Plan to attend the hearings at 9 a.m. Friday. The location will be announced.

JANUARY 2, 1970.

DEAR SENATOR MOSS: The enclosed is a supplement to my recent letter regarding the investigation by your Committee of the Nursing Homes, and we await your visit eagerly Jan. 9th.

How much longer will our Federal Govt. continue pouring huge funds into the State of Florida, while our feeble elderly are at the mercy of irresponsible Administrators, crying "we don't have enough money to update standards of Nursing Homes." If it had not been for the series of articles in our fine newspaper, the deplorable conditions would continue; and now, Mr. James Bax appears scared, realizing the pending investigation is upsetting him. He and his cohorts are being scared into having fire inspections made—we trust your investigating Committee will weed out any unscrupulous antics on the part of irresponsible Administration here in Florida. Good Luck!

A Sincere Dedicated Citizen in St. Petersburg, Fla.

P.S.—You will agree that Federal laws must be enforced, before funds are used by States that enjoy States' Rights, and permit skulduggery. Somebody is responsible, if articles have to appear in a Newspaper to expose maltreatment of our elderly. It is a sheer National disgrace.

CHILDREN'S MEDICAL CENTER,  
Martinsville, Va., January 23, 1970.

Senator FRANK MOSS,  
U.S. Senate Office Building,  
Washington, D.C.

DEAR SENATOR MOSS: I am President of the Martinsville Convalescent Home, a modern,



50 bed unit, which has been in operation for three years. We began accepting Medicare patients on July 1, 1969. Our private patient rate is \$13.50 a day. We accepted Medicare patients because we were the only nursing home in the city and county. This was an attempt to relieve our overcrowded conditions in the acute bed hospital. At that time, we were filled with private patients.

The Social Security Administration, after examining financial statements, began paying \$12.00 per patient per room as cost. After six months in the program, I received the first check for allowable profit. This was \$368.00 which represented 441 Medicare patient days. The Nursing Home has to supply the medicines that are required for Medicare patients with no reimbursement. After looking into cost on these patients, it appears that we have lost over \$100.00 on medicine bills alone. In addition to this, the accountant charged \$375.00 for the time necessary to meet with the intermediary representatives to determine daily cost and fair profit. We have also had a great deal of difficulty in determining which patient will qualify because they are transferred directly from the hospital and sometimes it is two weeks before we are notified by an intermediary if the patient should receive Medicare or not.

The increased cost of caring for Medicare patients has to be shared on a per day basis by the entire Nursing Home. This makes private patients subsidizing Medicare patients. At the present interest rate of 8% for the financing on the nursing home, it is unbelievable that \$368.00 would represent any return for an investment of \$450,000.00. According to my accountant, we would go bankrupt if thirty Medicare patients occupied the Nursing Home.

I thought maybe an actual incident of this type might explain to you why most honest nursing homes cannot afford to take Medicare patients.

Sincerely yours,  
MARION D. RICHMOND, M.D.

PLAINVILLE, CONN.,  
January 12, 1970.

Senator FRANK E. MOSS,  
Chairman, Subcommittee on Long-Term  
Care, State Capitol Building, Hartford,  
Conn.

DEAR SENATOR MOSS: The article of January 8 in the Hartford Courant regarding your hearing on Medicare coverage in nursing homes on January 15, 1970 has prompted me to write you.

My Mother, a widow, suffered a stroke in September and was sent by ambulance to St. Francis Hospital in Hartford where she remained for about 3 weeks. While in the hospital she received therapy and made satisfactory progress to a point where she could walk by using a walker or with assistance. Her speech was still impaired and, of course, she was still very weak.

I made arrangements for her to be taken to the Farmington Convalescent Hospital at her doctor's direction on October 1 where she continued to receive physio-therapy as well as speech and occupational therapy. On or about the 15th of November 1969 she suffered another stroke and her condition deteriorated considerably at this time. She improved again to a point where she could sit up a few hours a day but by this time her walking was curtailed and she needed assistance in every movement and still does at present.

Naturally, I expected Medicare, which my Mother subscribes to, to take care of her hospital charges and to continue when she was transferred to the convalescent hospital. The administrator at the convalescent hospital notified me that her Medicare had been terminated as of November 12 but due to the change in her condition upon suffering another stroke, it had been resumed.

I have again been notified that her Medi-

care has terminated as of December 10, 1969 since it is the opinion of the Medicare Claim Office that she requires custodial care only. In other words, according to my calculations, she has received 71 days of her allowable 100 days coverage in an extended care facility.

I am appealing this decision as I feel my Mother should receive the full 100 days coverage in view of her present condition. The doctor has diagnosed her condition as "Progressive Cerebral Vascular Disease with Atrial Fibrillation." You know as well as I do that she is helpless, sick and needs constant attention and my idea of custodial care is far different than the type of care she actually needs. These are the patients who need Medicare coverage and more.

In view of the hearing that is being held on January 15, I wanted to acquaint you with the facts concerning this actual case and I understand this is the way several of these cases such as my Mother's are being handled. Our ill, aged citizens are the most deserving group and in view of the indiscriminate spending of our Government on so many programs that leave one with serious doubts as to their advantages, it is time to take a look at the way these huge sums are being spent. We, as the common ordinary taxpayers are urged to be sensible and practical but apparently our tax money is spent without regard to these rules.

My Mother has experienced a serious number of setbacks in her life but raised a large family, weathered the great depression, sent 3 boys through World War II and always had in mind that one should save for the proverbial rainy day. Her meager savings at today's costs in hospitals will be quickly depleted and then there will be no alternative but to apply for some sort of assistance. For one who has always prided herself on her independence and has always paid her own way, I think it shameful that she will not receive what is justly due her in the way of the full 100 days extended coverage.

Please don't forget these elderly citizens in your deliberations and your considerations of the Medicare program.

Very truly yours,  
Mrs. MARY G. ELLIS.

BLUE HILL, NEBR.,  
January 21, 1970.

Senator CARL CURTIS,  
Senate Office Building,  
Washington, D.C.

DEAR SIR: First of all, I want to thank you for the time you took to call the SSA's attention to the situation with Mr. Bartels of Campbell, Nebraska.

The reason I am bothering you again now is because of more difficulty with the Medicare Program that I feel you should be aware of. I am sure that you are partially aware of the situation now, and the difficulty that Extended Care Facilities in particular, are having with the program.

Three years ago, in what seemed to be an ideal situation, a new Nursing Home was opened in Blue Hill and arrangements made to use it as an Extended Care Facility. Because we have no hospital in town, this seemed to be an advantageous situation in that much of the skilled nursing personnel needed was not working because it was too far for them to drive. Therefore, they could work here, and we could provide some of the skilled care needed for the patients that no longer needed the hospital care, and therefore relieve some of the nursing shortage, at the same time, in other communities.

In the three years since, I have spent literally hours with the intermediary (Blue Cross in this instance) discussing the qualifications for the patients of an ECF as well as the other requirements for an ECF. As time has gone by, and especially during the last year, it has become more impossible

instead of better, both for the administration and for the Medical Personnel involved. I do not mean to be too critical of the intermediary, and I would like to say that they have tried to cooperate in every way they know how, but that apparently there are so many unanswerable questions for them that rather than take any chances, the simplest thing to do is to deny the patients the benefits and then they are "safe." The medical personnel spends hours keeping forms filled out, holding meetings in filling out forms, and reviewing the patients condition in the ECF, then the intermediary writes back, wants a photostatic copy of the patient's record completely, more facts and summaries of the patients condition, and then 4-6 months after they were admitted to the ECF they come back and either deny any extended care benefits or arbitrarily cut it off wherever they see fit. This, then, leaves it up to the patients to pay for care that was made more expensive by regulations and requirements of the Medicare Program, and even puts them in a worse position than they might have been if they had never had such benefits. These same people then continue their care in a skilled care home because their doctor and relatives feel this is the care they need. I submit to you that no private insurance company could be licensed to sell insurance in any State and renege on their promises!!

Again, I do not wish to find complete fault with the concept of the extended care program, but, as you well know, many extended care facilities have dropped out of the program. In essence, then, this tells the people that they have benefits but there is no way in the world they can take advantage of these benefits when needed because there will be no extended care facility to provide them.

I would also like to say that I feel a real source of difficulty is that there has not been a full understanding by the Medical Profession and the public on the concept of the ECF. I think many of the problems would be resolved if the utilization of the hospitals was policed to where the public understood that the ECF would not give them second rate care when their need is only for skilled nursing care. This would encourage the public and the doctors to transfer patients to ECF's when they were eligible to be transferred for short periods of time. At the present time, they feel it is only for prolonged care that they need to go to the ECF, and therefore remain in the hospital a week or two when they could be transferred.

At the present time it appears to me that the SSA tells the intermediary to cut a certain number of days, and they begin to cut arbitrarily to fall within the prescribed number.

Sincerely yours,  
FRANK KAMM, M.D.

NEW FAIRFIELD, CONN.

Senator FRANK MOSS,  
Washington, D.C.

DEAR SENATOR MOSS: Listening to radio news this morning I was very much heartened to learn you are sending someone to Connecticut this coming week to look into Medicare affairs. This comes at a very good time for me because I have just gone through a very upsetting experience which involves my eighty year old mother. Three weeks ago I fell and broke my left wrist which means I am handicapped to a degree plus I have a badly calcified hip and calcium in other joints. The doctor decided I couldn't care for my mother for the time being so he ordered her to the Danbury Hospital until such time as I could care for her again. She has very very little use of her legs. My father was a Spanish-American War veteran and a retired policeman of forty five years. He came from Poland as a boy of nine and he loved

this country. He was a true patriot and as his cronies began to die off he gave of his own free time filling out forms so that widows might get their pensions and yet his own widow, who also has Blue Cross, was practically evicted from the hospital yesterday January 8th.

Medicare refused further help so therefore her Blue Cross is also stopped. I can get affidavits from our family doctor plus my ortho-surgeon who will verify the fact that caring for her has been hard but with a broken wrist there was no alternative but the hospital. Her pensions would never even be a drop in the bucket toward a home for the aged because their prices are fantastic.

I ask nothing for her now because I have her home and I shall do my best. She is a good patient, alert and bright and she is my mother.

All I ask is that you thoroughly investigate this for the sake of the aged who have no one to turn to or whose families can't afford the care.

I worked for the hospital as an aide for eleven years up until 1965 when my father became ill and I had to bring my mother to my home. My doctor, the head of medical aid all went to bat for me but medicare was adamant.

Please see this through for the sake of others. If your agent wishes to talk to me he can call me collect at New Fairfield, Conn. 746-2348.

Sincerely,

Mrs. FRANCES SCHULLERY.

STOCKTON, CALIF.,  
January 8, 1970.

Senator FRANK E. MOSS,  
White House, Washington, D.C.

All of our hospitals and nursing homes which we own and operate will stop participating in the medicare program unless a reasonable provision for profit is made a part of the reimbursement formula and unless the formula is changed to allow a realistic profit and also to eliminate the very costly and time consuming audits.

KAVANAUGH K. KOCH.

COLONIAL MANOR OF TYLER,  
December 24, 1969.

Mr. JOHN M. MULLANE,  
Regional Representative, Department of Health, Education, and Welfare, Regional Office, Dallas, Tex.

DEAR SR: In accordance with Provider Agreement and its terms, we hereby make written notice to you of our voluntary withdrawal as an Extended Care Facility from the Medicare program. Our intention has been previously voiced via telephone and letter on December 17, 1969, to Mr. John Kistler, Zone Supervisor, Certification and Consultation Division, Medicare Administration, Dallas, Texas.

Our decision was reached after months of deliberate thought and consideration. We were hopeful at one time that the many pitfalls and problems of this program could be alleviated. But now we believe that without a major overhaul the program is hopeless, and the congressional purpose for this phase of the program is forever doomed.

We feel that it is our responsibility to outline to you the gross inequities of the program that we have experienced.

As we have already stated, we were aware of the many problems in the program such as we have outlined above and the lack of profit incentive for the provider, but we entered hopefully that since the program was new, proper adjustments and changes would be made. But none of any consequence has been forthcoming. Rather, the bad has turned to worse, and, as we stated before, the ridiculous to the absurd. I honestly am afraid the atrocities of the Program can never be corrected.

Please be advised that our withdrawal is effective January 1, 1970.

Very truly yours,

DAVID A. LAKE,  
Owner.

THE CONNECTICUT CHRONIC AND  
CONVALESCENT HOSPITAL ASSOCI-  
ATION, INC.,  
Manchester, Conn., March 7, 1970.

Senator FRANK E. MOSS,  
U.S. Senate,  
Special Committee on Aging,  
Washington, D.C.

DEAR SENATOR MOSS: Your attention is invited to the enclosed letter I sent to The Travelers Insurance Company in Hartford, Connecticut.

You may recall that in my testimony at your January 15th hearing I stated that SSA plans to further limit salary allowances. This action serves to compound the problems and will result in continued voluntary withdrawal of ECF's from the program.

I would appreciate any efforts you can make to rectify this present condition.

Sincerely,

FRANCIS P. DELLAFERA,  
President.

MARCH 7, 1970.

Mr. JOHN J. BUDDS,  
Coordinator,  
Medicare Administration,  
The Travelers Insurance Co.,  
Hartford, Conn.

DEAR JOHN: Apparently the new owner/administrative guide lines with allowable limitations has finally been published by SSA in directives to its fiscal intermediaries. I have attempted to get the publication, however I have been informed that SSA has further directed that this is classified information and cannot be released to providers of service.

It is most certainly a curious paradox that SSA will claim that it can purchase services from providers and not inform them of the price it will pay. Since the national security is not at stake in this case, and since there is no invasion of privacy, it would seem that SSA has no alternative but to publish these allowances without delay. Further, since these allowances will become known at future audit time they should be released in order that providers of service can make a predetermination regarding their desire to remain in the program.

Will you please use your good office to impress SSA with the Connecticut Association of Extended Care Facilities' posture on this matter.

With best personal regards.

Sincerely,

FRANCIS P. DELLAFERA,  
President.

[From the Bristol (Conn.) Press, Jan. 20, 1970]

MEDICARE WOES

All is not well with Medicare.

The new Social Security Administration regulations appear to be making it harder for elderly persons to receive Medicare in nursing and convalescent homes.

Senator Frank Moss (D-Utah) was in the state last week holding hearings on behalf of a subcommittee which he heads. The senator told newsmen that he was "shocked" at some of the information which emerged from the testimony he took.

As a result of his testimony, Senator Moss says that he believes more federal governmental supervision is essential to straighten out some of the problems which seem to have occurred because of the vast differences between the way Medicare is administered in the 50 states. He says that national guidelines should be established so that regulations would not vary state by state.

Connecticut Department of Health officials told Senator Moss that if ever there is a time for review and reassessment of the entire Medicare program it is now. Moss said that the problems encountered by elderly citizens seeking Medicare assistance are serious enough to warrant remedial action by the present session of Congress.

Arthur Jarvis of the State Department of Health was sharply critical of the procedure of having Medicare evaluated by a committee of physicians.

"We audit banks, corporations and other businesses. Then, why can't we, in the name of all that's holy, as a society develop an objective audit mechanism to insure we are receiving the best possible health care by those who promise to deliver it when our very lives are at stake?", he asked.

Testimony before Senator Moss brought out the fact that the new regulations promulgated by the Social Security Administration have resulted in the rejection of Medicare assistance for 51 per cent of the patients transferred from hospitals to convalescent homes in Connecticut.

It was also revealed that some doctors, fearful that their patients will not qualify for Medicare assistance in convalescent homes, are keeping them in hospitals where the government picks up a much higher tab than the convalescent homes charge.

With the increasing costs of hospital and convalescent home care, it is quite obvious that the vast majority of elderly persons cannot afford the expense. The necessity for Medicare assistance for millions of our old people is a matter of grave consequence.

Senator Moss will be doing these elderly people a real service if he brings up this situation for the attention of Congress and gets the necessary remedial action which is so urgently required.

[From the Patriot Ledger, Jan. 21, 1970]

FIVE HUNDRED NURSING HOMES HAVE QUIT  
MEDICARE

(By Gaylord Shaw)

WASHINGTON.—Hundreds of the nation's nursing homes have quit the Medicare program. Many others still in the program refuse to accept new Medicare patients.

EXTENDED CARE

A nationwide Associated Press survey disclosed that more than 500 nursing homes have withdrawn since extended care provisions of the federal health care program began three years ago. In the last six months alone, Social Security Administration figures show, 295 extended care facilities have dropped Medicare voluntarily.

"The national trend of nursing homes to drop out of Medicare's extended care program" was cited this month by Sen. Frank Moss, D-Utah, when he launched congressional hearings on nursing home problems.

But a Social Security Administration spokesman said, "there's no trend. The number of homes in the program goes up and down."

Although 295 homes quit the program in six months, this official said, others signed up so the net loss was only 50—from 4,900 certified extended care facilities July 1, to 4,850 Jan. 1.

There are about 25,000 nursing homes in the nation, but not all can qualify for Medicare's extended care program because of such requirements as around-the-clock licensed nursing care.

Medicare does not pay for custodial nursing home care. Rather, it was designed to pay for short-term stays in nursing homes for patients recuperating after discharge from a hospital.

To qualify, a patient must require skilled nursing care on a continuing basis. He also must enter an extended care facility (ECF) within two weeks after leaving a hospital.



where he had remained at least three consecutive days.

On a typical day, 80,000 elderly nursing home patients across the country are having their bills paid by Medicare. The average stay in a nursing home under Medicare is 50 days. The average monthly claim is \$365.

Medicare pours about \$450 million a year into nursing homes, but this is less than half of the more than \$1 billion paid nursing homes annually by Medicaid, the state administered, largely federal financed program of medical care for low income people of all ages.

#### LONG-TERM CARE

Medicaid, in general, pays the bills of elderly patients who need less intensive, but longer-term, nursing home care.

In a few states, Medicaid is more controversial than Medicare. In Ohio, the number of nursing homes participating in Medicare increased 16 during 1969 and now total 213. But nursing home operators in parts of the state are talking of boycotting Medicaid in a dispute over benefit levels.

"Medicaid isn't worth a hoot," said Rowland Lutz, administrator of a large Columbus home.

"We do not take Medicaid patients." In contrast, Lutz said, "Medicare is not a problem with us."

But hundreds of other nursing homes view Medicare—not Medicaid—as causing bigger headaches.

In Georgia, for example, a poll conducted by one nursing home administrator showed 21 homes had to quit Medicare, 18 planned to quit unless there were changes and 27 said they planned to withdraw, changes or not.

In Louisiana, 130 signed up when the program began but only 73 are still in the program. In Texas, 260 homes handled Medicare patients last May but only 220 do now. In Oklahoma, 20 of 47 homes originally certified have withdrawn—"just kind of dwindling away, one or two at a time," one official said. In Kansas, 76 homes were certified at first, but 20 have dropped out.

Yet the program has its defenders. "I think Montana has benefited tremendously by the existence of Medicare from the word go," said M. E. Lindburg, state medical facilities coordinator. "The facilities have the ability to render higher quality care today than they ever had in the history of the state."

Administrators cite instances where they have admitted patients, thinking their care would be paid from Medicare, only to have the government or its fiscal intermediary—in most cases insurance companies—later rule that the patients aren't eligible for Medicare benefits.

One Missouri nursing home operator said 25 persons entered her facility in November and December as Medicare patients, but only two were certified for benefits. The others were ruled ineligible. "A year ago," she said, "out of the 25 we might have had two or three rejections."

"We never seem to know if patients can qualify," added a Wyoming administrator.

"Reimbursing methods are changed during the ball game, some retroactively, and a lot of people got hurt badly," said Hillel Yampol, director of the Metropolitan Chicago Nursing Home Association. He said nursing homes were stuck for the bills of retroactively disqualified patients if the patient or his family could not pay.

Betty A. Maloney, administrator of two New Orleans nursing homes, listed for a congressional committee in October the cases of 10 patients—half of whom were deemed to be covered by Medicare and half who were ruled ineligible.

One patient who was transferred from a hospital after a 10-day stay for removal of a cataract from one eye qualified for Medicare benefits, she said, while another patient who was in the hospital for 16 days to have cata-

racts removed from both eyes was ruled ineligible.

"When the government comes in to audit you, what they allow for one home, they won't allow for another," said D. L. Hyche, administrator of a Birmingham, Ala., home.

"The home operators get so they just throw up their hands" and get out of the program, added Eugene Thompson, director of the state nursing home association in Nebraska, where eight homes have quit Medicare.

One nursing home spokesman in Connecticut, where 40 homes have either already quit or plan to, said "the program is three years old and we are yet to receive instructions on how to interpret parts of the law."

Asked about these charges, a Social Security Administration spokesman conceded there has been confusion among nursing homes and the fiscal intermediaries over what Medicare pays for.

"In an effort to clear up this misunderstanding, the Social Security Administration issued a succession of clarifications. This meant the intermediaries had to go back over a lot of cases they had incorrectly paid. This has been interpreted by nursing homes as retroactive denials. We interpret it as denials which should have been made in the first place."

And under a new procedure, the spokesman said, a nursing home can obtain within 48 hours a ruling on whether any patient is eligible for benefits.

Label Mell, president of a Decatur, Ga., nursing home, said many homes "will stay in the program but will discourage the hell out of admitting patients under Medicare."

[From the Hartford (Conn.), Times, Nov. 30, 1969]

#### 40 NURSING HOMES REFUSE MEDICARE (By Marjorie Harthan)

Expressing a growing resentment of interpretation of Medicare provisions for "skilled nursing care" about 40 Connecticut nursing homes have withdrawn from the federal program to care for the elderly in extended care facilities.

According to Francis P. Dellafera of Manchester, president of the Connecticut Association of Extended Health Care Facilities, the nursing home operators of these 40 homes no longer will accept Medicare patients because of tightened interpretations of what constitutes the need for care.

When Medicare was first established, it was generally assumed that once a physician certified that a patient needed care in a convalescent home, the certification was good for 100 days.

Not true. There's the Utilization Review Committee which looks over each case every 10 days to determine if the patient still requires professional care.

"We think some of the rules are arbitrary if not downright silly," Dellafera says. "It works to keep patients in a general hospital longer where they are still certified. Instead of placing them in nursing homes where the daily cost is around \$16 to \$18 a day, they're staying in the more expensive hospitals where costs are as high as \$100 a day," he observes.

About six months ago, the third party payers—the insurance companies who serve as paymasters for Medicare—were called on the carpet for paying for unnecessary services.

Across the country, abuses were uncovered where insurance companies were paying for services not rendered. In some instances, there were no reviews until 100 days had elapsed.

The word went out and each patient's record was subjected to intense scrutiny.

The regulations spell out that the patient must require skilled service for the condition that required admission to a general hospital.

In some cases, the Utilization Review Committees set up interpretations of their own. Dellafera cites the example that a patient

with a broken hip should be "stabilized and able to bear weight after four weeks."

In Dellafera's experience, this is nonsense since in some cases it might require 124 days for a patient to be stabilized.

Nursing home proprietors complain privately that "the government is trying to put us out of business."

In order to qualify as a certified Extended Care Facility, the nursing homes had to add such additional personnel as occupational and physical therapists and recreation workers.

If the number of Medicare patients drops considerably, or if stays are limited to 10 days, then it is no longer economical to pay salaries for these professionals.

One South Windsor man placed his mother in a nursing home after she had undergone surgery. At the end of a month he discovered that her Medicare coverage didn't pay for nursing care, even though her physician had certified her for care. He is appealing the Utilization Review Committee decision, but in the meantime is liable for the bill.

Albert F. Ragozzini, Social Security District Manager, explains there is nothing automatic about coverage for 100 days care in a nursing home.

Medicare coverage of a stay in a nursing home is determined by the patient's need for continuing skilled nursing care. The service is not considered skilled merely because it is performed by a trained medical person. If the service can be safely performed by a non-medical person, it would be considered non-skilled and would not be covered by Medicare.

Other requirements under Medicare are that a patient must have been in a hospital for at least three consecutive days; have been transferred to a nursing home within 14 days after discharge from a hospital and be admitted to the nursing home for a condition for which the person was originally treated in a general hospital.

[From the Bridgeport (Conn.) Post, Jan. 16, 1970]

#### SENATOR SAYS HE'S SHOCKED ON MEDICARE (By Don Meilde)

HARTFORD, CONN.—Sen. Frank Moss, D-Utah, said Thursday he was "shocked" to learn of new regulations set by the Social Security Administration that made it harder for elderly persons to receive Medicare aid in nursing homes.

The information from a hearing held here by Moss's subcommittee would come as a "very startling revelation" to the Senate, Moss told newsmen.

He said he agreed with testimony at the hearing that Medicare had been a "disappointment" and that it needed more supervision by government agencies.

There are vast differences between the way Medicare is administered in the 50 states, and national guidelines may be needed, Moss said.

Medical care has become a right of all citizens, he said, and its cost "ought to be accepted with greater equanimity."

Moss said the problems encountered by elderly citizens seeking Medicare assistance are serious enough to warrant remedial action by Congress this year.

Moss was told by Art Jarvis of the Connecticut Department of Health that "if there was ever a time for review and reassessment . . . it is now."

#### PROCEDURE BLASTED

Jarvis blasted the procedure by committees of physicians.

"We audit banks, corporations and other businesses," he said. "Then why in the name of all that's holy can't we, as a society, develop an objective audit mechanism to insure that we are receiving the best possible health care by those who promise to deliver it when our very lives are at stake?"

Jarvis said Congress has listened to every component of the "health delivery system" except the state agencies which are supposed to oversee Medicare.

Francis P. Dellafera, president of the Connecticut Association of Extended Health Care Facilities Inc., said the new regulations promulgated by the Social Security Administration have resulted in rejection of Medicare assistance for 51 per cent of the patients transferred to Connecticut convalescent hospitals from general hospitals.

There were actually fewer patients admitted to Connecticut convalescent hospitals last fall than during the fall of 1968, Dellafera said.

Faced with the prospect of sending elderly patients to nursing homes where they will not be covered by Medicare, said Dellafera, some doctors are keeping them in the general hospitals, where the government will pick up the tab—a much tighter tab than the convalescent hospitals charge.

Doctors "have become most reluctant to transfer patients care hanging over the patient from the general hospital to the ECF (extended care facility) with the threat of 'no covered care' hanging over the patient" he said.

[From the Omaha World-Herald,  
Jan. 15, 1970]

#### RETAPE PUTS PATIENT HOMES OFF MEDICARE

A fourth of the nursing homes licensed to care for Medicare patients in Nebraska have pulled out of the program, a nursing home spokesman said Wednesday.

Seven homes have withdrawn, an eighth is "in the process" and a ninth home is "strongly considering" such a move, said Eugene Thompson, executive director of the Nebraska Nursing Home Association.

Volumes of red tape, extra administrative costs and "highly technical regulations that even many doctors don't understand" were given as reasons for the pull-outs.

"These are all first-class facilities," he said. "But they're all greatly disillusioned with the Medicare program."

"There's so much red tape, it just isn't worth it," said Rex Earl, Omaha, who has partial ownership in half a dozen nursing homes in Nebraska.

#### RELUCTANT

Thompson said the homes that have dropped the program are: Fullerton Nursing Home, Fullerton; Redman Nursing Home, Omaha; Oxford Senior Citizens Home, Oxford; Pierce Manor Nursing Home, Pierce; Plainview Manors, Plainview; Plattsmouth Senior Citizen Home, Plattsmouth; and West Point Nursing Home, West Point.

In the process of getting out of Medicare, he said, is the Arbor Manor of Fremont. He said the Colonial Terrace Nursing Home of Blue Hill is "strongly considering" getting out.

What effect does all this have on nursing home patients?

"The homes are very reluctant to move patients out," said Thompson. "The nursing homes will keep the Medicare patients they have, but new ones won't be admitted."

Medicare patients are limited to 100 days of care, he said, and the average stay of Medicare patients in nursing homes is "about 35 days."

#### IS NOT FAIR

Earl said: "On the average, only five per cent of the patients at any given time are under Medicare, but the requirements of Medicare cause the rates to rise by about two dollars a day for all patients."

He said this "isn't fair to the other 95 per cent of the patients. It also prices the home out of competition."

As examples of requirements that boost costs, Earl cited additional personnel required "to process the volumes of paperwork" and the employment of registered nurses 24 hours a day, seven days a week.

Another gripe was discussed by Thompson, who said that the government pays the homes a percentage of actual costs of operation and "audit procedures are so complicated and involve so much red tape that as many as 50 per cent (of nursing homes) haven't completed their audits for 1967."

#### ESTIMATES

Because of this, Thompson said, the rates nursing homes have been charging since 1966 are based on estimates.

"If it turns out that the rates were too high," he said, the homes will have to pay back a good deal of money to the government."

Thompson concluded: "The homes come to the point where they just throw up their hands."

[From the Omaha World-Herald  
Jan. 15, 1970]

#### NURSING HOME CARE HEARINGS SOUGHT

WASHINGTON.—Senate hearings on nursing home care for the elderly are scheduled in St. Petersburg, Fla., Friday and in Hartford, Conn., Jan. 15.

Sen. Frank E. Moss, D-Utah, chairman of the subcommittee on long-term care, said testimony will be sought on a number of aspects including "the national trend of nursing homes to drop out of Medicare's extended care program."

[From the Quincy (Mass.) Patriot Ledger,  
Dec. 16, 1969]

#### NURSING HOMES DROP MEDICARE BECAUSE OF

#### U.S. PAYMENT DELAYS

(By Judith P. Enright)

Nursing home owners involved in the Extended Care Facility aspect of Medicare, are dropping the program in increasing numbers because they claim they are having trouble getting paid by the federal government.

#### CALLED IMPRACTICAL

They describe the federally-funded health insurance for the elderly as impractical and unprofitable for them and they say that the accompanying paperwork is unreasonably time consuming.

But probably more than anything else, it is the element of uncertainty pervading the Medicare program and costing the nursing homes money that has convinced the administrators to drop out.

Uncertainty for nursing home owners has meant unpaid bills and patients who are denied Medicare benefits retroactively after they have received as much as a month's rehabilitative care in an Extended Care Facility.

Treatment for Medicare patients in an ECF is expensive. When the patient is termed ineligible, the cost of his treatment must be absorbed by the nursing home because the federal government will not recognize bad debts.

There is also the uncertainty of the Medicare reimbursement formula. The way Medicare works, a patient is treated in an ECF and then the nursing home bills the federal government. The bills are audited and then the nursing home is reimbursed for the patient's care.

However, nursing home owners and administrators say that the payments are not in proper proportion to the actual costs and that audits of their accounts are running as much as two years behind.

So with the retroactive denial of benefits and the undue delay in reimbursements, nursing home owners aren't willing to take the chance anymore.

When Medicare certifications first went into effect three years ago, about 100 nursing homes in Massachusetts sought and received the ECF certification. Since then, 17 homes have dropped their certifications and more are rumored or planned.

As one owner said "It just isn't a good business deal. We're not getting any return

on our investment. Not that money is our primary interest, you understand, but when we have to pay for Medicare patients, charges for other patients just must be adjusted."

Medicare is so expensive because of additional services the nursing home must provide for the patient.

#### MANY SERVICES

For instance, to be certified as an ECF nursing homes must have physical therapy rooms, be fireproofed (with sprinkler systems which administrators say are not even required of hospitals), have doctor treatment rooms, a podiatrist, a dental facility, occupational and recreational therapy.

The homes are required to structure themselves with five degrees of professional help such as social services, occupational therapists, registered physical therapists and certified dietitians.

There must also be a Utilization Review Committee, composed of physicians and other professionals, to constantly check the Medicare patients' progress and eligibility for the benefits.

Basically, the concept of Medicare in rehabilitation, or, in other words, restorative rehabilitative services. And, rehabilitation requires a lot of money that would not ordinarily be spent in equipping a nursing home.

Nursing requirements are also cited as being above average for Medicare, presenting not only monetary problems but also a problem in obtaining enough nurses with the current and severe shortage. There must be a registered nurse or a school-trained Licensed Practical Nurse (LPN) on each station for each of the three shifts. Orderlies and nurse's aides are also required.

The nursing home is also required to give continuous inservice training to all personnel and show evidence of the same.

#### SERIOUS PROBLEM

The nursing shortage was termed by one administrator as "the most serious problem and the most difficult ECF status to maintain."

To alleviate the shortage, some administrators have tried innovations such as creating new positions for all non-nursing functions. Thus, the nurse is freed for strictly nursing duties.

A nursing home without an ECF rating is not required to have any professional personnel except one nurse, who can be a LPN licensed by waiver who may not have had any professional training, according to nursing home spokesmen.

Another in the list of complaints about Medicare comes from the administrator of a Braintree nursing home, Mrs. Florence E. Logan who, with her husband, runs Elihu White Nursing Home. She said that Medicare extras, such as physical therapy, are available to all patients but that Medicare (Department of Health, Education, and Welfare which pays for Medicare) will pay only in proportion to use of that service by the Medicare patients. "Thus, they are actually only paying 30 per cent of the cost of all services directly attributable to Medicare patients."

She added that the fiscal intermediaries, who determine what payments should be made and who qualifies for the benefits, determine reimbursement on a Medicare patient's ratio to the total patient cost.

#### MANY COMPLAINTS

Sidney Ostroff, of Braintree, a certified public accountant with a Boston firm that audits the books at Elihu White Nursing Home, presented still another complaint from nursing homes about the Medicare program. "Where nursing homes formerly had one person doing their bookkeeping, they must now hire three to do a proper job with Medicare's extra paperwork."

Mrs. Virginia McGrath, director of nursing at the home, cited the problems her profession has had with the federal program. "A doctor certifies that a patient is qualified



for Medicare and I am supposed to determine the minute he comes to the nursing home whether or not he qualifies for benefits."

[From the Bergen, N.J., Record Call]  
NURSING HOMES DEFENDED  
(By Theodor Schuchat)

One nursing-home owner has written to defend his industry after reading a recent article recounting charges made by a witness before the House Ways and Means Committee, which is writing Medicare changes.

"There have been questionable practices used by nursing homes, hospitals, physicians, pharmacists, physical therapists, and laboratories," admits Ellis Duke, past president of the Maryland Nursing Home Association.

"Also, automobile dealers, lawyers, and accountants have used bad judgment. In most instances these are isolated cases, and we cannot say everyone is a bad apple.

"The Social Security Administration by now knows who the abusers are," Duke continues. "These are the people they should go after. Cancel contracts and recoup payments, but don't penalize the patient."

He is especially critical of Medicare rules that require him and other nursing-home managers to tell sick patients they cannot get the days of care they thought they had coming to them under Medicare.

After a Medicare patient has been admitted to a hospital, his case is reviewed by a group of physicians, as required by law. This utilization review committee can deny or reduce Medicare benefits, overruling the patient's own physician.

The red, white, and blue Medicare Handbook sent to everyone eligible for Medicare by the Social Security Administration does not disclose the existence of the utilization review committees.

In all too many cases, after the patient has been transferred from the hospital to the nursing home, the committee decides his doctor has made a mistake. The committee notifies the insurance carrier that pays Medicare claims.

The insurance organization then tells the nursing home the patient's stay will not be partially paid by Medicare, as the patient and his family confidently expected. At this point, it's the nursing home management which must break the bad news to the patient and often suffer financial loss as well.

This quirk in the Medicare machinery has Ellis Duke hopping mad. "I assure you that if any of us owned or operated an insurance company that sold this type of cancellable insurance, our state insurance commissioner would want to talk to us," he contends.

"This is a fraud and, unfortunately, the Justice Department cannot indict the Social Security Administration."

He points out also that Medicare rules apparently act to increase hospital stays and reduce days of nursing home care, which are much less costly. The Social Security Administration has recommended that physicians see nursing home patients only once a week.

"If the patient is seen more frequently than this," Duke notes, "another form must be filled out for the physician to receive payment. By the same token, the patient can be seen every day if they are in the hospital."

"The sensible and practical thing for the physician to do is keep his patient in the hospital as long as he can," he charges. As proof that these rules are inflating Medicare costs, he cites some specific statistics.

Records of four Maryland nursing homes were analyzed for a 5-month period in 1968, before physician visits to nursing homes were limited, and afterward in the same 5 months of 1969.

Average length of hospital stay went from 24.2 days in 1968 to more than 27 days in 1969. At the same time, nursing home days

for these Medicare patients declined on the average from 43.7 in 1968 to 35.8 in 1969.

If the trends are national in scope, they deserve Congressional attention. Shaving one hospital day from Medicare's national average would save \$400 million. Duke also wants Congress to consider whether high overhead charges are wasting Medicare dollars. "What is the total administrative cost per patient-day in the Medicare program?" he asks. "The Social Security Administration admits that administrative cost is 20 per cent of the total program."

[From the St. Louis, (Mo.) Post-Dispatch]  
NURSING HOMES QUIT MEDICARE OVER  
CUTBACKS—I

(By Eric Zoekler)

An ambulance eased to a stop outside one of St. Louis' well-established professional nursing homes. The attendants carefully moved an elderly woman into a semiprivate room.

She had just spent two weeks in a hospital for treatment of an acute bladder infection and bleeding stomach ulcer. She was so weak, she could not feed herself. Nurses and the consulting physician gave her constant attention.

In the first few days of her stay, the elderly patient would need the catheter draining her bladder to be irrigated twice daily and injections of Compazine, a muscle-relaxer, before each meal. To pay for these services, the otherwise penniless woman was depending on Medicare, which covered her while in the hospital.

But to the surprise of the nursing home's administrators, the patient's application for Medicare payments was rejected by the insurance company administering Medicare in St. Louis. It was returned four days after the patient was admitted. It was appealed and rejected again more than a month later. The woman remained at the home while accumulating an unpaid bill of more than \$700.

Across the nation, professional nursing home administrators are reporting an increasing rate of rejections of Medicare applications. Because of this, more professional nursing homes either are ending Medicare participation or cutting back on the number of Medicare patients they will accept.

In Missouri, 10 of the 59 professional nursing homes classified as extended care facilities for Medicare purposes have resigned from the program since July 1. The Missouri Nursing Homes Association reports 12 others have "sharply cut back" the number of Medicare patients they are accepting.

The trend, the Post-Dispatch has learned, is not restricted to Missouri. In Georgia, 80 professional homes have resigned from Medicare at the suggestion of their state association. Nursing home associations in Iowa and Washington are reported to be considering giving their members the same advice.

Jack Pickens, general counsel of the American Nursing Home Association, estimates that 50 per cent of the nation's 5,000 accredited professional nursing homes "are sharply phasing down" participation in the program.

Medicare payments to professional nursing home patients last year totaled more than \$500,000,000.

As a result, medical social workers in St. Louis report increasing frustration in their efforts to place elderly Medicare patients in area professional nursing homes where they could receive skilled nursing care. Some hospital administrators told the Post-Dispatch of several cases when elderly patients remained in the hospital or were placed in rest homes without good medical facilities because they could not be placed in professional nursing homes. Families counting on Medicare to pay claims ultimately rejected have had to get loans to finance unpaid bills.

Concern over the development already has reached Washington. The House Ways and Means Committee recently held hearings on

the subject. And the Senate subcommittee on aging is scheduled in January to investigate the problem as part of an over-all look into nursing home operations.

Nursing home officers generally cite two reasons for the cutback from Medicare. As of July 1, the Social Security Administration ceased paying the homes a 1½ to 2 per cent margin over cost allowance. An official of the Administration's Bureau of Health Insurance regional office in Kansas City said the allowance was paid to homes for the first two years of the program "in lieu of unrecognizable costs."

"After two years, they (home administrators) should have had a pretty good idea of what their costs were to be," he said.

Sister Michael, the outspoken president of the Missouri Nursing Home Association, replied: "Nobody was getting rich on it. But taking it away means I must ask who is going to pay for a broken wheelchair or a bed that needs repairing in the Medicare section of the home? Are we to charge a privately-paying patient costs that the Federal Government should be paying?" she asked.

Sister Michael said, "The tremendous number of retroactive rejections the homes have been experiencing lately had much to do with the cutback. The Federal Government has tightened up so much on the cases it will accept that everybody is being very cautious now about submitting applications."

Retroactive rejection means that a nursing home might accept a patient on good faith that Medicare funds will be forthcoming, only to find that a negative judgment has been made on admissibility of the patient.

The increased number of rejections apparently has resulted from further definition of the distinction between custodial care and skilled nursing care. Under a recent federal regulation, the frequency of skilled nursing services, rather than their regularity, is the controlling factor.

If a patient should need an injection every other day, this would not require the continuous presence of nurses. This "continuous presence" clause is upsetting the nursing home administrators, and is causing non-profit homes to reconsider their taking part in Medicare.

Mother Constance, administrator of Our Lady of Perpetual Help nursing home which resigned from Medicare effective Dec. 1, said a principal reason was that the home's rejection rate had increased to about 30 per cent, compared with 5 per cent last year.

Mother Constance, as administrator of the nonprofit home, said she could no longer afford to pay the three employees who worked nearly full-time on the large amount of paper work needed to support Medicare applications.

Kenneth Haas, owner of the Gravols and Cedarcroft nursing homes, which dropped Medicare participation this fall, called Medicare "a miserable flop." He said that many homes had invested considerably to raise standards that would meet Medicare requirements, "but they are not giving us any help in financing these improvements."

While acknowledging the sharp rise in the number of professional nursing homes rejecting Medicare, Howard Einspahr, an official of the Bureau of Health Insurance in Kansas City, which monitors the program's operations in a seven-state area, including Missouri, said that claims of increasing retroactive rejections were exaggerated.

"I think it is only natural they remember the ones that were denied rather than approved," he said. He furnished figures showing that in a seven-month period from March 1969, that rejection of Medicare applications from professional nursing homes had remained generally steady at 8 per cent. In August and September of this year, however, rejection rates did climb 2 to 3 per cent in Missouri.

Einspahr said that that the Social Security Administration had not sharply curtailed the number of nursing home patient applications

accepted. He acknowledged that it had tightened its interpretation to "pay only those situations that are covered under the law."

Professional nursing homes were granted a role in medicare, federal officials explain, to help prevent overcrowding of hospitals with medicare patients. It was designed to pay medicare patients for extended skilled nursing care that that could be performed in a nursing home after a hospital stay. Nursing homes certified for medicare received the designation of extended care facilities.

With the apparent increase in rejections, "there have been some pretty sad scenes in the offices of many administrators," reports Sister Michael. "Young and middle-aged families are shocked to learn that grandmother or grandfather had been rejected for medicare."

"Their first reaction is anger—that you don't know the law. They have this little medicare booklet that says after three days in the hospital and with a doctor's certification the patient is entitled to medicare payments in an extended care nursing home. Their frustration and shock is hard to describe when they learn they have lost out and that little book has lied."

The medicare cutback is affecting both proprietary and nonprofit homes. E. Willis Plehl, administrator of Lutheran Altenheim, said his home was still participating in medicare but "we are weighing very carefully a decision to just drop it entirely."

Plehl, who is president of the Missouri Association of Homes for the Aged, a small group of nonprofit homes, said he thought MAHA members who were participating in medicare were carefully considering their future in the program.

The effects of the cutback so far have just begun to be felt in area hospitals and by medical social workers.

The Cardinal Ritter Institute, which has a program of home health care, has just begun to have problems placing elderly medicare patients in nursing homes, Jack Lally, associate director, said. "Most of them have had to struggle with less than adequate care at home and I guess that's what they'll do again if this thing continues," he said.

Dr. C. O. Vermillion, associate director of Barnes Hospital, said that the extended care provisions of the Medicare act had provided hospitals with a good outlet for freeing hospital beds. He says that the reluctance of nursing homes to accept medicare patients has already been felt. "If one outlet gets plugged, it backs up all along the pipeline," he said.

Mrs. Ruth Bowle, supervisor of medical social workers for the Visiting Nurses Association of Greater St. Louis, reports fewer than "50 per cent of the cases deemed appropriate by us for medicare placement in nursing homes had been placed in homes" in recent months.

"It has got so bad lately," said Robert M. Gaines, director of social services at Deaconess Hospital, "that you almost have a terminal case to get a medicare patient into a professional nursing home."

He said the restrictions placed on nursing homes by the Social Security Administration "are so strict that many hospitals couldn't meet all of them." "Gaines, who is chairman of the Hospital Social Services Directors of St. Louis, said that the continuation of the trend "can only mean that the entire medicare program will go down into oblivion."

Einspahr said he did not think the cutback "has reached the alarm stage as yet. However, if it continues," he said, "it could be viewed with alarm. We must be sure that the entire program doesn't collapse because of it."

He said that the Social Security Administration had not seen any trend toward longer hospital stays among medicare patients resulting "as a backlash from this restriction on nursing home beds. But we are watching it closely."

[From the St. Louis Post Dispatch]

MEDICARE INSURERS CRITICIZED—II

(By Eric Zoeckler)

Within a period of weeks last summer, a New Orleans nursing home admitted two elderly women both of whom had been in a hospital to have their gall bladders removed.

Because of their age and the continuing trauma of surgery, their physicians had ordered skilled nursing care to be performed at the home to hasten their safe recovery. The home drew up medicare applications and submitted them to the insurance company administering the program in New Orleans.

The application for the 71-year-old woman who had spent 18 days in the hospital was approved. The case of the other woman, 72 years old, who was in the hospital 13 days, was denied.

The New Orleans nursing homes operator who testified concerning this and several similar cases recently before the House Ways and Means Committee said the clerks who "practice medicine" might destroy the medicare program with their judgments on eligibility.

Professional nursing home operators in the St. Louis area report that an increasing number of medicare rejections is a prime reason why many homes either are resigning or cutting back on medicare participation.

Recently enacted Social Security Administration regulations filed in the Federal Register, they say, give clerks working for fiscal intermediaries administering medicare the right to overrule doctors' judgments by ruling that a professional nursing home patient is receiving custodial rather than skilled nursing care.

James E. Baker, vice president of Blue Cross of St. Louis, a fiscal intermediary for medicare, denied in an interview that the regulations allowed the Government to "practice medicine."

"The Government does not say a person should be discharged or sent home if they don't qualify for medicare payments," Baker explained. "There is no question of the Government practicing medicine. The decisions as to whether a patient stays or doesn't stay in a nursing home is up to the doctor."

"The point is," replied Sister Michael, president of the Missouri Nursing Home Association and a St. Louis nursing home administrator, that the elderly have come to depend financially on medicine. If they are rejected and can't pay the bill, many of them or their families feel morally obligated to move out."

She said that her nursing home, St. Ann's, 5351 Page Boulevard, and others she knew of had retained patients rejected for medicare and often were forced to absorb the loss.

"We take them in on good faith," she explained, "not only with the doctor's recommendation that the patient needs skilled nursing care. In many cases," Sister Michael continued, "we personally visit the patient in the hospital, check the medical chart and interview the doctor to make doubly sure the patient qualifies."

An aid to Senator Frank E. Moss (Dem.), Utah, said the question of "whether the patient, the administrator or even the doctor has little control over a patient's case once the paperwork leaves the nursing home" would be carefully considered at next month's hearings on nursing homes before the Senate subcommittee on aging.

William A. Billings, director of claims for Blue Cross of St. Louis, agreed that there might be cases that appeared similar on the surface, one of which might be approved and the other rejected.

"Individual doctors treat each patient in a different way," he continued. "One way might be accepted for payment and the other rejected."

Billings said that Blue Cross of St. Louis used only registered nurses to make judgments on medicare applications. He did not

know whether Medicare intermediaries elsewhere followed the same policy, "but I doubt that you'll find that there isn't a professional somewhere along the line of decision-making."

The claims director emphasized that the Social Security Administration had periodically issued guidelines in an attempt to better define "custodial care" and "skilled nursing care." "It is our job," he said, "to implement those guidelines as objectively as possible."

To qualify for medicare payment when in a nursing home, a patient must require skilled nursing care on a continuing basis, according to the new regulations filed in the Federal Register on Oct. 27.

"The frequency of skilled nursing services required, rather than their regularity is the controlling factor in determining whether skilled nursing personnel is warranted," the regulation states.

If a patient needs only an intravenous injection on a regular basis every second day, the rule states as an example, it would not necessitate the continuous presence of skilled nurses.

It is the "continuous presence" clause that is upsetting the professional nursing home administrators, said the Rev. William T. Eggers, president of the American Association of Homes for the Aged. "It's a term we never had heard before in dealings on medicare. It's causing many nonprofit homes to reconsider whether they are going to continue on medicare," he said.

Another association officer commented: "If a patient needs 'around-the-clock' skilled nursing care, he ought to be in a hospital."

Another change in the regulation provides that the need for one "paramedical service" such as physical therapy, occupational therapy and speech therapy does not by itself indicate "a need for skilled nursing care."

Jack Pickens, general counsel for the American Nursing Home Association, emphasized in congressional testimony that to meet medicare standards, professional nursing homes were required to have a physician and registered nurses on their staffs and professional dietitians, speech therapists, occupational therapists and other professionals on a contract basis.

If Social Security regulations restricted their use in medicare, he wondered how many nursing homes could continue to keep them on contract to meet medicare standards.

Pickens told the Post-Dispatch that he believed the nursing home industry had been singled out by the Social Security Administration for cutback "because they feel ECF nursing homes are weak link and the one health group in the country that won't complain as loudly about it." (ECF means extended care facility.)

With professional nursing home costs averaging between \$15 to \$25 a day, opposed to hospital costs of \$50 to \$60 a day, Pickens continued, "they are only saving pennies but wasting millions of dollars."

There are indications, however, that the Social Security Administration has instructed fiscal intermediaries to check more closely some claims coming in from hospitals, a Post-Dispatch survey indicated.

Billings said that Blue Cross had been "asked where we reject a case from time of entry in an ECF to look closely at the end of hospital care to see if payment was justified. It is not as general or as encompassing a review as we have done with ECFs but in some cases we've been able to chop off a few days of payments."

He denied that there is any general tendency among hospitals to keep patients longer than required, especially in the St. Louis area.

However, a recent decision by the Missouri Supreme Court which declared nonprofit hospitals could be liable for damage suits, plus the shortage of ECF nursing home beds for medicare patients "make the job of hospital



utilization committees increasingly difficult in exercising their discharge prerogatives," said one hospital administrator.

Billings said the medicare program had been under review since it began in 1968 and that policies being implemented now were resulting from a refinement of practices in the past.

#### DOCTORS REBEL ON MEDICARE (By Eric Zoeckler)

The era of relative peace between the Federal Government and the medical profession that began after the bitter debate on medicare appears to be over.

There have been indications that some physicians and hospitals might begin cutting back their participation in medicare if government review of claims and cases becomes more stringent than it is now.

This was made clear by some St. Louis area hospital officers who attended two luncheon meetings at the Chase Park Plaza Hotel recently. They were asked by Blue Cross of St. Louis, one of the government's administrators of medicare for their opinions on how the program was being administered.

Most who spoke questioned recently implemented federal guidelines designed primarily to restrict some medicare applications of patients in extended care facilities, most of which are nursing homes. The doctors were told that the same guidelines, temporarily applied to hospitals.

The effect of these guidelines has been to increase greatly the rejections of medicare applications from patients in nursing homes. Many of these homes are resigning from or cutting back on medicare participation, as reported last week in the Post-Dispatch.

Some physicians and hospital administrators expressed concern this week that similar restrictive guidelines for hospitals, being formulated now in Washington, might have the same effect on them.

"What these guidelines mean," said one hospital administrator, "is that even though a committee of qualified doctors rules that as elderly patient qualifies for a medicare payment, there is an increasing possibility that part of that payment still will be denied by the Government."

James Baker, vice president of Blue Cross of St. Louis, said that although a large majority of the claims were being held, there had been cases recently when hospitals had been denied some payments because the patient was receiving "custodial care" rather than "skilled medical care."

Baker spent much of his time denying that the intent of the regulations was to give Government the chance to practice medicine, an implication that frequently was made by doctors.

One of the big problems, it was explained, centers on the independent review committees of physicians established at each hospital to monitor the progress of medicare cases. The committees' purpose was to recommend when medicare benefits should be cut off.

Dr. Thomas Ferguson, a previous chairman of the medicare committee at Barnes Hospital, said that the physicians on the committees "passed judgment on cases in good faith and by spending a lot of time and effort in the process."

Physicians at the meeting reported that the Blue Cross clerks took the word of the committees for about the first two years of medicare, which began in July 1966. But now, they report, there is increasing difficulty in getting applications fully approved.

"I think it is the way a doctor presents his case that determines whether all of it is paid or not," said Russell Leonard, a staff assistant of the Bureau of Health Insurance, Social Security Administration, in Kansas City.

He said that if there was a question of whether a patient received constant skilled

medical care in the last days of his hospital stay, the Blue Cross would ask the physician for detailed documenting evidence.

Dr. C. O. Vermillion, an associate director of Barnes Hospital, pointed out that many physicians rebelled at this because they were reluctant to forward the charts, notes and other associated paperwork without receiving "their usual fee."

One such physician who spoke at the meeting was Dr. M. A. Diehr, who said he practiced at several St. Louis hospitals. "I have two secretaries now who do just about nothing else except prepare paperwork for medicare." He said that he could not afford to hire another if the paperwork requests increased.

Baker said that Blue Cross sought only the amount of paperwork needed to support a decision on what level of care a patient was receiving when at the hospital. He stressed that physician's written orders and notes were not being reviewed to question the doctors' medical judgments.

But Dr. A. J. Signorelli, administrator and medical director at Faith Hospitals, said that interpretations of the medicare law discriminated against the patient who needed only observation for a time.

"Sometimes watching a patient, just observing his progress or waiting to begin certain tests can be more important than actively treating him," Dr. Signorelli said.

Despite the differences, one important point driven home consistently at the meetings was that medicare would not necessarily pay hospital expenses for those 65 years old or over in a hospital just because the attending physician felt the patient should be covered.

"Just as in the nursing homes," Baker told the Post-Dispatch, "it boils down to a question of whether the patient is receiving continuous skilled medical care and whether the primary purpose he is in the hospital is to receive such care."

He said that an elderly patient could be in a hospital to have cosmetic surgery or to have his fallen arches repaired and not be covered by medicare. "Medicare does not cover everything," Baker said.

Yet some hospital officers complained that a patient could be "too sick" to be covered by medicare. Charles Alexander, administrator of the Sullivan, Mo., Community Hospital, said that his hospital had experienced three cases of patients "who were so sick that they died in the hospital." Yet, he said, two months later the hospital was informed part of the claim was being denied.

Baker said that in some cases when a patient was "beyond rehabilitation" and when the care he received was designed to keep him alive, judgments had been made that the patient had not received skilled care and thus, was not eligible to receive medicare payments.

Why is the medicare program being so carefully reviewed? Dr. John A. Virant, chief of staff, De Paul Hospital said, "I think they (the government) are finding out that whole medicare program is costing a lot more than expected."

"If they do to hospitals what they apparently have done to nursing homes," Dr. Virant continued, "some hospitals, I'm afraid, will also start considering whether to stop participation."

Russell said that the "great demands placed on the medicare program together with the highly inflationary costs of medical care" were behind the increasing review of cases.

The feeling after the meetings was that although early days of smooth cooperation between Government and the medical profession were over, there still was hope for a successful continuation of the partnership.

"It's going to have to take a lot of understanding to keep medicare operating smoothly," commented Dr. Vermillion, "but I think it can."

#### SENATE RESOLUTION 386—SUBMISSION OF A RESOLUTION EXPRESSING THE SENSE OF THE SENATE CONCERNING A STATEMENT OF THE PRESIDENT

Mr. GORE. Mr. President, I wish to read and then submit a resolution for appropriate reference.

Whereas on April 8, 1970, the Senate, in the exercise of its constitutional responsibility and duty, completed consideration of a Presidential nomination for an appointment as Associate Justice of the Supreme Court of the United States, and

Whereas a majority of the membership of the Senate disapproved the nomination, and Whereas the President, on April 9, 1970, stated that the Senate of the 91st Congress is unwilling to discharge its constitutional responsibility in a manner free of geographic discrimination, and

Whereas the President, on April 9, 1970, characterized the opposition to the nomination as being "vicious" and "malicious": Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the statement of the President on April 9, 1970, constitutes an assault on the integrity of the Senate, and

*Resolved* further, That the characterization of the Senate as contained in said statement is hereby rejected.

I submit the resolution and ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. GRAVEL). The resolution will be received and appropriately referred.

The resolution (S. Res. 386) to express the sense of the Senate concerning a statement of the President, submitted by Mr. GORE, was referred to the Committee on the Judiciary.

Mr. GORE. Mr. President, I ask unanimous consent that there be printed in the RECORD a list of 61 Members of the Senate who, in the exercise of their constitutional duty and responsibility, voted "no" on the question of confirmation of either Judge Haynsworth or Judge Carswell.

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

Anderson, Bayh, Bible, Brooke, Burdick, Cannon, Case, Church, Cook, Cooper, Cranston, Dodd, Eagleton, Fong, Fulbright, Goodell, Gore, Gravel, Griffin, Harris, Hart, Hartke, Hatfield, Hughes, Inouye, Jackson, Javits, Jordan of Idaho, Kennedy, Magnuson, Mansfield, Mathias, McCarthy, McGee, McGovern, McIntyre, Metcalf, Miller, Mondale, Montoya, Moss, Muskie, Nelson, Packwood, Pastore, Pell, Percy, Prouty, Proxmire, Ribicoff, Saxbe, Schweiker, Scott, Smith of Maine, Spong, Symington, Tydings, Williams of New Jersey, Williams of Delaware, Yarborough, Young of Ohio.

#### HUNGER AND MALNUTRITION IN THE UNITED STATES—SIMPLIFIED FOOD STAMP DISTRIBUTION SYSTEM

AMENDMENT NO. 582

Mr. MCGOVERN. Mr. President, it has been 6 months since the Senate decided to eliminate hunger and malnutrition in the United States through an expanded, improved food stamp program. When that historic decision was taken, President Nixon's family assistance plan was an infant proposal facing an uncertain future. As a result, the Senate made no attempt to coordinate its new food stamp

program with the President's cash assistance proposals.

Today the President's plan has been cleared for action in the House and seems likely to be enacted into law this year. I believe that if the Senate's pledge to end hunger is to be fulfilled, we must take action to insure the most effective possible administrative coordination between the food stamp program and the President's plan for cash assistance. I am, therefore, submitting an amendment to provide simplified food stamp distribution for recipients of family assistance or aid to the aged, blind, and disabled.

My amendment is intended to give effect to the administration's express desire to streamline our delivery systems for food and cash assistance. It is fully compatible with President Nixon's family assistance plan. It is my belief that it is deserving of, and will receive, the same sort of bipartisan support which has been so important to our past victories in the battle against hunger in America.

I am pleased that 40 Senators have joined me in cosponsoring this amendment.

I express special appreciation to the Senator from South Carolina (Mr. HOLLINGS), who is present in the Chamber, and who has been working with me closely in the drafting of this proposal, and whose courageous investigation, some time ago, of hunger in his own State was a crucial factor in bringing this problem to the attention of the Nation. I think his efforts will continue to be absolutely invaluable in the fight to eradicate hunger in his own State and in all parts of the Nation.

I am also pleased, once again, to have the cosponsorship and support of the Senator from New York (Mr. JAVITS) who, as the ranking minority member of the Senate Select Committee on Nutrition and Human Needs, has insured that our efforts to fight hunger have been and continue to be completely bipartisan. In fact, even before I became involved in this fight, Senator JAVITS was playing a key role in the crusade against hunger.

The need for this amendment is painfully clear. Despite our efforts of the past year, the food stamp program continues to reach less than one-seventh of our poorest families.

Under the present administrative apparatus and legal constraints less than half of those who will receive family assistance will ever receive food stamps to which they are entitled. Less than one-third will actually receive stamps during the next 2 to 3 years. This is unacceptable.

Until we are able to provide every American with the opportunity to receive an income which will lift him out of poverty, we must provide all of those who lack this opportunity with food stamps.

To cut back food aid while we fight the larger battle against low income would be to consign another generation of Americans to the ravages of hunger and disease. To those children who are permanently damaged today, tomorrow's guaranteed income, no matter how generous, will be too late.

We should make no mistake about what \$1,600 per year, unsupplemented by

food stamps, will do to meet the hunger problem.

The Bureau of Labor Statistics estimates the cost of housing and clothing and personal care alone at slightly more than \$1,600. USDA now estimates that it costs \$1,592 to purchase a low-cost diet.

This leaves the \$1,600 a year family with the drastic choice of providing a roof over its head and clothes on its back and going hungry, or not going hungry and having \$8 remaining for all other needs.

It is hardly surprising that Dr. Arnold Schaefer's ongoing nutrition survey has found, and will shortly report to the Select Committee on Nutrition, that malnutrition in families having total incomes of about \$1,600 is far worse than he had predicted in last year's preliminary report.

The fact which we must recognize is that 1,600 dollars for a family of four, without food stamps, means hunger.

The administration, to its credit, has recognized this fact. Having decided that he cannot now ask for a Federal family assistance benefit of more than \$1,600, the President has wisely concluded that recipients of family assistance must also be eligible to receive some food stamps. My amendment would guarantee the right to receive adequate food stamps.

In addition to guaranteeing a food stamp supplement to every needy recipient of cash assistance, my amendment is designed to integrate the distribution of food stamps into the carefully constructed administrative apparatus which the President has proposed for the distribution of cash assistance. It would, very simply, provide for the simultaneous delivery of cash assistance and food stamps by one agency in one envelope.

The President said in his welfare reform message:

Since taking office one of my first priorities has been to repair the machinery of government and put it in shape for the 70's.

He continued:

The purpose of these (welfare) reforms is to make government more effective . . . and to bring an end to its chronic failure to deliver the service its promises.

The Food Stamp Program is a classic example of chronic failure to deliver as promised. Six years after it was enacted, the stamp program is still bogged down in the very same morass of conflicting local regulations, degrading administrative procedures, and wildly varying eligibility requirements which have destroyed our welfare system.

The predictable result of this mess is that six out of every seven potentially eligible families receive absolutely nothing from the program.

To streamline welfare, while leaving the stamp mess unchanged, would be folly. It could result in a nightmare situation wherein a poor family would actually be required to submit to three entirely separate certification procedures and then go to three separate offices every month just to receive the cash and stamps to which it is entitled.

Recognizing this problem, Secretary

Finch told the Nutrition Committee last fall:

The agency which is charged with certifying eligibility for family assistance and for distributing payments should, it seems to me, be able to distribute food stamps to family assistance recipients more effectively than any other agency.

The effect of my amendment would be to do precisely what Secretary Finch has recommended, put the distribution of food stamps to family assistance recipients in the hands of the agency which distributes family assistance.

The administration has also proposed that sometime in the future we may want to transfer the entire food-stamp program to HEW. That idea has merit and should be looked at very carefully. But, for the moment, I believe that my amendment will successfully integrate the family assistance and stamp programs without necessitating the dislocation of a departmental transfer.

In addition to integrating stamp and welfare, my amendment would provide an added incentive to the States to opt for efficient Federal distribution of all cash and food assistance. It would do this by picking up the entire administrative cost of the stamp program in those States electing Federal distribution.

This is in line with the amendments made by the House Ways and Means Committee and would provide substantial fiscal relief to the States.

Mr. President, if antihunger rhetoric were food, our poor would grow fat. As Robert Kennedy said 3 years ago, as Martin Luther King said 2 years ago, and as I said last year, the time for rhetoric has passed. We must feed our hungry now. The amendment which I offer today is a carefully drawn, administratively sound proposal. If enacted it will make President Nixon's family assistance plan the vehicle for the elimination of hunger from the homes of 22 million Americans. I urge its quick, favorable consideration by the Senate.

As I say, my amendment has the cosponsorship of some 40 other Senators. I ask unanimous consent that the list of cosponsors and a copy and brief analysis of my amendment be printed in the RECORD.

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

COSPONSORS OF THE SIMPLIFIED FOOD STAMP DISTRIBUTION SYSTEM

Bayh, Brooke, Burdick, Case, Church, Cranston, Dodd, Eagleton, Goodell, Gravel, Harris, Hart, Hartke, Hollings, Hughes, Inouye, Jackson, Javits, Kennedy, Magnuson, Mansfield, McCarthy, McGee, McIntyre, Metcalf, Mondale, Montoya, Moss, Muskie, Nelson, Pastore, Pell, Proxmire, Randolph, Ribicoff, Schweiker, Tydings, Williams of New Jersey, Yarborough, and Young of Ohio.

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

The amendment (No. 582) was referred to the Committee on Finance, as follows:

At the end of the bill add a new title as follows:



**"TITLE V—SIMPLIFIED FOOD STAMP DISTRIBUTION FOR RECIPIENTS OF FAMILY ASSISTANCE BENEFITS OR AID TO THE AGED, BLIND, AND DISABLED**

"Sec. 501. The Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end thereof the following new title:

**"TITLE XX—SIMPLIFIED FOOD STAMP DISTRIBUTION FOR RECIPIENTS OF FAMILY ASSISTANCE BENEFITS OR AID TO THE AGED, BLIND, AND DISABLED**

**"APPROPRIATIONS**

"Sec. 2001. For the purpose of safeguarding the health and well being of the Nation's population through the utilization of our agricultural abundances, to insure adequate levels of food consumption and nutrition among low-income families and individuals through the distribution of food stamps, to coordinate the distribution of food stamps and cash assistance, and to insure that all eligible persons receive food stamps, there is authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this title.

**"ELIGIBILITY FOR AND AMOUNT OF BENEFITS**

"Sec. 2002. (a) (1) Any individual or family eligible to receive family assistance benefits under part D of title IV or aid to the aged, blind, and disabled under a State plan approved under title XVI shall also be eligible to receive food stamp coupons in the manner and amounts specified under the provisions of this title.

"(2) No individual or family receiving food stamp coupons under the provisions of this title shall be eligible to receive food stamp coupons under the provisions of the Food Stamp Act of 1964, as amended, or to receive, under any other law, food commodities authorized for distribution to needy households, except during emergency situations caused by a national or other disaster as determined by the Secretary of Agriculture. Any individual or family eligible to receive a coupon allotment under this title may elect not to receive such allotment, and such election shall not adversely affect the eligibility of such individual or family to participate in any food stamp program carried out under any other Act or to participate in any direct food distribution program carried out under any Federal law.

"(b) (1) The face value of the coupon allotment issued to an individual or family eligible for food stamps under this title shall be equal to the amount which the Agricultural Research Service of the Department of Agriculture determines to be necessary to permit an individual or family of comparable size to purchase the kinds and amounts of food contained in the low-cost food plan established by such Agricultural Research Service and published in the publication entitled "Family Economics Review," less an amount equal to 25 per centum of the income of such family or individual or to such lesser amount as may be prescribed by the Secretary.

"(2) For the purposes of this title, the income of any individual or family receiving family assistance benefits under part D of title IV or aid to the aged, blind, and disabled under a State plan approved under title XVI shall include only such items of income as are taken into account in determining, with respect to such individual or family, eligibility for, and amount of, such benefits or aid, as the case may be, plus the amount which is excluded from the income of such individual or family under the provisions of sections 443(b) (4), 1603(a) (3), 1603(a) (4), or 1603(a) (5), as the case may be, plus the amount of such benefits or aid payable to such individual or family.

"(c) Notwithstanding any other provision of law, any individual or family eligible to receive a coupon allotment under the provisions of this title shall be permitted to receive such allotment without regard to the operation of any food distribution or other

program in the political subdivision in which such individual or family may reside.

**"ADMINISTRATION**

"Sec. 2003. (a) (1) The Secretary shall establish such regulations as may be necessary to insure that the Federal or State department or agency which pays, to families or individuals, the family assistance benefits provided for under part D of title IV or the aid to the aged, blind, and disabled provided for under a State plan approved under title XVI, as the case may be, shall also issue to each individual and family entitled to such benefit the coupon allotment to which such individual or family is entitled under the provision of this title. Coupons shall be issued with the same frequency and shall be delivered in the same manner as are payments of such benefits or aid.

"(2) The Secretary shall not enter into any agreement with any State or approve any State plan under any provision of this Act, if such agreement or plan does not provide for the issuance of food stamp coupons as required under the provisions of this title. If the Secretary determines that food stamp coupons are not being distributed in accordance with the provisions of this title he shall utilize such authority and invoke such penalties as may be available to him under this Act or any other provision of law to insure that the provisions of this title are carried out.

"(b) The food stamp coupons to be distributed under the provisions of this title shall be purchased by the Secretary from the Secretary of Agriculture and shall be made available without charge to any Federal or State department or agency authorized to issue such coupons under the provisions of this section. An amount equal to the face value of the coupons purchased by the Secretary shall be deposited by the Secretary of Agriculture in the account created under section 7(d) of the Food Stamp Act of 1964, as amended.

"(c) The Secretary of Agriculture shall take such actions as may be necessary to insure that the recipients of food stamp coupons under the provisions of this title are able to use such coupons in the same manner and to the same extent as if they had received such coupons under the provisions of the Food Stamp Act of 1964, as amended. Such actions shall include, but shall not be limited to, the approval of retail food stores and wholesale food concerns to accept and redeem coupons, the issuance of regulations providing for the redemption of coupons accepted by such retail food stores and wholesale food concerns, and the determination and disposition of any claim by a retail food store, wholesale food concern, or bank arising in connection with coupons issued under this title. The provisions of sections 13 and 14 of the Food Stamp Act of 1964, as amended, shall be applicable to the food stamp program provided for under this title in the same manner and to the same extent as such provisions are applicable to the food stamp program provided for under that Act.

"(d) The terms "coupon", "coupon allotment", "retail food store", "wholesale food concern", and "bank" shall have the same meanings, respectively, for purposes of this title as they have for purposes of the Food Stamp Act of 1964, as amended.

"(e) The Secretary shall reimburse the Secretary of Agriculture, out of funds appropriated to the Department of Health, Education and Welfare for the administration of this title, for expenses incurred by the Secretary of Agriculture in carrying out the provisions of this title which are in addition to any expenses incurred by him in carrying out the Food Stamp Act of 1964, as amended.

"(f) The provisions of section 208, other than paragraph (a), shall apply with respect to benefits under this title, to the same extent as they apply to payments until title II."

The analysis presented by Mr. McGOVERN is as follows:

**ANALYSIS OF AMENDMENT NO. 582 TO PROVIDE SIMPLIFIED FOOD STAMP DISTRIBUTION FOR RECIPIENTS OF FAMILY ASSISTANCE BENEFITS FOR AID TO THE AGED, BLIND, AND DISABLED**

Section 2001: Authorizes an open ended appropriation.

Section 2002: (a) Establishes automatic food stamp eligibility for recipients of family assistance or aid to the aged, blind, and disabled;

Prohibits recipients of commodities from receiving stamps and prohibits receipt of stamps from two sources simultaneously;

Permits a family eligible for commodities to choose whether it prefers to receive stamps or commodities.

(b) Establishes food stamp bonus schedule identical to that contained in S. 2547 (Senate passed Food Stamp Act of 1969). Does not contain provision for free stamps because no recipient of cash assistance would qualify for free stamps, but would not deny free stamps to those who qualify for them under the Senate passed Food Stamp Act.

(c) Permits families living in counties having commodity distribution program to receive stamps, but not to receive commodities and stamps simultaneously. This is required since many recipients of cash assistance live in commodity or no stamp program counties.

Section 2003: (a) Provides for distribution of stamps by the agency which distributes family assistance benefits or aid to the aged, blind, and disabled. Provides for distribution of cash and stamps in identical manner and with identical frequency.

(b) Provides for the Secretary of HEW to purchase needed stamps from Secretary of Agriculture and to deposit money in food stamp redemption account provided for by Food Stamp Act of 1964.

(c) (d) Provides for the Secretary of Agriculture to take certain administrative actions in connection with certification of food stores, redemption of food stamps, etc., required to insure that stamps issued under this act may be used in the same way as stamps distributed to non-cash assistance recipients by USDA.

Section 2003: (e) Provides for Secretary of HEW to reimburse Secretary of Agriculture for administrative actions taken pursuant to this amendment.

(f) Provides for adjustment of overpayments or underpayments, and for dealing with fraud.

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

Mr. McGOVERN. I am happy to yield to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I wish to commend the Senator from South Dakota on his continued leadership in the elimination of hunger in America.

I have joined in this particular amendment because it promotes efficiency and effectiveness toward the elimination of hunger and the distribution of food stamps. It is certainly a must, if we are going to have a family assistance program. But in the drafting and the sponsoring of this amendment, I expressed some misgiving to the distinguished leader of our Nutrition and Human Needs Committee, in that we somewhat perpetuate one of the greatest blocks to the solution of hunger by a family assistance program income level yardstick.

Unfortunately, Mr. President, we have never had a complete medical survey of who is hungry in America; and immedi-

ately, whether a social welfare worker or a public officer in trying to describe the extent of hunger, everybody believes there is some. But the general rejoinder is that we have had them in the days of Jesus and we are going to have them a hundred years from now. They believe, of course, that while there is some hunger, it is not extensive at all; certainly hunger is not of such an extensive nature to constitute a public problem. How do you make the public aware that it does constitute a public problem?

When we try to measure hunger, we immediately fall back on the income level yardstick. We start with the Federal Government, which says everybody with an income under \$3,553 is poor. We go to the food committee. They say everybody with an income under \$4,500 a year is poor. We come to the President's Conference on Hunger, and it said anybody earning less than \$5,500 a year is poor.

So the average taxpayer sits out there and hears the programs coming from Washington. He is a child of the depression. He hears that you are measuring hunger by \$300 a month, or the \$3,553 level. He thinks back to the days of the depression, when \$300 was a gracious plenty, and he says, "I worked my way out of it. Why can't they?" Then he finds that they are going to \$4,500 and \$5,500, and he completely puts up a rebuff to joining in and doing anything about this program, because he thinks hunger is politically found and not medically determined. In other words, he is unconvinced.

When you start with this basic family allowance of \$1,600, what you once again are saying is, "Well, everybody needs at least that." And the average taxpayer resists, because he says this is only a foot in the door, and we get into the mechanics of welfare and welfare payments; and hunger and the hungry are still lost in America.

Fortunately, the Senator from South Dakota has perceived this. He has realized this, and we realize it through the experience last year; because when the family assistance program, the basic family allowance, was submitted, the President said food stamps would be phased out. Within a few days, the Senator from South Dakota brought in the Secretary of Health, Education, and Welfare and the Secretary of Agriculture. They hurried up to the Hill and said, "Oh, no; that was a mistake. The President never intended to eliminate the food stamp program." Now we do have the administration, as an afterthought and under pressure, supporting it, but not very enthusiastically.

So I want to join with the Senator from South Dakota—not necessarily adopting the approach of family assistance. If I played President on this, I long since would have pointed up the hunger that really exists in America.

Only the other night, at a dinner for the distinguished senior Senator from Georgia, we saw in a film clip the statement by Herbert Hoover in 1929 that hunger would be eliminated from America in 10 years. Then we heard our own President Nixon, last year, saying that hunger was going to be eliminated. But

now he is down into the primrose path of the accountant's mechanics of basic family allowance; and once again people believe that hunger is just a political thing that really does not threaten America's security or safety whatsoever. They turn their heads. The Black Panthers in California are feeding many people in the State of California. The Black Panthers in Chicago are feeding more than 1,000 breakfasts to hungry children every day. While we got the free food stamp program in Beaufort and Jasper Counties in South Carolina, with the help of the Senator from South Dakota, over a year ago, and with the cooperation and leadership of the Republican Secretary of Agriculture, Mr. Hardin, they have yet to extend that program. I think this is extremely unfortunate.

I join with the Senator from South Dakota in recognizing these facets of the problem. If we are going now to the basic family allowance, let us not take our eye off the primary target, and that is an attainable target—namely, the elimination of hunger in America in the next 3 to 5 years.

Mr. McGOVERN. Mr. President, I thank the Senator from South Carolina for what I believe to be very thoughtful and wise observations about the practical problems we face in bringing an end to hunger in the United States.

Without either passing on the merits or the demerits of the President's proposal—and I think there is a great deal of merit in what the President has suggested in the family assistance field—one of the anxieties I have had about the timing of that proposal is that it might very well divert our attention and the sense of urgency that was building up in the country to deal with the problems of hunger.

I think we desperately need a victory in this country in the field of social justice and social welfare. We have a soluble problem on the hunger front. We can win that. We can put an end to hunger and malnutrition in the United States. We can do it in a very short time, through the leadership of men like the Senator from New York (Mr. JAVITS), who is in the Chamber, and to whom I referred earlier, the Senator from South Carolina (Mr. HOLLINGS), and others. We have built in this country a strong bipartisan base to put an end, once and for all, to hunger in America. I believe the President wants to accomplish that goal. Secretary Hardin, Secretary Finch, and others are devoted to that end.

I do have some real anxiety that we may become so enmeshed in discussions about income maintenance, and so forth, that, as the Senator from South Carolina has said, we will lose sight of this opportunity to really close ranks and put an end, once and for all, to hunger in America.

So the amendment we are offering today is designed to see that if we move on the family assistance front, we do not do it without preserving the gains in the Senate bill that was passed last September by an overwhelming margin, which gives us the tools to put an end to most of the hunger and malnutrition in our country.

Mr. HOLLINGS. Mr. President, two points in the Senator's remarks should be emphasized.

One factor he pointed out is that 6 years after the food stamp program was enacted, six out of seven who are eligible for it have yet to receive benefits under this program.

Second, under our food stamp program, as we had it innovated in the Beaufort-Jasper County area—the first free food stamps in America—we took cognizance of local participation, local administration, and local leadership. The basic family allowance disregards this entirely, and I do not see how we are ever going to solve the hunger problem unless we do have local support and local participation.

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

Mr. McGOVERN. I yield.

Mr. JAVITS. Mr. President, I am pleased to join with Senator McGOVERN in this amendment, thus continuing what he has called the bipartisan cooperation on the Committee on Nutrition and Human Needs.

When the President sent his historic message to the Congress last August presenting his proposals for a reform of the welfare system, I expressed concern that the administration's adoption of an "income strategy" alone in the war against poverty might act to undermine the commitment, made the previous May, to an expanded food stamp program as a part of a number of actions announced by the President to effect "an end to hunger in America for all time." On August 12, 1969, I stated:

It would be hard indeed on our Nation's poor first to give them admittedly inadequate financial assistance—assistance that in most cases would not even cover a family's food budget—and then to take away their opportunity, through the food-stamp program, to purchase food at reduced prices. An income-maintenance program at an adequate level may yet replace the food-stamp program, but it would be folly to even consider initiating the transition before that level is established. Under the present circumstances, our Nation's poor require an "expansion"—not a phaseout—of food stamp and related programs. . . .

The administration subsequently made it quite clear that it would continue to support an expanded food stamp program until cash payments reach an adequate level. And, in testimony before the Select Committee on Nutrition and Human Needs, Secretary Finch and Secretary Hardin pledged that in the interim their two Departments would work toward a coordinated administration of the two programs. A few weeks later, the Senate indicated its full commitment to an expanded food stamp program by passing the Food Stamp Act of 1969, proposed by Senator McGOVERN and myself.

The amendment proposed by Senator McGOVERN would insure that these commitments of the administration and of the Senate to a continuation of an expanded food stamp program would become an integral part of the new income maintenance system proposed by the administration. Most importantly, the amendment would guarantee that recipients of cash assistance under the admin-



istration's bill will also receive the food stamps to which they are entitled. Moreover, in providing for a single federal system of distribution for these two programs, the amendment should lower total administrative costs, permitting more of the money allotted to the program to actually reaching the poor and others receiving benefits under the administration's plan.

While I share the belief held by the administration and by the poor themselves that we must move toward a cash system of income maintenance, the fact is clear that the cash level provided under the Family Assistance Act—however realistic as a legislative goal at the present time—is unrealistic standing alone to those who daily face the problem of keeping life together.

In addition to supporting this amendment, I shall propose, in the coming weeks, a series of amendments to the Family Assistance Act designed to insure that those unable to support themselves will receive a level of assistance on terms reflecting an awareness of the great dignity of the poor and of their actual needs.

I feel—and the Senator has been very gracious in that—that I have complete freedom of action if I can come up with any different idea, a better means of accomplishing the intent of this amendment, to submit that to Senator McGovern and to all my colleagues.

Mr. McGOVERN. The Senator made that clear to me yesterday.

Mr. JAVITS. The Senator is very kind. The important thing is that food is the element which can bring the President's family assistance package to a level sufficient to sustain life rather than just a beginning of a good program. It seems to me logical to interrelate the two. They have a complete interfacing, and together they can represent sufficiency. Separately they do not.

With the President's splendid initiative, it seems to me inconceivable that we cannot work out an interlacing between the two which will really accomplish what the President wants, which we all want, that is, a solid national base under welfare.

That is why I joined the Senator and I hope that, with the help of the Senator from South Carolina (Mr. Hollings), we can implement this program. I think it is very significant to have this assistance from the South, which is supposed to be antiwelfare. That is not true, of course. He is a living symbol of the fact that it is not true.

Mr. McGOVERN. The Senator does not think that this is the North against the South?

Mr. JAVITS. I am going to say that later in words or syllables which I hope will be of historic significance. But the important thing is to develop with the best brains and ingenuity we can find ways of interrelating the two programs in order to get a better approach to a level of sufficiency. I compliment the Senator from South Dakota (Mr. McGovern) on his distinguished leadership. After all, it is he who brought this committee about.

I invoke also in this matter, and I think it is only fair, the name of Robert

Kennedy who, with former Senator Clark of Pennsylvania, the Senator from California (Mr. Murphy) and myself, formed the first subcommittee that scratched the surface of this terrible problem. Wherever Robert Kennedy is, he is looking out with a dear and beneficent expression on everything we do today. Thus, I take great honor and pleasure in joining the Senators in expressing the expectation that we will make a creative contribution to the total effort of the President. The President has enlisted himself in the war on hunger. It is one of his finest initiatives. We should buttress the proposal for an increased welfare base with what has seemed so logical an element of it—food—to give it a closer approach to sufficiency.

Mr. McGOVERN. I thank the Senator for his contribution.

Mr. President, I yield the floor.

#### ORDER FOR RECOGNITION OF SENATOR JAVITS AT THE CONCLUSION OF THE REMARKS OF SENATOR CHURCH

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes at the conclusion of the remarks of the distinguished Senator from Idaho (Mr. Church).

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

#### ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### AMENDMENT OF THE RAILWAY LABOR ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, notwithstanding the Pastore germaneness rule—this is not to be considered in connection with this—that the Senate proceed to the consideration of Calendar No. 768, H.R. 15349, which I understand has been cleared all the way around and has the approval of the leadership on both sides.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. H.R. 15349, to amend the Railway Labor Act in order to change the number of carrier representatives and labor organization representatives on the National Railroad Adjustment Board, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, was 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. 91-901), explaining the purposes of the measure.

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

#### PRINCIPAL PURPOSE OF THE BILL

The bill provides for revisions in the organizational structure of the first division of the National Railroad Adjustment Board made necessary by the merger of unions representing the trainmen, firemen, conductors, and switchmen into a new union, the United Transportation Union.

No substantive change is made in the law by these amendments, and no costs to the United States are involved. The bill is agreed to by the affected unions, and by all affected railroads, and is endorsed by the executive branch.

#### BACKGROUND

The Railway Labor Act, which governs all labor relations in the railroad industry, provides for a Board, known as the National Railroad Adjustment Board, which handles individual grievances arising out of work rules or the interpretation or application of collective-bargaining agreements. The Board consists of four divisions, consisting of 36 members: 18 representing carriers, and 18 representing labor organizations. The first division contains 10 members; five representing carriers, and five representing unions. Section 3. First. (c) of the act provides that no labor organization shall have more than one representative on any division of the Board. Until last year, this provision created no problems for the first division, since there were only five unions with jurisdiction over matters before that division. With the merger of four unions into the UTU, the law requires amendment, since subsection (c) prohibits UTU from having more than one representative, who, together with the representative of the Brotherhood of Locomotive Engineers would make only two labor representatives qualified to serve on this division, whereas another provision (section 3. First (h)) states that the division shall include five labor representatives.

The bill, which has been agreed upon by all the parties, would revise the law to provide that the Brotherhood of Locomotive Engineers may have two representatives on the first division, of whom only one may vote in any proceeding before the division, and the UTU may have two representatives on the division, of whom only one may vote in any proceeding. Similarly, the carriers are to be permitted four representatives on this division, of whom only two may vote in any proceeding before the division.

Hearings were held on this legislation before the Subcommittee on Transportation and Aeronautics on January 26, 1970, and all witnesses testified in support of the bill. The bill was ordered reported unanimously.

#### ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from New York (Mr. JAVITS) there be a period for the transaction of routine morning business, with a time limitation of 3 minutes.

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

#### ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senator from Idaho is recognized for 60 minutes.

#### TOWARD A NEW POLICY FOR LATIN AMERICA

Mr. CHURCH. Mr. President, hope, Francis Bacon once commented, makes a good breakfast, but it is a lean supper. As Latin America enters the 1970's, her governments tremble beneath the bruising tensions that separate hope from fulfillment.

Historian Arthur Schlesinger, Jr., observes:

Here is a subcontinent where one-eighth more people than the population of the United States subsist on less than one-eighth of our gross national product, where 5 percent of the people receive a third of the income and 70 percent live in abject poverty, and where in country after country the political and social structures are organized to keep things that way . . .

As German Arciniegas of Colombia pointed out in a famous observation, there are two Latin Americas: The visible and the invisible:

Visible Latin America is the Latin America of Presidents, generals, embassies, newspapers, business houses, universities, cathedrals, *estancias* and *haciendas*. But in the shadows lies "mute, repressed" Latin America, a "vast reservoir of revolution. . . . No-body knows what these . . . silent men and women think, feel, dream, or await in the depths of their being." In recent years, invisible Latin America has begun to stir. Workers and *campesinos* want three meals a day and a modicum of human recognition and dignity. Indians want to enter the national life of their countries. Intellectuals and students want social justice. Engineers and soldiers want modernization. Whatever the particular goal, the inherited condition of life is becoming every day more insupportable for more people.

Much of Latin America entered the 20th century with a way of life inherited from 16th century Spain and Portugal. This is a way of life which in many respects is incompatible with a modern, industrialized society. Latin countries are plunging headlong into the 21st century with precious little time to make a transition that took generations in the United States and centuries in Western Europe.

Yet the imperative is clear. In countries whose per capita income presently ranges from \$80 to \$800 a year, only the fastest economic growth conceivable can possibly produce enough food, shelter, clothing and employment to match the spiraling requirements of the swelling population. This multitude, which now numbers 276 million souls, is growing at the rate of 3 percent a year, faster than any other population in the world; yet production, on a net per capita basis, is increasing at only half that rate. Inflation is endemic; foreign exchange is in short supply; export trade opportunities are restricted by barriers inter-

posed by the already rich, developed nations; and overall economic growth is falling chronically short of satisfactory levels. The 1960's did not bring the much heralded "Decade of Development" to Latin America. The euphoric expectation of bountiful blessings generated by the Alliance for Progress has receded, and widespread disillusionment has set in.

Still, economists know what is required within Latin America to move it into an era of adequate, self-sustaining economic growth. There is general consensus on the necessity for far-reaching agrarian and fiscal reform, for increasing internal savings and enlarging internal markets, for regional economic integration, and for more favorable trading arrangements with the developed countries. Most of all, there is the need to bring into the national economic life the large numbers of Latin Americans, amounting in some countries to the greater part of the whole population, who are now, for all practical purposes, subsisting outside a money economy.

Obviously, if such profound internal changes can be accomplished at all, they can be brought about only by the Latin Americans themselves. The impetus must come from within. Success or failure may be marginally influenced, but it cannot be bestowed from without—neither by the United States nor any other foreign power.

It is also evident that the means adopted, the economic systems devised, the political forms chosen, will likewise have to be homegrown. Neither the leisurely evolution of modern capitalism, as it matured in northern Europe and the United States, nor the differing brands of marxism, as practiced in Russia or China, offer models for Latin America that are really relevant to its cultural inheritance or its pressing needs. Even Cuban-style communism has found a meager market in other Latin lands. Che Guevara's romantic excursion to spread Castroism to the mountains of Bolivia ended in fiasco and death. For Latin America, steeped in the Christian tradition and prizing the individual highly, communism has little appeal. Indeed, those in the forefront of the struggle for radical, even revolutionary reform in Latin America today are more likely to be found wearing Roman collars than carrying red banners.

So, as we peer into the 1970's, we must anticipate turmoil and upheaval throughout Latin America, a decade of instability, insurrection and irreversible change. Each country will stake out and cultivate its own political and economic terrain. The spirit of nationalism will grow more fervent, and movement along the political spectrum will be generally toward the left. Inflammable sensitivities will run high.

As for the United States, we would be well advised to practice an unaccustomed deference. The more gently we press our hemispheric neighbors, the greater our influence is likely to be. This will not be easy, for self-restraint is the hardest of all lessons for a great power to learn. Too tempting and seductive is the illusion of omnipotence. Every great power would prefer to believe—and as-

cribe to itself—the verity of the tribute once paid by Prince Metternich to imperial France: "When Paris sneezes, Europe catches cold."

In casting our own weight about the Western Hemisphere, the United States has shown typically little self-restraint. Between 1898 and 1924, we directly intervened no less than 31 times in the internal affairs of our smaller neighbors. And we have yet to kick the habit, as our abortive Bay-of-Pigs invasion bears witness, not to speak of our military occupation of the Dominican Republic, as recently as 1965.

In addition to its direct interventions, the United States has deeply penetrated the economy of Latin America with an immense outlay of private investment. By the end of 1968, American business interests had nearly \$13 billion invested in Latin countries and the Caribbean, nearly three-fourths of which was concentrated in minerals, petroleum, and manufacturing industries. The extent and growth of these holdings have inevitably—and not surprisingly—given rise to cries of "Yankee imperialism."

A recent study by the Council for Latin America, a U.S. business group, reports that in 1966, the total sales by all U.S. affiliates in Latin America amounted to 13.7 percent of the aggregate gross domestic product of all the countries of the region. If foreign-owned companies played the same proportionate role in the United States, their annual sales would exceed \$130 billion.

Latin Americans have also begun to deny what was long taken as an article of faith; namely, that foreign investment promotes economic development. Hear Foreign Minister Gabriel Valdes of Chile:

We can assert that Latin America is contributing to finance the development of the United States and other affluent nations. Private investments have meant, and mean today for Latin America, that the amounts that leave our continent are many times higher than those that are invested in it. Our potential capital is diminishing while the profits of invested capital grow and multiply at an enormous rate, not in our countries but abroad.

Minister Valdes is supported by the U.N. Economic Commission for Latin America which estimates the flow of private investment to Latin America in the period 1960-66 at \$2.8 billion while the repatriation of profits and income amounted to \$8.3 billion. This means that over this period foreign investment caused a net loss of \$785 million a year in Latin America's balance of payments.

Working with later data on a somewhat different basis, the Council for Latin America makes the very opposite claim, putting the net positive contribution of U.S. investment to Latin America's balance of payments, during the 1965-68 period, at \$8.5 billion a year.

Wherever the truth may lie, it is clear that the influence of U.S. business in Latin America is enormous, and that its impact produces political as well as economic repercussions. Whether or not the Latin Americans are right in their analysis of the adverse effect of private foreign investment on their balance of payments, the important political point is that they think they are right about it.



The U.S. presence in Latin America is pervasive, culturally as well as economically. Latins listen to American music, go to see American movies, read American books and magazines, drive American cars, drink Coca-Cola, and shop at Sears. The ubiquitous American tourist is to be seen on every hand, worrying aloud about the water and food and complaining about the difficulty of making himself understood in English.

The Latin reaction to all of this is somewhat ambivalent. Latins like the products of U.S. culture and U.S. business, but at the same time they feel a bit overwhelmed and fearful that Yankees may indeed be taking over their countries. One of the causes of internal resistance to proposals for a Latin American Common Market is the fear that U.S. companies would be able, through their sheer size, to benefit from it to the disadvantage of local entrepreneurs.

Given this situation, it has to be expected that regardless of the policies we adopt, however enlightened and beneficial they may be, the United States will long remain a national target in Latin America for criticism, misgiving, suspicion, and distrust.

The picture is not all that bleak, however. Millions of people in Latin America think well of the people of the United States. Certain of our leaders have been greatly admired—Franklin Roosevelt for his "good neighbor" policy, and John F. Kennedy for the way he bespoke the heartfelt aspirations of the dispossessed. No one can fault the sincerity of President Kennedy when he launched the Alliance for Progress in March of 1961, inviting the American Republics to join in a "vast cooperative effort, unparalleled in magnitude and nobility of purpose, to satisfy the basic needs of the people for homes, work and land, health and schools." Since then, the United States has funneled in more than \$10 billion in various forms of aid.

Given the magnitude of our effort during the 1960's, we are left to wonder why it produced such disappointing results. We thought we were seeding the resurgence of democratic governments; instead, we have seen a relentless slide toward militarism. We thought we could remodel Latin societies, but the reforms we prescribed have largely eluded us. We thought our generosity would meet with gratitude; but we have seen antagonism toward us grow as our involvement in their problems has deepened. We pledged ourselves to goals which lay beyond our capacity to confer, objectives that could never be the gift of any program of external aid; by promising more than we could deliver, we have made ourselves a plausible scapegoat for pent-up furies and frustrations for which we bear little or no responsibility.

Worse still, the kind of aid we have extended, has tended to aggravate, rather than mitigate, these difficulties. Bilateral in character, administered on a government-to-government basis, our foreign aid program is embroiled in the internal politics of both the donor and recipient countries. The program's very nature makes this unavoidable, but the consequences are contributing to a steady deterioration in relations.

First, let us consider what has happened to the foreign aid program, due to the pressure of domestic politics within the United States. What commenced—back in the days of the Marshall plan for Western Europe—as principally a grant-in-aid undertaking, has been transformed by the outcry against "foreign giveaways" into what is now primarily a loan program. Furthermore, in terms of accomplishing our foreign policy objectives, hindsight indicates we have gone about foreign aid backward. The Marshall plan should have been administered mainly on a loan instead of a grant basis, and the ready return of our investment would have done much to solve our balance-of-payments problems in the 1960's. In Latin America, the formula should have been reversed, with the emphasis on grants instead of loans.

Now the accumulation of these loans, and others as well, by Latin American governments, is creating serious debt problems. The Rockefeller report notes:

Heavy borrowings by some Western Hemisphere countries to support development have reached the point where annual repayments of interest and amortization absorb a large share of foreign exchange earnings. Within five years, a number of other nations in the Western Hemisphere could face the same situation. Many of the countries are, in effect, having to make new loans to get the foreign exchange to pay interest and amortization on old loans, and at higher interest rates.

This debt service problem is a major concern. If countries get into a position where interest and amortization payments on foreign loans require a disproportionately large share of available foreign exchange, then the general pace of development will be slowed by the inability to maintain imports of the capital equipment needed to support economic growth.

Of course, in fairness it should be pointed out that our foreign aid program is not the sole contributor, by any means, to this mounting debt service problem. From 1962 through 1969, the Export-Import Bank lent \$1.7 billion to Latin America at commercial interest rates and generally shorter maturities than AID loans. Various European governments and banks—as well as U.S. banks—have made substantial loans, frequently at rates of 6 to 8 percent and for maturities of no more than 3 to 5 years. It is clear that both we and the Europeans are going to have to review our lending policies and explore ways for stretching out repayment schedules. Joint action between the leading nations, the international lending institutions, and debtor nations is necessary. I agree with the Peterson task force suggestions to put this strategy into effect now to prevent an emergency—not to deal with one after it has arisen.

Not only did the pressures of domestic politics change our aid to loans, but concern over our chronically adverse balance of payments led the Congress to insist upon tying these loans to the purchase of goods and services in the United States. Thus our aid—so-called—became an ill-disguised subsidy for American exports. While it undeniably constitutes an addition to Latin American economic resources, it can only be used for purchases in the United States or, under the new Presidential directive, within the

hemisphere, where prices are often above European or Japanese levels. Moreover, still another politically motivated restriction requires that half of the goods financed by the United States must be transported in American bottoms. It has been estimated that this provision alone reduces the effectiveness of each \$100 of U.S. loan assistance by as much as \$20—furnishing another irritant to developing countries.

But the worst political consequence of all has been the inability on Congress to resist temptation to use the aid program as both carrot and stick to reward or punish recipient governments, depending on how we may regard their behavior. Since 1961, the punitive sections of the Foreign Assistance Act have increased from four to 21.

Most notorious of these punitive provisions is the Hickenlooper amendment. Although it has proved useless as a deterrent to the confiscation of American-owned businesses abroad, this amendment will remain on the books. Few Congressmen would relish explaining to their constituents why they voted to repeal a provision which prohibits giving further aid to a foreign government which has expropriated an American-owned business and failed to pay adequate compensation.

Yet, the Hickenlooper amendment is only the most prominent of a whole series of penalties written into our Foreign Assistance Act. There are, for instance, the amendments designed to enforce the American view of fishing rights. On occasion, U.S. fishing boats have been seized by Ecuador or Peru for fishing in what we regard as the high seas, but what they regard as territorial waters. If a fine is imposed, our law provides that military sales and assistance must be suspended; it also provides that the amount of the fine must be subtracted from the economic aid we are furnishing the guilty government.

This provision, I must confess, was solemnly adopted as an appropriate punishment to put an end to any further meddling with American boats. But, alas, it has not worked that way. We "tie" so many strings to our "aid" that some governments have preferred to take their money in fines.

The trouble with attaching such penalties to the aid program is that, although they might give us some emotional satisfaction, they do not stop the behavior against which they are aimed. What is worse, they provide a series of diplomatic showdowns that corrode, weaken, and eventually destroy good relations.

Peru is a textbook case. The deterioration of our relations with Peru began in 1964, when the State Department, on its own initiative, started to drag its heels on extending aid to Peru as a tactic to force the government to settle the International Petroleum Co.—IPC—case. The tactic was not successful and resulted in some bitterness on the part of the Peruvian Government, then headed by Fernando Belaunde Terry, a man who otherwise qualified as a true Alliance for Progress president.

This bitterness was increased when we refused to sell the Peruvians F-5 aircraft. But then, when they decided to

buy Mirage aircraft from France, the State Department reversed itself and offered F-5's. At this point, Congress decreed that foreign aid should be withheld from countries buying sophisticated weapons abroad. The net result is that Peru now has Mirages, a plane aptly named for the contribution it makes to Peruvian security.

Finally, a military government more radical than the reformist Belaunde came to power and promptly expropriated IPC. The new Peruvian Government has not only failed to pay compensation, but has actually presented IPC with a bill of \$694 million for its alleged past transgressions. And through all of this, there has been the continuing wrangle over fishing boats.

This sketchy review is necessarily oversimplified. The story of United States-Peruvian relations in the last 5 years contains ample mistakes on both sides. The point is that each successive stage in the deterioration has been provoked, in one way or another, by some aspect of the U.S. aid program. Indeed, more than one U.S. Ambassador to Latin America has said privately that his difficulties stemmed directly from our aid program. One can scarcely imagine a more damning indictment.

Let us now consider the political impact of a bilateral, government-to-government aid program upon the recipient countries. They are naturally interested in putting the money into places of immediate advantage, where the political payoff is greatest. Heavy emphasis falls on program, rather than project, loans, whereby lump sum transfers of dollar credits augment a given government's foreign exchange reserves. This is an indirect method of lending budgetary support. The reserves, of course, are available to be purchased with local currency by importers who desire to buy, let us say, machine tools in Cincinnati or perfume in Paris. Since it was never a part of the rationale of a program loan that its proceeds should be used to finance the purchase of French perfume, AID early limited the purposes for which program loans could be used. But money is fungible, and restrictions applied solely to the loan do not insure that the borrowing government will not use its other resources for the purchase of frivolous luxury items, while relying on the United States to finance necessities. Little if any net economic gain would be made in these circumstances.

It became necessary, therefore, to make program loans contingent on agreement by the borrowing government to regulate its imports generally in such a way as to insure that its total foreign exchange reserves were used with optimum efficiency from our point of view.

Further, the question arose as to what to do with the local currency generated by the program loan. In the absence of agreements to the contrary, this currency can be used in ways that would undermine, neutralize, or offset the intended purpose of the loan. So, to insure that these local currency proceeds are used in ways that meet with our approval, AID made agreement on this point a condition of program lending. As

in the case of foreign exchange reserves, it followed, of course, that this agreement had to encompass the Government's fiscal and monetary policies across the board.

All of this inevitably involves the United States in the most intimate areas of another country's sovereignty, its tax policies, and its monetary system. Program loans are disbursed in installments, usually quarterly and each disbursement is preceded by the most detailed review of our AID mission of the recipient country's economic performance for the prior quarter. Why has the Government's tax program not been enacted? The central bank is letting the local money supply increase too fast. Recent wage settlements have been inflationary. The currency is overvalued. A program review typically raises these and a hundred other similar questions and complaints. This is done with the best of motives, but at an exorbitant political price.

Our aid technicians must sit as advisers and overseers at the highest levels in the finance ministries of various Latin American governments. Inescapably, this places us in a patronizing position which is demeaning to our hosts. The large colony of our AID administrators, meanwhile, living in conspicuous luxury in every Latin capital, cannot help but feed popular resentment against the United States. If a militant nationalism directed against the gringos is now on the rise, it is quite possible that our own policies, largely connected with AID, have given it the spur.

One is left to wonder how so cumbersome and self-defeating an AID program has lasted so long. Again, I suggest, the answer can be found by examining the politics involved on Capitol Hill. The analysis, I assure you, is a fascinating one.

Year after year, in order to get the needed votes in Congress, a package of contradictory arguments is assembled. The package contains something for everyone, with the result that the life of the AID program has been prolonged by a hybrid coalition of both liberal and conservative Members. Let us explore how this artful strategy has worked with respect to the two main categories of AID, military and economic assistance.

#### MILITARY ASSISTANCE

Conservative Members of Congress have been wooed to support this kind of aid on the ground that bolstering indigenous armies and police forces furnishes us with a shield against the spread of communism in the hemisphere. Furthermore, it is argued, strengthened military power within Latin America is to be welcomed as a force for internal stability favorably disposed toward local American interests. For the most part, these arguments are accepted as articles of faith, even though events discredit them. In Cuba, it was demonstrated that once a regime has lost minimum essential support, no army will save it. Castro did not walk over Batista's army; he walked through it. In Peru and Bolivia, on the other hand, where the Government's army seized the Governments, the new military regimes galvanized public support behind them not by favoring, but

by grabbing, local American interests. Each confiscated a major American-owned business, the Gulf Oil Corp. in Bolivia, the IPC in Peru.

Liberals in Congress have been lured to support military assistance by quite different, though equally flimsy, arguments. They have been told that our subsidy brings us into close association with the military hierarchy, thus enabling us to exert a tempering influence on the politically ambitious generals, while assuring ourselves of their friendship in case they do take over. Again, argument and fact are mismatched. The 1960's were marked by an unprecedented shift toward military dictatorship in Latin America. Hardly more than half a dozen popularly chosen democratic governments remain alive south of our borders. Tempering influence indeed!

Furthermore, once a military junta has installed itself behind its American-furnished tanks, guns and planes, there is no assurance that the United States will be benignly regarded. In fact, the new "Nasserist" regimes of Peru and Bolivia, among all governments of South America, are the most aggressively hostile toward us.

Meanwhile, the military missions we have installed in no less than 17 Latin capitals, add to the debilitating image of the United States as a militaristic nation. Even the Rockefeller report, which gave its blessings to military assistance, looks with disfavor upon "our permanent military missions in residence," since they "too often have constituted too large and too visible a U.S. presence."

That puts it mildly. Listen to the testimony of Ralph Dungan, our former Ambassador to Chile, given before the Senate Foreign Relations Subcommittee on Western Hemisphere Affairs:

I believe there is no shaking the prevailing Latin conception of the United States as a society dominated to a very large measure by "the Pentagon." This perception is widely shared across the political spectrum.

Mr. Dungan went on to say that "perhaps no single action which the United States has taken in recent years including the Bay-of-Pigs fiasco was so significant in confirming the view of Latin America of the United States as a nation willing and ready to use its vast military power unilaterally—as the unfortunate invasion of the Dominican Republic." Other friendly hemisphere observers have noted we will never know whether the Alliance was a success or failure because the program stopped the minute U.S. Marines landed in Santo Domingo in the spring of 1965.

So much, then, for our misguided military policies in Latin America, and the contrived and contradictory arguments with which they are perpetuated. Let us now turn to the other side of the American AID program, economic assistance.

#### ECONOMIC ASSISTANCE

Here again, congressional support has been secured on the basis of false and conflicting doctrines. Conservative votes have been solicited upon the theory that economic assistance is good for business, that it can shore up the status quo in Latin America and thus prove an effective



deterrent to revolution. It is argued that our input of dollars will promote stability and thwart the anticapitalists. Oddly enough, this proposition is widely believed, even though Cuba, the only country in the hemisphere which has gone Communist, enjoyed a relatively high per capita income along with a highly concentrated investment of American capital.

Liberals in Congress, on the other hand, have accepted the need for economic assistance on the weakness of the opposite argument; namely, that far from preserving the status quo, our financial aid is meant to promote necessary economic and social change. But as our experience with the Alliance for Progress bears out, external aid does not produce internal change. Because the money has been channeled through existing governments, it has mainly been spent for the benefit of the governing elites. It has perhaps helped, in some instances, to modernize Latin economies, but not to restructure them. In short, the liberals have also been taken in.

The conclusion I must reach is that our AID program, as administered in Latin America, has proved to be—on balance—a net loss. As our meddling has increased, resentment has grown. It lies at the root of an alarming deterioration in inter-American relations—a deterioration which has led to the assassination of one of our Ambassadors, the kidnaping of another plus a labor attaché; the riotous receptions given Governor Rockefeller as President Nixon's personal emissary, indeed, the refusal of some countries even to receive him; and most recently, the unruly student demonstrations following the arrival of our Assistant Secretary of State for Latin American Affairs on an orientation visit to Bolivia.

This does not mean that we should throw up our hands in despair, or turn our backs on the hemisphere. What is necessary is that we first get off the backs of our neighbors. We must learn to hold ourselves at arms length; we must come to terms with the inevitable, letting changes take place without insisting upon managing or manipulating them. We must begin to show some self-restraint.

Here, then, are some guidelines I would favor for a new United States policy toward Latin America in the 1970's:

First. First of all, we should begin to adopt trade regulations that give the developing countries in Latin America a better break. We should listen closely to the growing, unified Latin complaint on this score, and give the most serious consideration to their urgent appeals for preferential treatment. The political hurdles to such a course are high; the strongest Presidential leadership will be necessary; but for too long we have avoided biting this particular bullet with the palliative of the AID program.

The great independence hero of Cuba, Jose Marti, once warned his countrymen that "a people economically enslaved but politically free will end by losing all freedom, but a people economically free can go on to win its political freedom." To achieve the latter, which Latin Ameri-

cans believe they are now fighting for, Latin products must not be squeezed from the world's markets.

Second. Next, we must start to observe, as well as praise, the principle of non-intervention. It was San Martin, one of Latin America's legendary figures, who said that we are as we act. If we are to act in accordance with the principle of nonintervention, we must not only accept Latin governments as they come, but we must also refrain from the unilateral use of our military power in any situation short of one involving a direct threat to the security of the United States. Such was the case in our showdown with the Soviet Union when the Russians tried, in the fall of 1962, to obtain a nuclear foothold in Cuba. But let there be no more military interventions, 1965 style, in the Dominican Republic or elsewhere.

Third. We should bring home our military missions, end our grant-in-aid and training programs, and sever the intimate connections we have sought to form with the Latin military establishments. After all, the recent war between El Salvador and Honduras we made possible, in large part, by our gift of arms and training eagerly extended to both sides. This is a shabby business for us to mix in.

Fourth. We should commence the liquidation of our bilateral government-to-government economic AID program, as the recent Peterson task force report recommends, effecting at the same time a corresponding shift of economic assistance to the World Bank, the Inter-American Development Bank, and other multilateral institutions. Such a transfer could be cushioned by phasing out our bilateral program in the following manner:

The United States naturally should fulfill those loan commitments already in the pipeline, but the money should be "untied" so that the recipients may put it to the most efficient use. This can be done by Presidential action, which has thus far been limited to the freeing of only those markets within the hemisphere.

The State Department should open negotiations for the reservicing of debt repayment in those instances where the burden unduly restricts necessary economic growth. This, too, lies within the authority of the President, and accords with the recommendations of both the Rockefeller report and the Peterson report. We should seek, also, to involve European creditors in this process. I would oppose stretching out debts to the United States so that debts to other creditors can be paid on time.

Financial assistance from the United States for public housing projects, schools, hospitals, family planning programs, and other social work should, in the future, be funneled through the newly established Inter-American Social Development Institute. If this institute is administered properly, it will emphasize the use of matching grants instead of loans, and it will deal not directly with Latin governments but with private groups, trade unions, rural cooperatives, and charitable foundations.

The Social Development Institute

should be staffed with personnel ready to try a wide variety of new experiments, willing to refrain from sending another horde of North American directors into Latin countries, and who will share with Latin Americans the real experience of innovating and initiating new programs. In short, if the Social Development Institute is to succeed, it must be divorced entirely from the old ways of AID.

As for technical assistance, the remaining part of AID, it somehow remains as much overrated in the United States as it stands discredited in Latin America. The program's present weakness was perhaps best summed up in an excellent study by a Senate Government Operations Subcommittee on the American AID program in Chile. Speaking for the subcommittee, former Senator Gruening concluded that our technicians were "too far advanced technically—for what is required in underdeveloped countries. They are also too ignorant of local conditions and customs and serve periods too short to make a significant impact." This criticism is endemic to our technical assistance program throughout Latin America.

The limiting factor on the amount of technical assistance we have extended has never been money; it has always been people. The technician not only has to be professionally qualified; he should also know the language and the culture. He should be accomplished at human relations as well as in his technical specialty. There just are not many people like this to export abroad, and it is better not to send technicians at all than to send the wrong kind.

Yet there remains a need to transfer technology as well as capital to Latin America. This can best be done through expanding the exchange-of-persons program to enable more Latin Americans to study in the United States, and through selective grants to a few outstanding Latin American universities. The role of shirt-sleeve diplomat, the concept which underlay the original Point 4 program, can best be played by Peace Corps volunteers.

First. Another promising agency has been created by last year's Foreign Assistance Act, the Overseas Private Investment Corporation, more commonly known as OPIC. Its purpose is to encourage, through a liberalized program of investment guarantees, a larger flow of American private capital into developing countries. In Latin America, OPIC could play a useful role, if it encourages the right kind of investment, directing it away from the sensitive resource areas, and pointing it toward joint ventures in which Latin Americans will share largely in both ownership and management. Here, again, everything depends on the way OPIC is administered.

The use of joint ventures deserves emphasis. I am well aware that joint ventures are distasteful to many—not all—American companies. But, in the long run, this may be the only way United States business interests can survive in Latin America.

Before concluding, let me just add one warning here. Private foreign investment is not economic cooperation and assistance; it is business, and most Latin

leaders are willing to treat it in a business-like manner. What Latin Americans are telling us is, "if the United States wants its investors to prosper in the region, then it is incumbent on the United States to make sure that investors are 'development-oriented.'"

Whether the public or private sectors are involved, it is essential for the United States to lower its profile in Latin America. Our national interests can best be served, not by helping Latin America less, but by loosening our embrace. We should keep a decent distance away from their internal affairs, from their military apparatus and their revolving-door governments. This would be best for us and best for them.

It would also disengage the United States from its unseemly courtship of governments which are living contradictions to our traditional values as a nation. When we pour our money into budgetary support for a notoriously authoritarian government, when we supply it with riot guns, tear gas, and mace, intelligent young Americans who still want to believe in our professed ideals, begin to ask elemental questions.

"If we are not *against* such dictatorships, then what is it we are *for* that really matters?"

In the final analysis, each country must live by the ideals it prizes most highly. That is the basis upon which governments turn to their people for loyalty and support. A crisis of spirit arises when our foreign policy comes unhinged from the historic values we hold dear as a people, and when the role of the United States in the world becomes inexplicable to its own young citizens. This is happening to us. Its occurrence is of more fundamental importance than any question of economic theory, investment policy or diplomatic tactics.

Devising the right role for the United States in its own hemisphere and the world at large, a role consistent with the admirable ideals of its origins, would go far toward restoring our country to the unique position it once held in the community of man.

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

Mr. CHURCH. I am happy to yield to the distinguished Senator from Oklahoma.

Mr. HARRIS. Mr. President, I certainly am very much impressed by this timely statement by the distinguished Senator from Idaho, who has been a thoughtful student and observer of Latin American and Western Hemispheric affairs in the Senate. From time to time, he has helped us all gain a better perspective in regard to this area of the world and our common problems here. This latest statement by the Senator from Idaho is, again, a very refreshing and worthwhile one.

As the Senator knows, columnist Stewart Alsop wrote in his book, "The Center," that there are fashions in column writing in Washington, and he used as an example that it has never become fashionable to write about Latin America. I wonder why that is so. What can be done or is being done or should be done to build greater interest by the people

of the United States in Latin America, which is obviously so very important to us because we are such close neighbors? I wonder if the Senator might comment on that?

Mr. CHURCH. I must say I have often pondered that question, and I am as perplexed about it as is the Senator from Oklahoma. Undoubtedly, the nations in this hemisphere have a greater importance to us, in the long run, than nearly any other region in the world. This is our neighborhood.

Why we continue to focus almost hypnotically on distant parts of the world, as we have in Southeast Asia out on the opposite side of the globe, while continuing to treat our own neighbors with such indifference, is very puzzling.

I know the people of Latin America are aware of this; political leaders in Latin America are extremely sensitive about it. Our inattention and indifference creates problems for us every day.

I hope, somehow, we can locate the switch in this country that will suddenly turn us on, where our own Western Hemisphere neighbors are concerned. Then, we will begin, perhaps, to get our priorities in the right order in the conduct of foreign policy.

Mr. HARRIS. I share that hope. It is a shame that in foreign affairs we seem to be mostly involved in crisis management. We wait until something gets to the crisis stage and then focus all of our attention on it.

I think the problems we have in this hemisphere are so immense that we would all spend a great deal more time, with profit for ourselves and the peace and stability of the world, it seems to me, in attention to our common needs, and problems, and aspirations in this hemisphere.

I think the Senator, by his activities in the past and by this very important statement today, perhaps can help call greater attention to the needs of this hemisphere than has been true in the past.

I also want to compliment the Senator for his remarks in regard to U.S. investment in the countries of Latin America, the need for it, the very serious problems it raises for us, and for the country in which such investment is made. I agree with the Senator that our policy in that regard has been misguided and has, I think, with some reason, caused countries where U.S. investment has been heavy, to feel that our foreign policy is too much dictated by the narrow economic interests of certain corporations. I was very pleased to hear what the Senator had to say in regard to the Overseas Private Investment Corp. and the contribution it might make if it is directed properly.

I wonder, if we have the right kind of operation under OPIC, whether or not we might now repeal the Hickenlooper amendment, or give greater discretion in the application of it, since, as the Senator has said and knows so well, it has caused us such great embarrassment in Latin America?

Mr. CHURCH. I share the opinion of the Hickenlooper amendment just expressed by the Senator from Oklahoma.

I have tried to get this administration to take a position on the Hickenlooper amendment. I have repeatedly urged the State Department to indicate whether the administration advocates the repeal of the amendment, or whether it opposes such a move. Finally, after many weeks of silence, in response to insistent prodings the Secretary of State sent up a letter which is really quite remarkable, because in it he takes three pages to say he has no position on the repeal of the Hickenlooper amendment. At least, one cannot determine what that position might be by reading the letter.

Now, if the administration is unwilling to make a case for the repeal of these punitive, ineffectual, and troublesome provisions in the Foreign Aid Act, they are not going to be repealed. There is no motivation in Congress to repeal the Hickenlooper amendment. As the Senator knows, he would have some difficulty explaining in Oklahoma why he voted in favor of repealing a provision in the Foreign Aid Act which undertakes to cut off our foreign aid to a government which has expropriated a U.S. owned company and failed to pay just compensation.

It would be extremely difficult to explain that position back in the Senator's own home State. Still, the truth is that I have not yet had a major American company actually involved in Latin America, a company with large investments there which could be seized by expropriation, make a case for the Hickenlooper amendment. But I have had many spokesmen from such companies come to me and say they oppose the amendment; that it is not a deterrent to expropriation, and that it frequently contributes to an exacerbation in relations between the United States and Latin governments.

So I think the answer to the Senator's question is: Without strong Presidential backing, which this administration is evidently unwilling to give, such aggravations as the Hickenlooper amendment are simply not going to be stricken from the foreign aid program.

Therefore, I have concluded that the best way we can eliminate this problem, which has done so much to bruise our relations with our Latin neighbors, is simply to put an end to this form of bilateral aid.

As long as we conduct an aid program on a government to government basis, it will inevitably become infected with the politics of both the donor country and the recipient country. I think the political cost of this program has simply become too great. As these punitive sections have been added, as we have intervened more and more, trying to direct and instruct our Latin neighbors as to what action they should take in given cases, difficulties have been compounded, and indignation toward the United States has grown.

Mr. HARRIS. I certainly oppose the Hickenlooper amendment and wish that it could be repealed, and I join the distinguished Senator from Idaho in the hope that the administration might also come to that strong position and so recommend to the Congress.



I recall particularly the International Petroleum Corp. case—the IPC case. That case—and the Hickenlooper amendment and our own lack of flexibility generally—has caused us enormous problems, and it still does.

I was once in the Andes section of Peru near Cusco, talking to young people in the Peace Corps who had worked very diligently with local farmers in starting irrigation projects or irrigation districts, which gave great promise of being highly useful to the people, and in which they took pride especially because they had been developed by the people themselves. Then, at the last minute, because of the dispute between the International Petroleum Corp. and the Peruvian Government, because of the policy of our own Government, this very small amount of help that had been promised by AID to the small Peruvian farmers was then withheld and there was no real way to explain such U.S. action to these farmers.

Mr. CHURCH. The Senator has given us an excellent illustration of the problem that stems from these punitive sections of the Foreign Aid Act. He also points up the unfortunate tendency of our Government to equate our national interest in any given foreign country with the narrow interest of some particular group of U.S. investors.

I want to say to the Senator that he is one of the few Members of Congress who have personally taken a great interest in Latin America. He has traveled extensively in Latin America. He has a genuine concern with its problems.

I hope that the example he has set will grow, and that more and more Members of Congress will begin to take an interest in the affairs of this hemisphere, our own front yard. That would be very helpful indeed.

Mr. HARRIS. Mr. President, if the Senator will yield very briefly—and I do not want to take too much additional time, because other Senators desire the floor—I say again the Senator from Idaho has made a great contribution in his suggestions with regard to the military assistance program and military missions in Latin America, which have caused us a great deal more trouble than they have benefited us or the countries involved.

I think the Senator has made a great contribution in his recommendations with regard to better trade relations with the nations of Latin America and with regard to economic assistance generally. It has been a very sad thing to watch men I have known personally, such as President Arturo Illia, of Argentina, and President Fernando Belaúnde Terry, of Peru, replaced by men who took office by force, but that has been the sad progression of events we have seen during these last few years.

That alone, as the Senator has made clear, raises questions as to whether or not we have been on the right course in our dealings with the nations of this hemisphere.

I believe all of us in the Senate and in the Government itself should take heed now of the excellent recommendations which the distinguished Senator from Idaho has made.

Mr. CHURCH. I thank the Senator very much for his remarks.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly? I will not take half a minute.

Mr. CHURCH. I yield.

Mr. MANSFIELD. All I want to do is commend the Senator for a frank, candid, hard-hitting speech. I heard most of it. I think he is on the right track. As chairman of the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Relations, he has shown great leadership and farsightedness in this subject.

Mr. CHURCH. Mr. President, I thank the Senator for his generous remarks.

I yield now to the Senator from Arkansas (Mr. McCLELLAN).

Mr. McCLELLAN. Mr. President, I commend the senior Senator from Idaho for his forthright appraisal of our foreign aid program. The Senator's candid observations and suggestions are all the more significant in view of his vantage point as chairman of the Subcommittee on Western Hemisphere Affairs, and as a member who has strongly supported foreign aid.

I supported the foreign aid program at its inception, during the Marshall Plan era, because I felt that we had an opportunity—and something of an obligation—to make a contribution to rehabilitating those nations that had suffered severe devastation during World War II. That program, however, had definite aims, goals, and objectives. It was clearly good for the recipient countries and for our own interests.

My support for that early phase of foreign aid continued until 1954, when it became apparent to me that the program was slowly evolving into an ill-defined policy that placed benign benevolence above America's self-interest. It was as if the disciples of foreign aid looked about and decided that the United States—a "have country"—had a moral obligation to share its treasure with the multitude of "have-not countries" of the world. Members know the painful story of disappointing results. Less developed countries, developed countries, emerging countries, friendly countries, wavering countries, and sometimes even unfriendly countries—all became the object of charity for the zealous missionaries for sharing our abundance under the guise of foreign aid.

I am sure that few, if any, of the 136 independent countries of the world today have missed having American dollars showered on them. Currently, 68 countries are now receiving economic aid and most of these are also receiving military aid.

Those of us who have been critical of foreign aid have frequently called for an end to this costly, wasteful, and unproductive program.

When we last considered legislation in this field, December 12, 1969, I urged that the program be stopped. At that time there was still around \$5 billion in the pipeline. We should have stopped then and reviewed and reevaluated this program and decided whether its continuation is warranted—whether such heavy expenditures can be justified.

Unfortunately, this program drags along as monumental proof of the adage that Federal programs—once initiated—

die slowly, if at all, while the already overtaxed American citizen remains saddled with this futile venture.

According to figures furnished my office, a total of \$135.5 billion has been spent on foreign aid since 1946. Of that amount, \$116.8 billion has not and will not ever be recovered. That money is gone and where are the benefits?

We have had our people kidnapped—our embassies burned and bombed—American businesses expropriated—and a Presidential emissary barred from even visiting several Latin American countries.

I was heartened by the Foreign Relations Committee report on last year's legislation which gave only reluctant approval of the program and stated:

The initial focus this year in the committee discussion of foreign aid was not on the size or makeup of an aid bill, but on whether there should be an aid bill at all.

And again that in recommending the bill to the Senate:

The committee, in no way, was giving its stamp of approval to the existing foreign aid program. Indeed, there was significant sentiment among members of the committee for phasing out the present programs pending the enactment of a new, more workable foreign aid program next year. . . . This is a stopgap bill and nothing more.

The President's task force to conduct a comprehensive review of the aid programs and to make recommendations for future actions has now submitted its report to the President and I am anxious to see the nature of the promised "new U.S. approach" that is supposed to emanate from that study. I understand that the President hailed the report's proposed "sweeping changes in foreign assistance programs" as "fresh and exciting." I have not had an opportunity to review the Peterson report as yet, but I understand that it proposes a reorganization of our assistance programs, a separation of military and economic aid, greater contributions to international lending institutions, and a multiyear funding basis for aid. It is hoped that any proposed changes will deal more with substance than mere form. And I would also hope that any new proposals will be premised on America's self-interest, and not on the misguided compulsion to share our wealth. We have learned from painful experience that democracy does not follow dollars. We can no more expect to transform countries into instant democracies by giving them money than we can expect to make instant successes of the less affluent groups in this country by simply giving them money.

Mr. President, as I have previously said, if this Nation has something to contribute to mankind—and I am convinced that it does—then it must surely be something a bit grander than mere benevolence. The greatest gift that this country can ever hope to offer other nations of the world is the simple motion of self-government—the simple notion of individual freedom—and the simple principles of the free enterprise system. These are precious commodities that gold cannot buy. Nor are they exportable in instant form. For these simple notions to take root and flourish, they must fall on receptive soils and souls. Therein, I

think, lies the fault with much of our precious efforts with foreign aid. We have sought to sow before the soil was prepared—and in many instances before the fields were even cleared.

I trust that this administration will take note of the increasing number of Members of Congress who have expressed dissatisfaction with the foreign aid program and take this opportunity to do some long hard thinking in this area before making further commitments. And I would strongly suggest that any reappraisal and recommendations be based on the simple formula of self-interest, self-help, and self-reliance.

Again, I commend the senior Senator from Idaho for his refreshing, thought-provoking speech.

Mr. CHURCH. I thank the Senator. I agree wholeheartedly with the fact that the beginnings of foreign aid, back in the Marshall plan days, were altogether wholesome. We had, as the Senator has pointed out, a definite program in mind, with objectives that were attainable, and we were dealing in an area where the vital interests of the United States were involved.

Mr. McCLELLAN. Where the vital interests of the world were involved. It was necessary to rehabilitate those countries and give them an opportunity to become self-sustaining.

Mr. CHURCH. Following the Marshall plan, one of the weaknesses of foreign aid was that it became proliferated to the point where it was spread so thin that much of the effort became practically meaningless. I think the Senator is quite right in saying that the aid program was transformed into something quite different from its origins, and I have tried to stress that point in my own remarks today.

Mr. McCLELLAN. I thank the Senator for yielding to me.

Mr. CHURCH. Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a letter I sent to other Senators in connection with the address I made today.

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

APRIL 6, 1970.

DEAR COLLEAGUE: In the past I have generally supported Foreign Aid, directing my criticism to particular parts of the program which I believed to be either wasteful or counter-productive.

However, the skepticism I have felt toward the program has continued to grow. When the Foreign Assistance Act was finally passed by the Senate last year, on December 12, 1969, I felt the debate had departed almost entirely from reality. In rote fashion, the supposed benefits of the program were once again recited—and greatly overdrawn—while the appalling political costs were simply ignored. For a dozen years, as a member of the Foreign Relations Committee, I have witnessed the degeneration of the AID program. Reluctantly, I have concluded that, as presently constituted and administered, it no longer serves the best interests of the United States.

Enclosed is a copy of a speech I plan to give in the Senate on Friday, April 10th. In it, I undertake to present the case against our present bilateral, government-to-government AID program, as it applies to the Western Hemisphere, and to recommend some new approaches in our relationship to Latin

America which I believe are practical for the United States to pursue in the 1970's.

With warmest regards,  
Sincerely,

FRANK CHURCH,  
Chairman, Subcommittee on Western Hemisphere Affairs, Committee on Foreign Relations.

#### THE SUPREME COURT AND THE SOUTH

Mr. ALLEN. Mr. President, on last Wednesday, the U.S. Senate, in the exercise of its constitutional prerogative, advised with the President of the United States with respect to his appointment of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court, and the Senate declined to give its consent to that nomination. The Senate acted clearly within its constitutional rights in taking this action. However, I regret and am deeply distressed by this action of the Senate in rejecting the nomination.

Reports I have received from the State of Alabama and elsewhere in the South indicate that the feeling is strong in our section of the country that Judge Carswell was denied confirmation by the Senate because he is a southerner. I hope that is not correct. I hope that Judge Carswell was not denied confirmation by the Senate for that reason.

I was distressed, too, at the statement of the President of the United States that it is his opinion that the U.S. Senate at this time will not confirm the nomination of a nominee to the U.S. Supreme Court who is a strict constructionist and who is a southerner.

Mr. President, for possibly as long as a century there has been an axiom that no person in the South can aspire to the Presidency of the United States because he has no chance of being elected to that position. I hope that we are not now to add to that axiom that no person in the South can aspire to serving his country as a member of the Supreme Court. To my mind, it was and is a part of the American dream that every boy and girl and every man and woman in this country can go just as far in life as their abilities, ambition, and efforts will take them. I hope we are not to add to that feeling, to that portion of the American dream, the proviso that they must not be from the South in order to entertain any such ambitions.

May the day never come when a line will be drawn across a map of the United States and the statement made that no person south of that line can aspire to serve on the Supreme Court. It is my hope that this is not the attitude of the U.S. Senate, and for that reason I deplore the statement of the President that for his next appointment to the Supreme Court he intends to look to sections other than the South for his nominee.

There are many qualified judges in the South who are strict constructionists, who serve on State and Federal courts; and I would urge the President to consider the possibility of naming to the Supreme Court a justice of a State court. This would help to give the Court the balance the President seeks, a balance which is greatly needed on that Court.

The President said nothing in his statement about requiring that the next Jus-

tice he nominates shall be a Republican, and I am glad that that is the case. Many good, conservative, southern Democrats serve on State and Federal courts in the South, and I would hope that the President would try once again to send to the Senate the nomination of a person from the South. It would be my hope that the Senate, in the exercise of its constitutional prerogative of advising and consenting, or not consenting, will see fit to confirm the nomination of the next nominee, even if he should come from the South.

Mr. MANSFIELD. Mr. President, I have listened with interest to what the distinguished Senator from Alabama (Mr. ALLEN) has just said. I would agree with his remarks. I do not think that the South should be excluded from further consideration because of what has happened in the Senate on the past two occasions.

Of course, the President—any President—has the right to select a nominee from any part of the country which he chooses. It is my hope that the President will give this nomination his most immediate and most serious consideration. I am sure that he will, because the Court does find it difficult, in some instances, to operate on an eight-man basis. There should be a clear-cut majority one way or the other.

Thus, I think we have to take some of these statements in stride. I would hope that a strict constructionist, a man of high quality and capability, would be chosen; that his nomination would be sent to the Senate; that the Judiciary Committee would hold hearings expeditiously; and that his name would be presented to the Senate for consideration.

Mr. President, I had not intended to say anything. I hope the Senator will excuse me, but in view of the statement he made I felt it incumbent upon me to offer these remarks.

Mr. ALLEN. Let me say to the Senator from Montana that I appreciate them very much. I also appreciate the remarks of the Senator from Idaho very much.

Mr. CHURCH. Mr. President, I should like to comment on the statement the Senator from Alabama has just made.

I strongly disagree with the interpretation that the President has laid upon the action of the Senate in rejecting Judge Carswell. It simply does not conform with the facts.

The Senator well knows—it was repeatedly stated by Senators who voted against Judge Carswell—that their reasons had nothing whatever to do with his being a southerner.

I concur wholeheartedly in the statement of the Senator from Alabama that we must never exclude any part of the country when it comes to filling the highest offices in the land. Indeed, we have just had a southerner as President of the United States. Certainly we can look forward with confidence to having distinguished jurists from the South serving on the Supreme Court of the United States in the future.

It would be unfortunate if the impression were to be fostered that the action taken by the Senate had any anti-southern overtones. It did not.



I am perfectly sure that if, tomorrow, the President were to send a distinguished, fully qualified nominee from the South to the Senate for confirmation to the Supreme Court, there would be no difficulty whatsoever. In fact, I can think of constitutional lawyers who sit right here in this Chamber, elected representatives of the people of the South, who would be confirmed by acclamation.

Mr. ALLEN. If the Senator from Idaho will yield once more to allow me to ask him a question, since, on yesterday, we passed a sense of the Senate resolution, how would the Senator from Idaho feel if a sense of the Senate resolution should be introduced calling upon the President, not necessarily to choose a Justice from the South, but not to exclude the South in his consideration of possible nominees to that post?

Mr. CHURCH. I would look with favor upon such a resolution, because I think it would accurately reflect the sense of the Senate.

Mr. ALLEN. I appreciate the Senator's remarks. I rather believe that a resolution of that sort will be introduced.

I thank the distinguished Senator from Idaho for yielding to me.

Mr. DOLE. Mr. President, let me state, in response to the Senator from Montana, that the President made it clear in the statement released from the White House yesterday that there would be a nomination made in the near future, so we have some assurance it will be done quickly.

Let me say, in response to my good friend from Alabama, the President has gone to the well twice. In each case the man nominated was qualified, in each case he was a strict constructionist, and in each case he was a southerner.

The argument of "appearance of impropriety" was used successfully against Judge Haynsworth. Maybe there is no bias in this body against a nominee from the South, but there is the appearance of bias. There is the appearance of bias. There is the appearance of prejudice, just as there was "the appearance of impropriety" alleged by some who opposed the nomination of Judge Haynsworth.

The President has apparently concluded, in order to fill the vacancy on the Supreme Court, that he must temporarily—and I use the word "temporarily"—move to some other area of the country.

As the President pointed out in his statement, we have four members of the Court from the East, two members of the Court from the West, one member of the Court from the Middle West, and one member of the Court from the South. And there is one vacancy.

The President has not abandoned the South. He has made an effort to bring it back into the Union. But he stated that the Senate as presently constituted would not, in his opinion, approve a nominee from the South.

He is right and his statement was followed by a confession this morning, in the resolution of the senior Senator from Tennessee, indicating the statement of the President should be rejected.

The facts are on record and they speak for themselves. The Senate has

acted twice on a southern nominee and in each case the nominee received only 45 votes. Judge Haynsworth received 45 votes and Judge Carswell received 45 votes. That is not a majority.

I have been in Congress long enough not to judge anyone's vote nor comment on it afterward; but I say there is the appearance of bias in this body. One cannot put his finger on it. But it is present with reference to nominees to the Supreme Court, and other actions which involve the South.

Thus, I believe that the President, having in mind the best interests of the U.S. Supreme Court and the best interests of the people of America, has determined temporarily to move to another area of the country, but to find a strict constructionist who has not been involved in the civil rights thicket and to send a nomination to the Senate for confirmation as soon as possible.

Mr. CHURCH. The facts are, indeed, on the record. The debate is on the record. Anyone who will review that debate will find there is no basis for the charge that the decision of the Senate was based upon any anti-Southern bias.

Mr. MANSFIELD. Mr. President, no one denies the President the right to nominate a person to sit on the Supreme Court of the United States, nor would anyone deny him the right to select the individual so chosen from any part of the country. I am fearful that what has developed lately may, as has been indicated by the distinguished Senator from Tennessee (Mr. BAKER) a few days ago, result in a polarization which I think would ill benefit the future of the Senate and the Republic.

After all, we do have a responsibility here. The Constitution is quite clear that the President proposes and the Senate disposes and, to put it briefly, the Senate discharges its responsibility by either rejecting or confirming the nomination of the President. That is understood on both sides. There is a clear division of authority and responsibility and by providing that the Senate must advise and consent, the Constitution so indicates.

Reference has been made to the fact that a resolution has been introduced by the distinguished Senator from Tennessee (Mr. GORE).

That, in itself, I believe, was referred to as a confession of "failure" if I recall the Senator from Kansas' words correctly? But, I do not think so.

Any Senator has the right to submit a resolution. The Gore resolution has now been referred to the Committee on the Judiciary, where it will be considered by that committee. What action will be taken remains to be seen. Whatever happens to it will not foreclose the fact that the Senate does have a responsibility, along with the President, in matters of this kind. It has such a responsibility as well in the consideration of treaties and the nominations of Ambassadors and others. The line of demarcation is quite clear. The area of responsibility and authority is clearly defined in the Constitution. I am quite certain that the President, who served as a Senator from the

State of California and as the Presiding Officer of this body, is aware of that fact and will conduct himself accordingly.

I would express the hope that a polarization between the rest of the country and the South will not develop, because, as I have indicated, that would not benefit the welfare of the Republic. I would hope that in some way the words of the President in his inaugural address could be put into more effective and affirmative action, so that we could be brought together rather than divided.

There have been disappointments on all sides in this matter. Frankly, I am not happy or unhappy about what has happened to the last two nominations. The President has exercised his responsibility to the best of his ability, and we in the Senate have exercised ours to the best of our ability. That is the way it should be, that is the way it will have to be, if the Constitution is to be observed.

Again, so far as the Senator from Montana is concerned, he would not be at all averse to a strict constructionist nominee from the South; he would only ask that such nominee have the capability and qualifications to sit on the highest Court of the land. Once he has been appointed to that Court, he is impregnable; he is in office for life; he is in office even after retirement; and only for a few very extraordinary reasons could he be dislodged from that position. So far as we as Senators are concerned, we have to go home and answer to the electorate every 6 years. For good or ill, we have to take the consequences, the responsibility for the choices we make. That is as it should be. But when it comes to the highest court in the land, I think we ought to keep in mind these differences.

In closing, may I ask my colleagues to do what they can, not to divide us, but to bring us together and to carry out the President's exhortation as expressed in his inaugural address.

#### SENATE RESOLUTION 387—SUBMISSION OF SENSE OF SENATE RESOLUTION ON FUTURE SUPREME COURT NOMINATIONS

Mr. CRANSTON. Mr. President, I have just submitted a sense of the Senate resolution responding to President Nixon's statement yesterday that his next nominee to the Supreme Court will be a strict constructionist from outside the South, "because this Senate, as it is presently constituted, will not approve a man from the South who shares my views of strict construction of the Constitution."

Cosponsoring my resolution are the two bipartisan leaders of the fight against confirmation of Judge Carswell. They are the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. BROOKE); and in addition, I feel that I should seek as original cosponsors the other 42 Democratic and Republican Senators who voted against both the nomination of Judge G. Harrold Carswell and the nomination of Judge Clement F. Haynsworth.

The text of the resolution is as follows:

Whereas it is the constitutional duty of the President of the United States to submit nominations for the Supreme Court to the Senate for its advice and consent when vacancies exist on the Supreme Court; and

Whereas it is the prerogative of the President to propose nominations from whatever section of the country he chooses and of whatever judicial philosophy he desires; and

Whereas the Senate is prepared to consent to the appointment of nominees from the North, South, East, or West of our Nation; and

Whereas the Senate is prepared to consent to the appointment of nominees who are conservatives, or strict constructionists, if that is the President's desire, or who represent any other appropriate judicial philosophy provided that they are also nominees with the qualifications, stature, talent and temperament necessary in those who serve on our Nation's highest tribunal of justice; Now, therefore, be it

*Resolved*, That it is the sense of the Senate that it is prepared to advise and consent to nominees for the Supreme Court from any section of the United States.

Mr. CHURCH. Mr. President, I stated earlier, in reaction to the remarks of the distinguished Senator from Alabama, that I would support wholeheartedly a sense-of-the-Senate resolution of the type that has now been submitted by the Senator from California. In accordance with my earlier expression, I ask unanimous consent that my name be joined with that of the Senator from California as a cosponsor of the resolution.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered. The resolution will be received and appropriately referred.

The resolution (S. Res. 387) was referred to the Committee on the Judiciary.

Mr. JAVITS. Mr. President, as I worked with the Senator from Massachusetts (Mr. BROOKE) on this side of the Senate on the President's Carswell nomination, I should also like to be joined as a cosponsor of the resolution introduced by the Senator from California.

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

Mr. CRANSTON. I thank the Senator.

Mr. DOLE. Mr. President, the resolution just submitted by the Senator from California might be characterized by some as a confession of bias and prejudice on the part of some Senators. When we recall that only one northern Democrat voted for Haynsworth, and none for Carswell, at least the conclusion might be drawn that there is an appearance of bias.

It is commendable to let the President know in advance that we might support a nominee if he meets all the standards set forth in the resolution. But I happen to believe that the two nominees rejected by the Senate, one last November and one this Wednesday, were qualified by integrity, honesty, and experience, and also believe the President has chosen the only course available.

The Senate now is divided almost right down the middle. The Senate would be divided again, very probably, if the next nominee were a strict constructionist from the South. The President understands this, so he has chosen a wise course. He says:

Temporarily, we will move away from the South. We will find a strict constructionist and send the nomination to the Senate.

I commend the President for recognizing the difficulty in the Senate. I do not know whether or not the resolution will be seriously considered by the Senate, but would suggest that perhaps we should first seriously consider the next nominee.

I do not know for certain if there is any basis or prejudice in this body, but one of the greatest arguments, or one of the most frequent arguments used, when the nomination of Clement Haynsworth was before this body, was this so-called appearance of impropriety. You could not put your finger on it, but you knew it was there. Much the same can be said about the appearance of bias with reference to all southern nominees for the Supreme Court. You cannot see it; you cannot feel it; you cannot put your finger on it, but somehow it is there.

Time after time, when the opponents of Carswell would take to the floor, they would preface their remarks by saying, "I am not against a southerner, and I am not against a strict constructionist, but—"and then they would reel off, one after another, objections.

If the President moves out of the South, it does not become a civil rights issue. If he remains in the South, it continues a civil rights issue, and as the President has said, the Senate as presently constituted would probably reject the next nominee.

So if there is any hope for filling the vacancy on the Court with the present makeup of the Senate, I agree with the President, that the greatest hope for doing so would be by moving from the South at this time.

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

Mr. JAVITS. Mr. President, this is the subject to which I intended to address myself when I obtained the floor.

Mr. CRANSTON. I shall respond to the remarks of the Senator from Kansas only by saying that our purpose in submitting this resolution is solely to seek to bring about unity to the Senate, to bring about unity among the branches of Government of the United States, to the greatest degree possible, and to do all that we can to create unity in our country.

Mr. JAVITS. Mr. President, we cannot create unity unless people want to be unified, and from what we have just heard, and from the President's statement, there seems to be some difference of opinion on that score.

#### THE PRESIDENT'S STATEMENT ON THE SENATE'S ACTION ON THE CARSWELL NOMINATION

Mr. JAVITS. Mr. President, I was very dismayed by the President's statement, and I was very dismayed by the statement of one of our respected Members, the Senator from Tennessee (Mr. BAKER), that what we had done in the Carswell case would result in some feeling of grievance by people in the South. He gave an estimate of 70 million people. I do not know what States he included. But even if it is 30 million, which I think is roughly the population of the 11 States of the old Confederacy, that is enough.

We certainly have labored day and night to do something about 22 million Americans who are black, and I have always been a leader in that. Certainly, I have the utmost regard—at least they are entitled to equal time—for 30 million Americans or so who may be from States which have had social orders and political systems which I have disagreed with.

So I am very dismayed by what has happened. The President of the United States, naturally, is the figure who commands the press and has a great voice in the country. He is much listened to. When he makes a statement, it counts for a great deal in the hearts and minds of our people.

I do not think you can achieve unity by asking for it, unless people are willing to be unified. I think that is all the more reason why each of us should declare his own position and his own feeling in a matter as serious as this. We will then rely upon the fact that decent men and women will appraise what each of us says in terms of sincerity, will watch our actions to see if they match what we say, and will have better second thoughts tomorrow than those based upon the quick reaction of the moment.

First, I think it must be made clear that those of us from the North, West, and East were not the only ones who voted against the Carswell nomination. Senators FULBRIGHT, GORE, SPONG, and YARBOROUGH—all distinguished Members of our body from Southern States—voted the same way.

Second, an enormous number of deans and faculties of southern law schools felt exactly the same way about the Carswell nomination.

So I do not feel that we are alone in the votes we cast.

Then, a number of Members, including the minority leader, gave a list of many judges in the South who they thought, though they had voted—except the minority leader—against Carswell, would be very eligible as Justices of the U.S. Supreme Court. Indeed, one of those named was a Senator, the Senator from North Carolina (Mr. ERVIN), who has very strong views on busing and segregation of school, and so forth. I think Senator ERVIN is a very important legal figure in our country and has every qualification to be a Justice of the U.S. Supreme Court.

Mr. President, I associate myself with the South of Martin Luther King, of Dr. Michael DeBakey, of Ralph McGill, of Terry Sanford, of Ellis Arnall, and—to go outside the active political field—of Dean Rusk, of Cordell Hull, and a host of other distinguished Americans from the South. In addition, the Senators from the South in this Chamber are splendid men of sincerity and fight their cause with great skill and with great conviction, and I respect their views as much as I hope they respect mine.

I cannot accept the President's statement ruling the South out as the source of a judge distinguished enough to be appointed to the U.S. Supreme Court; nor can I demean the Senate by accepting sectionalism as the reason for the Senate's rejection of Judge Carswell. I



deeply and sincerely believe it was not. Nor am I prepared to demean the South by the supposition that sectional feeling will embitter the South because two judges from the South have been turned down. Many men from that section of the country have received the highest distinction of which this country is capable, including the immediate past President of the United States, Lyndon B. Johnson.

So, I am confident that whoever the President nominates to fill the Fortas vacancy will be judged on his merits, regardless of what section of the country he or she may come from.

I hope very much—and I express this to the President with humility, with respect, and with great sincerity—that the President will reconsider the statement he has made and the strongly sectional feeling it reflects. I do not care whether he nominates another nominee from the South or not. That is his promise. But I do care about barring a nominee on the ground that he feels that the Senate, “as presently constituted,” to repeat the words he used, will turn down any southern judge. I distinctly and emphatically do not agree that is the case.

We have enough trouble enforcing the law now in our country to encourage any such idea of bias on the part of the Senate of the United States. There is no dearth of problems. An immediate problem we face now, which seemingly has gone unnoticed in the struggle we have had, is the activity of Governor Kirk of Florida in defying the Federal courts. I do not want to feed that psychology with some sense of chagrin or sectional grievance which comes from the highest source in the United States.

I am not angry about it. I am just dismayed. Our President has on occasion said other things that he reconsidered later, like any other man who is human and decent. Again, I speak with respect and humility, when I say I hope he feels that way about this. I do not think it is worthy of him—and I have known him a very long time—either as a President or as a man. He has had a reverse; he has had two reverses. It is very hard to take. However, I hope this will result in making him a more effective President, as it should result in making the Senate a better instrument to enable the President of the United States to be a more successful President. That is the way of American politics. When we have a man in the White House, we try to pull with him and for him whenever possible. The best reflection of that is the leadership on the Democratic side, which is the majority.

So I hope very much that when we all get up tomorrow morning, including the President, we will look at it very differently. Whatever he may do on sending us a nomination, that is his privilege. He should not feel inhibited. Perhaps at this time he has barred the possibility that he will send us the name of anyone from the South. But he will be President for another 3 years and hopefully—I say as a Republican—for 4 more after that.

Therefore, I am hopeful that the President will get over the feeling that there is any such sectional bias, which I do not sense or detect in the Senate and which I certainly repudiate for myself. I be-

lieve that every other Senator who voted the way I did feels the same way.

Mr. PEARSON. Mr. President, I read President Nixon's statement on the rejection of his Supreme Court nominees in the morning papers with keen disappointment.

The President's conclusion that the Senate rejected Judge Haynsworth and Judge Carswell because they were from the South and because they were “strict constructionists” of the Constitution—and only for these reasons—is a misjudgment.

Mr. President, during the long months that these two nominations were being considered by the Senate, I do not recall a single discussion or comment, either public or private, by a single Senator which would warrant the President's conclusion.

To be sure, Mr. President, in the mix of motivations which resulted in the Senate vote, politics undoubtedly played a part. Many probably did not want a so-called conservative. Others were probably resistant to a new philosophical balance. But, to repeat, I do not believe a single vote was cast against these nominees because they were citizens of the South.

Mr. President, Judges Haynsworth and Carswell did endure severe attacks, and they did so, as the President noted, with admirable dignity and in good taste. Thus, they served to heal the wounds their own rejection inflicted. They have, it seems to me, by their words and deeds, closed, in part, the divisions made.

Perhaps all of us in places of responsibility could learn by their example.

Mr. President, I voted for both Judge Haynsworth and Judge Carswell. In each case, I did so with considerable concern. In each case, I concede, the deciding factor may well have been my own desire to support my President. It is for this reason that I particularly regret President Nixon's view of the advice and consent action by the Senate.

Mr. DOLE. Mr. President, on Wednesday the majority of this body hung a shingle out over the entrance to the U.S. Supreme Court; that shingle reads: “No southerner need apply.” What is the message we have sent to the 50 million Americans who live between the Potomac River and the Mexican border, between the Oklahoma oil fields and the Florida Keys. It is loud and clear and it is this:

Men who agree with your personal beliefs, men who share your judicial and legal philosophies are fine for the appellate bench—but they have no place on the Supreme Court of the United States. You are a second-class section of the country when it comes to the highest court in the land—and don't forget it.

That is what the Senate—with its cavalier treatment of two distinguished jurists, whose nominations have been rejected and whose reputations have been dimly sullied in the process—told the South and the remainder of the country.

That is the message that came off the Senate floor Wednesday. It is a message I am proud not to have had a part in transmitting.

Mr. President, in his victory statement in November more than a year ago—18 months—President Nixon said that it

would be his hope to bring America together again.

No President in my lifetime has done more to bring the South back into full partnership and participation with the rest of the Union.

In his second choice for the U.S. Supreme Court, he named one of the most distinguished jurists in the entire South—a man whose family boasted brilliant men of law back through generations. That choice was rejected—on ethical grounds.

There followed the choice of one of the most experienced and outstanding Federal judges on the fifth Circuit—G. Harrold Carswell. That, too, the Senate has rejected—this time on the grounds of mediocrity.

Strange that the Senate should consider mediocre a man who had more judicial experience than any other nominee to the Supreme Court in a decade.

With his record behind us, I would not think it hard for a southerner to believe that the Senate believes that the “South needs more time” until it can be brought back into the Union; that its judges are good enough for secondary courts but not good enough for the Supreme Court.

We have imposed tests and more tests upon these two judges that we would not and did not impose upon the nominees of the last four Presidents. Why? We ask ourselves. It is because the President told the country he would change the direction of the Court; and the gentlemen leading the anti-Haynsworth fight and the anti-Carswell fight do not want to see that direction changed in a single degree. That is at the heart of the matter. My regrets are that the reputations of two fine justices have been damaged in the process. The benefit is that today the South at least knows where it stands with the U.S. Senate—in the back of the bus.

#### PEACE CORPS ACT AMENDMENTS OF 1970

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3430) to amend further the Peace Corps Act, as amended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside until all the special orders of the Senate have been concluded.

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

#### TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. In accordance with the previous order, the Senate will proceed to the consideration of routine morning business.

#### MESSAGES FROM THE PRESIDENT— APPROVAL OF A JOINT RESOLUTION

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

secretaries, and he announced that on April 9, 1970, the President had approved and signed the joint resolution (S.J. Res. 190) to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

**EXECUTIVE MESSAGE REFERRED**

As in executive session, the Presiding Officer (Mr. YOUNG of Ohio) laid before the Senate a message from the President of the United States submitting the nomination of Edward F. Zigler, of Connecticut, to be Chief of the Children's Bureau, Department of Health, Education, and Welfare, which was referred to the Committee on Finance.

**COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.**

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

**REPORT OF THE OFFICE OF CIVIL DEFENSE**

A letter from the Deputy Secretary of Defense, transmitting, pursuant to law, a report of the Office of Civil Defense, for fiscal year 1969 (with an accompanying report); to the Committee on Armed Services.

**PROPOSED INTERNATIONAL VOYAGE LOAD LINE ACT OF 1969**

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to require load lines on U.S. vessels engaged in foreign voyages and foreign vessels within the jurisdiction of the United States, and for other purposes (with an accompanying paper); to the Committee on Commerce.

**REPORT OF STATE DEPARTMENT ACTIVITIES UNDER THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949**

A letter from the Secretary of State, transmitting, pursuant to law, a report on its activities under the Federal Property and Administrative Services Act of 1949, for calendar year 1969 (with an accompanying report); to the Committee on Government Operations.

**PETITIONS**

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on Agriculture and Forestry:

**S. CON. RES. 16**

Concurrent resolution requesting the Secretary of the U.S. Department of Agriculture to increase the farmers home administration loan ceiling

Whereas, the State Legislature in their wisdom and knowledge, amended the Hawaii State Farm Loan Program; and

Whereas, such action resulted in the increase of the ceiling on farm ownership loans from \$60,000 to \$100,000 and on farm operating loans from \$35,000 to \$50,000; and

Whereas, the Farmers Home Administration loan ceiling on "Class A" loans remains at \$60,000 and on "Class B" loans at \$35,000; and

Whereas, both the State Farm Loan Program and the Farmers Home Administration were established to meet the credit needs of Hawaii's farmers; now, therefore

Be it resolved by the Senate of the Fifth Legislature of the State of Hawaii, Regular

Session of 1970, the House of Representatives concurring, that the President of the United States, the Vice-President of the United States, the Speaker of the United States House of Representatives, United States Senator Hiram L. Fong, United States Senator Daniel K. Inouye, United States Representative Spark M. Matsunaga, United States Representative Patsy T. Mink, and the Honorable Clifford M. Hardin, Secretary of the Department of Agriculture, be, and hereby are requested to increase the loan ceiling of the farm ownership loan program from \$60,000 to \$100,000 and the operating loan program from \$35,000 to \$50,000 under the Hawaii Farmers Home Administration for Hawaii farmers; and

Be it further resolved that certified copies of this Concurrent Resolution be transmitted to Richard M. Nixon, President of the United States; to Spiro T. Agnew, Vice-President of the United States; to John W. McCormack, Speaker of the United States House of Representatives; to the Honorable Clifford M. Hardin, Secretary of the United States Department of Agriculture; to each member of the Hawaii's delegation to the United States Congress; and to Arlen M. Scott, State Supervisor for Hawaii's Farmers Home Administration.

**THE SENATE OF THE STATE OF HAWAII**

HONOLULU, HAWAII, April 4, 1970.

We hereby certify that the foregoing Concurrent Resolution was finally adopted by the Senate of the Fifth Legislature of the State of Hawaii, Regular Session of 1970 on April 3, 1970.

DAVID MICLUNG,  
President of the Senate.  
SUIHI HIRAI,  
Clerk of the Senate.

**THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII**

HONOLULU, HAWAII, April 4, 1970.

We hereby certify that the foregoing Concurrent Resolution was adopted by the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970 on April 2, 1970.

SPEAKER,  
House of Representatives.  
CLERK,  
House of Representatives.

A resolution adopted by the executive committee of the Florida State Chamber of Commerce, relating to the manned space shuttle program; to the Committee on Aeronautical and Space Sciences.

A resolution adopted by the City Council of the City of Titusville, Fla., praying for the enactment of legislation to designate Cape Kennedy as the operational base for the space shuttle system; to the Committee on Aeronautical and Space Sciences.

**ADDITIONAL COSPONSORS OF A BILL**

S. 3607

Mr. PEARSON. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senators from Colorado (Mr. ALLOTT), Nevada (Mr. CANNON), Nebraska (Mr. CURTIS), Kansas (Mr. DOLE), Oklahoma (Mr. HARRIS), Indiana (Mr. HARTKE), Oregon (Mr. HATFIELD), Nebraska (Mr. HRUSKA), Montana (Mr. MANSFIELD), Minnesota (Mr. MONDALE), Wisconsin (Mr. NELSON), Oregon (Mr. PACKWOOD), Illinois (Mr. PERCY), Pennsylvania (Mr. SCOTT), and Alaska (Mr. STEVENS) be added as cosponsors to S. 3607, to create a Rural Community Development Bank to assist in rural community development by making financial, technical, and other assistance available for the establishment

or expansion of commercial, industrial, and related private and public facilities and services and for other purposes.

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

**SENATE RESOLUTION 386—RESOLUTION SUBMITTED TO EXPRESS THE SENSE OF THE SENATE CONCERNING A STATEMENT OF THE PRESIDENT**

Mr. GORE submitted a resolution (S. Res. 386) to express the sense of the Senate concerning a statement of the President which was referred to the Committee on the Judiciary.

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

**SENATE RESOLUTION 387—RESOLUTION SUBMITTED TO EXPRESS THE SENSE OF THE SENATE RELATIVE TO NOMINATIONS TO THE SUPREME COURT OF THE UNITED STATES**

Mr. CRANSTON (for himself, Mr. BAYH, Mr. BROOKE, Mr. CHURCH, Mr. JAVITS, and Mr. HUGHES) submitted a resolution (S. Res. 387) to express the sense of the Senate relative to nominations to the Supreme Court of the United States, which was referred to the Committee on the Judiciary.

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

**AUTHORIZATION OF FAMILY ASSISTANCE PLAN—AMENDMENT**

AMENDMENT NO. 582

Mr. MCGOVERN (for himself, Mr. BAYH, Mr. BROOKE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. GOODELL, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUGHES, Mr. INOUE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. PROXMIER, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 16311) to authorize a family assistance plan providing basic benefits to low-income families with children, to provide incentives for employment and training to improve the capacity for employment of members of such families, to achieve greater uniformity of treatment of recipients under the Federal-State public assistance programs and to otherwise improve such programs, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

(The remarks of Mr. MCGOVERN when he submitted the amendment appear earlier in the RECORD under the appropriate heading.)



### THE COST OF ALCOHOLISM

Mr. HUGHES. Mr. President, on numerous occasions I have called to the attention of the Senate the high cost of the misuse of alcohol to the taxpayers of our country. We are all aware that the cost of alcoholism is astronomic to our society, but unfortunately, authoritative research in the field has been limited, largely by lack of funds.

In this reference, I believe the Members of the Senate would be interested in a recent report prepared by the Commission on Alcoholism of the County of Los Angeles, Calif., to the county board of supervisors on the "Estimated Cost to County Taxpayers due to the Misuse of Alcohol 1968-69."

I ask unanimous consent that this report, plus two letters of transmittal dated March 13, 1970, and March 11, 1970, be printed in the RECORD.

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

COMMISSION ON ALCOHOLISM,  
COUNTY OF LOS ANGELES,  
March 13, 1970.

Subject: Estimated cost to county taxpayer due to the misuse of alcohol 1968-69.

Recommendation: That your honorable board request all county departments to assist in the development of a comprehensive plan which will reduce the enormous cost of the misuse of alcohol to the taxpayers of the County of Los Angeles.

HON. BOARD OF SUPERVISORS,  
County of Los Angeles,  
Hall of Administration.

GENTLEMEN: Attached are copies of the cost study which your Board ordered on September 30, 1969 on the motion of Supervisor Warren M. Dorn. This report indicates that the total cost of misuse of alcohol is in excess of \$73,219,560.

The report was discussed in detail with concerned department heads at the March 11, 1970 meeting of the County of Los Angeles Commission on Alcoholism. At this meeting a motion was passed to transmit this document to your Board.

A motion was also passed that a subcommittee of the Commission review the programs of the various County departments with the department heads to study ways in which the problem of alcoholism can be ameliorated.

Therefore, the Commission on Alcoholism recommends, that your Honorable Board request all County departments to assist in the development of a comprehensive plan which will reduce the enormous cost of misuse of alcohol to the taxpayers of the County of Los Angeles.

Respectfully submitted,

JOHN ANDERSON,  
Chairman.

COMMISSION ON ALCOHOLISM,  
COUNTY OF LOS ANGELES,  
Los Angeles, Calif., March 11, 1970.

Mr. JOHN ANDERSON,  
Chairman, Los Angeles County Commission  
on Alcoholism, Los Angeles, Calif.

DEAR MR. ANDERSON: The Committee on Information and Research of the Los Angeles County Commission on Alcoholism presents herewith a report prepared in cooperation with the Chief Administrative Office concerning the estimated dollar costs of the misuse of alcohol to Los Angeles County taxpayers in fiscal year 1968-69.

The total tax dollar costs add up to \$73,219,560, approaching three times as great as the costs estimated in our previous study for the fiscal year 1964-65, and approximately four times as great as the pioneer study for fiscal 1961-62.

This huge increase is due only partly to an actual increase in costs through growing population, currency inflation, and the like. Rather, most of it is accounted for by improved sophistication in determining costs, largely a consequence of experience gained by the Chief Administrative Office and County departments through the previous studies. Special commendation should be given to Mr. Jon Stanley of the Chief Administrative Office and to Mr. Paul Hinshelwood, Alcohol Program Coordinator, for their outstanding work in developing the report. Much useful information has also come from the exhaustive study produced by the Task Force on Alcoholism of the California Council on Criminal Justice under Chairmanship of Judge Philip Saeta. We believe, therefore, that the present figures are the most nearly accurate (but nevertheless still conservative) ever developed on this subject in Los Angeles County.

Shocking as these figures are in terms of sheer money drained from County taxpayers' pockets, the toll they stand for in human suffering and wasted human resources is far more shocking.

Most of the costs cited fall into two broad categories: Law Enforcement, and Welfare and Medical, with Law Enforcement accounting for \$35,589,218 and Welfare and Medical accounting for \$34,752,882.

Expressed in terms of drunk drivers alone, the hazard to every sober citizen represented by the figures is extreme. Other figures in this broad category of Law Enforcement point to serious public danger and private damage, and thousands of ruined lives—those of children as well as adults.

The Welfare and Medical costs stand for an appalling amount of pain, loss of ability to function, and death. They stand for the squandering of the skills and energies of highly trained professionals who otherwise could give more attention to patients whose illnesses have other causes. They stand for costs in family, child and individual misery and impoverishment that are simply incalculable.

But these grim, depressing figures also carry some hope. A primary prerequisite for dealing intelligently with any major social problem is an assessment of its dimensions. We believe this report provides us with the most realistic assessment that has been achieved up to now, at least in dollar terms.

It is not the purpose of this letter to propose solutions. But it is obvious that any even fairly effective solution must involve a comprehensive plan for treatment, prevention and education which provides for coordination of both the public and private sectors and is envisioned on a much larger scale than anything seen so far. The cost report here presented may contribute to the materialization of such a plan.

Meanwhile, it is well for the citizens of Los Angeles County to know that the "happy hours", the neon signs and advertisements which promise relaxation, conviviality and social lubrication deliver more than the pleasant amenities they promise. They also deliver a tax bill for injury, disability and suffering which in the fiscal year 1968-69 amounted to at least \$73,219,560.

Respectfully submitted,

COURTNEY ANDERSON,  
Chairman, Committee on Information and  
Research.

BRUCE M. GLEASON,  
Committee Member.

COUNCILMAN DAVID HAYWARD,  
Committee Member.

NICHOLAS KHOURY, M.D.,  
Committee Member.

ALLEN MCGINNIS,  
Committee Member.

#### INTRODUCTION

The Los Angeles County Commission on Alcoholism, established in 1963 by the Board of Supervisors, is responsible for assisting and coordinating the work of community

agencies engaged in activities to prevent, lessen, or alleviate alcoholism. County government is concerned about the problem of alcoholism from a social, humanitarian, and financial standpoint. The Board of Supervisors has expressed this concern often, and has established alcoholism treatment and rehabilitation programs in major County departments as funds have become available.

This cost study is the third report prepared by the Chief Administrative Office since 1961. It was prepared with the cooperation of the Commission on Alcoholism and concerned County departments. This report estimates that the cost of misuse of alcohol to County taxpayers exceeded \$73 million in 1968-69. To a limited degree, this staggering cost is offset by State and Federal revenues. This revenue, however, falls far short of offsetting the enormous cost of alcoholism to County government.

The Commission on Alcoholism recently requested all County departments to submit an evaluation of the problem of alcoholism and its impact on their department. These evaluations indicate the serious concern of County departments with this problem. A summary of pertinent departmental comments is as follows:

The Sheriff believes that the misuse of alcohol is one of the major public health problems of our society. Although the Sheriff points out that his department will continue to arrest persons for common drunkenness as required by State law, he welcomes the current trend toward recognition of alcoholism as a medical problem. In this connection, the Sheriff believes that the County will eventually be required to establish detoxification centers which will be closely coordinated with health care services in County departments and in the community. In addition, the Sheriff sees the possibility of soliciting voluntary contributions to offset the cost of establishing detoxification centers. A second method mentioned by the Sheriff would involve additional taxes on the sale of alcoholic beverage within the County.

The Director of the Department of Hospitals perceives alcoholism in Los Angeles County as part of a world-wide public health problem which should be attacked by both governmental and community agencies. He further indicates that the Department of Hospitals' role in the next decade should be to strengthen and improve its existing treatment and rehabilitation services for chronic alcoholics. This will be partly accomplished by the Board's recent approval of additional alcoholism rehabilitation beds at Long Beach General Hospital.

The County Health Officer indicates that his department's intent is to create coordinated comprehensive in-patient/out-patient treatment and rehabilitation programs to meet the needs of individual alcoholic patients. This system will entail a close working relationship with other County departments and community agencies.

The Director of Public Social Services expresses concern with the problem of alcoholism and points out that numerous studies have demonstrated the seriousness of this problem in department caseloads. The department is working closely with other County departments and community agencies to provide financial assistance to eligible alcoholic patients being treated in County facilities. In addition, the department is conducting training programs for its staff to help them identify and work with alcoholics and to become better acquainted with available resources in the community.

The Probation Officer points out that a substantial number of court referrals to his department involve intoxication cases where family problems and children are involved. Therefore, the Probation Department becomes involved with the alcoholic problem at an early stage which enhances the possibility of identifying necessary steps for rehabilitation.

The Executive Officer of the Superior Court

indicates that the misuse of alcohol exhibits a significant impact on the Conciliation Court where excessive use of alcohol is often cited as a complaint. In addition, alcoholism is a contributing factor in the area of domestic relations and criminal court activities.

The Director of Mental Health promotes alcoholism programs within his general responsibility for mental health services, treatment of mentally ill alcoholics, and support of Health Department and Department of Hospitals rehabilitation services.

*Estimated costs to Los Angeles County government attributable to the misuse of alcohol for fiscal year July 1, 1968, to June 30, 1969*

|                               |                   |
|-------------------------------|-------------------|
| By department:                |                   |
| County clerk.....             | \$832,887         |
| District attorney.....        | 6,720,071         |
| Forester and fire warden..... | 2,650,004         |
| Health.....                   | 812,211           |
| Hospitals.....                | 7,815,274         |
| Marshal.....                  | 2,130,797         |
| Medical examiner-coroner..... | 212,633           |
| Mental health.....            | 586,415           |
| Municipal courts.....         | 3,879,051         |
| Personnel.....                | 2,863             |
| Probation.....                | 4,442,744         |
| Public defender.....          | 3,105,780         |
| Public social services.....   | 25,538,982        |
| Road.....                     | 11,960            |
| Sheriff.....                  | 12,930,415        |
| Superior court.....           | 1,547,473         |
| <b>Total.....</b>             | <b>73,219,560</b> |
| By function:                  |                   |
| Law enforcement.....          | 35,589,218        |
| Welfare and medical.....      | 34,752,882        |
| Miscellaneous.....            | 2,877,460         |
| <b>Total.....</b>             | <b>73,219,560</b> |

**LOS ANGELES COUNTY ESTIMATED COST TO COUNTY TAXPAYER DUE TO THE MISUSE OF ALCOHOL—1968-69**

COUNTY CLERK, \$832,887  
 Personal injury, \$231,524

An estimated 20.6% of 1968-69 County Clerk expenditures involved personal injury cases. Each case was weighted at 125 per case to reflect the time required to process personal injury cases. Applied against this amount was an estimate of 13.9% which is the percentage of personal injury cases involving the misuse of alcohol.

**Criminal, \$314,289**

It is estimated that 23.0% of County Clerk expenditures involve criminal cases. An estimated 16.9% of this amount is due to the misuse of alcohol. This yields \$314,289.

**Psychiatric, \$5,660**

An estimate of 0.7% was applied to 1968-69 County Clerk expenditures to reflect the weighted impact of psychiatric workload. Applied against this amount was an estimate of 10% which is the percentage of psychiatric cases involving alcohol misuse.

**Juvenile, \$47,738**

It is estimated that 7.2% of County Clerk expenditures occur in this area. A weighted factor of 50 per case was used to reflect the time required to process these cases. An estimated 8.2% of the cost is attributable to the misuse of alcohol.

**Domestic relations, \$151,202**

In 1968-69, it is estimated that 6.8% of County Clerk expenditures involved domestic relations workload. An estimate of 27.5% for alcohol misuse was applied to derive the total expenditure of \$151,202.

**Conciliation, \$82,474**

Of the 4,200 petitions for conciliation received by the court each year, it is estimated that 15% represented excessive use of alco-

hol as a complaint. This yields a total cost of \$82,474.

**DISTRICT ATTORNEY, \$6,720,071**

The estimate is based on data developed by the County Task Force on Alcoholism which indicates that the misuse of alcohol was involved in 52.5% of misdemeanor and felony crimes. This percentage was applied to 1968-69 District Attorney expenditures. This results in an estimated cost of \$6,720,071.

**FORESTER AND FIRE WARDEN, \$2,650,004**

To derive the extent to which the use of alcohol contributed to the cost of fire protection, Fire Battalion Chiefs of the Department were polled. It was their estimate that 7.3% of all responses involved alcohol as a contributing factor to the response. During 1968-69 a total of 36,527 responses were made by the Department. The net cost of the Department for 1968-69 including workmen's compensation, retirement, general County overhead, fire protection districts' equipment, etc., was \$36,320,971. The cost per individual response was \$994. This average multiplied by the estimated number of alcohol influenced responses (2,666) amounts to total cost of \$2,650,004.

**HEALTH DEPARTMENT, \$812,211**

This analysis is based on the extent to which the misuse of alcohol effects the operation of Health Department alcohol, tuberculosis and venereal disease programs.

**Alcohol program, \$589,590**

The entire cost of operating the department's Alcohol Clinic Program is attributed to the misuse of alcoholic beverages.

|                            |           |
|----------------------------|-----------|
| Federal/State revenue..... | \$505,318 |
| County cost.....           | 84,272    |

Total cost of program 1968-69... 589,590

**Tuberculosis control, \$39,518**

It is estimated that 2% of the patients treated through the Health Department TB Control Program have an alcohol problem. This percentage was applied against the estimated \$1,975,888 cost of the program.

**Venereal disease control, \$183,103**

This is based on an estimate that 10% of venereal disease results from exposure during acute intoxication and 1% from chronic intoxication. These percentages were applied against the estimated \$1,664,574 costs of the program.

**HOSPITALS, \$7,815,274**

It is estimated that approximately \$8,000,000 was expended during 1968-69 as a result of the excessive use of alcohol. An estimated 50% of this cost is General Fund County expenditures. Federal and State subventions from the Medicare, Medi-Cal, and Short-Doyle programs offset the remaining cost to County government.

**Medical institutions**

**A. Medical Center, \$1,389,344**

It is estimated that during 1968-69, there were 4,061 acute or chronic alcoholism patients at an average rate of \$84.22 per day. The average patient stay was 3 days. There were an estimated 388 psychiatric admissions due to alcoholism at a daily rate of \$100.68 with an average of 9.3 days per patient.

**B. Harbor General, \$1,125,665**

It is estimated that during 1968-69, there were 2,137 acute or chronic alcoholism patients at an average stay of 7 days. The average rate was \$75.25 per day.

**C. Olive View Hospital, \$3,037,213**

It is estimated that 50% of adult TB patients are alcoholics. Based upon this assumption, during 1968-69 there were 337 alcoholic patients at Olive View. The average patient stay was 175 days at a rate of \$51.50 per day.

**D. Antelope Valley Rehabilitation, \$2,062,680**

It is estimated that 90% of all patients at the Rehabilitation Centers are chronic alcoholics. During 1968-69, there were 2,542 such patients with an average length of stay of 103.5 days. The average cost of care was \$7.84 per day.

**E. Mira Loma Hospital, \$200,372**

It is estimated that during 1968-69, 50% of adult TB patients or 52 patients at Mira Loma Hospital were alcoholics. The average patient stay was 113 days at a rate of \$34.10 per day.

**MARSHAL, \$2,130,797**

The Marshal assigns approximately 40% of his uniformed personnel to Municipal Court functions. It is estimated that 71% of their time is occupied with the custody and control of defendants whose court appearances involve the use of alcohol. This is based on the County Task Force on Alcoholism finding that 71% of all misdemeanor crimes involve the misuse of alcohol. This results in a 1968-69 cost of \$2,000,797.

In serving of civil process, approximately 1% of delinquent indebtedness involves the misuse of alcohol. This estimate is based on an analysis of the weighted case load of all the Municipal Courts, and conferences with Marshals' personnel. This yields a cost of \$130,000. It should be noted, however, that \$18,000 of this cost is reimbursed through civil process fees.

**MEDICAL EXAMINER-CORONER, \$212,633**

The estimate is based on an analysis of laboratory tests for the period of January 1, 1968—June 30, 1968. This analysis indicates that at least 12.4% of Coroners' cases involve the misuse of alcohol. This estimate was applied against the Coroner's 1968-69 expenditures.

**MENTAL HEALTH, \$586,415**

It is estimated that 3,040 patients with a diagnosis of alcoholism were treated in facilities supported and supervised by the Mental Health Department in 1968-69. The total cost for Mental Health alcoholism programs is \$1,375,415. The revenue including Medi-Cal and Short-Doyle programs is \$1,068,420 leaving a net County cost of \$306,995. Approximately \$798,000 of the total cost is identified above under the Hospitals Department section, leaving the total Mental Health cost at \$586,415.

**MUNICIPAL COURT, \$3,879,051**

This analysis is based on a weighted workload of all Municipal Courts obtained from the Judicial Council of California. Cost due to alcohol was estimated in Moving Traffic, Intoxication, Misdemeanor, and Felony sections of the Courts' work.

**Moving traffic, \$1,938,393**

An estimated 11.7% of Municipal Court expenditures involved major traffic violations. An estimated 90% of this expenditure due to drunk driving and other alcohol related offenses yields a cost of \$1,938,393.

**Intoxication, \$430,754**

Approximately 2.6% of 1968-69 expenditures involved intoxication cases. Each case was weighted at 2 per case to reflect processing time. Applied against the 1968-69 cost was an estimate of 90% which is the percentage of cases involving alcohol misuse.

**Misdemeanor, \$623,268**

It is estimated that approximately 17.1% of 1968-69 expenditures involved misdemeanor filings. An estimate of 19.8% was applied against this amount to reflect the misuse of alcohol.

**Felony, \$886,636**

Approximately 28.5% of total expenditures involve felony cases. A weighted factor of 50 was applied to each case to account for processing time. An estimated 16.9% of the cost is attributable to the misuse of alcohol.



## PERSONNEL DEPARTMENT, \$2,863

This estimate is based on the part-year funding in 1968-69 of an alcoholism counseling program for County employees in the Department of Personnel. This program is expected to effect reductions of employee turnover and inefficiency related to the misuse of alcohol.

PROBATION, \$4,442,744  
Adult, \$1,773,792

It is estimated that 6,843 adults were under supervision and 4,172 adults investigated in cases where alcohol misuse was a direct or indirect factor leading to arrest. Based upon supervision costs of \$208 per year and investigation costs of \$84 per case, total cost of all adult caseloads amounted to \$1,773,792.

Juvenile, \$2,668,952

It is estimated that 2,126 juveniles were under supervision and 2,774 juveniles investigated in cases where alcohol was a direct cause for arrest. Based upon supervision cost of \$285 per year and investigation costs of \$84 per case, total juvenile caseload costs amounted to \$838,926.

Estimated facility costs incurred by juvenile cases involving alcohol misuse totaled \$1,830,026. This cost included camps, juvenile halls, Las Palmas and foster homes and institutions.

Total cost of juvenile cases involving misuse of alcohol totals \$2,668,952.

## PUBLIC DEFENDER, \$3,105,780

The estimate is based on data developed by the County Task Force on Alcoholism which indicates that misuse of alcohol was involved in 52.5% of misdemeanor and felony crimes. This percentage was applied against 1968-69 Public Defender expenditures yielding a total cost of \$3,105,780.

## PUBLIC SOCIAL SERVICES, \$25,538,982

It is estimated that \$25,538,982 was expended during 1968-69 due to the misuse of alcohol. This enormous cost is only 1.5 million under the entire 1965 cost study total of \$27,000,000 and is \$22 million over the welfare cost developed in 1964-65. The major portion of this huge increase is attributable to inclusion of welfare costs before deduction of Federal and State revenue (which was not included in 1964-65). This revenue amounted to approximately 19.5 million of the total cost in 1968-69.

## A. General Relief, \$2,065,740

Department surveys indicate that approximately 25% of the single males on General Relief have an alcohol problem. Aid payment costs are estimated as follows: 8,503 Intake cases at \$60 per case, and 14,935 Approved case months at \$67.20 per month. Overhead and administrative costs are estimated at \$551,928 based primarily on assigned manpower.

## B. Aid to Families with Dependent Children, \$19,854,344

Department surveys indicate that approximately 10% of the AFDC-FG approved caseload or 96,256 case months were the result of involvement with alcohol. The aid payment costs for these cases are estimated at \$17,888,215 (96,256 x \$185.84). Overhead and administrative costs are estimated at \$1,966,129 based primarily on assigned manpower.

## C. Aid to Disabled, \$3,618,898

A recent department survey indicated that 4.71% of the ATD approved caseload or 27,346 case months were the result of involvement with alcohol. Aid payment costs for these cases are estimated at \$3,400,475 (27,346 x \$124.35). Overhead and administrative costs are estimated at \$218,423 based primarily on assigned manpower.

## ROAD DEPARTMENT, \$11,960

The 1968-69 cost of trash pickup along County roads is approximately \$80,000. It is estimated that beer cans and liquor bottles

make up about 10 per cent of total trash and that, consequently, the Road Department expended \$8,000 in 1968-69 due to alcohol misuse.

In addition, the Road Department billed \$75,000 in 1968-69 for costs of replacing traffic signals and street lights knocked down in accidents. The Road Department Traffic Accident Recording system, which uses data provided by California Highway Patrol and the Sheriff's Department, indicates that 18 per cent of all accidents involve alcohol misuse. It is therefore estimated that 18 per cent of the unrecovered \$22,000 or \$3,960 was expended on this aspect of alcohol misuse in 1968-69.

## SHERIFF, \$12,930,415

This analysis is based on data developed by the County Task Force on Alcoholism and Sheriff's Department personnel.

## Custody, \$9,060,760

It is estimated that an average daily population of 1,947 sentenced male prisoners were involved in the misuse of alcohol. This is based on data developed by the Task Force on Alcoholism for percentage of alcohol involvement by specific penal code violation. The daily custodial rate of \$7.50 for male prisoners was applied, resulting in a cost estimate of \$5,329,730.

It is further estimated that an average daily population of 1,363 pre-sentenced male prisoners were involved with the misuse of alcohol. The daily custodial rate of \$7.50 for male prisoners was applied, resulting in a cost estimate of \$3,731,030.

## Patrol, \$3,869,655

During 1968-69, it is estimated that the Sheriff made 22,895 misdemeanor and 9,405 felony arrests. In addition, the Los Angeles Police Department made a total of 70,567 misdemeanor and felony arrests. Other jurisdictions made a total of 47,049 total arrests for common drunkenness and drunk driving.

The following analysis estimates costs of \$22.35 for common drunkenness arrests, \$38.35 for drunk driving arrests and \$34.35 for other arrests based on the hourly rate of a law enforcement field unit as charged by the County to contract cities plus the estimated cost of one day's booking and detention.

Of the 149,916 total arrests, it is estimated that 131,217 arrests or 87.5% involved the misuse of alcohol. Arrests for most crimes amount to 11,061 at a cost of \$34.35 = \$379,945. Arrests for common drunkenness amounted to 69,892 at a cost of \$22.35 = \$1,562,086. Arrests for drunken driving amounted to 50,264 at a cost of \$38.35 = \$1,927,624. Total cost = \$3,869,655.

## SUPERIOR COURT, \$1,547,473

The cost to the Superior Court was derived by applying Judicial Council of California weighted caseload statistics for court filings of total 1968-69 Superior Court expenditures to derive costs for personal injury, criminal, psychiatric, juvenile, domestic relations and conciliation cases. Percentage estimates of the misuse of alcohol were then applied to these cost estimates. These percentages are the same as used for the County Clerk. The sections and their estimated cost due to alcohol are as follows:

## Personal injury, \$366,230

It is estimated that 20.6% of the 1968-69 Superior Court expenditures involve personal injury cases. These cases were weighted at 125 per case to reflect time standards established by the Judicial Council. An estimate of 13.9% for alcohol misuse was applied, resulting in a cost of \$366,230.

## Criminal, \$597,586

An estimated 23.0% of expenditures involved criminal cases. These cases with an alcohol involvement of 16.9% yield a total cost of \$597,586.

## Psychiatric, \$10,762

In 1968-69, 0.7% of Superior Court expenditures occurred in connection with psychiatric cases. Of this amount, 10% involved alcohol which results in a total cost of \$10,762.

## Juvenile, \$128,588

An estimated 7.2% of expenditures involved juvenile filings. Applying a percentage of 8.2% for alcohol misuse yields a cost of \$128,588.

## Domestic relations, \$287,493

Applying a percentage of 27.5% for alcohol misuse to Superior Court expenditures involving domestic relations results in a total cost of \$287,493.

## Conciliation, \$156,814

It is estimated that 15% of the 4,290 cases involved alcohol misuse. This results in a total cost of \$156,814.

## THE PRICE OF "PROGRESS" IN BRAZIL

Mr. HUGHES, Mr. President, at a time when humane people throughout the world are concerned about the brutal treatment of political prisoners in various countries, I should like to share with my colleagues an article in the March 16, 1970, issue of the periodical *Christianity and Crisis*. It is entitled "The Price of 'Progress' in Brazil." I ask unanimous consent that the article be printed at this point in the RECORD.

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

## THE PRICE OF "PROGRESS" IN BRAZIL

(By William L. Wipfler)

(EDITOR'S NOTE.—William L. Wipfler, who became acquainted at first hand with the problems of torture while serving as an Episcopal missionary in the Dominican Republic during the Trujillo era, is Assistant Director of the Latin America Department of the National Council of Churches. To the best of our knowledge, this is the first full-length article documenting torture in Brazil to appear in this country.)

"Terror and Torture in Brazil" is the brief and dramatic title of a dossier that has been submitted to the Vatican by a group of 61 Belgians, Frenchmen and Italians. In sharp, brutal detail it sketches the portrait of a military dictatorship that has initiated a systematic and inhumane process of repression in the name of progress. The dossier contains 11 statements that testify to the torture and murder of so-called "political" prisoners, but these represent only a small percentage of the documentation that is now available from Brazil, smuggled out with great danger to those involved in its preparation.

The present tragedy is the latest stage in a gradual shift toward fascism that was initiated by a military coup in March, 1964. For four-and-a-half years the generals and colonels manipulated the political scene. In 1966 three different elections were arranged so that the Government could increase its power through a pseudo-democratic process. Opposition was driven out of the political arena, and only "candidates" approved by the Government could be assured of election. Congress became a virtual rubber stamp with only a few courageous voices of opposition raised in its sessions. Finally in December, 1968, the last facade of democracy was removed with the closing of Congress and the granting of total power to the President-General.

What has been accomplished by the military during its six years in power? An article in the *Wall Street Journal* entitled "Military

"Hard-Liners' Are Expected To Block Revival of Democracy," (Dec. 31, 1969) offered a succinct evaluation.

"Brazil, a nation that has prided itself on personal freedom and libertarian traditions, is living under a dictatorship. The military's 'revolution' didn't begin that way, however. . . . Their takeover, it is implied, was a necessary and temporary intervention for the good of the nation. But after five-and-a-half years of military government, the pledges to step aside look increasingly hollow to analysts here. . . . The military government . . . has done much to curb inflation (1964 rate: 85 percent; expected 1969 figure: 23 percent), stimulate economic growth and lure foreign investment, but despite such progress there remains abundant misery among Brazil's 90 million citizens.

"Brazil has enormous natural resources, but the per capita income hovers around \$350, and many millions live outside the money economy altogether. Real income has been falling. Less than half the population is literate. Health, education, sanitation and other vital services are sadly inadequate in most parts of the country. The government could not be called popular."

In short, the price for "stability" and "progress" is becoming exceedingly high for most Brazilians.

The rights and liberties of Brazilian citizens have been radically curtailed during the past 14 months by a series of National Security Laws promulgated by decree. One of these, Institutional Act Five, suspended habeas corpus, ended civilian participation in government, severely limited freedom of the press, and effectively muzzled dissent.

In order to control opposition, hundreds of prominent citizens, including a past-President, 94 congressmen, several state governors, dozens of minor officials and journalists were deprived of their political rights for ten years. Seventy professors were dismissed from the Universities of Sao Paulo and Rio de Janeiro without explanation. Hundreds of students were expelled from the universities for three to five years, and others were sent to prison by military tribunals. (Ed. Note: Readers may recall an earlier discussion of such acts by Richard Shaull in "Repression, Brazilian Style" in our July 21, 1969 issue.)

#### FACTS FOR ALL BUT THE UNITED STATES

Repression and terror have increased substantially. Untold numbers of persons have fallen victim to the arbitrary violence exercised by the police and military. Stories of mass arrests and the inhumane treatment of the opponents of the Government have filtered out of Brazil for about a year. And then, through one of those strange inconsistencies that appear even under the most efficient of repressive mechanisms, the facts came into the open. During the first ten days of December, 1969, the Brazilian press bombarded the public with reports of the torture and abuse of political prisoners. Many of these same prisoners gained new courage and signed detailed affidavits revealing the indignities and suffering they had undergone.

Brazil was shocked. Prominent citizens called for a serious investigation. The President-General vowed to look into the matter personally. And then suddenly there was a new silence. Reports and commentary on arrests and the treatment of political prisoners were prohibited unless provided by the Government. These were considered "national security" matters; laws covering them included:

"Article 16. It is a crime to publish by any means of social communication news that is false, tendentious or that contains distortions which turn the people against the constituted authorities. Punishment shall be detention of from six months to two years.

"When such publication would provoke

public disturbances or would endanger the image, authority, trust or prestige of Brazil, the punishment shall be detention of from two to five years.

"Article 34. Slander, because of political bias or nonconformism, of the character of someone who exercises a position of authority shall result in a punishment of solitary confinement of from two to four years.

"If this crime is committed through the press, radio, or television the punishment shall be increased by half."

The threat was too grave. The media capitulated.

Since December the documentation of specific cases of torture has been finding its way out of Brazil in increasing quantity. Included in this are a number of the declarations signed by victims during the brief period of hope. In Europe, especially in France, Germany and England, the situation has been widely publicized and commented upon in both the religious and secular media.

A lengthy article in *Der Spiegel* (December 15) caused widespread dismay in West Germany because of the echoes of its own Gestapo nightmare. The full text of the dossier sent to the Vatican was published in the January issue of the French magazine *Croissance*. Numerous articles and editorials have appeared condemning the Government of Brazil and calling on responsible leaders to take action against it similar to that taken by the European community against Greece.

With few exceptions, however, this has not been the case of the media in the United States. When the subject has not been ignored altogether, articles in most of the major newspapers and periodicals here leave the impression that the use of torture has been limited to application against "terrorists" and "Communists," or has been only a sporadic occurrence in a particular area.

Increasing evidence shows, nevertheless, that torture is widely and indiscriminately used against those who are apprehended in alleged anti-Government activities, against members of their families who are tortured in order to weaken the prisoner, against persons who may have associated with the suspected individuals, or against those who are themselves only suspected of being critical of the Government. Furthermore, the reports now available show that many of the methods of torture are identical throughout the entire country and must be attributed to official activity rather than the whim of an over-zealous interrogator.

#### THE 16 AT ILHA DAS FLORES

Many tortures will never be reported. Some of the victims are dead or insane, large numbers are still imprisoned, and many who are out of jail fear the repetition of their experience and will not testify. Others, however, are ready to take the risk of denouncing the atrocities committed against them or that they have witnessed in the hope that public and international pressure will bring these inhumane acts to an end. The concluding paragraph of a statement signed by 16 women at Ilha das Flores, a prison in the Rio de Janeiro harbor, is typical of this courageous stance:

"We know that our present attitude denouncing tortures, can spark reprisals against us. We fear, for it would not be the first case of the simulation of an escape or a suicide to try to hide the truth we are now stating. We call the attention of all those interested in finding out the truth and in punishing the guilty to the fact that we are at the mercy of all types of violence, and need now, more than ever, the decisive help of all."

They had prepared their declaration, they said, "at a moment when the Brazilian public begins to be informed about the atrocities committed against political prisoners in our country and still may doubt that

these crimes are really happening." Each of the 16 had been tortured. The following details are taken from their report:

"Zilea Resnik, 22, arrested on June 5, 1969, accused of belonging to the MR8, a revolutionary organization. She was kept incommunicado for 45 days during which time she was frequently beaten.

"Resane Resnik, 20, Zilea's sister, arrested on the same charges on July 27, 1969. Stripped naked by her torturers, she was beaten and suffered electric shocks on various parts of the body, including the nipples of her breasts.

"Ina de Souza Medeiros, 20, arrested on the same charges in Curitiba, Parana, on July 6, 1969. In Curitiba she was forced to witness the tortures inflicted upon one of her friends, Milton Gaia Leite, who was hung naked from a pole while a radio transmitted, at its loudest, a mass, in order to cover up his cries. At the jail of the Department of Political and Social Order (DOPS, the political police) she was informed that her husband, Marco Antonio Faria Medeiros, arrested two months before, had died. She panicked, but this information was later proven false. Brought to Ilha das Flores prison, she was beaten, received electric shocks and threatened with sexual assault.

"Marijane Vieira Lisboa, 22, arrested in Rio de Janeiro on Sept. 2, 1969, accused of being a member of the Acaá Popular movement. She was made to strip, was beaten and given electric shocks that ended only when she lost consciousness due to heart failure.

"Marcia Savaget Fiani, 24, arrested in Rio on the same day on the same charges as the preceding woman. She was made to strip and was beaten. The electric shocks administered to her were made more intense by water previously thrown on her body. The shocks caused a partial paralysis of her right hand. She was kept incommunicado for 14 days.

"Maria Elodia Alencar, 38, arrested in Rio on Oct. 30, 1969, was beaten and suffered electric shocks. She was tortured by strangling and was forced to sign her will under torture. Her torturers persistently threatened to arrest and torture her 15-year-old son.

"Dorma Tereza de Oliveira, 25, arrested in Rio, Oct. 30, 1969, suffered the customary beatings and electric shocks, as well as strangling, drowning and wounds on her breasts produced by pincers. Needles were thrust under her finger nails."

No further information is available regarding the treatment of the 16 since the time their declaration was made public.

Victims of these atrocities come from every strata of society and from all walks of life. In a single letter written by a lawyer who had suffered 15 days of solitary confinement for defending a political prisoner, the following cases were cited:

"Mrs. Ana Vilma, wife of another prisoner named Pena Fiel, was subjected to severe torture that affected her uterus in particular; she needed medical attention. Her husband was also tortured.

"All priests arrested in this prison were hung by their feet, completely naked, beaten and given electric shocks. Father Augustine challenged the tortures during the punishment, invoking Christ's example.

"In cell number one, next door to mine, a young lady was ill. Her name was Vera, and she was bruised from head to foot. I was told that her husband was in worse condition. Their crime was that they knew a person wanted by the political police. They were set free on a Monday but until Tuesday of the following week they required medical attention in order to recover sufficiently to travel. One of the torturers said that 'beating is all right, but one must know how to do it.'

"A young student also arrived at the place where I was. He was a physics student who had been expelled by his university on the charge of subversion. I saw him after his first



interrogation, and he had been beaten so badly that his feet were so swollen that he could not walk. He was sent to the Clinical Hospital where he declared that his wounds were caused by torture. The torturers had broken bones in his hands and feet.

"The prisoner in cell number four, named Sebastiana, suffered a mental disturbance because of the tortures, and no medical treatment was given to her."

In another letter written by a 56-year-old taxi driver, Severino B. Silva, there is a description of the treatment he received in the military village of Rio. He was tortured by starvation. His toenails were pulled out and razor blades were forced under his fingernails. After being beaten, he went through a simulated hanging. He still awaits trial after 11 months of imprisonment on a charge of suspicion.

#### THE FORMS OF TORTURE

The declarations and reports are from all parts of Brazil. Almost every document verifies that commissioned officers of the police or military are in charge of interrogations. The torture is generally carried out at the DOPS headquarters or of one of the intelligence services (Army, Navy or Air Force), or in prison. The methods of torture follow a pattern.

**Beatings:** Usually inflicted at the beginning and during interrogation. Blows are given with clubs, metal bars, fists and feet. The face, ears, stomach, breasts and genitals are the most frequent targets of the beatings.

**"Pau-de-Arara" (Arara Pole):** Hands and feet are tied together and a pole inserted between them. The ends of the pole are then supported on a table with the victim hung face down. He is often left in this position for several hours while submitted to other tortures. In some documents it is reported that alcohol fires are lighted on the floor below the victims face. Some individuals have been incapacitated for long periods after this torture because of the traumas to their legs, arms and backs.

**Electric shocks:** Current is generated by a field telephone or taken directly from wall sockets. Shocks are delivered to the hands, feet, tongue, ears, breasts and genitals. The victim is often soaked with water in order to increase the effect of the shock. The current is frequently increased so as to cause the entire body to become rigid or be contorted by muscular spasms.

**The Telephone:** Sharp blows with the flat hand are delivered simultaneously to both ears. This causes a loss of balance, impairment of hearing, as well as severe pain.

**Sexual abuse:** In most cases the documents declare that the prisoners are stripped of their clothes at the initiation of the interrogation. Humiliation is an obvious element in the psychological aspect of the torture. The genitals of both men and women receive considerable attention in beatings and the administration of electric shocks. Women prisoners are often violated by torturers or are turned over to police or soldiers of lower rank for their amusement. Male prisoners are sometimes forced to witness the sexual abuse of their wives, children or fiancées.

**Simulated execution:** Prisoners have been taken from sessions of torture or awakened during a brief respite and brought before a firing squad armed with blanks or empty rifles. Others have been drowned in buckets of water and then revived. And still others have been hung and then cut down after losing consciousness.

This list is not a complete catalog of all of the tortures described in the available documentation. It is, however, a compilation of those mentioned most frequently by the victims.

As might be expected under such circumstances, increasing numbers of Brazilians are leaving their homeland to seek refuge

in other countries. Many of them are faced with almost insurmountable difficulties: improper or incomplete travel documents, insufficient financial resources, hostile military regimes in several of the nearest countries. (The best estimates available at this time are about 500 in Chile, 1300-1500 in Uruguay and approximately 2,000 in Paris, many of whom are students uncertain that they can safely return to Brazil. Large numbers are in other countries, including the U.S., but the figures are unavailable since many of them fear to declare themselves refugees.) Although the exodus grows each day and the potential for future refugees is tremendous, international refugee organizations have done little to respond to the needs of the victims of this new situation.

Massive efforts, not unlike those made on behalf of the Jews and others from Europe and Cubans in the early 1960's may now have to be made on behalf of Brazilians. The first steps of such a response is now being organized by a group of individuals from the religious, academic, professional and artistic fields in New York City. (For information, write: The Editor, Christianity and Crisis.)

#### HOW THE U.S. FITS IN

All of this information and documentation of torture and repression becomes even more disturbing when the extent of continuing U.S. Government and business involvement in Brazil is recognized. Very little open criticism has been forthcoming from these two institutions regarding the course of events of the past six years and particularly of recent months.

When the coup occurred in 1964 Ambassador Lincoln Gordon received it with open satisfaction. He said it was "perhaps as significant to the defense of the Free World as the Sino-Soviet split and the success of the Marshall Plan." Through his influence Washington recognized the military regime within 24 hours.

Significantly, the Agency for International Development increased its expenditures in Brazil from \$15.1 million in 1964 to \$122.1 million in 1965. It has proposed a \$187 million program for 1970. In addition, the US military has maintained the largest of its Latin American missions in Brazil, with over 100 advisers on the staff. The Military Assistance Program provided \$24.9 million in 1967 and \$19.4 million in 1968. Between 1964 and 1968, 2,255 military men passed through its training program.

The one brief (four-month) interruption in US support occurred after the closing the Congress in 1968. Some observers believe that aid and assistance were restored quickly because of the inconvenience caused to US business and banks by the suspension. US investment there accounts for \$1,326 million of the \$7,314 million invested in all of South America.

This article is not intended to be sensational. Its purpose is, rather, to awaken American Christians and public opinion to this horrendous terror and inhumanity. The authorities of Brazil are concerned about their image abroad, and especially in the United States, from which they receive massive foreign aid and investment capital. International outcries may not bring democracy back to Brazil, but it may force the Government to restrict its present policies in the treatment of political prisoners.

Regardless of what its impact in Brazil may be, we must not—cannot—any longer allow our Government and business to quietly support a type of government that we—and prior to certain recent erosions of our own civilization in the past at least—have regarded as contrary to our way of life. What Brazil does is ultimately her own problem; what we do to support, and thereby encourage, her dehumanizing policy of repression is our problem. Brazil—a nation that has made significant contributions to interna-

tional culture—may be losing the respect of the nations of the world, but we can only wonder how much greater is her loss than ours.

#### THE PRESIDENT'S STATEMENT ON THE SENATE'S ACTION ON THE CARSWELL NOMINATION

Mr. CURTIS. Mr. President, I do not think that President Nixon needs any defense. The facts speak for themselves. It is well, however, that a few matters be called to the attention of the Senate.

As pointed out by the distinguished Senator from Kansas (Mr. DOLE), in the vote on Judge Haynsworth, there was one northern Democrat who voted for confirmation. On the Carswell vote, not a single one.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Nebraska yield there for a question?

Mr. CURTIS. I yield.

Mr. BYRD of West Virginia. As to the two West Virginia Senators who voted for Mr. Haynsworth and for Mr. Carswell, are they considered northern Democrats, southern Democrats, or what kind of Democrats?

Mr. CURTIS. I do not know. I thought they represented border States.

Mr. BYRD of West Virginia. I thank the able Senator.

Mr. CURTIS. I thank the distinguished Senator for setting the record straight.

Mr. President, the rejection of these two men, in my opinion, does reflect upon the Senate.

The Nation has a very high regard for the late President Dwight D. Eisenhower. He picked out Judge G. Harrold Carswell for U.S. attorney. This gave Mr. Carswell 5 or 6 years of courtroom experience. President Eisenhower then appointed him a U.S. district judge, and he served for more than a decade, trying cases all the time.

The late President Eisenhower would not have appointed a bigot, a racist, or an incompetent. He certainly would not do it twice.

Later on, it was logical that President Nixon should elevate Judge Carswell to the circuit court.

Judge Carswell was confirmed three times by the Senate.

Then he entered the big league and it became a political issue. That is what it was all the way through. That is what it is today. He was faced with political opposition.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Nebraska yield for a further question?

Mr. CURTIS. I yield.

Mr. BYRD of West Virginia. In the Senator's opinion, would the Senate three times unanimously confirm an individual who was considered a racist and a bigot, and honest but dumb?

Mr. CURTIS. I think not. I am satisfied that President Eisenhower would not have done that. I do not think that the Senate would. But there are great forces in this country that do not want a change in the Supreme Court.

The PRESIDING OFFICER (Mr. YOUNG of Ohio). The time of the Senator from Nebraska has expired.

Mr. CURTIS. Mr. President, I ask

unanimous consent to proceed for 5 additional minutes.

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

Mr. CURTIS. Mr. President, those forces do not become so active when individuals are selected for the district court or the court of appeals.

There is one thing that has shown up in the past 24 hours and that is, it was not Judge Carswell's qualifications that caused the Senate to fail to confirm him. It is evident by the sense of the Senate resolutions introduced, and the remarks made, that this has been a political fight all the way through. There are quite a number of top union bosses who do not want any change in the Supreme Court.

Mr. GOLDWATER. Mr. President, will the Senator from Nebraska yield at that point?

Mr. CURTIS. In just a moment.

It does not make any difference where the candidate comes from, those union bosses will apply all the pressure on every Member of the Senate that they can touch, in order to try to prevent his confirmation.

Now I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. I thank the Senator from Nebraska for yielding to me.

The Senator has just touched on a point I wished to ask him about but I want to, sort of, nail it down, if that is the proper expression to use.

Does not the Senator feel that, regardless of any name that the President sends down here, there will be opposition from those people who do not want to see a constitutionally inclined Court?

Mr. CURTIS. That is correct.

Mr. GOLDWATER. I have sensed, by reading the eastern press, by listening to commentators, and listening to debate in this Chamber, that regardless of whether the President sends down the name of a southerner, a northerner, an easterner, or a westerner, regardless of how good he may be, there will be opposition to him because those in opposition do not want to see the concept of the Warren court changed?

Mr. CURTIS. That is correct.

Mr. GOLDWATER. This applies not only to labor leaders but also across the board, and to every group in this country that has benefited from the unconstitutional approach to decisions which have been rendered by the Warren court?

Mr. CURTIS. That is correct.

There are a great many law professors who do not want a change on the Court. They will be vocal from now on. I do not know whether I would want them to represent me in court, but nevertheless, they will be vocal on this issue.

Mr. GOLDWATER. Mr. President, will the Senator from Nebraska yield for one more moment?

Mr. CURTIS. I am happy to yield.

Mr. GOLDWATER. The Senator from Nebraska is a lawyer. I am not. Why is it that law professors who have never practiced law seem to have so much influence in this country in the legal profession?

Mr. CURTIS. I am unable to answer that. I doubt that they do.

Mr. GOLDWATER. They seem to.

Mr. CURTIS. They seem to, yes. They seem very anxious to make statements which will be quoted on the Senate floor.

Mr. GOLDWATER. This seems to apply even to law students.

Mr. CURTIS. That is correct.

Mr. GOLDWATER. If I have to go to court, I would not want a law student or a law professor to represent me. I would get a lawyer.

Mr. CURTIS. One more thing, Mr. President, I think it is folly to deny that there is no antisouthern feeling in the Senate. We sense it all the time: One rule of conduct for one part of the country and another rule of conduct for another part of the country. And, that is not all. Let someone from this side of the aisle propose a certain legislative action, and one of the commonly used weapons is to say, "That is part of a southern strategy." This is done in a derogatory manner.

I think that the President of the United States was justified in what he said. The record stands. Two eminent judges were nominated by the President, and the Senate has spoken.

I am not impressed by any pious resolution now, "Oh, yes, next time, that will not happen" —

Mr. BYRD of West Virginia. If the Senator will permit me to interject there, they said that the first time.

Mr. CURTIS. Who did?

Mr. BYRD of West Virginia. After Judge Haynsworth was defeated, they said, "Send us another one from the South."

Mr. CURTIS. Oh, yes. As a matter of fact, a great many people, these professors and others, who helped defeat Haynsworth now seem to be champions of Haynsworth. They change very easily. Facts may bother them, I do not know. But one would think that they had had a real change of heart and that they are now very much for Haynsworth after having spent their all trying to defeat him.

#### PRESIDENT'S REACTION TO CARSWELL REJECTION

Mr. ALLOTT. Mr. President, yesterday afternoon President Nixon made an important policy statement concerning his approach to selecting Supreme Court nominees in the immediate future.

The President's statement included this important passage:

As long as the Senate is constituted the way it is today, I will not nominate another Southerner and let him be subjected to the kind of malicious character assassination accorded both Judges Haynsworth and Carswell —

I interrupt the quotation to point out that this is exactly what it was, organized on a national scale, utilizing anything in any way possible. It was a smear and a character assassination of a type that has not been utilized since the days when President Hoover's character was assassinated in the same way.

The President's statement continues:

However, my next nomination will be made in the very near future; a President should not leave that vacancy on the Court when it can be filled. My next nominee will be from outside the South and he will fulfill the

criteria of a strict constructionist with judicial experience either from a Federal bench or on a state appeals court.

Mr. President, the policy outlined in President Nixon's announcement is sound and statesmanlike. It faces facts; it recognizes duty; and it makes a worthy promise.

First, it recognizes the deplorable facts about the temper of the Senate these days. There is a well-known truism to the effect that politics is the art of the possible. President Nixon has squarely faced the fact that it is not possible to get the Senate to consent to the nomination to the Supreme Court of a strict constructionist from the South. I think he is eminently correct.

The President has done what I thought he would do, announce that he would come up with another nominee, realizing that the Court should not be asked to act upon important matters while still one man short. He has emphasized that the man will be a strict constructionist. And in this I hope he continues his resolve, even if he has to send up 100 names to the Senate of the United States.

We want no more decisions from the Supreme Court based upon the sociological views of the writers rather than upon their knowledge of the law.

The President has faced the fact that, behind all the arguments trumped up in opposition to Judges Haynsworth and Carswell there lurked a smoldering prejudice against a region in which reside more than a quarter of the American people.

As I said in this Chamber when speaking in support of Judge Carswell, the opposition to him was, from the beginning, an opposition in search of an argument.

The opposition never found a substantial argument against him. The opposition prevailed by mixing passion and innuendo into a nasty brew which, given time, created an atmosphere of uneasiness and distrust with no basis in fact.

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

Mr. ALLOTT. Mr. President, I ask unanimous consent that I be permitted to continue for an additional 10 minutes.

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

Mr. ALLOTT. Mr. President, the President has faced the fact that this pattern of opposition can be counted on to appear again if there are southern strict constructionists nominated in the immediate future.

The President has faced the fact that such opposition is a matter of passion and prejudice, rather than reason and fact, and thus it can only be avoided by denying consideration to southerners.

The President has faced the fact that bigotry knows no region. He has faced the fact that it would be unfair to ask any southern strict constructionist to allow his name to be submitted to this Senate.

The President has faced the fact that if he nominated a southern strict constructionist he would subject that man to a prolonged inquisition of the most brutal sort.



The President has faced the fact that the nominee and his family would stand to suffer a kind of trial by innuendo, a trial conducted to satisfy the political needs, to satisfy the ultraliberal forces in this country, the leaders of the labor movement, and the leaders of other powerful pressure groups.

The President has not only faced these facts; he has also faced his duty.

It is clear that the work of the Supreme Court is being hindered by the Senate's refusal to confirm either of the highly eligible nominations recently submitted to it. Chief Justice Burger has indicated his reluctance to move ahead into some particularly important cases without a full bench.

The President knows that the duties of his office demand that he press ahead with the task of filling the Court. He knows his constitutional duty will not allow him to be as determined in support of regional fair play as the Senate is determined in opposition to it.

Thus the President's statement of yesterday faces up to the constitutional duty to allow the Court to function.

Finally, having faced the sad facts about political realities, and having faced the duties of his office, the President has made a worthy promise.

The President's promise is contained in the final paragraph of his statement:

I understand the bitter feelings of millions of Americans who live in the South about the act of regional discrimination that took place in the Senate yesterday. They have my assurance that that day will come when men like Judges Carswell and Haynsworth will sit on the high court.

Mr. President, it is fitting and proper that President Nixon should make this promise.

The President is President of all Americans. His is a national office, not a regional office.

The President recognizes that discrimination against a region is no more rational and no less deplorable than discrimination against a race or a religion.

The President recognizes that the problem of irrational discrimination plagues Americans in public and private life, and he opposes it in the strongest terms.

I join him in that opposition. I understand the necessity for his announced policy of looking beyond the South for Court nominations in the immediate future. And I look forward to the day when there will be no need for such a policy.

I look forward to the day when the reactionary and implacable discrimination against the South will be put aside. I look forward to the day also when the self-classified liberals in the Senate and others can look upon a man from the South with the same respect that they look upon people from other regions.

Mr. President, there have been people on the floor of the U.S. Senate who have passed upon the qualification of Judge Carswell with the same technique they used to impugn the integrity and honesty of Judge Haynsworth.

I have been a lawyer for longer than anyone on the floor at the present moment, I think, with the possible exception of the Senator from Nebraska (Mr. HRUSKA). I want to say today that if I

had a civil rights case, I would not hesitate to go before either of these judges. If I had a case of any kind, I would not hesitate to go before either one of these judges.

But when I hear people in the U.S. Senate who have never opened the flyleaf of a lawbook tell me about the legal qualifications of a judge like Judge Carswell, a man who has been confirmed three times in the Senate of the United States without a dissenting vote, then I think there is something wrong with the rational thinking of the Senate.

There is another matter that I would like to refer to. In 1961 there was a man confirmed—now deceased—for the office of Attorney General. Many of the same people who have been leaders in the fight against Judge Carswell voted for that nomination.

If we want to talk about qualifications of office, that nominee—and it is unfortunate that he is deceased—had never spent an hour in a courtroom in his life.

I think the Senator from Colorado was the only Senator to cast a vote in opposition to that nominee. I did not do it for political reasons, but solely on the basis of his lack of qualifications.

I have never voted against any other nominee of any other President, whether it was President Eisenhower, President Kennedy, President Johnson, or President Nixon.

I would not do it under any circumstances unless I could see an overwhelming disparity in the character or ability of the man.

As a part of this debate, Mr. President, I think an article which appeared in the Evening Star last night should appear in the RECORD. I ask unanimous consent that there be printed an article entitled "Time Was Main Ally of Carswell Foes."

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

#### TIME WAS MAIN ALLY OF CARSWELL FOES

(By Lyle Denniston)

Small courthouses in the South, political arenas stretching to Los Angeles and the corridors of official Washington were the scattered locales where President Nixon lost his second fight over the Supreme Court.

He lost it in those places by degrees. The defeat, completed only when the Senate voted down nominee G. Harrold Carswell yesterday, was fashioned little by little with never an assurance it was actually to be a defeat.

It had been put together by men of widely varying status and commitment: perhaps most importantly Ed Roeder of Jacksonville, Richard T. Seymour of Washington, Don Pride of Palm Beach—and Birch Bayh and Edward W. Brooke of the U.S. Senate.

#### TIME MAIN ALLY

Looking back, those centrally involved now see how they think the result was shaped. Time was the main ally. Civil rights was the underlying, real issue. Judicial stature and learning was the surface, or "cover" issue.

A principal strategist summed it up after the vote:

"It is unkind, maybe even unfair to say it, but civil rights can win a lot of senators nowadays—if you also give them something they can cover it with. It is because of the backlash."

Carswell on civil rights thus became the core of the opponents' plea. But it was over-

laid with material about legal mediocrity, judicial intemperance, lack of candor or credibility and disdain by colleagues.

#### MOST CRUCIAL ITEM

It was in three courthouses in the South that the civil rights data was gathered.

Ed Roeder, a broadcast reporter from Jacksonville station WJXT, found the most crucial item in filed newspapers in the Wilkinson County courthouse, Irwinton, Ga., on Jan. 20—the day after Carswell was nominated.

This item was the published text of Carswell's speech in August, 1948, in which he said he would "always be governed" by the "principles of white supremacy."

Even before that revelation, civil rights groups were wary of his appointment. But the speech disclosure made their hard opposition a certainty.

Soon afterward, a group of liberal senators and staff men met on Capitol Hill with Clarence Mitchell, legislative chief of the Leadership Conference on Civil Rights. One remembers Mitchell, usually not a profane man, saying emotionally:

"Once a SOB, always a SOB."

The 1948 speech gave the opposition its basic argument: Carswell would have to prove that, after 1948, he had given up his racial supremacy attitude.

At about the time that Roeder had been locating the speech text in Georgia, Richard T. Seymour, 27, of Washington was going through Leon County, Fla., records in Tallahassee. He was to find the most important piece of evidence, as opponents saw it, to indicate that Carswell carried his 1948 views into later life.

Seymour, a staff lawyer for a civil rights lobbying group here, the Washington Research Project Council, had found official transfers in 1956 of a city-owned golf course to private club ownership, presumably to keep it racially segregated.

With the deeds, Seymour went to the Florida secretary of state's office and discovered a telling document: a list of directors, including Carswell, for the segregated private country club.

That document, and Carswell's comments about it, were to supply the opposition with their argument that he had not been candid or truthful with the Senate.

Another document the opposition found helpful turned up in the Wakulla County, Fla., courthouse in Crawfordville, when newspaper reporter Don Pride of the Palm Beach Post checked realty records. They showed Carswell as a signer of a deed selling a private lot with a restriction on its use to whites only.

Its date—July 12, 1966—was perhaps the most valued entry for the opposition. His racial attitude, the opponents concluded, had continued even after he had become a U.S. district court judge.

By the time Pride's discovery had been made, Feb. 11, Senate hearings had been over for more than a week, and the full range of opposition issues—including alleged abuse of civil rights lawyers in court—had been developed.

But the revelation of Pride's article had an impact on strategy, beyond its impact on the rights argument. If more time could be gained, Senate staff assistants suggested, more revelations like Pride's might come out.

#### USED AS HOSTAGE

That reinforced the feeling of opposing senators—then numbering only four—to use time to make their case to the Senate. Then, they were thinking only of making a "respectable showing" of "no" votes—30 or more.

Coupled with the advantages of time, due to long-standing Senate scheduled commitments, was a developing advantage of the opposition: using the Carswell nomination as a hostage for gains on unrelated liberal causes.

A vote in the Judiciary Committee, for example, came only when Southern senators yielded in a refusal to schedule an Electoral College reform plan for a committee vote.

The pattern was imitated after the nomination had reached the Senate floor. A prior arrangement had put a voting rights bill ahead of the nomination, so another two-week delay on Carswell made the nominee a "hostage" to control a Southern filibuster against voting rights.

During the making of these time "breaks," much of the strategy still was being fashioned by the initial four opponents: Sens. Bayh, D-Ind.; Philip A. Hart, D-Mich.; Edward M. Kennedy, D-Mass., and Joseph D. Tydings, D-Md.

#### BROOKE JOINS FOES

In the opening weeks, Tydings had seemed to emerge as the leader. He began suggesting openly that there was a "chance" to beat the nomination outright. The idea gained strength late in February, when the opposition began drawing GOP support—help that would be essential if the challenge was to have any chance.

The most significant GOP recruit joined on Feb. 25: the Senate's only Negro member, Massachusetts Republican Edward Brooke. That day, he made a lengthy, emotional speech against Carswell—oratory that was later to help influence Bayh to take the Democratic leadership in opposition.

Not long after Brooke spoke out, Bayh and an aide, Robert Keefe, went on a political speechmaking swing to the West and back through the Midwest. Everywhere, Bayh felt he detected strong public opposition to Carswell.

Between Los Angeles and Kansas City, with appearances between, Bayh's answers to questions about Carswell grew harder and more critical. By the time he had met his schedule in a series of political arenas, he was ready to return to Washington for a fight on Carswell.

His conversion became complete on March 9. He and Tydings spoke at an anti-Carswell rally here staged by civil rights leaders. The common reaction to Tydings, who spoke first, was that he had seemed to lose some of his ardor for a fight. But Bayh came out strongly, and the eager conferees cheered him on. From then on, he was the chief strategist in opposition.

Brooke moved quickly into leadership of the GOP foes after the first volunteer for the role, Jacob Javits of New York, got tied up with other chores.

#### OPPOSITION GROWS

With the Senate's Easter recess approaching, the opposition ranks had significant momentum, and were conceded to have at least 40 votes.

Senate Majority Leader Mike Mansfield, D-Mont., who had by then become a confirmed Carswell opponent, wanted to arrange for an end to the fight. He began taking a secret "leadership count"—a majority leader's nose-count, this time on a possible return of the nomination to the Judiciary Committee, where it might be buried.

He told the Bayh-Brooke team that the Democrats could produce perhaps 39 votes to recommit the nomination. It was either assumed or indicated directly that Brooke would produce at least 12 GOP votes for the move.

So, on March 25, the Senate agreed to an April 6 vote on the recommitment motion, with a final vote on the nominee yesterday if recommitment failed.

On that day, for the first time, the nomination was in trouble. One more delay—the Easter recess—seemed likely to help only the opponents.

#### LOBBYING INTENSIVE

The challengers had gained, not only from the time-using tactics out in the open, but

also from intensive lobbying in private corridors.

Clarence Mitchell and Joseph L. Rauh, for the Leadership Conference, had made wide contacts that got results. The Urban Coalition Action Council, and coalition leader John W. Gardner, were telephoning and making personal calls. Labor figures lobbied hard on Western Democrats.

Added to those elements, accustomed to Capitol Hill maneuvering, was a new faction of lobbyists: deans and law school and, most conspicuously, Dean Louis Pollak of Yale and Dean Derek Bok of Harvard. Making many contacts with their alumni, they were producing quiet pressure to go with the rising public clamor by law teachers.

The Nixon administration, believing firmly at least to that time that it had enough votes to win, had not matched the other side's lobbying. Officials had seen no reason, until then, to use more than gentle persuasion.

But the obvious momentum of the opponents in the pre-Easter days changed the administration's mind, and its approach.

#### NIXON PRESSES CASE

President Nixon himself—for the first time—took a noticeable part. He brought up his argument that his constitutional power of appointment was in jeopardy—a point his agents made even more vigorously in private.

Another part of the strategy was to get a majority of the Judiciary Committee to say that return of the nomination to it would not end the matter. And still another move was to get some highly respected GOP senators to join the pro-Carswell forces openly.

All of this worked—for the vote Monday on recommitment. By the time the Senate assembled that morning, the opponents knew they were beaten on that issue. But they also sensed an important gain; the administration had escalated the importance it had placed on the Monday vote, and the opposition thus advised GOP loyalists to answer the call if they wished.

The aim is clear: let the administration spend its loyalty on Monday. Then, the final vote on Wednesday could be an open one, on Carswell, it was suggested.

#### OTHERS COME AROUND

Monday afternoon, the opponents found more reason for confidence. Sen. Quentin Burdick, D-N.D., who had wanted to vote the administration way once, had been talked into doing so on recommitment. He was then available for a "no" vote yesterday. Firm opposition by Sens. Albert Gore, D-Tenn., and William B. Spong, Jr., D-Va., made it even more clear that Democratic opposition ranks would hold.

But most significantly, Republicans were coming around, too. Brooke got assurances from Sen. Marlow Cook of Kentucky, and Brooke considered them all-but-binding. Brooke then turned to Sen. Margaret Chase Smith of Maine. He saw her Monday, made his case, and found her interested enough to ask for a written "brief" on Carswell. That was prepared for her.

But she could not be counted on, even then. Later, although she did not disclose her reasons, a source close to her said one of the factors for her vote against Carswell was last-minute word from Brooke that a White House lobbyist was telling other GOP senators she would vote with the administration.

Before the vote, the opposition also couldn't count on another New England Republican, Winston Prouty. Yesterday morning Prouty's staff hoped the senator would tell his wife how he would vote, and the staff might then get her to tell.

The administration was also apparently making fresh attempts to win back Cook. The opponents did not think he was wavering, but they were not sure. So, as the final vote approached, Cook, Prouty and Mrs. Smith were the keys.

As the call started, there was total agreement between the two sides; that is, that the vote would either go 48 to 48, or 51 to 45; Cook, Prouty and Smith would go together, both sides felt.

By the accident of the alphabet, Cook's name was called early in the count. He voted no and, both sides said later, they then knew the fight was over.

Mr. ALLOTT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ALLOTT. Mr. President, there has been much strong feeling involved in the recent debate concerning the nomination of Judge Carswell.

That debate has ended, but the noise lingers on. Happily, the noise yesterday was in the New York Times. This is a happy thing because the Times is actually funny.

The Times has cranked up its resident nonsense machine—the one charged with making the sonorous noises that pass for editorial judgment at the Times—and produced a funny editorial page.

This is unconscious humor—what else from the Times—but humor nonetheless. It results from the placement of the first and second editorials in today's edition.

The first editorial is headlined "The Carswell Decision." The second editorial, placed right below, is headlined "McCarthyism from the left."

The second editorial on leftwing McCarthyism concerns some campus leftistism that has gone beyond the very broad limits of Times tolerance for leftist causes. But the humor is in the juxtaposition of the headlines. Here in editorial No. 2 the Times is deploring McCarthyism of the left while applauding the Carswell defeat, which is the most recent result of successful McCarthyism from the left.

Beyond the unconscious humor of the headlines, the Times' editorial offers nothing but its normal daily dose of cant. Still, when the Times' editorial page rises from banality to unconscious humor, it restores our hope for progress. If the Carswell defeat enabled the Times to produce an editorial page that was funny—rather than merely laughable—then every cloud truly does have a silver lining.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorials to which I have referred which were printed in the New York Times.

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

#### THE CARSWELL DECISION

The Senate's rejection, by the astonishing vote of 51 to 45, of the nomination of Judge G. Harold Carswell to the Supreme Court is a triumph of constitutional responsibility over political partisanship.

The Senate has now discharged its clear-cut if painful duty to protect the stature and authority of one of the most vital of American institutions of government. It has reminded the President of the wisdom of a Constitution designed to reduce the risk of unwise or arbitrary use of executive power. At the same time, it has answered those who decry the American political system as one that is unresponsive to the need—and the demand—for integrity and justice.

The rebuke to the Administration, especially difficult for those Republican and



Southern Senators whose conscience forced them to their credit to vote against Judge Carswell, will surely alert the President and his advisers to the savage toll exacted by the insensitivity of their political strategies as illustrated in the Carswell case.

The telephone campaign, mounted by a member of Judge Carswell's court and condoned by a high official of the Justice Department, to persuade Federal District judges to endorse the nomination of their superior on the Circuit Court was symbolic of such insensitivity. It represented an extraordinary debasement of the Federal judiciary through an unwonted and unwarranted incursion into politics on the bench.

The dismal experience of the past weeks must emphasize to the President the urgency of turning quickly to the nomination of a first-rate jurist. The suggestion by a White House spokesman that Mr. Nixon might not act until after the November elections gratuitously introduced a new element of politics and also ignores the severe pressure of the mounting workload on each of the eight sitting justices.

Mr. Nixon should not find it difficult to name a candidate whose record inspires confidence across party lines. The President is entitled to select a Southerner and a conservative whose philosophies of the law are compatible with his own. The one irrevocable requirement is that the candidate's qualifications, ability and character are such that he will add to rather than diminish the quality of the nation's highest tribunal.

#### McCARTHYISM FROM THE LEFT

McCarthyism—this time emanating from elements of the New Left instead of the Old Right—is beginning to reappear on some college campuses.

A particularly dismaying case in point is the current offensive against the distinguished medical scientist, Dr. Ivan L. Bennett Jr., who is New York University's vice president for health affairs and dean of its medical school. Charging that Dr. Bennett once did research on diseases that are included in the spectrum of biological warfare weapons, a group of N.Y.U. faculty members and students is now demanding his ouster.

The charge in Dr. Bennett's case is ludicrous in light of his major contribution behind the scenes toward persuading the Nixon Administration to abandon biological warfare techniques and to destroy existing stocks of disease organisms. Opponents of bacteriological warfare should be honoring Dr. Bennett for his effectiveness in pressing their cause, instead of attacking him.

But a more general principle is involved, one that would apply even if the facts in this case were quite different. Thousands of scientists now teaching in American universities have worked on nuclear and other weapons research going back to the days of the Manhattan project in World War II. Are they now to be purged from the academy for having contributed to the defense of this country? If so, many of the nation's most eminent scientists, including Nobel Prize winners, will have their careers destroyed.

This nation, still remembering the damage done by McCarthyism in the early 1950's, is not going to embark upon any such massive irrationality and injustice in the early 1970's.

Mr. ALLOTT. Mr. President, I am about to conclude my remarks. I feel the President acted courageously in this matter. I feel it would be impossible under the present temper of the Senate to get a strict constructionist. I feel we will provide this Government with the best kind of government if we have strict constructionists on the Court, who do not see their duty to legislate the laws, who do not see their duty to reform the laws,

or to write things into the laws which Congress never intended, but rather to interpret the laws as we pass them in light of the Constitution. Then, if it becomes apparent that Congress made mistakes, they can be corrected. But we can never correct them as long as we are trying to outguess the Supreme Court, because it cannot be done.

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

Mr. ALLOTT. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I share the views expressed by the senior Senator from Colorado. In effect, what the Senate has done has been to display a shingle over the entrance to the Supreme Court which says, "No southerner need apply." That is clearly and simply what the action on Wednesday and last November means to everyone in the South.

I do not come from the South nor does the Senator from Colorado. We recognize the Court should not be comprised on a regional basis. The Senator indicated the question is not geographical, but a question of geography and philosophy.

We are now seeing resolutions introduced to prove there is no bias. The best way to indicate that would have been an affirmation vote for Judge Haynsworth or Judge Carswell. But, as one looks over those who voted against the confirmation of Judge Haynsworth and those who voted against the confirmation of Judge Carswell, reasonable men can conclude that there is an appearance of bias against a southerner.

In the case of Judge Haynsworth and in the case of Judge Carswell, they were both distinguished jurists. It has been said many times on this floor that Judge Carswell had more Federal experience, than any judge now sitting on the Court, other than Chief Justice Burger.

If the President, as he has wisely chosen to do, looks outside the South he can find judges who have not been embroiled in civil rights cases. That was the issue on this floor in the defeat of Judge Carswell, as in the case of Judge Haynsworth. I have read the hearings, have heard the testimony, listened to the debate but, frankly, find very little to disqualify Judge Carswell. He is a man of honor and integrity. One way to measure a man is the manner in which he accepts defeat. After the vicious attacks on him, and after his confirmation was rejected by a vote of 51 to 45, Judge Carswell said he was disappointed, he was not bitter, he was relieved but appreciated the confidence the President had expressed and the efforts of Senators who expressed confidence in him. He will remain a member of the circuit court of appeals.

I agree with the distinguished Senator from Colorado that in the Senate as now constituted the odds are against a southern jurist. Why take the risk and continue to divide the Senate and the country?

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

Mr. ALLOTT. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. DOLE. Mr. President, the President has chosen a course to unite the Senate and the country by moving from the South temporarily to find a strict constructionist whose nomination may be sent to the floor of the Senate quickly. I believe the President made the right choice.

I thank the Senator for yielding.

Mr. ALLOTT. I thank the Senator very much for his contribution.

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

Mr. ALLOTT. I have a little time remaining but I yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the time of the Senator from Colorado be extended by 3 minutes.

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

Mr. HRUSKA. Mr. President, I fully agree with the President that in view of the current makeup of the Senate it would be very difficult, if not impossible, to confirm any conservative Supreme Court nominee from the South. In that connection I want to subscribe fully with the views of the Senator from Colorado expressed in the past few minutes.

Both Judge Carswell and Judge Haynsworth were sound choices, men of character and excellent judicial records. The false, misleading, and groundless attacks to which they were subjected were merely a means of blocking the President from appointing a strict constructionist from the South. I deplore the personal attacks to which Judge Carswell and Judge Haynsworth were subjected, and and I commend both of them for the gentlemanly demeanor they displayed throughout their ordeals.

While I agree with the President that the South is underrepresented on the Supreme Court, I believe the important objective at this time is to restore as expeditiously as possible the philosophic balance to that body.

In view of the critical workload which faces the Court, I welcome the President's intention to appoint a new nominee in the near future. Now that we are assured that the geographical factor will no longer be a matter of pertinence in the selection of a new Justice, I urge expeditious hearings by the Judiciary Committee and subsequent prompt submission to the full Senate for its decision.

Mr. President, the President made it clear that he knows the real reasons Judge Carswell and Judge Haynsworth were rejected. He said:

But when all the hypocrisy is stripped away, the real issue was their philosophy of strict construction of the Constitution . . . and the fact that they had the misfortune of being born in the South.

Then he added that, with its action of Wednesday, the Senate, as presently constituted, had let it be known that "no southern Federal appellate judge who believes in a strict interpretation of the Constitution can be elevated to the Supreme Court."

Mr. President, in all honesty, there is no question at all about that statement.

This Senate, as now constituted, is not about to name that kind of man to the Supreme Court.

The President, therefore, has temporarily turned to other areas of the country to find a Justice.

Mr. President, the people of the South may not like the truth, but they know the truth when they hear it and they will endure the truth, because the President has said "They have my assurance that the day will come when men like Judges Carswell and Haynsworth can and will sit on the High Court."

Mr. President, I should like to ask this question of the Senator from Colorado who has given this subject a great deal of thought. There has been some protest among Members of this body at the decision to forgo further consideration of conservative judicial nominees from the South. There have been protests because it has been said the candidates can be considered on their merits, and this body will seriously consider and favor the right kind of candidate from the South if there is nothing in his record that would militate against him.

The decision was not made solely by Members of this body. Powerful influences in this country have brought pressures to bear on individual Members of this body.

My question is this: Does the Senator from Colorado believe that these outside organizations, representing peculiar philosophies, and capable of great pressure, would submit to the naming of another judicial conservative coming from the southern part of this country? Does he believe they would not proceed against that nominee in the same manner as they did in the nomination of Judge Haynsworth and Judge Carswell?

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

Mr. HRUSKA. Mr. President, I ask unanimous consent to have an additional 3 minutes.

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

Mr. ALLOTT. Mr. President, I thank the Senator very much for his contribution.

In answer to his question, I do not think the activities of these people will subside. I think that they are vicious. I think that they are slandering. And when you talk about true liberalism and you consider the minuscule cases made against both Judge Haynsworth and Judge Carswell, I think you have to think about what real liberalism is, and that is the protection of the individual. What these people have put these two fine gentlemen through is inexcusable, in my opinion, in the relationship of any one human being to another.

A filibuster was extended in the Senate over weeks just in order that the forces which were going to oppose him could get their organization going in the various States and whip up a froth and build up antagonism first against Judge Haynsworth and then Judge Carswell.

Mr. HRUSKA. What would the Senator from Colorado think of the statements and thoughts which have occurred to others, that in many instances those who so ferociously pursued the irrespon-

sible attack on the two nominations I have just mentioned are largely captives of their own organizations and their own following; that if they do not continue this pressure against additional southern nominees, there will be others in their ranks who will supplant them, rising to add their own vituperation and excoriation, and directing their own efforts to destroy nominees from that section of the country; and that we can therefore look for no favorable action upon nominees from the South who are conservatives?

Mr. ALLOTT. I think there is a great deal of truth in what the Senator has said. I think the real thing comes down as much to the words "strict constructionist" as anything else. They do not want a man who is a strict constructionist; and more than that, particularly they do not want a man from the South; but particularly they do not want a man who sits on the Supreme Court in the full concept of what a man is supposed to sit on that Bench for, which is the construction of the Constitution and legislative interpretation of cases that come before them, in accordance with the Constitution and the precedents which have been laid down.

Mr. HRUSKA. It has been suggested to the Senator from Nebraska that the President's decision to go beyond the South now is not a reflection against the South—and to that I heartily subscribe. Another idea has been advanced to the Senator from Nebraska, that if the President's decision reflects against anyone, it might be against this body. This certainly is a thought worthy of some introspection and I suggest that all of the Members of the Senate might do well to consider it.

Mr. ALLOTT. I thank the Senator very much for his comments.

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

#### ORDER OF BUSINESS

Mr. MILLER. Mr. President, I ask unanimous consent that I may proceed for 7 minutes.

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

#### NEED FOR CONTINUATION OF THE SURTAX

Mr. MILLER. Mr. President, last December, those in control of the Congress made a decision on priorities—and the No. 1 priority was excessive tax relief. This decision was made, notwithstanding the urging of the President to preserve a substantial amount of the additional revenue picked up from extensive tax reform. It was made notwithstanding the unanimous recommendation of the Fiscal Policy Subcommittee of the Joint Economic Committee that a surplus of upward of \$8 billion a year for both fiscal 1970 and 1971 be achieved as a means to slowing down inflation and easing the supply of money and interest rates. Indeed, the Fiscal Policy Subcommittee recommended that revenue-losing

provisions in the tax reform bill, which was then under consideration, either be removed or reduced. I, myself, publicly advocated a modest amount of tax relief, with sufficient revenue left over from tax reform to provide a substantial surplus.

Because of the decision made by those in control of the Congress, the President was forced to present a very tight budget, keeping expenditures closely within the revenue which those in control of the Congress had provided. In my judgment, the slim budget surplus of \$1.3 billion was not only too little, but it was very fragile. Perhaps this was the best the President could have done, under the circumstances of insufficient revenue, without causing severe hardship to the expenditure side of the budget. Indeed, the surpluses envisioned by the Fiscal Policy Subcommittee were premised on at least reducing the revenue-losing, tax-relief provisions contained in the tax reform bill. Moreover, when it is considered that the proposed spending budget for fiscal 1971 of \$200.8 billion is only \$2.9 billion more than that for fiscal 1970, the inflation factor alone makes it clear that real dollar spending will be considerably less than that for the fiscal year 1970.

I have said that the \$1.3 billion surplus was "fragile." For example, it is dependent on congressional action increasing revenues by \$1.6 billion through an increase in the social security wage base from \$7,800 to \$9,000 and extension of the excise tax on automobiles and telephones, among others. It is dependent on congressional action increasing postal revenues by \$1.1 billion. It is premised on revenues resulting from a gross national product of \$985 billion, although some forecasters estimate at least \$15 billion less. And, of course, it is based on adherence by the Congress to the expenditure levels for various appropriations contained in the President's budget. One of these was the postponement of a Federal employees pay increase to next January, which has now been rejected by the Congress because it would have violated the comparability principle established several years ago by law. In the aftermath of the postal strike, pay increases retroactive to last January 1 have been enacted—1 year prior to the date proposed in the budget. This action, alone, has eliminated the \$1.3 billion surplus. It is not difficult to find other items headed for an increase—education, funding increased benefits under the GI bill of rights, release of federally financed construction money, increased interest on the national debt. All of these total some \$2.6 billion.

The administration has recommended that the pay increase be covered by increased postal rates and accelerated collection of estate and gift taxes. Even if these are enacted, and it is doubtful, it is likely that a budget deficit will show up.

Meanwhile, there is an increasing need for Federal revenue sharing with the States. Under the administration's proposal, some \$275 million would be available for the last half of 1971, and this would rise to \$4 billion by 1975. It is terribly important that this proposal be



put on the books, and I appeal to my Democratic colleagues, who control the committees, to take action without delay. Not only in my State, but all over the country there is growing unrest over ever-mounting property taxes. The key to meaningful and sustained property tax relief lies in Federal tax sharing. Indeed, revenue sharing should begin this year—not in the last half of 1971.

For these reasons, Mr. President, I propose that the fairest approach to the revenue needs would be to continue the 5-percent surcharge instead of allowing it to expire this coming June 30. This would provide some \$4 billion more in revenue—sufficient to not only cover the slippage in the budget to which I have referred but to enable tax sharing to begin promptly. The 10-percent surcharge was reduced to 5 percent, effective January 1 of this year, and this action alone will provide considerable tax relief for 1971. Moreover, as a result of tax reform, we now have the fairest tax base in the history of the income tax; application of a 5-percent surcharge will be far more equitable than was the 10-percent surcharge of previous years.

#### SHOCKING RISE IN UNEMPLOYMENT

Mr. PROXMIRE. Mr. President, the 4.4-percent unemployment level for March is shocking. The country is faced with the unique economic situation of both high and rising prices and excessive unemployment. One condition is bad enough. To have both at the same time is intolerable.

Even more serious is the fact that while the administration projected unemployment at an average of only 4.3 percent for the entire year, the March figure has already exceeded that average. This means that unemployment will probably get much worse during the year.

Meanwhile, the administration's housing policies are so feeble that even if they are put into full effect, the administration predicts housing starts will be even less this year than last year's depression level.

What makes the present situation more dismal is the absence of any effective standby program to ease the burden of unemployment. I stress once more the unanimous recommendation of Republican and Democratic members of the Joint Economic Committee on the President's Economic Report:

The administration should develop contingency programs to be implemented if anti-inflationary economic policies induce continuing unemployment or recession.

The administration has not done this. It should do it, and do it at once.

It should also be noted that March unemployment, seasonally adjusted, brings the total number out of work to 3.6 million, involving an increase of roughly 800,000 unemployed persons in 3 short months since the start of the year. Is this the way to solve inflation? Is the loss of production of goods and services by nearly a million Americans the way to bring prices down?

I do not think so.

#### SHOULD THE UNITED STATES END RESTRICTIONS ON LOW-COST FOREIGN OIL?

Mr. PROXMIRE. Mr. President, "The Advocates," one of the most exciting and interesting shows on television today, took up the question "Should the United States end restrictions on low-cost foreign oil?" in a two-part program, March 29 and April 5. This is a national educational television network presentation, and a great one.

The show presents a forum in which the pros and cons of important public issues can be argued and exposed to cross examination. Because of the skill with which the oil import program question was argued and the obvious importance of the issue, I ask unanimous consent that the transcript of the two programs be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PROXMIRE. I think all the participants did very well, particularly my good friend Senator HANSEN who did his usual top flight job of defending the oil import quota program and Senator MATHIAS whose questions as decision-maker exhibited his keen mind and Martin Lobel, my legislative assistant, who was brilliant.

Nevertheless, I would like to make a few points that may have not come through as clearly as they should.

First. The present oil import quota program is costing the American consumers about \$5 billion a year now and the cost will increase to about \$8.4 billion a year by 1980.

Second. The only legal basis for the program is national security.

Third. President Nixon's own Cabinet task force on oil imports control after 11 months of exhaustive study concluded:

The present import control program is not adequately responsive to present and future security considerations.

Fourth. Barry Shillito, Assistant Secretary of Defense in charge of making sure that our Armed Forces have all the oil they need, confirmed that the present program is not necessary for our national security in a statement to the House Interior Committee.

Fifth. President Nixon's task force concluded that, if we removed all import controls, letting the price of domestic oil fall to the price of world oil, we could meet 104 percent of our needs in 1980 without any rationing even if the Middle East cut off all their oil for 1 whole year. This is a very extreme assumption because many Middle Eastern countries are dependent upon their oil revenues for about half their GNP.

Sixth. We have discovered oil reserves in Alaska which are estimated to contain about 100 billion barrels of oil and new oil fields are being discovered all around the world, outside of the Middle East. Thus, there is even less likelihood of our being too dependent on one source of oil.

Seventh. If our domestic oil producers need an incentive to explore for new sources of oil, there are far more efficient

means of giving them the needed incentives. The preferable method is by appropriation so that we have some idea of the cost-benefit ratio and we can be sure that those who are doing the actual exploring get the benefits, rather than as under the present system.

Eighth. If we need to maintain reserves of oil, there are far more efficient means of achieving this than the present program. The 2 trillion barrels of oil in our oil shale lands could provide a cheap source of needed oil with the investment of a little money for the required technology.

Ninth. If we decide to retain import restrictions on world oil, there are far more efficient methods of achieving our national security goals than the present program. President Nixon's task force suggested a tariff system rather than quotas. It has several immediate advantages for the Nation: it can be geared to be more responsive to our national security needs by favoring secure sources of oil, it would stop the handout of over \$½ billion a year of import tickets to the major oil companies, it would increase Federal revenues by about \$½ billion a year, and it would place a ceiling over oil prices rather than a floor under them like the present program, thereby helping to combat inflation.

The conclusion one must reach after considering all these facts is that there is no justification for continuing an obsolete, unnecessary, expensive program which only serves to insulate the oil industry from competition and to provide a gigantic subsidy to the major oil companies whose pocketbooks are already bulging.

The argument is made that the oil import quota program is like an insurance policy, but if that is true it is the only insurance policy that I know of in which the purchasers did not know what the cost of the policy would be or how much protection they were buying. Truly, that is an absurd argument.

The only justification for retaining the oil import quota program is political. President Nixon is going to have to make a decision—whether the health of the Nation's economy is more important than the chance of alienating some of his big oil supporters.

#### EXHIBIT 1

[Mar. 29, 1970]

#### THE ADVOCATES

Topic: "Should the U.S. end restrictions on low-cost foreign oil?" Part I.

Guest: Sen. Charles Mathias (R-Md.).

Participants: Advocate Roger Fisher (con). John Swearingen, chairman of the board and chief executive officer of Standard Oil of Indiana; Sen. Clifford Hansen (R-Wyo), member of the Senate Commerce Committee; Robert Burch, Denver, Colo., president Rocky Mountain Oil and Gas Association.

Advocate Joseph Oteri (pro).

Sen. Edward M. Kennedy (D-Mass) on film.

Walter J. Mead, ecologist and professor of economics University of California at Santa Barbara; Alfred Kahn, dean of arts and sciences at Cornell University; Martin Lobel, special assistant, U.S. Sen. William Proxmire (D-Wisc.).

Filmed Statement of March 8 Guest: Rep. Edward Koch (D-NY) announcing his decision on making contraceptive devices available to all.

Moderator: Victor Palmieri.

Origination: WGBH, Boston.

"The Advocates" is a public television network presentation of WGBH, Boston and KCET, Los Angeles made possible by grants from the Corporation for Public Broadcasting and the Ford Foundation.

ANNOUNCER. Tonight from Boston, coast-to-coast and in color, "The Advocates"—Roger Fisher; Joseph Oteri; the moderator, Victor Palmieri. And the man faced with a choice, Senator Charles Mathias of Maryland.

VICTOR PALMIERI. Good evening. Every Sunday at this time "The Advocates" looks at an important public problem in terms of a practical choice. And tonight and next Sunday night the problem is oil. The practical choice is this: "Should we continue to restrict imports of lower-cost foreign oil? Now oil plays a crucial role in our lives from day-to-day—in our industry, our transportation, our homes and in our politics. And precisely because oil is so vital to our way of life and because the question of continuing restrictions on oil imports is so controversial, "The Advocates" is departing from its usual format. We're devoting two broadcasts to this one issue.

Advocate Roger Fisher says, yes, continue to restrict foreign oil, and he's going to be presenting his arguments tonight.

ROGER FISHER. Senator Mathias, we should keep restrictions on the imports of foreign oil. These restrictions keep this cheap foreign oil from coming in. They assure us that we will have an oil supply when foreign sources are cut off.

With me tonight to present this case is the chairman of the board of Standard Oil of Indiana, John Swearingen; the Senator from Wyoming, Clifford Hansen, and a producer of oil from Colorado, the president of the Rocky Mountain Oil and Gas Association, Mr. Bob Burch.

PALMIERI. All right. Advocate Oteri says no, abolish the restrictions and you're going to be hearing his case in rebuttal next week.

JOSEPH OTERI. Senator Mathias, there is absolutely no economic justification for these quotas. There are no national security justifications for the quotas. The whole quota system is designed to inflate the profits of the oil industry at the expense of the consumer. This system endures because of the stranglehold the oil industry has on the government of this country. We will present our case in full next week. Our witnesses at that time will be Senator Ted Kennedy on film; and with us then, as now, will be Dr. Walter Mead from California; Dr. Alfred Kahn from New York and Mr. Martin Lobel from Washington.

PALMIERI. Well, thank you, gentlemen. You've heard the issues. Join us now for a quick guided tour of oil country.

Film—Up here in Machiasport on the Maine coast, no matter how deep you'll dig you'll never find oil. Clams, maybe, but no oil. Yet oil is needed here badly—to warm houses, run cars and power the fishing boats. Most of the oil we use here in the Northeast comes up from Texas and Louisiana and it costs a lot of money to get it here.

But finding oil in the first place, that's really expensive. This is the North Slope in Alaska. They think they found a lot of oil here. The cost so far, well over a billion dollars, and it will cost billions more to get this oil to market. You see, it's nearly three thousand miles to the nearest state-side refinery.

It also costs a lot of money to produce oil. Forget all those old movies you've seen where the wildcaters strike oil and it gushes up covering Rock Hudson with riches. It just doesn't happen like that anymore. Over the years they've punched enough holes in the prairie to lose the natural pressure. Now it has to be pumped out. Half the wells in Texas average less than ten barrels of oil a day. Inefficient perhaps; costly, sure.

Now here in Wyoming they've got a differ-

ent source of oil. There's a lot of it. But it's going to be difficult to get it out. Because instead of it being in huge underground pools, it's trapped in rock. The idea is to squeeze the oil out of the rock deposits. They know how to do it. But it costs plenty.

Here's still another way of getting at oil. This rig off the Louisiana coast was floated 36 miles out into the Gulf in pieces. And then assembled here. The hole goes down 14,000 feet into the Continental Shelf. The risk of something going wrong on one of these rigs is high. Something did go wrong last year. In the Santa Barbara Channel. And the oil companies are still trying to clean up the mess.

By the time the oil has been found and pumped up and then carried by tanker into New York, the oil men have to get over three dollars a barrel for it. Now that ship over there isn't carrying oil found in this country. It's full of foreign crude from the Middle East. Those people have got oil.

Plenty of oil here and it's easily available. The average well produces five-to-ten thousand barrels a day. Two hundred times that of the average Texas well. These fellows in the Middle East can produce and ship a barrel of oil to New York for \$2.00. But even at that price we don't buy very much of it. That's because President Nasser of Egypt shut down the Suez Canal once during the late fifties and eleven years ago when Dwight Eisenhower was President, people became worried about where our oil was coming from and just how reliable foreign sources might be in times of crisis like Suez.

So the Congress authorized the President to limit the amount of foreign oil that could reach our shores. Quotas were established. And we've still got them. Let me see if I can explain this to you. By limiting the amount of cheap foreign oil entering the country the government guarantees to the oil man in Texas, and in the other oil producing states as well, a ready market for their more expensive product. The folks in Maine and Vermont along with oil consumers all across the country end up paying more for gasoline, more for their heating oil, perhaps five billion dollars more every year. Some have argued that's a small price to pay for national security. All this makes Maine a particularly good place to talk about the import quota system. Because every citizen of Maine pays \$41 a year to support the inflated cost of oil. And out there in Machiasport harbor, the Occidental Oil Company wants to build a refinery to process its cheaper foreign oil. It'll never be built unless the quota system is lifted.

PALMIERI. Well, sitting next to me is Charles Mathias, Republican junior Senator from the State of Maryland. Senator Mathias has not yet made a decision on the question of continuing restrictions on oil imports. But his vote on this issue in the Congress, where most senators have already committed themselves, is going to be critically important to the outcome of the controversy.

Senator, are you concerned about the influence of oil on our lives and on our government?

Senator CHARLES MATHIAS. Well, Vic, you'll remember that Napoleon said that the French armies traveled on their stomachs. In our case, the Army, the Navy, and the Air Force all travel on oil. On top of this military aspect, the petroleum industry is probably the biggest single industry in the United States and so I think all of us have to be concerned with the larger issues of oil and the petroleum economy.

PALMIERI. Senator, this question of restricting foreign oil imports puts an issue before our national audience tonight, the economics of the oil industry and to a large extent, the politics of the oil industry.

Well, ladies and gentlemen, we ask each advocate to present not his personal opinions but, as you know, what he considers im-

portant responsible arguments. So let's go to tonight's argument.

Mr. Fisher, is it worth five billion dollars a year to protect domestic oil production?

ROGER FISHER. Yes, because the conflict is between our national security and spending a few pennies more—perhaps as much as 2 cents a gallon more for our fuel. That issue has been recently studied, I should say, before we get into it by the Presidential task force to which we'll be referring tonight. They have just produced their report, the oil import question, 360 pages of study after a year's work. The task force, the Cabinet, recommended for the first time a slight reduction in the controls, some easing of the controls. Rather than debate the particular proposal they came up with, I'm putting the case for keeping the present restrictions about as they are. No relaxation of the restrictions. Mr. Oteri's putting the case for working toward free trade in oil, phasing out all restrictions in a couple of years.

Now, there's no dispute about one part of this question. That is the importance of oil. The petroleum industry provides 75 per cent of the energy, of the power, electric power, transportation power in this country all the power we use—water power, hydroelectric, is very small. It's gone up almost not at all, very gradually to 65-70 in the fifteen years we're talking about—from now until 1985—we're worried about, water will not increase. Coal has decreased. Coal during World War II you can see, it was high. Now coal is down, projected increase slightly by 1985. Petroleum—oil and gas—oil and natural gas about equally divided—has shot up and is expected to continue to increase—nuclear energy will take more if it comes in as predicted. But there is no question that oil is just the big source of power, not merely for the Army, the Navy and the Air Force, but for the entire country as well. It is . . . can properly be called the life blood of our society. Could we have a film on that? I think I have a film showing the role the oil plays in the American society.

Film.—Oil, fuel, 65 per cent of all American industry. Electricity is also important but oil and gas generate one-third of the nation's electric power. Transportation: 99 per cent of the nation's transportation, almost everything but walking and riding a bicycle, depends on petroleum and even when you ride a bicycle, 90 per cent of the roads are paved with petroleum. One jet airplane eats up 1800 gallons of fuel an hour. Without oil, our entire Strategic Air Command, the entire Air Force would be grounded. But oil is not only crucial for national security, it let's us enjoy life. Petroleum is transformed into 3,000 products like clothing and fertilizers for everything we grow. By doing most of the work done in this country, it gives us freedom to enjoy leisure time. Of course, we could always risk losing our petroleum supply. We don't have to live this way. We could give it all up. Our industry, transportation, national defense, leisure time and all the consumer goods that petroleum provides. But is that the sort of life we want? (End of Film)

FISHER.—Senator Mathias, we can't give it up. We've depended on it too deeply. Transportation as you've seen, all our power, every way we live, everything we do. And it's irreplaceable. There's no way in which you can fly those airplanes with coal or water power. Even the battery powered car, most of the electricity for the generators will be using petroleum to generate. It's our lifeblood; it's irreplaceable and it takes a great deal of effort to produce it. Here to discuss with us and explain what is involved in getting that oil from the ground to the refinery is one of America's leading oil men, the chief executive for the past ten years of Standard Oil of Indiana, John Swearingen, chairman of its board.

PALMIERI. Mr. Swearingen, welcome to "The Advocates."

FISHER. How much of a job is to get oil?



**SWEARINGEN.** It's a very difficult, costly, and complex and I might say exciting job, too. We have another little film here I think that might be helpful as an introduction to show you something about how we go about finding oil.

**FISHER.** Very good. Could we . . .

**Film.**—Prospecting for oil. A pick will take you only so far. Today's equipment is big. Planes with magnetometers to measure differences in rock formation. Earthquake machines to send shock waves to the depths of the earth. Seismographs to record echoes from underground hills and valleys. Computers to analyze and refine the data. Our maps peel back the earth's surface. But all they show us is where the oil might be. You're never certain until you drill. Miles of pipe, tons of cement casing, hundreds of thousands of barrels of diesel oil to run the rig, dozens of drill bits, and when one wears out, every foot of pipe has to be lifted out, and there may be miles of it. It can take six months or a year, the same laborious task 24 hours a day until you hit the place where the maps, the magnetometer, the rocks, the seismograph, all say the oil lies, and then—nothing.

In a new field, eight out of nine wells are dry. Only one in fifty makes a profit. When a well does produce, it means more pipes and pumps to keep the oil flowing. Often hundreds of miles across a continent to the refineries. As technology increases, we turn more and more to the ocean. And this means more big risk, big equipment, big investment. Monsters of steel towering derricks at sea. Massive pipe forms that are towed from ocean to ocean. Ten million dollars before they ever get to the sea. Usually the big problem is finding oil. In Alaska, the problem is to get the oil out. Humble spent 40 million dollars to outfit a huge tanker as an ice-breaker and last year the S.S. Manhattan battered its way through the Northwest Passage. To date, the oil industry has invested more than one billion dollars in Alaska and not sold one gallon of oil.

**FISHER.** Mr. Swearingen, now much of our domestic oil consumption is now dependent on domestic oil and how much do we import foreign oil?

**SWEARINGEN.** Well, at the present and for some time past our country has been supplying from domestic sources about 80 per cent of what we require. About 20 per cent from abroad.

**FISHER.** I have prepared on the chart the estimates of the task force as to what would happen to our oil dependence if the import restrictions were abolished. Now, let's just see if we can explain that chart and you can tell me where you agree with it and where you disagree with it.

**SWEARINGEN.** All right.

**FISHER.** At the present, from 1960-1970, the ten years of import controls, our domestic U.S. oil—this whole bottom clock supplied about 80 per cent, slightly going down from more than 80 to about 80 per cent of total U.S. consumption. Total U.S. consumption line is going here and is expected to go on up. The task force said that if restrictions were continued, this would all be domestic and the top would be foreign. If restrictions were removed, domestic consumption would go down and foreign oil would take up about half of our domestic requirements. Is that a radical guess or what?

**SWEARINGEN.** Well, this was a guess. It was made and I will have to say, literally, it was a guess made largely by academic people. There was some information furnished by the industry, but it shows even on this basis that about half of our requirements in 1980—ten years hence—would come from foreign sources.

Our own projection of this indicate that a somewhat larger portion would come from abroad and there's some considerable con-

trovery as to how much of this will come from the Middle East, how much from Latin America and how much from Canada. You've shown a chart here up through 1980 but I'd call your attention to the last few years of this chart and say to you that a projection out through 1985 in my opinion would show us dependent upon foreign sources for oil of something like 75 per cent if the proposition were adopted that foreign oil could flow into the United States . . .

**VOICE.** Is there a reason why the other third of the audience can't see this chart you're showing here?

**FISHER.** Sir, I'm sorry, if you look at the monitor it may be on the monitor.

**VOICE.** It's not on the monitor.

**FISHER.** I'm sorry for you but we have a million audience watching it, we'll try and let them have a chance . . .

**PALMIERI.** We're going to take special pains to take some time with you . . .

**FISHER.** It's on the monitor now. You can see it.

**PALMIERI.** Thanks for letting us know.

**FISHER.** All right, you say it will continue to come down further.

**SWEARINGEN.** Yes, I do.

**FISHER.** If we have it. Now what would happen to the industry if we removed the restrictions on foreign oil?

**SWEARINGEN.** Well, the first thing would happen is that there would be a very decided and immediate reduction in the amount of money that's spent for exploring for new sources of oil in this country. After all, there's nothing that requires any company or any individual to spend his money looking for oil in the United States. The only reason he spends his money looking for oil is because he thinks it's going to be an attractive investment and more so than if he put it into IBM stock or any other electronics company or even fishing for lobsters in Maine. So, if in 1970 here the oil import restrictions were completely removed, I can assure you that my own company's attitude would be to see-saw—to severely limit our exploration activities and I'm sure this would be followed by many other people who are active in the industry.

We would end up laying down our drilling rigs and incidentally they are now at their lowest level of activity than they have been in 25 years. We'd lay down our seismograph equipment which you saw in the film. We would end up severely curtailing our organization of geologists, geo-physicists and other technicians that we have trained over a long period of time and management's attention would turn elsewhere.

**FISHER.** Now if that happened, import controls removed, in 1980 or 1985 that's the state of your industry and then some of our foreign oil sources are prejudiced. How quickly could you turn on the faucet for us? How quickly could you pick up the oil? Return it?

**SWEARINGEN.** Well, you could turn on the faucet but you wouldn't get much more than a trickle out of it. By 1980 here we estimate that the reserve producing capacity, that is what the wells can produce in addition to what they would then be producing would be no more than about a million barrels a day in terms of say a 20 million barrel or nearly a 20 million barrel a day requirement. Now, for a short period of time and about this I mean something about 6 months perhaps we could gut the wells that we have. And produce a somewhat larger quantity. And perhaps we could use inventories for a period of time. We generally carry something like 40 to 50 days inventory of supply in the country but you'd quickly run out of these sources. And then the only way you can beat your way back to a position of supplying our requirements in this country is going to be to start out again, build up this organization, acquire equipment which has long since fallen into disrepair and been junked and

you may be ten or twenty years in trying to close the gap between what we would produce ourselves and what we would be dependent on—primarily, now, the Arab world.

**PALMIERI.** Mr. Fisher, I think we'll go now to Mr. Oteri for cross-examination.

**OTERI.** Mr. Swearingen, you tell us that by 1985, we would be 75 per cent dependent on foreign oil. Is that correct?

**SWEARINGEN.** Yes, I think there's a very good likelihood of that.

**OTERI.** Does your calculation include the reserves in Alaska?

**SWEARINGEN.** I don't know how much reserves are in Alaska, nor do I know how much is in Maine.

**OTERI.** Okay, so that you do know that in Alaska there is a field that has been discovered and people have just paid a billion odd dollars of their own money for the right to drill and that the task force says that there is a conservative estimate of 50 to 100 billion gallons of oil in that particular field?

**SWEARINGEN.** 150 billion gallons? I think you're right, Mr. Oteri.

**OTERI.** No . . . 150 . . . barrels, sir. I'm sorry.

**SWEARINGEN.** Well, I think your statement is absolutely correct.

**OTERI.** Okay. You disagree with the task force on that particular projection.

**SWEARINGEN.** No, I disagree with the task force opinion on this. There is no way in the world that anyone can say how much oil is in Alaska today and that calculations as to how much is there are absolutely way out in left field.

**OTERI.** Despite the fact that the oil industry pumped a billion dollars in for the right? Your film here that they just showed us of your tanker going up and breaking the ice to get to Alaska, that's a forty million dollar tanker.

**SWEARINGEN.** Mr. Oteri, have you ever been hunting or fishing? Have you ever gone out and bought a license to go hunting or fishing? They don't guarantee that you are going to find anything, or shoot or kill anything . . .

**OTERI.** No, but, sir . . .

**SWEARINGEN.** . . . and this is the same principle under which these leases were bought in Alaska . . . the industry bought hunting licenses with the expectation, incidentally that the oil import control program in this country would remain essentially as it is today.

**OTERI.** And the industry bought these hunting licenses based on the scientific kind of test that they do. You showed us your seismograph machines and your tornado makers checking for oil, didn't you?

**SWEARINGEN.** We certainly did.

**OTERI.** Now I'm sure the industry didn't throw a billion dollars . . .

**SWEARINGEN.** Mr. Oteri, would you like to buy an interest in our leases up there? We'd be happy to sell you some of our leases.

**OTERI.** Sir, I wouldn't put ten cents into oil.

**SWEARINGEN.** Well, I'm just trying to explain to you the only reason that this money was spent was because people expected to make a profit by developing oil up in that remote, difficult country.

**OTERI.** Let me ask you this, sir. The oil industry is the largest industry in the United States according to the fact sheet.

**SWEARINGEN.** No, it is not.

**OTERI.** Then the fact statement is wrong when it says that?

**SWEARINGEN.** Well, who said it was a fact? I say the construction industry is the largest.

**OTERI.** All right. It's one of the big industries, is it not?

**SWEARINGEN.** It's one of the biggest . . .

**OTERI.** And it's run by highly competent professional men like yourself who have stockholders they have to report to and who have interests in the corporation in the form of options and all the rest of it, and you don't throw a billion dollars of your stock-

holders' money down a rat hole unless you've got a pretty good expectation that you're going to get a return.

**SWEARINGEN.** Mr. Oteri, I appreciate your compliments, that's very kind of you . . .

**OTERI.** If I buy oil stock, I'll buy yours.

**SWEARINGEN.** Well, thank you very much. I appreciate your confidence in me. We did not spend it ourselves a hundred, a billion dollars in Alaska. We . . .

**OTERI.** I'm sure of it . . .

**SWEARINGEN.** . . . spent our own company, approximately a hundred million dollars.

**OTERI.** A hundred million dollars!

**SWEARINGEN.** One hundred million dollars . . .

**OTERI.** That's ten per cent of the billion . . .

**SWEARINGEN.** . . . for our company alone. We did so in the hope and the expectation that we can find sufficient quantities of oil to justify that expenditure and if we don't it's going to be my responsibility to go before the shareholders and tell them why we did it.

**OTERI.** I'm betting you do. By the way, sir, let me ask you this, too. You made a statement that the reduction in exploration would follow and the business, the industry, would no longer be as attractive to investment capital. Isn't that correct?

**SWEARINGEN.** Yes, sir, I did.

**OTERI.** Is it fair to say, sir, that the industry at the present time with the quotas is attractive to investment capital?

**SWEARINGEN.** Yes, it is but at the same time it is not as attractive as it has been and this is reflected in the steady decline in the exploration activities that's gone on in this country in the last ten years.

**OTERI.** In other words, right now, the industry is back down to around 12.9 per cent return on its capital investment which is about par with all the other industries.

**SWEARINGEN.** It's a little bit lower than all the manufacturing industries . . .

**OTERI.** . . . and it's lost its attractiveness . . .

**SWEARINGEN.** . . . and it's just about the same as a regulated public utility, Mr. Oteri.

**OTERI.** Now do you want to get it back up . . .

**SWEARINGEN.** . . . a monopoly industry, incidentally.

**OTERI.** You now want to get it back up so it will attract more capital, right?

**SWEARINGEN.** Well, I say to you that isn't your question. Your question to me was what would happen and what I'm saying to you is that if the attractiveness, the economic attractiveness of the oil business is diminished, the capital that is now flowing into it will flow into other directions. And it will start immediately.

**PALMIERI.** One more question, Mr. Oteri. **OTERI.** All right. May I ask you, by the way, this chart over here is a chart that was prepared by the oil industry and presented to the Senate at the Hart Committee by Mike Wright, the chairman or the president of Humble Oil in 1969 and it did not when it was presented then and when the facts were later put in the task force report include the Alaska reserves in this kind of a figure, did it?

**SWEARINGEN.** I'm not familiar with that. My understanding about this chart—I correct you in this, sir, in that this was based on the figures in the task force report which are—you had there in your hand.

**OTERI.** May I show you a copy of The Lamp, which is the ESSO Standard Oil Standard of New Jersey magazine and 1969. Is that the chart we have on the board, sir?

**SWEARINGEN.** No, it's not.

**OTERI.** That is not the chart?

**SWEARINGEN.** If you will take a look at this chart you will see that here you have two bands, three bands, down on the bottom and you have only two bands up here, one band up here at the top . . .

**OTERI.** . . . but, sir, it's . . .

**SWEARINGEN.** It's obviously a completely different chart.

**OTERI.** No, sir. No, sir. Look it's all oil . . .

**SWEARINGEN.** . . . well, it is, Mr. Oteri . . .

**OTERI.** . . . it's all oil . . .

**SWEARINGEN.** . . . it's a completely different chart than the one we had on the board . . .

**OTERI.** . . . it never happened, it never happened, it's all oil with the . . .

**SWEARINGEN.** . . . it's a completely different chart . . .

**PALMIERI.** How about letting our national audience and Senator Mathias and me in on your secret there, gentlemen?

**OTERI.** I'm sorry . . .

**PALMIERI.** Are you . . .

**OTERI.** I'm finished if you say I don't have any more time.

**PALMIERI.** Well, I don't know. If you have something real interesting I think we might examine it . . .

**OTERI.** This is the chart where we maintain . . . although the figure . . . the statements are different, it's all oil and oil products below. Here's where the 51 per cent comes from, up on this end. And I was just curious as to whether or not that chart, when it was presented by Humble Oil in '69 included the Alaska oil reserves.

**PALMIERI.** All right, fine. Mr. Swearingen, thank you very much for being here tonight.

**MATHIAS.** Mr. Fisher, at this point I just want to keep the record straight. Your argument and that of your witness up to this point has dealt with the production of oil and I want to be sure whether or not you're making a distinction between oil producers and oil refiners.

**FISHER.** Yes. The only issue we're discussing is the importing of crude oil from abroad. No one contemplates putting this country at the mercy of foreign refiners. Mr. Oteri himself suggests, would suggest that the refining capacity stay in this country and that we import foreign crude oil at cheaper prices. So the whole cost, the whole problem we're facing is should the United States keep the price a little higher in order to have its own safe sources of crude oil in this country—the oil that comes out of a well and rather than getting that oil from abroad, we would continue to refine here. Now that chart is the chart based on the figures the task force produced in February 1970 after Alaska was known. Those figures reflect their estimates on it. Now to consider what it would mean to this country to have more than half its oil coming from foreign countries is a man who must face security problems, a senator from Wyoming, Clifford Hansen.

**PALMIERI.** Welcome, Senator.

**FISHER.** Now, Senator, you're from Wyoming and that's an oil state, is that right?

**Senator CLIFFORD HANSEN.** Well, that's one of its attributes; it has many.

**FISHER.** You have special interests in protecting those interests of your state?

**HANSEN.** Oil is very important to Wyoming. We also have some great agricultural productions out there and we're becoming a very important tourist state. We hope you'll come and see us.

**FISHER.** And you're concerned with protecting that industry, naturally, as every senator is concerned.

**HANSEN.** I'm sure every senator is concerned. I've joined with Senator Kennedy, Senator Edward Kennedy and his late brother Robert Kennedy and going on a bill that would restrict the imports of textiles into this country, because of the loss of jobs that it brings about, because of the threat that it would pose to the economy of New England. I joined with Senator Proxmire in trying to limit dairy imports. Despite the fact that they're only one and a half per cent of the amount that we consume in this country, he is worried just as I worry about oil.

**FISHER.** But tonight I want to talk to you about the national security interest. And not the protectionist aspect primarily. We're

concerned, as the statute now authorizes, the President to act to protect the national security and we're hoping that Congress, if need be, will keep that protection. Now, what would the effect be on the day-to-day feeling of senators if more than half our oil were coming from foreign countries? What effect would that have on our foreign policy?

**HANSEN.** I'm sure it would have a very dramatic effect. In the first place we couldn't be oblivious to the political problems that may arise in various countries throughout the world—all of the intrigue all of the terrorist activity which today seems to characterize more and more countries would be of immediate concern to the United States. I should think that we would find ourselves embroiled in every little problem that came along if we had to depend upon foreign countries for a major share of a resource as important to us as is oil and natural gas.

**FISHER.** If we were having oil from a small Arabian state, one of the sheikdoms on the Persian Gulf, and they wanted to be admitted to the UN, do you suppose our vote would be unaffected by our oil?

**HANSEN.** Well, I would certainly say that we would not be unconcerned with their interest in getting into the UN. I think it would be obvious that we would be.

**FISHER.** If we had been getting oil last year from Nigeria—as we would be in the future presumably—could we have stayed out as easily of the Nigerian problem or would we have . . .

**HANSEN.** Well, the answer, of course, is an emphatic no. We couldn't afford not to consider first of all our dependence upon a source of supply that was in the hands of a foreign country and whether it was Nigeria or whatever country it might be we'd have to be interested just as I know England today and France today is interested.

**FISHER.** Do you suppose the French sale of Mirage fighters to Libya was independent to the fact that France gets 20 per cent of its oil from Libya?

**HANSEN.** Well, I am sure the French government was not unaware of that fact.

**FISHER.** We've already been accused sometimes of being pro-Arab in the Middle East because we now get three per cent of our oil from the Middle East. What would it be like if we got thirty per cent of our imports?

**HANSEN.** Well, I think that probably everyone can answer that question to his own satisfaction . . . I have my idea.

**FISHER.** We have the Seventh Fleet now in the Mediterranean.

**HANSEN.** We spent a lot of money keeping that fleet there and obviously if we were to have to depend upon those Middle East Arab nationals I suspect that we might have an entirely different ball game going there than the one which presently characterizes our foreign policy.

**FISHER.** Now before we look to possible crises of future, I'd like to refresh in your mind and in the mind of Senator Mathias some of the incidents that we've had. Let's look to the risks, the problems of our recent past.

**Film.**—In World War II we had to supply oil not only for our own war effort but also for our allies. The Atlantic became a graveyard for oil tankers. Rationing was serious but think how much worse it would have been if we had depended on oil from abroad. And even if we are not at war we can be affected by events with an exporting country. It's happened before.

Iran in 1951 nationalized the Anglo-Iranian Oil Company. The result: the British left. And Iran exported no oil for three years.

In 1956 Nasser seized and blocked the Suez Canal forcing tankers to detour around Africa to Europe. U.S. oil averted a serious shortage in Europe. In 1963 civil war seriously interrupted Indonesia's exports.

In the third Arab-Israeli War of 1967, the Arab nations for a while cut off all oil to the



United States, England and Germany. And Nigeria's recent civil war with Biafra reduced its oil exports by 70 per cent.

FISHER.—Should we become dependent upon foreign oil, Senator Hansen? On Venezuelan oil. Should we count on the Venezuelans always being friendly?

Senator Hansen, I'm going to let Mr. Oteri get his questions to you now on cross, but this map shows where the task force estimates our oil will be coming from in 1980—37 per cent of the imports from the Arab states and the others, as you can see, from Iran and Nigeria, some from Indonesia, 36 per cent from Latin America. Mr. Oteri?

PALMIERI. All right, Mr. Oteri.

OTERI. Senator, you seem to be somewhat afraid that the Arab nations would have us by the throat were we to purchase 37 per cent or 50 per cent or actually 18, 18½ per cent of our domestic oil, or the oil we use in this country, from the Arab nations. Is that right? This bothers you, worries you?

HANSEN. I don't think we have to be concerned about all the Arabs having us by the neck. What I say is that just one Arab terrorist could have us by the throat. It just takes one man to blow up a pipeline, to destroy a refinery. It wouldn't take very many. It could just take one. But if we ever become dependent upon the Arab nations or Indonesia, or any other foreign country, I think we automatically lay ourselves liable to all of the political problems, the intrigue, that may come about so that anyone, just one person, could shut off that oil supply.

OTERI. Now, you feel this is a definite threat to the national security of this nation.

HANSEN. I feel that it is because I am aware of what the Department of Defense, I'm aware of what former President Kennedy said, former President Eisenhower said, former President Johnson said. Everybody . . . every study that has been made in this country reconfirms the premise that oil is of vital importance to this nation—99 per cent of our transportation depends upon it. Our economy depends upon it. We just cannot take that chance.

OTERI. We certainly will concede that oil is important but you—I'm sure you knew a fellow named Sherman Adams who was the right hand man of President Eisenhower. Do you agree with his quote from his recent book, Sherman Adams Memoirs, that the imposing of import quotas on oil was primarily an economic decision?

HANSEN. I think that the . . . I have not read Sherman Adams' book but I would say this, primarily the ability of the oil industry to deliver its product to this country in terms that will satisfy our growing demands, is an economic decision there's no question about the availability of oil. The USGS says we have within the continental United States and out to the two hundred meter isobath, 2 trillion barrels of oil in this country. The problem is not whether we're going to use up the resources we have. The problem is will we give sufficient economic incentive to an industry to supply the technique, the technology . . .

PALMIERI. Will the Senator from Wyoming yield to the Senator from Maryland?

HANSEN. I'd be happy to yield.

MATHIAS. Right on that point, Senator Hansen, in other words you feel that there is no need to hold back on the consumption of our own domestic resources. We will have plenty in the event of a national emergency in the future. That we won't draw down and . . .

HANSEN. I think that statement is borne out by the USGA by the Department of Interior. They say we have two trillion barrels of oil within those limits that I described and we have one thousand, two hundred forty seven trillion feet of natural gas. Our job is to go out and find it.

MATHIAS. And so you don't think it's nec-

essary to use other people's oil until we really need our own.

HANSEN. Well, the trouble with doing that is that when we need our oil—when the crunch comes on, if a six day war comes along, you can't keep all of those professional people in mothballs or in cold storage to have them available. We've got to have an industry that knows how to operate, that is operating so that we will never become dependent upon the snap of some dictator's finger which will make it impossible for us to get the continuing supply that we may have built up as a dependency for in another country.

OTERI. Senator, you don't really believe that the American oil industry would go just completely out of existence and even if you did the simple fact of the matter is you tell us that the economic subsidies, the support for this tremendous industry that's so important to us are the key to your consideration. Are you familiar with section 332 of the Trade Expansion Act which says that the only legal justification for any kind of quota is national security?

HANSEN. And that's justification enough as far as I'm concerned. I want to keep this country so that no one can question so that no one can raise the point are we going to be dependent on somebody else? I think that's adequate.

OTERI. Well, don't you think then we ought to support beef and shoes and dairy products and everything else and just shut off the whole world—close out the market and be a self-contained little island where we can starve to death slowly?

PALMIERI. Senator, I'm going to save you from having to answer that question and thank you for being on "The Advocates" tonight.

Mr. Fisher, before you call your next witness, I want to remind our audience, and particularly those who tuned in late, that you'll be presenting your entire case tonight. This is a different way of doing it than we usually have. Mr. Oteri will be responding on next Sunday's program with his arguments and his witnesses against these restrictions. That's a week from tonight on April 5th. Now will you proceed with your case.

FISHER. Senator Mathias, that's our discussion of the risks of national security. We would become dependent on foreign oil; we could not replace it quickly with our domestic industry and there would be great risks, political risks of terrorist pipeline interruptions, all kinds of embargoes and so forth. That's the risk the quota protects us against.

With my final witness, I want to look at the cost of that insurance policy. What is the cost of our national security insurance policy? What are we paying an oil producer? For twenty years, president of the Rocky Mountain Oil and Gas Association, Bob Burch.

PALMIERI. Glad to have you with us.

FISHER. Mr. Burch, can we get this insurance for free?

ROBERT BURCH. No, sir.

FISHER. What is the cost to the consumer of the national security insurance that we're talking about? What does the consumer pay?

BURCH. The estimates of the task force, which I don't necessarily agree with, have been that it has a possible cost of five billion dollars.

FISHER. Five billion dollars a year is the cost of the premium which the consumers and taxpayers—that's the gross premium. Now do you accept that cost?

BURCH. No, I do not.

FISHER. Could I look at your . . .

BURCH. There are many offsets to that, as I'm sure you can see here. In other words, if we start with their assumed costs of five billion dollars . . .

PALMIERI. Mr. Burch, let me find out . . . can the audience see that chart? You can't?

FISHER. The chart is a little arithmetic

which says the national security insurance—the gross cost to the consumer—is at five billion and then it has three subtractions. Let's look at those. Natural gas saving: one billion dollars. What's that?

BURCH. Well, that's the difference in cost. You see natural gas is produced in association with oil. We sell just as much natural gas to the American consumer as we do oil. They're roughly equal on a BTU basis. When you look at the increase that it would take to bring forth the supply in the future—that is the cost that we're talking about—they use the figure of a billion dollars; we use a figure much higher than that but just for the sake of comparison why . . .

FISHER. This is the task force—says the figure could be as high as a billion dollars for increased cost in natural gas consumers by saving the cost, reducing the cost, of oil. Now, what are these payments to the federal government?

BURCH. They're income taxes, lease payments, royalties going directly to the federal government out of the oil industry.

FISHER. If the consumer did not pay those, he would have to pay some other taxes to the federal government. How about taxes to state and local?

BURCH. Those are production taxes—to state and local governments.

FISHER. You get a figure that could not exceed three billion dollars per year. If you divide that among the total oil we use—gas, and heating oil—what's that come out on a rough average per gallon cost?

BURCH. We estimate about 1.9 cents per gallon.

FISHER. 1.9 cents per gallon. If you burn 700 gallons in your car it's less than 14 or 15 dollars for that automobile over a year.

BURCH. That's right per capita.

FISHER. Now, if we drop that insurance, we lose our national security. What else do we lose?

BURCH. You lose a great many jobs, benefits to the economy. You lose roughly 70,000 direct jobs. You lose 210,000 indirect jobs. You lose royalties to the land owners which as I recall is around 700 million dollars a year. You lose to the three million stockholders that—in fact there's in excess of 3 million stockholders—one out of seven stockholders that own any stock at all, own an interest in the oil industry—and you lose from the economy the amount of balance of payments over two billion dollars.

FISHER. Now if we come out with an average cost of 1.9 cents or even the five billion dollars which would be four cents of 3½ cents, is that cost imposed absolutely equally across the country?

BURCH. Pretty much. There is some variation as far as product prices are concerned that's due largely to competition across the country but it's roughly equal.

PALMIERI. One more question.

FISHER. Natural gas is a little unequal.

PALMIERI. One more question.

BURCH. Oh, yes, there's no question about that. They leave out in their arguments, of course, they ignore the natural gas industry almost completely.

FISHER. There's the retail price per gallon as of December '69 showing that the Boston retail price is only three-tenths of a cent above the U.S. median. This is heating oil price, retail price per gallon. It varies—Seattle, 20 cents; New York, 17.9; Chicago and so forth, but it's distributed across the country somewhat unequally, but not too far out of line.

PALMIERI. Let's see your final chart, Mr. Fisher, and then we'll go to cross-examination.

FISHER. The final chart shows—meets Mr. Oteri's point that the oil company is making a killing. Is the oil company getting paid a lot more than other companies on their investments?

BURCH. Obviously not. No. We have a very median type return. I think John Swearingen has already covered that. Our return is good enough. It has been at least at the time to attract the capital. It is declining and it is below the all manufacturers . . .

FISHER. During the ten years of restrictions—this is drugs and medicines way up at the 20 per cent return on investment; electrical, autos, and trucks—the whole auto industry is here—and down below the average, is the oil industry in terms of percentage return on investment—the critical figure in getting new investment into the business. Mr. Oteri?

PALMIERI. All right, Mr. Oteri, for cross-examination.

OTERI. Mr. Burch, may I ask—we've had the quota system for approximately ten years, have we not?

BURCH. Eleven, I believe.

OTERI. Eleven. And in the past ten years your industry has had a decline, has it not in its attractiveness for capital on its return on investment, is that correct?

BURCH. The amount of capital going into—the industry borrowed has been steadily increasing, yes.

OTERI. So that when you had free trade in oil, you were getting more money than when you had this quota system?

BURCH. We were faced with entirely increasing costs. They're not comparable at all.

OTERI. They're not comparable . . .

BURCH. The amount of money going into the industry is going up every year.

OTERI. Right. Now may I point your attention to this chart. You tell us that the cost of oil is roughly the same all across the United States, is that correct?

BURCH. That is the price of heating oil. . .

OTERI. That's heating oil, correct? And gasoline oil doesn't vary too much either does it?

BURCH. Not too much, no.

OTERI. But yet, sir, based on the table A-2 from the task force report, the estimates of the total per capita consumer costs in 1969 of the important program—let's just look, Chicago is in Illinois. The cost is 22 dollars per person per year. A total cost in Illinois the consumers pay of 245 million dollars a year to the oil industry.

BURCH. How very conveniently of course you leave out any offsets and benefits to the economy as far as this was concerned which makes it kind of a ridiculous conception.

OTERI. Absolutely, sir, like dividends to the three million stockholders at the expense of the consumers. In Massachusetts, sir, here in Boston, we pay 35 dollars per person more each year than we would have to pay for our oil for a total of a hundred and 90 million dollars going out to the oil industry. And the other figures are all the same. I'm sure you know them better than I do.

BURCH. I don't know about that, but the thing is aren't you giving us credit for having anything to do with the American economy as far as benefits . . .

OTERI. Yes, I certainly am.

BURCH. Well, you're really not. The thing is that you're using a kind of ridiculous argument. It's just the same as if you compared the cost of American labor with the Chinese coolies. The thing is that if you really want to follow that line of economic reasoning you would actually eliminate the immigration quotas into this country and . . .

OTERI. Then we can make coolies of the people here.

BURCH. Yes, and pursued along that economic line of reasoning . . .

OTERI. Sir, if I may . . .

BURCH. . . . pursued . . . just a minute . . . pursued along that line of reasoning, if we worked hard at it we could probably end up with an economy quite similar to India.

OTERI. Right. And the oil industry would still be getting the profit. Now, sir, right here on this chart of yours, you tell us that we're going to lose 70,000 direct jobs. Now is that 70,000 in a year or is the 70,000 over the space of ten years?

BURCH. That's 70,000 over the . . . whatever period you phase in the program.

OTERI. Which is the space of ten years.

BURCH. They have recommended that it be phased in over a three year period, so . . .

OTERI. That chart is your chart, is it not, sir? Isn't that the oil company's chart?

BURCH. Right.

OTERI. And that chart says 70,000 direct jobs lost. You tell me, is that in one year or is that in ten years?

BURCH. You tell me how fast you're going to phase the program in.

OTERI. I can't tell you. It's your chart.

FISHER. Would you cut the quota immediately overnight with disruption?

OTERI. I'd love to. The fact of the matter is you know we can't but we'll cut them as quickly as we can.

PALMIERI. Well, I think he's answered the question. He says in whatever . . . the witness says in whatever period the program is phased in. Let's settle for that.

OTERI. Sir, 70,000 direct jobs lost, let's say in one year. I'm very bad at mathematics, but if you divide 70,000 into the five billion that the President's task force says the oil quota system costs the consumer, you get a cost per job of approximately what? 70,000 or 700,000 dollars per job to keep those jobs available. Correct?

BURCH. We're talking about some roughly seven thousand dollars per job. The other thing that you get, of course . . .

OTERI. Excuse me, just so we get that straight . . .

BURCH. . . . is when you have one basic job, when you have one basic job, that actually creates a multiple of roughly four jobs to go along with it.

OTERI. Roughly multiples, but the fact . . .

PALMIERI. One more question, Mr. Oteri . . .

OTERI. You want the consumer of this country to not only pay quotas and all else but if we drop quotas you say we're going to have to spend that quota money to keep the quota system going because we don't want to lose those jobs. In effect, the consumer has to pay the oil worker.

BURCH. Well, there's a great deal more we just gave you about 5 billion dollars of offsets.

MATHIAS. Mr. Burch, I'd like to ask you about one factor that doesn't appear on that chart and that's the environmental factor. Is one of the costs that we may have to pay the risk of environmental problems such as the Santa Barbara Channel episode, of oil spill?

BURCH. Yes, I would say it this way that there's been roughly ten thousand wells drilled in the outer continental shelf. Out of the 10,000 wells that have been drilled, there have been ten accidents. Out of ten thousand. A relatively low rate, but in comparison, as far as using foreign oil in domestic oil, you're going to bring it in by tankers, the odds seem to me pretty much the same to me of accidents in that regard no matter where it is.

OTERI. Can I point out one thing, Senator, that the gulf oil coming from Texas and Louisiana comes here by tankers?

PALMIERI. Well, Mr. Burch, thanks for being on "The Advocates."

BURCH. Thank you.

PALMIERI. Mr. Fisher, you have about 30 seconds to give us a wrap-up.

FISHER. Senator Mathias, the facts are complicated but the issue is fairly clear. There's an unknown risk to national security, a risk of having half or more of our oil come from abroad and face all the uncertainties. There's a cost to the American

consumer of avoiding that risk. We spent 80 billion for defense budget which will be worthless if we had no oil at home. I submit we should keep the restriction, keep the insurance policy, do not let it lapse.

PALMIERI. Thank you very much, Mr. Fisher. Now, ladies and gentlemen, if I can find my place we're going to proceed. I just did it.

Next week Advocate Oteri is going to challenge Advocate Fisher's very strong contentions that our national security requires that we pay a higher price for oil. Now we'll get a sample of that. Mr. Oteri, give us a brief response to Mr. Fisher's case and tell us what witness you'll be calling on next week's program.

OTERI. I'd just like to say that . . . in response to Mr. Fisher's case, this is another example, Senator, of a protected industry that's always had it made wanting to keep it made. They don't want to take and share with the consumer. This is the only incident I can find where people have to pay their money to an industry to guarantee profits for artificially set-up prices that are maintained by the Texas Railroad Commission to take money out of the poor people of this country's pockets so 3 million stockholders can be worried about. I say worry about the American people never mind the stockholders.

Now, let me just say, let me just say this, that next week we intend to show you that the thought that there's going to be any kind of a danger to our national defense is absurd. The fact of the matter is Canada, which although President Nixon cut their quota and he seems to think is our enemy. I don't think is ever going to attack us and they have tremendous reserves. Alaska has tremendous reserves. I don't think Venezuela, which on one of their charts was going to provide 36 per cent of our imported oil, is ever going to come up and invade us. We have plenty of oil locally available to us outside the United States at two dollars a barrel which saves all that money for the American consumers. We also are going to show you that the political stranglehold maintained by the oil lobbies in Washington, are one of the real reasons why the people in this country—the consumers—don't get a fair break. We have with us Senator Kennedy on film. We have with us the three witnesses whom I introduced earlier this evening—Mr. Lobel, Dr. Kahn and Dr. Mead. And we at that time will convince you that you must eliminate the oil quotas.

PALMIERI: Thank you, Mr. Oteri.

Three weeks ago "The Advocates" debated the question: "Should the U.S. government make contraceptives available to every American including teenagers and conduct an educational campaign to limit population?" You may recall as we said last week that over 5,000 people have written into us. They all—not all, but overwhelmingly—have been in favor of that proposal. Our guest for that program was New York Congressman Edward Koch and after hearing the arguments and seeing the mail, Congressman Koch is ready to give his statement on the birth control issue.

Film.—EDWARD KOCH. Good evening. I listened very attentively to the testimony of the witnesses presented on both sides of the question. Those who opposed the government's role in these matters did not address themselves to the questions presented. Instead, their opposition was premised on the fear that the government would ultimately limit the size of families in the United States by law.

As a Congressman I fully recognize the great power of our federal government and the need always to resist infringements upon the private rights of each individual. However, a fear of a repressive government should never bar the enactment of nonrepressive legislation.



In an area, particularly, where the government does have a legitimate role, I believe that the federal government should make available contraceptives to all Americans who want them and to conduct an educational campaign pointing out the dangers of the population explosion now taking place in the United States as well as throughout the world.

In our history the government has encouraged large families when we were underpopulated. Similarly again it can encourage without mandating the voluntary limitation on the size of families.

The availability of contraceptives and the knowledge concerning their use and the need for limiting family size should not belong only to the wealthy and those who receive a higher education. Limiting ones freedom of choice because of lack of funds and education is a form of discrimination in reverse and ought not to be practiced by the government. And I have therefore decided in favor of the proposition. (End of Film)

**PALMIERI.** Thank you, Representative Koch. Well, ladies and gentlemen, we're not going to ask you to send in your opinion on this program tonight. We want to give you a chance to tune in next week to hear Mr. Oteri present the other side of this important question.

If you do have any comments about this departure from our usual format, where we're using two shows to present the case, we would like to hear from you. Send your comments to the same address that you always have: "The Advocates," Box 1970, Boston, 02134. And on our next week's program Senator Mathias will again be our guest, we're happy to say. In addition, we'll have statements from Sen. Ted Kennedy and our witnesses, Doctors Mean and Kahn, and Mr. Lobel, and we'll show the results of a national poll that "The Advocates" conducted on tonight's question.

We'll be asking this same audience of 200 people who are here in our studio to vote after they've heard both sides of the arguments. Please make a special note to join us next Sunday, April 5th.

Meanwhile, thank you very much, Senator Mathias. Thanks to each of our witnesses and especially to our senior editor, Mr. Roger Fisher, who is taking an advocate's position tonight. Mr. Oteri, we'll be back to you next week. I'm Victor Palmieri, until next Sunday. Thank you and good night.

**ANNOUNCER.** "The Advocates" as a program takes no position on the question debated tonight. Our role is to help you understand both sides more clearly.

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[Apr. 5, 1970]

#### THE ADVOCATES

Topic: "Should the U.S. end restrictions on low-cost foreign oil?"

Guest: Sen. Charles Mathias (R-Md.).

Participants: *Advocate Roger Fisher (con).* John Swearingen, chairman of the board and chief executive officer of Standard Oil of Indiana; Sen. Clifford P. Hansen (R-Wyo), member of the Senate Commerce Committee; Robert Burch, Denver, Colo., president Rocky Mountain Oil and Gas Association. *Advocate Joseph Oteri (pro).*

Sen. Edward M. Kennedy (D-Mass) on film; Walter J. Mead, ecologist and professor of economics University of California at Santa Barbara; Alfred Kahn, dean of arts and sciences at Cornell University; Martin Lobel, special assistant, U.S. Senator William Proxmire (D-Wisc).

Moderator: Victor Palmieri.

Origination: WGBH, Boston.

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from the Corporation for Public Broadcasting and the Ford Foundation.

**ANNOUNCER.** Tonight from Boston, coast-to-coast and in color, "The Advocates"—Roger Fisher; Joseph Oteri; the moderator, Victor Palmieri, and the man faced with a choice, Senator Charles Mathias of Maryland.

**VICTOR PALMIERI.** Good evening. Every Sunday at this time, "The Advocates" looks at an important public problem in terms of a practical choice. The problem tonight—as it was last week—is oil. And the choice is this: Should we continue to restrict imports of lower foreign oil?"

The largest power sources in the United States are oil and natural gas. And the oil industry is one of the largest industries in the world. Most of the oil these companies sell and refine comes out of wells in the United States. Now because American wells are slow producers—ten-to-fifteen barrels a day for the average Texas well—American oil costs over three dollars a barrel to produce. By contrast, oil in the Middle East is so plentiful that it literally gushes out of the ground several hundred times faster than the average American well. This enables the Middle East to ship their oil to New York for a dollar a barrel less than it costs to produce American oil.

Why don't we use this lower cost foreign oil? Well, the reason is quota restrictions—quota restrictions that keep foreign oil imports to less than 20 per cent of the oil we consume. President Eisenhower imposed these restrictions in the late fifties because he was concerned that if we bought lots of foreign oil, incidents like the Suez Canal crisis might cut it off just when we became dependent on it. President Nixon ordered a reconsideration of the problem. And his task force has come out for eliminating oil import quotas in favor of tariffs. But that raises a question. Do we now need import restrictions at all?

On last week's program, Advocate Roger Fisher presented arguments and witnesses in favor of restricting imports. Mr. Fisher, will you summarize those arguments for us now?

**ROGER FISHER.** Yes. Senator Mathias, let's look briefly at the highlights of last week's case. Oil is vital to transportation and to national defense. Free trade would mean that by 1980 we would depend on foreign countries for more than half our oil. Senator Clifford Hansen of Wyoming testified to the dangers involved.

Senator CLIFFORD HANSEN. All of the intrigue, all of the terroristic activity which today seems to characterize more and more countries would be of immediate concern to the United States. I should think that we would find ourselves embroiled in every little problem that came along if we had to depend upon foreign countries for a major share of a resource as important to us as is oil and natural gas.

**FISHER.** Now before we look to possible crises of future, I'd like to refresh in your mind and in the mind of Senator Mathias some of the incidents that we've had. Let's look to the risks, the problems of our recent past.

**Film.**—In World War II we had to supply oil not only for our own war effort but also for our allies. The Atlantic became a graveyard for oil tankers. Rationing was serious but think how much worse it would have been if we had depended on oil from abroad. And even if we are not at war we can be affected by events with an exporting country. It's happened before.

Iran in 1951 nationalized the Anglo-Iranian Oil Company. The result: the British left. And Iran exported no oil for three years.

In 1956 Nasser seized and blocked the Suez Canal forcing tankers to detour around Africa to Europe. U.S. oil averted a serious shortage in Europe. In 1963 civil war seriously interrupted Indonesia's exports.

In the third Arab-Israeli War of 1967, Arab nations for a while cut off all oil to the United States, England and Germany. And Nigeria's recent civil war with Biafra reduced its oil exports by 70 per cent. (End of Film)

**FISHER.** Should we become dependent upon foreign oil, Senator Hansen? On Venezuelan oil? Should we count on the Venezuelans always being friendly?

One of the country's leading oil men is John Swearingen, board chairman of Standard Oil of Indiana. Swearingen made clear that in case of a crisis which cut off our foreign supply, our own industry could not be turned on again like a faucet.

**JOHN SWEARINGEN.** The only way you can beat your way back to a position of supplying our requirements in this country is going to be to start out again, build up this organization, acquire equipment which has long since fallen into disrepair and been junked and you may be ten or twenty years in trying to close the gap between what we would produce ourselves and what we would be dependent on—primarily, now, the Arab world.

**PALMIERI.** Thank you, Mr. Fisher. Well, tonight, Advocate Oteri will present his case against continuing restrictions on imports of lower cost foreign oil. Mr. Oteri?

**JOSEPH OTERI, Senator,** tonight we'll prove to you that oil import quotas drive prices up to artificially high levels which result in consumers having to pay large sums of money to the oil industry and deriving no benefit from those payments; that the oil import quota does not contribute to the national security and that it hurts our political system by providing a large group of people with their own interest at heart with the money to do the things they want to do to protect themselves.

Now, with me tonight will be Senator Edward Kennedy of Massachusetts who will be on film, and seated here is Dr. Walter Mead, an economist from the University of California; next to him is Doctor Alfred Kahn, who is the dean of arts and sciences, and an economist from Cornell University, and Martin Lobel who is the administrative aide to Senator Proxmire in Washington and in back is Jim Burrows who wrote the Charles River Associates' report on this oil program and who's acted as a consultant to us.

**PALMIERI.** Thank you, Mr. Oteri. Sitting next to me once again is Senator Charles Mathias, Republican from Maryland. Last week, Mr. Fisher argues that the national security required that we pay a higher price for domestic oil rather than admit lower cost foreign oil. Well, what point in Mr. Fisher's case impressed you most? How did you react, Senator?

**Senator CHARLES MATHIAS.** I think there are two points, Vic, that come across very, very forcefully. The first is, of course, the principle contention that national security demands that an essential industry—such as the petroleum industry—should be kept vital and alive, and we have to measure the influences which might visciate the vigor of the oil industry. I was a little concerned, though, in the argument that Mr. Fisher and his witnesses put forth that their assumption that we can go on pumping American oil forever, without any end to it and that we don't have to hold back because of the possibility that we may some day run out of domestic sources and that therefore there's no need to lean on foreign sources at this time.

**PALMIERI.** So you're suggesting there may be national security argument the other way against the import quota.

**MATHIAS.** I think that you at least have to consider this possibility.

**PALMIERI.** Well, ladies and gentlemen, let me remind you that we ask each advocate to present, not his personal opinion, rather what he considers important and responsible arguments. And now to tonight's case.

Mr. Oteri, why should the federal government eliminate the restrictions on imports of cheaper foreign oil?

OTERI. Well, first the reason is that the oil industry makes large amounts of money and they take this money right out of the consumer's pocket. Just to show you what levels they'll stoop to get some of this gold, we'd like you to see a film. Will you roll the film, please?

Film.—It's a perfectly routine sight, a ship from Mexico loaded with oil glides up the ship canal here at Brownsville, Texas bound for a dock where the oil can be unloaded. Nothing remarkable in that. The oil is pumped into big tanks on shore—another routine operation—from there it's pumped into tank trucks. The trucks are filled and their cargo sealed by U.S. Customs. Entirely routine. The trucks move out onto the highway and now you must watch closely because what follows is not routine at all.

The oil trucks roll through the city of Brownsville and then they reach this place, the Mexican border, and here begins the sweetest little operation you ever saw. On the average one truck every three minutes. Here comes one now. The license number—J29045. The trucks stop for an instant here at the border and then they roll on across the bridge into Mexico. And what do the trucks do once in Mexico? They turn around and come back. There's a nice little traffic circle down there and every working day, all day long, the traffic circle is circled by oil trucks—off the bridge, around the block, back onto the bridge, back into the United States.

As you may have figured out by now there is a reason for this and as you may also have figured out, the reason has something to do with money. It seems oil companies have a quota on how much oil they're permitted to import into the United States but there's a loop hole in the law. If you bring the oil in over land, the quota doesn't apply. So a group of oil operators had a bright idea. Bring the oil in by ship to Brownsville, but drive it into Mexico. Then back into the United States and voila! It's coming in by land. The United States government permits this operation to the tune of about 30,000 barrels a day. Some people figure the profit on foreign oil over American oil at about a dollar a barrel. There. You figure it out.

The trucks are pretty heavily loaded, and it takes them on an average of about two-and-a-half minutes to get around the block in Mexico and get back across the bridge. There's old J29045 now right on time. As anybody can see this is oil. It's being imported into the United States and it's coming over land. The trucks go right back where they started from on the other side of town where the oil is pumped into other tanks ready for sale in the United States. Do you follow all that? Well, some independent oil men from Texas who happen to sell their product in competition with this foreign oil follow it very well, and they don't like it a bit.

VOICE. I think it's one of the worst subterfuges that's ever taken place in Texas. It's best described by Major Barton who at one time was a consultant to the Interior Department as a "rinkey-dink."

ANNOUNCER. A rinkey-dink?

VOICE. Yes. A go around rinkey-dink. He said they'd just go around and round and everybody gets rinkey-dinked. (End of film.)

FISHER. Senator Mathias, I just want to say that that crazy rinkey-dink operation shows the limits to which those who try to import foreign oil will go to evade the regulations now in existence. Those of us opposed to foreign imports object to that operation and tried to get it stopped. The President's task force is appointed with that kind of consideration in mind. Those of us who want to keep out foreign oil are not asking that one per cent of the foreign oil now

coming in, come in this crazy way. That is the importers—Mr. Oteri's side—runs that thing to get foreign oil in here undercutting the purpose which Congress has supported—the President has adopted, to protect the national security.

PALMIERI. Mr. Oteri, that film got more reaction than "Easy Rider."

OTERI. I might point out that that speech comes out of his time, and we'll now go on. And we'll tell you something else. That film doesn't represent the people I represent. I represent the consumer who gets hosed by people who take advantage of a law that way.

This also represents the people's he's representing—the oil barons who worry about their three million stockholders and to hell with the American people. Well, we won't let them get away with it.

Now, let me just say one other thing. That in your opening, Mr. Palmieri, you pointed out that some—or at least you left the impression that—I'm sure it wasn't intentional—that all this imported oil was going to come from the Middle East. I think we ought to clear up with the viewing audience immediately that according to this President's task force commission which the other side refers to, 36 per cent of the imported oil in 1980—which is the time we were talking about—will come from Venezuela and 15 per cent—if my memory serves me correct from one of Mr. Fisher's charts will come from Canada. I don't really think even Senator Hansen won't worry about them attacking us. So that's pretty safe oil.

Now what I'd like to point out further, is that people don't seem to realize that 12.2 per cent of the amount of oil consumed east of the Rockies is allowed to be brought in from foreign sources. This oil comes in on import quota tickets. The Department of Interior gives these tickets to the oil industry according to some formula they have. And the oil industry then brings in foreign oil from Venezuela, from Nigeria, from the Mid-East, wherever it comes from. And they then get that oil at \$2.25—I believe the figure is—delivered in New York on the east coast, wherever it's delivered. They then sell that oil at \$3.90 a barrel delivered price in New York, and that money comes from the consumer and it goes to the oil industry. And we maintain that that is not right and that is exactly what we are fighting at this time.

Now, I would like at this time to call Dr. Walter J. Mead, a professor of economics, University of California at Santa Barbara. Dr. Mead is an expert on the economics of the oil industry and he'll talk about interference with the free-price system.

PALMIERI. Welcome, Dr. Mead.

OTERI. By the way, before proceeding I'd like to give credit to CBS and Charles Kuralt for that film that represents my people. And at this point we would like to introduce to you a statement made by Senator Edward Kennedy of Massachusetts as it concerns this problem. Will you roll the film, please?

Film.—VOICE. What is the cost of the oil import program to consumers throughout the country?

Senator EDWARD KENNEDY. The best estimate is approximately five billion dollars a year. That figure was derived from the task force report, the Cabinet task force report. It was estimated that the consumers were expending about 3 billion dollars a year when the oil import program was initially established and that it would rise to about 8 billion dollars by 1975. These figures which are in the Cabinet task force report have been substantially supported by the anti-trust sub-committee of which I am a member. That is, conducted extensive studies viewed by some of the leading economists, oil experts, representatives of the oil companies. And I think these figures are fairly indisputable.

What they amount to, for example, in the state of Massachusetts is about \$140 a year

additional that a family of four has to pay in terms of their heating cost. I think, perhaps, the clearest example of what it costs is that the oil that has no oil importation program, is about 4¢ cheaper in Montreal than it is in Boston and so, in effect, the consumer in Massachusetts—New England—is paying this 4¢ a gallon more than he should. And in effect we're subsidizing an industry that is already receiving more than its fair share of special considerations.

OTERI. Dr. Mead, Senator Kennedy has said the American consumer is paying 5 billion dollars more per year for oil than is necessary. Can you explain to us how this happens?

Dr. WALTER MEAD. Yes, I'd be glad to. It will involve a certain amount of economic analysis, and I'll explain what I have on the board here. These are supply and demand curves, and, Senator Mathias, we have here a demand curve; here a supply similar to the demand curve for oil. Now what these things mean are the following: if the price of oil is here, the quantity demanded by the public would be down here. This is a quantity scale. Now a demand curve sloped down that way. It says that if you lower the price, people will demand a larger quantity. If you lower the price further, they will demand a larger quantity. This applies to oil, T-bone steaks, movie theatre tickets, whatever.

Here is a supply curve and it says similar things. If the price is here, the quantity which producers will supply will be out here. The quantity supplied. They react to the price. At a lower price they will supply less. At a very low price, less yet. Now according to the task force report, given free trade, the quantity demanded and supplied would intersect at this point such that at \$2.25 per barrel delivered on the east coast—foreign oil delivered there—the quantity demanded would equal the quantity supplied. This is what we call the point of equilibrium. This price would be the free trade price. Now, if you happen to own a string of oil wells, you might think along this line. It would be nice to get a higher price for my oil. All right, how do you do it?

Well, the standard way is to restrict competition. In this case, we will restrict foreign competition and keep imports out. So what we might do is to say, let's restrict the foreign supply and we will label this now, "supply: domestic only," whereas this supply curve was "domestic plus foreign." Now, limiting supply to domestic, you see the demand intersection is here. And you get a very high price. We don't know how much—maybe four or five dollars. But the oil industry knows that it can't go that far. You can't completely eliminate foreign imports and get away with it. So they're willing to accept something less. Specifically east of the Rockies, the import quotas permit 12.2 per cent of domestic production. All right let's show those imports. In addition to domestic then, we will have domestic supply, domestic plus—I'll use an "I" there to represent imports. Now this is east of the Rockies, the 12.2 per cent there.

PALMIERI. Doctor, in just a few minutes, I'm going to ask Mr. Fisher to join your class for some cross-examination. So perhaps you could bring the lesson to a close.

MEAD. All right, very quickly. Now the supply and the demand intersect here producing a price of \$3.90 per barrel. Now what I am contending is that from an economic point of view the issue here is money—price of oil. National security is a smoke-screen. Nobody ever goes to Congress, to the President and says, "I want a higher price. Restrict imports." No. They go and say, "national security is impaired. Restrict imports." The issue here is the difference here. A dollar and sixty-five cents per barrel.

PALMIERI. Doctor, if you'll take a seat right there, there's a man who wants to talk to you.

FISHER. Mr. Mead, you say national secu-



ity is irrelevant. What would be the foreign imports if under free trade conditions, approximately within say, ten years time?

MEAD. In ten years time, foreign oil imports would amount—and given free trade now—would amount to 51 per cent of total U.S. consumption. Now that foreign import . . .

FISHER. We'll take the task force figure of more than half coming in abroad.

MEAD. Yes, that's correct. They're the same figures you used.

FISHER. Now the—no, we're not quarreling about that. You say there is no national security interest in being dependent for more than half of our petroleum supply on foreign oil. Are you an expert on national security?

MEAD. What I said was the issue here is the price of oil. I'm an expert in economics.

FISHER. It's quite frequent that somebody looks at the issue from his side of the table. The blind man and elephant—say, "This is what it looks like." Your own figures show that within ten years the U.S. petroleum industry would be cut down; more than half our oil will be coming from foreign countries. Now, from what countries does an economist—you say that would come to under free trade conditions?

MEAD. Under free trade most of it would come from a combination of Canada and South America.

FISHER. Most of the oil would come from a combination of Canada and South America. Could I read you from some testimony before the hearings of the Senate Committee just a year ago? "Where would this additional oil come from? What proportion would come from the Arab nations?" We're talking about the increased imports. Dr. Mead testifying says, "I should think that most of it would come from the Arab nations." What caused you to change your mind?

MEAD. I read the task force report.

FISHER. And what caused you—we'll go right on—what caused you besides their recommendation of restrictions of different tariffs—they recommend a plan to keep too much oil from being from the Middle East—that's the recommendation of the task force. Now under free trade conditions, how . . . what does the typical oil well produce in the Middle East?

MEAD. Well, the figures that were given to us are 1,000 barrels a day . . . 10,000 barrels a day . . .

FISHER. Say 5,000 barrels a day?

MEAD. They're very prolific . . .

FISHER. 5,000 barrels a day.

MEAD. What's produced in Alaska, by the way?

FISHER. Not one well has hit—been tested for an hour. Not one well has been run in operation in Alaska yet.

MEAD. 10,000 barrels a day was one . . .

FISHER. For two hours, and it stopped.

MEAD. That's the test run.

FISHER. That's right. No one knows how long he could run it at that figure. No one knows any other wells like that. The average well in the United States today produces how much?

MEAD. I refuse to give the figures that were given on your side . . .

FISHER. Your Alaska well's not going to count because that's not one of your imported wells. Where would the imports come from if you accept half the figure?

MEAD. No, but the figures you quoted . . .

FISHER. Now the Middle Eastern well . . .

OTERI. Mr. Fisher, let him answer a question.

FISHER. Well, why talk about—we're talking about imports, which he says are irrelevant.

OTERI. Make a speech and he'll answer.

MEAD. My statement was the issue here is the price of oil. That is why people go to Washington. Sir, there probably is not a case on record where anybody went to Washington

to ask for a hand-out and said, "I want my income to go up. Give me a hand."

FISHER. There are those who think that the military pay should be increased for national security reasons, and some soldiers want more pay. The fact that the oil companies may have a higher price does not indicate that there is not also national security involved. We've had four task forces since '55—two Cabinet committees, four Presidents and all have said national security is involved.

MEAD. Um hm.

FISHER. The Cabinet voted just last month—five out of the seven on the committee—to say that national security required controls.

MEAD. Yes.

FISHER. And you said they're all being sold out?

MEAD. The oil industry, the oil industry has, the oil industry has been extremely successful in pushing this national security argument but it's a smoke screen. Let's get down to the issue. It's the price of oil.

PALMIERI. Dr. Mead, Dr. Mead, I think right now we're going to have to terminate cross-examination. You'll have plenty of opportunity, Mr. Fisher. Thank you very much for being with us tonight, Dr. Mead. I grade the class very good and very interesting.

OTERI. Thank you, Doctor. You were great. I'd like at this time to call Dean Alfred Kahn, dean of the College of Arts and Sciences at Cornell and professor of economics. Dean Kahn is an expert on the organization and government regulation of the oil industry.

PALMIERI. Welcome, Dean Kahn.

DEAN ALFRED KAHN. Thank you, Vic.

OTERI. Dear Kahn, if you're going to make any speeches now, make them before Mr. Fisher starts questioning you. Can the oil import program be considered a national security program, sir?

KAHN. It certainly would not be a correct statement in the historical record to say that that is how the program came into effect. If I were to devise a program for the protection of national security by protecting the oil industry one way or another, what I obviously would want to do would be to decide what kinds of emergencies are possible; what kinds of protections might be required for those various emergencies; how much oil would we want to keep shut in the ground; how much pipeline capacity would we need; how much additional tanker capacity would we need; how much would this one cost; how much would that one cost; that's what the Army does when it plans for national security. And then I would devise the scheme that was best adapted at minimum cost to provide the national security. Now it's obvious that this scheme was not set up in that fashion. Its a matter of historical fact.

Take that simple case of Canada again. We treat . . . we say that we can stand to have only 12.2 per cent of our crude oil in districts one to four coming from abroad. And it doesn't make any difference according to this program whether it comes from Canada, or from the moon, or from the Middle East. Now that just does not make sense from the point of view of national security. This oil from Canada is surely very close—as the Cabinet committee says—as secure as the oil from the United States. Moreover, the oil from Canada comes overland. The oil from the Gulf Coast produced in the United States comes up by tankers. And the oil from Alaska, well some of it may come from pipelines, some of it may come from tanker. It seems perfectly clear that from this point of view, the oil from Canada is more secure in case of emergency than the oil from the United States. So if we were really interested in national security we would not have devised this kind of a plan.

OTERI. Thank you. Now, Doctor, will you explain to us what, in fact, this oil import quota is and why it came into being.

KAHN. The only way you can understand how it happened—how mandatory oil controls were put on in 1959—is to recognize that the United States oil industry had been subject to a system of controls of exactly this kind—quota controls—for the preceding 25 years—largely imposed by the states—the producing states, mainly Texas and Louisiana. Except for wells that are producing say, less than ten barrels a day—it's more complicated than that, but roughly that—every well in the United States has a quota and the owner of that well is told from one month to the next, from one well to the next, how much he may produce. Now that system which was instituted in the early 30s serves a lot of purposes. It has a complicated historical explanation, but there is one thing it consists of—it is a gigantic state-administered system for fixing oil prices, non-competitively. That's what it is, economically.

Now, how does it do that? It does it by controlling the amount of oil that the wells are permitted to produce. For example, between 1948 and 1962—which is a period of particular interest—the price of oil actually rose—roughly from \$2.60 to something like \$3.05 a barrel. At this same time capacity was growing very rapidly much more rapidly than demand. How come the price then was maintained when at this very same time the price of foreign oil was declining? It was done in this way: In 1948 one of these controlled wells in Texas was permitted to produce 366 days in the year. It was leap year. Then as capacity outran demand the state of Texas cut back the allowances. By 1962 one of these controlled wells in Texas was permitted to produce only 97 days in the whole year. That means on the average, eight days a month. So, by steadily cutting back the production, they were able not only to protect the price, but actually to increase the price. Now that's not the way a competitive market works when you have excess capacity. It's not the way the world market-price operated. I'm almost through. Now in these circumstances, what would you do . . .

OTERI. Don't hurry, you're doing beautifully.

KAHN. What would you do if you were a producer of oil in Texas and you found that when you put a hundred thousand dollars into a well or a million dollars, your production was cut back so you could operate only eight days a month—much higher cost, much longer period of getting your money back. What would you do if you were an American refiner and you found you were paying this artificially sustained price? You'd go abroad. That's just what the American companies did. Result: because we had this artificially sustained price the oil imports begin to increase. Last sentence on this:

How do you stop that? The only way you can continue to protect the American market is to bring the foreign oil under the quota system just the way the domestic oil. That's how the import quota came in.

PALMIERI. One more question of your witness.

OTERI. Doctor, if you have this effective price fixing scheme both at home and abroad, why is it that the industry says its return on invested capital is only average?

KAHN. What the industry says there is roughly correct. I don't see any reason to question those figures. But it misses the point. The point is not that the industry is making above-average rates of profit on its invested capital. The point is that this system of domestic production control and import controls is fastening a grievously expanded, inflated cost on the American economy. We are being forced to buy our oil where it costs a lot to produce rather than buy it

where it costs a little bit to produce. So it's not that they make big fat profits, it is that the costs are enormously increased. And it seems to me particularly at a time when our expenditures for national defense are limited in a time of inflation because we're worried about costs and we are straining the utmost to make use of our resources to redeem our environment, to fix our cities, at this time to fasten on the American economy a high cost industry which will be progressively more and more high cost with or without—even if you keep the quotas relative to the rest of the world—it seems to me to make no economic sense at all.

OTERI. As a matter of fact, didn't one of the oil companies go up a penny on the cost of gasoline today?

KAHN. That may well be.

PALMIERI. Dean Kahn, let's see what Mr. Fisher has to ask on cross-examination.

FISHER. Dean Kahn, is it unusual for an industry to restrict its output to meet demands? The auto industry does, doesn't it?

KAHN. Yes.

FISHER. To cut back?

KAHN. It does it privately. It doesn't do it nearly as effectively as this . . .

FISHER. Now how much today, how much today additional oil could be produced in the United States if all pro-rationed, all limitations were removed? Do you have an estimate of that figure?

KAHN. The figure that I have an estimate for is that if you were permitting wells to produce at their maximum efficient rate, you could produce about 127 million barrels a day in addition.

FISHER. Industry tells me less than a million and it's going down.

KAHN. The task force figure is 1.7, that's where I got it.

FISHER. Now, you said the Canadian—there's no problem of security with Canada. Does Canada import more than half their oil now?

KAHN. Not to my knowledge.

FISHER. They do. Does Canada . . .

KAHN. What—are you saying unbalanced net or gross?

FISHER. No, Canada imports more than half the oil they consume.

OTERI. Are you going to answer his question?

KAHN. Are you asking, are you giving me a gross figure or a net figure?

FISHER. No, they export more than half they produce.

KAHN. All right. Then you're saying that it is not net.

PALMIERI. Dean, it might be helpful if you explained what you meant by net and gross.

KAHN. The east coast of Canada imports oil because . . . and the center part of Canada exports oil. So you've got to take it net and net, I doubt they import more than they—half of what they produce.

FISHER. The east coast does import more than half the total consumption of Canadian oil the west coast exports—the west side of Canada—exports more than half the oil they drill.

KAHN. Okay.

FISHER. Now you were assuming that there was no national security risk if the eastern oil could be shut off. Suppose eastern Canada lost its Middle Eastern oil. Half their needs were lost. Let's say an Arab revolt, whatever it may be. Do you assume that Canada would continue to supply the oil to the west without asking us to share our oil in the east coast?

KAHN. Well, if I were worried about national security I would make some sort of agreement with Canada.

FISHER. Right.

KAHN. About continuing . . .

FISHER. But there is a security problem . . .

KAHN. We don't do that now . . .

FISHER. The security problem is that we

cannot count on that Canadian oil to come so long as Canada continues to import half their oil and have us over a barrel by requiring us to ration it if they do not.

OTERI. Dr. Kahn, make your own speech now.

KAHN. The security problem may be even greater for that enormous amount of oil that we get from the United States producers in the Gulf Coast area who sent it up by tanker . . .

FISHER. Incidentally . . .

KAHN. Which is subject to . . . excuse me . . .

FISHER. All right . . .

KAHN. Which is subject to submarine attack and so if you're going to decide about security, let's talk about security. Let's not drag it in by afterthought as an indirect possible partial expensive consequence of a protective tariff system.

PALMIERI. We have a question from Senator Mathias.

MATHIAS. Mr. Fisher, I'd like to ask the witness two very brief questions. One, what will be the effect on the consumers of natural gas for home heating on the scrapping of the quotas?

KAHN. Well, that's a complicated question, Senator. First of all, the industry itself has testified at great length that it is able to separate the search for gas from the search for oil—preponderantly, that is they call it directionality. They now know when they're looking, and they don't know what's there; they know what's not there. They can look for gas or they can look for oil. In addition . . .

MATHIAS. So you're saying it'll be minimal?

KAHN. It'll be very slight.

MATHIAS. All right, let me ask you one other question very quickly. From the point of view of the government in Washington, you have to consider the whole ball of wax—what the total impact of this problem is going to be on national interests. Won't the purchase of additional oil from the Mid East—and we can argue about the exact amount—the purchase of more than we are now buying from the Mid East, increase the dollar capacity of the Arab nations to enter the armaments markets of the world and our own armaments markets and won't that increase the pressures on Israel and therefore the tensions in the Mid East?

KAHN. Well, Senator, I don't mean to be disrespectful, but it seems to me that when we're worried about the problem of foreign policy of this kind, it seems terribly indirect to try to somehow control the flow of dollars to the Arab countries. They already get over 50 per cent of their revenues—aggregate revenues from the sale of oil—already. They are already making hundreds of millions of dollars a year from their oil and the only limitation on their ability to get armaments is not the availability of the dollars right now, but it's the extent to which we can get together with the Russians and agree to stop sending arms into that area. So excuse me . . . your question . . . the answer to your question is, yes. If they get more dollars they will be able to buy somewhat more arms but that's not the limitation. It seems . . .

FISHER. You accept the fact as Dr. Mead does that probably more than half our imports would be . . . more than half our domestic consumption would be imported oil within ten years?

KAHN. Yes. I have no reason to question it.

FISHER. No reason to doubt that. Now, do you regard those sources as secure? Do you regard the Arab countries which will be providing—well, the eastern hemisphere together, 4.8 million barrels a day—that's a quarter of our total consumption for the eastern hemisphere—do you regard that might be disrupted by an Arab terrorist?

KAHN. Well, I want you to notice that it will be decreasingly liable to that disruption because every year that passes oil is coming from more and more countries. And

for you just to say an Arab terrorist is going to cut off Kuwait, Iran, Iraq, Libya, Algeria, Nigeria—you've got to imagine a cataclysm of the kind that is simply . . . in other words you can't speak of "the Arab country" as one terrorist with one bomb cutting off, blowing half of the world up . . .

PALMIERI. I had the distinct impression that he had in mind the possibility of more than one.

KAHN. Okay.

PALMIERI. But, Dean Kahn, thank you very much for your appearance here tonight.

OTERI. You're beautiful. You're beautiful.

PALMIERI. Mr. Oteri, before you call your next witness . . . before you call your next witness, I'd like to point out to our viewers who might have tuned in late, that Mr. Fisher gave his side of the case last week. Tonight you're presenting your entire case. Now will you proceed?

OTERI. Thank you and next we'd like to call Martin Lobel, an attorney and the legislative assistant to Senator Proxmire of Wisconsin. Senator Proxmire is a leading consumer advocate in the Senate. Mr. Lobel will tell you about the political realities behind the quota system.

PALMIERI. Mr. Lobel, we're glad to have you with us.

OTERI. Mr. Lobel, we've seen that there is no economic rationale for the quota system, no national security justification. Why then do we have this program?

MARTIN LOBEL. We've been skirting the issue all evening. It's pure political power. Campaign financing. The oil industry has been the recipient of enormous subsidies from the federal government for many, many years. It pays to invest in Congress. They maintain over sixty offices just to watch what's going on in Washington. They give enormous amounts in campaign contributions. They have the most sophisticated, most articulate, best organized lobby in Washington. I even had an oil lobbyist who had a few drinks in him tell me he didn't care who Proxmire's opponent was. He'd guarantee he was the best financed candidate Wisconsin had ever seen. That's why oil is so powerful. As a matter of fact, in many parts of the country, particularly in the South and Southwest, you can't get elected without oil money.

OTERI. Tell me, sir, Men like Johnson, Rayburn and Kerr—all strongly identified with oil—are gone from Congress. Is there any evidence that oil still has such strong influence in this administration?

LOBEL. I think it's quite clear that the oil industry still maintains an inordinate amount of power bought by it. For example, Senator Long who is a decent, honorable man, is chairman of the finance committee through which all oil subsidies pass. He earned over a million—almost 1,300,000 dollars from his oil interest. Harold McClure, who is an independent oil producer, former president of the Independent Petroleum Association of America, admitted giving 95,000 dollars in campaign contributions this last election. And remember there's a federal election law requiring no person to give more than 5,000 dollars to a political candidate.

Finally, Mike Halder, who is chairman of the board of Standard Oil of New Jersey managed to arrange a private meeting with President Nixon and emerge from it quite confident that Nixon understood the problems of the oil industry. Apparently, he did because he rejected his own task force report to bury it into another study. He, in effect, has said to the fat cats in the oil industry—the big oil barons—"Look fill'er up. Fill up the Republican coffers or we may take away some of your subsidies." It's the most blatant thing I've ever seen.

PALMIERI. One more question, Mr. Oteri.

OTERI. Does the most recent decision re-



stricting Canadian oil have any political components?

LOBEL. Yes, it in effect handed the oil barons 85 million dollars in import tickets that they would not have gotten because of the importation of Canadian oil which is not—had been non-quota oil.

OTERI. And do you think that there's been any political danger that Canada might attack us?

LOBEL. Well, Senator Long mentioned the War of 1812 but I don't think that very realistic.

OTERI. Did he really?

LOBEL. Yes.

OTERI. Did he really?

LOBEL. Yes.

OTERI. I have no further questions.

PALMIERI. Well, Mr. Fisher, your chance for cross-examination.

FISHER. Mr. Lobel, you've indicated that you think the quotas are solely a result of political machiavellianism or corruption.

LOBEL. Yes, that is quite correct.

FISHER. You're charging . . .

LOBEL. Sherman Adams admitted it . . .

FISHER. President Eisenhower, President Kennedy, President Johnson, Secretary Udall, President Nixon and two Cabinet committees of all having sold their principles out for cash. And that's an assumption based on experience.

LOBEL. No, you're putting words in my mouth. What I said is the oil industry is extremely powerful—political power takes many forms. You can buy a politician without venally buying him. You can present him with facts and figures—it wasn't until Senator Hart presented some of the facts, some of the disastrous areas in which the oil industry has mulcted the American public for years. People aren't aware of it. The oil industry is much too sophisticated to do something openly. They do it by the back door. Oil import subsidies was done by the back door.

FISHER. By the back door?

LOBEL. By the back door. Congress didn't have a thing to do with it.

FISHER. They can change it any day they want to. Austin, will you give me that price index to show the public getting mulcted by the price of oil? Are you worried about the balance of payments?

LOBEL. Yes.

FISHER. The oil . . . the effect on the oil balance of payments would be what? Several billion dollars.

LOBEL. The task force indicated it would be no adverse impact on the balance of payments over a long period of time.

FISHER. And you're satisfied with that?

LOBEL. They're the experts. They're President Nixon's own experts.

FISHER. Did you write Senator Proxmire's speech complaining about the adverse effects of the balance of payments of 2 per cent imports on dairy products?

LOBEL. No, I haven't read the speech.

FISHER. 73 million dollars. Is that your work?

LOBEL. Yes, but wait a minute . . . you're talking about milk and then you talk about oil. We are willing to go to the floor of Congress and argue our case. The oil industry isn't. They did it through the back door under the guise . . . they wrapped themselves in the flag and said, "national security demands oil profits."

PALMIERI. Mr. Lobel, we have a question from Senator Mathias.

MATHIAS. Let me just ask you if there aren't some other political factors that weigh the other way. For instance, Congress is very much interested in environmental problems at the present time and there are few more devastating disasters that can happen than to have a Torrey Canyon, a jumbosized tanker, break up in the Cheapeake Bay, for example. Now this is a very real and physical problem and it's a political problem which Congress weighs in this whole balance.

LOBEL. Surely. This is, of course, an important factor and Congress has been very aware of it. Unfortunately, the oil industry operates behind closed doors and Congress really never understood. . .

MATHIAS. Oh, Mr. Lobel. . .

LOBEL. The oil import program until Senator Hart and Senator Proxmire exposed this vast worm hole.

FISHER. Are you an expert on national security?

LOBEL. As expert as you are, I would imagine.

FISHER. I've consulted for several years on that subject with the government on the defense part of it. But let's look at the effect on gasoline and oil prices. Here is the consumer price index for from '60 to '69—ten years. That's the average consumer price index.

LOBEL. Um hm.

FISHER. During the period of controls—which you say the public is being raped—regular retail gasoline price tax has gone down and it's still below the average—the heating retail oil price is below the average. Now does that look as though controls have raped the public very seriously?

LOBEL. Yes, because you have to take a look . . . you know we're not operating in a little island all by ourselves, we operate in a world. You're well aware of that I'm sure. The fact is that the world oil price has declined while U.S. prices have increased. What we are doing in effect is saying to the American taxpayer, "Look, you've got to subsidize our exploration for oil in the Middle East but yet you can't get the benefit of that cheap oil we're supplying." In fact we're saying to the American businessman, "You have to use the expensive American oil while your foreign competitors can use the cheap foreign oil which your taxpayers have paid for."

FISHER. The whole purpose of the program as we've discussed it, is to have the Americans pay a little more to guarantee them a supply.

LOBEL. Five billion dollars more?

FISHER. Less of an increase than the price index.

LOBEL. In Senator Hansen's own state. . .

FISHER. Less than an increase in the consumer price index. . .

LOBEL. The average family of four is paying more than \$228. . .

FISHER. Now that price depends. . . can only be justified. . .

LOBEL. All right. . .

FISHER. In my terms, unlike butter which I found, or dairy products, which your Senator supports quotas of . . . two per cent of this precious fluid threatens national security but oil is quite different. We justify it in the risk that significant amounts could be lost by activity.

LOBEL. All right, but what . . .

OTERI. Let him finish his speech, will you?

LOBEL. Oh, I'm sorry. I didn't mean to interrupt.

PALMIERI. First of all, Mr. Oteri, I have yet to see one of your witnesses who couldn't protect himself here tonight. I want to disabuse you of your worry.

LOBEL. My point, my point . . .

PALMIERI. Just a moment, Mr. Lobel, we have a question from the Senator on my left.

LOBEL. May I just make one . . .

PALMIERI. Let's hear from the Senator. Will you wait just a second? Go right ahead, Senator.

MATHIAS. I'd like to just know how you rationalize this five billion dollar difference here with the load that the taxpayers of America bear—\$4½ billion for agricultural subsidies which—Dr. Mead not to the contrary—is asked for and received simply on the basis that the farmers want to get more money?

LOBEL. Let me point out to you, two statistics. First of all, let me compare the oil

industry with agricultural industry. The oil industry according to the First National City Bank of New York—of the largest 2,250 companies in the United States, the 99 oil companies on that list had 25 per cent of the total profit—of the 2,250 largest American companies! Compare that with the small dairy farmer in Wisconsin. And talk about subsidies, do you realize the Treasury Department indicated that it cost the American taxpayer over 10 dollars in lost tax revenue because of the depletion allowance for every one dollar of oil that was discovered at the inflated American price?

PALMIERI. Do you have a final question?

FISHER. Yes, I'd like to ask Mr. Lobel if he can believe the price differential between \$3.50 and \$1.90 can be justified sometimes by very natural trade consequences?

LOBEL. My point would be this. There are much more efficient cheaper ways of protecting our national security, if indeed it needs to be protected, in terms of oil. For example, Senator Proxmire proposed the drilling incentive program that the major oil companies didn't like because they wouldn't get the benefit of it. The independent producer is getting raped by the major oil companies just as much as the public is.

FISHER. The task force went through those proposals and rejected them. But just so you won't forget that there is sometimes a product that costs \$3.50 a pound on the west coast where Dr. Mead is and only \$1.90 a pound in . . .

LOBEL. Lobsters?

FISHER. Boston, I want him to remember and have a good lobster. Give that to Dr. Mead so he can . . . there's a price differential just in excess of that for oil.

PALMIERI. Mr. Lobel, let me thank you and ask you . . .

OTERI. Take it, Marty, he wants to give it to you . . .

PALMIERI. And ask you to be very careful . . .

OTERI. Take it with you . . .

PALMIERI. Mr. Oteri, you have two minutes to summarize.

OTERI. I must confess I don't quite see the import quota applying to lobsters but . . .

PALMIERI. Well, anything in a pinch.

OTERI. Anything in a pinch is right. Actually, at this point, I think that we're really, you know, we've been laughing a bit at the end of this show and I don't think it's quite proper, but let me just point this out. This is a very, very serious thing. The American public is being asked to give up five billion dollars. The oil industry told you last week it was only three billion, I say hokum, but three billion or five billion that's a lot of money to a person making 70-80-90-100 dollars a week or more. It's a lot of money. And it comes down to amounts like Massachusetts residents paying 35 dollars more per capita—every person in Massachusetts. In Senator Hansen's own state has the highest per capita cost for this oil subsidy of any state in the union; if my memory serves me correct, it was 57 dollars a person in Wyoming that they have to pay so the oil industry gets a little bit of a push.

I just say to you, we have reached a point in this country where it's about time the consumer stood up and was counted and you can stand up and you can be counted. Write to this show now, telling your senator, your congressman, that you don't want to be raped any longer, that you want a voice, that you don't want special interest taking the dough you work for away from you and giving you nothing in return.

PALMIERI. Mr. Oteri, thank you. Mr. Fisher, you have two minutes to react to Mr. Oteri's arguments.

Mr. FISHER. I'll try and do better than that. Senator Mathias, those of you at home. The issue here is to weigh uncertainties regarding national security and uncertainties as to cost with some closer precision as to

cost. The undisputable evidence you've had in these two weeks' programs has been without question that if the quotas are removed the United States will rely for its petroleum products—on more than half its petroleum products—from foreign oil of which half of that would be in the eastern hemisphere and more than a quarter—some 30 per cent—would be Arabian oil.

You've heard Senator Hansen say that that would affect our day-to-day politics, that we would have to defer to those countries whose oil we got. It would tend to affect what we did, what we do, and in the time of crisis, we would have serious rationing if there were a serious interruption.

No one's suggesting that oil would be cut off simultaneously—that 50 per cent in ten years will probably go—you've heard—to 65-70 percent; 75 in fifteen years. So any one, one country—if a crazy Arab will blow up a Swiss airplane, several will blow up refineries and pipelines and wells. That is a risk because this country cannot do without oil. The cost of protecting ourselves, reducing that risk—we can't solve it wholly—of reducing that risk, comes out to something like we're debating—2¢, 1.9¢, 3¢ a gallon for your gas and heating oil. Three to five billion dollars a year is a lot of money. Our national defense budget is 80 billion dollars, and I'll tell you that you could have your whole Army, your whole Navy, and if you didn't have oil, you'd have lost. You'd have to . . . the umbilical cord would be cut off. This country, two cabinets and four Presidents have considered and resolved this national security would be seriously endangered if we relied to that degree on foreign oil. Thank you.

PALMIERI. Thank you very much, Mr. Fisher. Well recently "The Advocates" asked over 1,000 people across the country a question similar to the one we've been debating for the past two weeks. We're going to show you the results of that poll in just a moment. First we'd like to ask our studio audience here to vote on tonight's question. Well, ladies and gentlemen, you've heard the question. You've been with us now for two weeks on this important national issue. If you believe we should continue to restrict imports of foreign oil, vote yes. If you want to eliminate these restrictions, vote no. Are you ready? Please vote now. Five, four, three, two, one. Thank you. OK, that vote's in our computer. We'll be looking at it in just a minute.

Now, let's look at "The Advocates" national poll first of all. As you can see when we took a scientific sample of national public opinion, we came back with 51 per cent nationally in favor of continuing the restrictions; 29 per cent were opposed; and 20 per cent had no opinion. I said that was a scientific sample of public opinion. Now on the other hand our studio audience here made up of 200 people invited at random from those in the Boston area who have written "The Advocates" or who have otherwise expressed an interest in this program.

Now last week, before the studio audience heard either argument we took a vote to find out how they felt about continuing restrictions on foreign oil. Now, can we see a comparison of that first vote and "The Advocates" national poll? We're going to look at that in just a minute, just as soon as the computer is ready to come up with it. We're attempting with our studio audience, as you can see, to compare people from the community in the studio who have been selected at random with this national poll and there you see it. 39 per cent saying, yes, here in the studio, against 51 per cent nationally; 41 per cent in the studio saying no, against 29 per cent saying no, nationally; and on not voting, 29 per cent here in the studio on this first vote, against 20 per cent nationally.

All right now we've heard the arguments and let's see the vote we just took. By the way, this same audience here in our studio

heard both last week's and tonight's program. May we see that second vote, please? There's the first one that we took showing 60 yes; 58 not voting on the first go around. Now let's compare it with the second vote. Of the 60 people who originally favored the proposal let's see what happened. Now how many left that position, and where did they go?

Well, 24 left. 13 went to no and 11 to the undecided column. Now the 82 people here in the studio who opposed the proposal, how many changed their minds? 15. 11 went to not voting; 4 went to yes. And finally, of those 58 who were originally undecided, who went which way? 13 left. 11 went to no; 2 to yes. Here's the final tally. In our studio 94 saying no; 49 yes, and 50 still not voting.

Ladies and gentlemen, now's the time for you at home to act. Wherever you stand on the question of continuing to restrict imports of foreign oil, you can make your position felt by writing your opinion to us, "The Advocates," Box 1970, Boston 02134. Don't be just a spectator, be a participant, write us tonight.

Now let's look ahead to next week.

I want to take a moment to let the audience know that this is Joseph Oteri's last "Advocates" program. The press of other commitments is forcing him to leave. Now having Joe Oteri on this show has been a great experience for all of us here on the staff, for the audience. He's a great advocate; great lawyer. Joe, you've been wonderful to have. Thank you very much for all you've done for the program. Thanks to our witnesses, to all of you for your distinguished performances, our Advocate Roger Fisher, Joe, good night, and Senator Mathias, thank you once again. I'm Vic Palmieri, until next Sunday, good night.

ANNOUNCER. "The Advocates" as a program takes no position on the question debated tonight. Our role is to help you understand both sides more clearly.

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#### JUDGE CARSWELL

Mr. BYRD of Virginia. Mr. President, I regret that President Nixon has found it impossible to win approval by the Senate for the nomination of a southerner to the U.S. Supreme Court.

Frankly, I feel that the South has been treated badly.

I do not believe that there was adequate reason to reject either Judge Haynsworth or Judge Carswell. It is apparent to me that a large number of Senators are determined to block approval of a southern conservative. Forty-five Members of the Senate voted against both of Mr. Nixon's southern nominees.

Thirty years ago, the Court was too far to the right, and it was in need of balance. But for many years now, the Court has been too far to the left. Once again, it needs to be brought back to center. I dislike extremism on the Court.

Under the existing circumstances, one cannot really blame President Nixon for his decision to look outside the South for the next nominee. One can understand his discouragement over the rejection of Judge Haynsworth and Judge Carswell.

For my own part, while I wish that a southerner could be approved, I shall support a qualified strict constructionist whether he comes from the North, the South, the East or the West.

The really important things are that

the man who is nominated have the qualifications to serve on the Court, and that he take a responsible view of the judicial function.

What is needed is a man who is determined to interpret the law and not attempt to make the law. If such a man is nominated, he will have my support.

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

Mr. BYRD of Virginia. I am happy to yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, with pride I join my distinguished colleague from Virginia, who has a record of upholding the provisions of our Constitution. He is known for his straightforward support of righteousness and fairness, and I commend him for his statement this morning.

I also join other Senators on both sides of the aisle who have this morning expressed their support of the President and Judge Carswell.

I know that it was after great thought, and with great reluctance, that President Nixon decided that he could not successfully nominate a judge from the South who shared his strict constructionist views. The President wanted—as I want—to see a strict constructionist on the Supreme Court.

I supported Judge Carswell with sincere conviction of his qualifications, and integrity. He is a fine American, respected and admired for his accomplishments on the bench and in his private life.

Mr. President, some Members of this body appear to have forgotten that in November of 1968 there was a great national election, and the people indicated by an overwhelming margin in that election that they wanted a change. Part of that change, I submit, was in the attitude of the Supreme Court on questions which affect the daily lives of millions of Americans. The President, in the exercise of his constitutional powers, has attempted to provide that change, to provide a philosophical balance on the Supreme Court, to introduce new thinking representative of a large segment of the American public.

Twice the Senate has thwarted the President in this effort. Purportedly the Senate's action was based on questions of ethics and excellence, but one cannot fail to suspect that more—much more—was involved. Some Members of this body refuse to recognize the election returns. They refuse to admit that the President has the right—yes, the constitutional right—to nominate men for the Supreme Court who share his judicial philosophy.

Mr. President, it has been said several times, and I agree, that it would be easier to change the Senate than to change the Supreme Court. But courts do change, just as Senates change. And I am willing to predict that within the year, we shall see both come to pass. The people of this Nation have the right and I firmly believe they will make their convictions known at the poll that counts—the votes that will be cast in November.

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

Mr. FANNIN. I yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, I think, in view of the colloquy that has just taken



place, it would be appropriate to ask unanimous consent that the formal statement issued by the President, as well as the transcript of his remarks yesterday on this subject, be printed in the RECORD at this point.

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

STATEMENT BY THE PRESIDENT

I have reluctantly concluded—with the Senate presently constituted—I cannot successfully nominate to the Supreme Court any Federal Appellate Judge from the South who believes as I do in the strict construction of the Constitution. Judges Carswell and Haynsworth have endured with admirable dignity vicious assaults on their intelligence, their honesty and their character. They have been falsely charged with being racist. But when all the hypocrisy is stripped away, the real issue was their philosophy of strict construction of the Constitution—a philosophy that I share and the fact that they had the misfortune of being born in the South. After the rejection of Judge Carswell and Judge Haynsworth, this conclusion is inescapable.

Both are distinguished jurists; both are among the finest judges in the Fourth and Fifth Circuits; both had previously been approved by the Senate for the second highest Federal court; yet, both were rejected. In my opinion, neither would have been rejected had he not been born in a Southern State.

In selecting both men, I had several criteria in mind. First and foremost, they had to be men who shared my legal philosophy of strict construction of the Constitution—men who would help to restore to the United States Supreme Court the balance that it genuinely needs—that balance I pledged to the American people that I would help to restore.

Secondly, I set the criteria that both have experience on the highest Federal appeals court—next to the United States Supreme Court itself.

Third, I chose them because they were both men of the South.

I do not believe that any segment of our people or any section of the country can lay claim to one or more seats on the High Courts as its own preserve. But controversial and far-reaching decisions of past and coming years are far better received—when each section of the country and every major segment of our people can look to the Court and see there its legal philosophy articulately represented.

Four of the present members of the Court are from the East, one from the Midwest, two from the West and one from the South. More than one-fourth of the people of this nation live in the South—they deserve representation on the Court.

But more important than geographical balance is philosophical balance—the need to have represented on the Court those who believe in strict construction of the Constitution as well as others who believe in the liberal construction which has constituted the majority on the Court for the past fifteen years.

With yesterday's action, the Senate has said—that no Southern Federal Appellate Judge who believes in a strict interpretation of the Constitution can be elevated to the Supreme Court.

As long as the Senate is constituted the way it is today, I will not nominate another Southerner and let him be subjected to the kind of malicious character assassination accorded both Judges Haynsworth and Carswell. However, my next nomination will be made in the very near future; a President should not leave that vacancy on the Court when it can be filled. My next nominee will be from outside the South and he will fulfill the criteria of a strict constructionist with judicial experience either from a Federal bench or on a State Appeals Court.

I understand the bitter feeling of millions of Americans who live in the South about the act of regional discrimination that took place in the Senate yesterday. They have my assurance that the day will come when men like Judges Carswell and Haynsworth can and will sit on the High Court.

STATEMENT BY THE PRESIDENT REGARDING THE SUPREME COURT NOMINATION

Ladies and Gentlemen: As you know, I have just met with the Attorney General today and also last evening with regard to the appointment to the Supreme Court.

After the Senate's action yesterday in rejecting Judge Carswell, I have reluctantly concluded that it is not possible to get confirmation for a Judge on the Supreme Court of any man who believes in the strict construction of the Constitution, as I do, if he happens to come from the South.

Judge Carswell, and before him Judge Haynsworth, have been submitted to vicious assaults on their intelligence, on their honesty and on their character. They have been falsely charged with being racists. But when you strip away all the hypocrisy, the real reason for their rejection was their legal philosophy, a philosophy that I share, of strict construction of the Constitution, and also the accident of their birth, the fact that they were born in the South.

Four of the present Judges of the Supreme Court are from the East. One is from the Midwest and two are from the West. One is from the South. Over 25 percent of the people live in the South. The South is entitled to proper representation on the Court.

But as I have often said to members of this White House Press Corps, more important than geographical or other kinds of balance in the Court is philosophical balance.

I have concluded, therefore, that the next nominee must come from outside the South, since this Senate, as it is presently constituted, will not approve a man from the South who shares my views of strict construction of the Constitution.

I, therefore, asked the Attorney General to submit names to me from outside the South of Judges from the State Courts, Appeals Court as well as the Federal Courts, who are qualified to be on the Supreme Court and who do share my view, and the views of Judge Haynsworth and Judge Carswell, with regard to strict construction of the Constitution.

I believe that a Judge from the North, who has such views, will be confirmed by the Senate.

Thank you.

WAIVER OF THE GERMANENESS RULE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time under the germaneness rule, paragraph 3 of rule VIII of the Standing Rules of the Senate, not start running until the conclusion of the special orders that have been granted for today.

The PRESIDING OFFICER (Mr. Young of Ohio). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, are we still in the morning hour?

The PRESIDING OFFICER. Yes.

Mr. JAVITS. I wish to be recognized. The PRESIDING OFFICER. The Senator from New York is recognized.

THE SUPREME COURT OF THE SOUTH

Mr. JAVITS. Mr. President, I have heard with the greatest of interest the arguments of my colleagues of various

ideological persuasions about the much-debated statement of the President respecting a southern judge.

I wish to supplement my own remarks by saying the following things:

First, I am not going to be intimidated by any such accusations to vote for a judge who I think is not worthy of the honor, no matter how many nominees it takes. So I hope they will not get any such ideas. If this is that kind of tactic, I do not think it is going to succeed, and I do not think it is wise.

Second, all that I said, and that I think has been raised by others, is that whom the President sends us is his business. He can send us somebody from the South or he can send us somebody from some other part of the country. The thing about his statement that I do not think was quite accurate or fair was the fact that the Senate, as now constituted, was biased—in other words, the majority who voted against Judges Carswell and Haynsworth.

Mr. President, I think it is the duty of every one of us in that majority to search his own conscience and speak for himself, and that is all I was doing. I hope other Members will do the same. Let the country know, from the lips of each of us, how we receive this statement.

Finally, as I campaigned for President Nixon—and would again, notwithstanding the statement—I rose to say that I hope, as on other occasions, that this statement, quickly delivered after what was obviously a great disappointment would not be his lasting feeling; because I did not think that was best for him or for the country.

One other point: I do not think—and again I speak for myself—that there was any condemnation of Judge Carswell as a man. There were no questions of ethics here. A man is the best he has got, and I am sure that Judge Carswell is giving the best he has and would have given the best he had if put on the U.S. Supreme Court. I am very glad to see that he will continue to serve on the circuit court of appeals.

I hope very much, again, that no impression will obtain in any quarter that this had anything to do with his standing or his dimensions as a man or that it was sectional. As I have said, I hope that every one of the 51 Senators concerned will express himself personally on this score.

UNFORTUNATELY PRESIDENT NIXON "LOST HIS COOL"

Mr. YOUNG of Ohio. Mr. President, in our deliberation over the nominations of Judges Haynsworth and Carswell to the Supreme Court, no Member of the Senate either stated or implied that he would not vote to confirm a highly qualified southern lawyer or jurist who is regarded as a conservative in his political views and a strict constructionist on constitutional questions. President Nixon knows that. He should know that his last two nominees were not rejected on sectional grounds.

Mr. President, I have been a lawyer in the State of Ohio for more than 50 years. I have been president of two bar associa-

tions in my home city of Cleveland. May I say, also, that as a Member of the Senate I voted to confirm the nomination of G. Harrold Carswell to be a Federal judge. Also, I voted to confirm his nomination on the U.S. Circuit Court of Appeals.

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

Mr. YOUNG of Ohio. I ask unanimous consent to proceed for 5 additional minutes.

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

Mr. YOUNG of Ohio. I shall not assail the motives of any Senator who voted either for or against confirmation. In all my lifetime I have never believed in assailing the motives of others. Speaking for myself, I do know that sectional grounds cut no figure whatsoever with my vote, and I do not believe that any sectional bias against the South cut a figure with respect to other votes.

Mr. President, I report that I voted against confirmation of Judge Haynsworth for a number of reasons which appeared valid to me. One being that his personal stock dealings were very questionable. They resulted in huge financial gains for him and it appeared to me a matter of personal ethics was involved in some of his transactions. I felt he would make an excellent executive of a Wall Street investment house, but I gravely questioned his sensitivity and failure to adhere to proper ethical standards.

Mr. President, very definitely the reasons for my vote against confirmation of Judge G. Harrold Carswell were clearly stated. I asserted that the fact these two gentlemen nominated by President Nixon to be Associate Justices of our Supreme Court were conservatives from the southern area of our country and regarded as strict constructionists and that they came from the South never occurred to me as a valid reason against confirmation. I am not prejudiced against anyone from the South. My wife was born in a little town in North Carolina.

Very definitely, I feel it is important to fill this vacancy in our Supreme Court and I am and have been ready and willing to vote to confirm a State or Federal judge or an eminent lawyer from the South provided he is competent. There are eminent State judges and superior lawyers in every Southern State and in fact in almost every Southern county who have far higher qualifications than either of these two nominees who were rejected and who are known conservatives and strict constructionists on constitutional questions.

Simply stated, President Nixon has lost his cool. He is the victim of bad advice from his Attorney General. It is time the President put his own house in order. A little Presidential leadership and responsibility would be most welcome.

From outside the South, I could name at least 10 highly qualified, conservative Republican judges in my State of Ohio. At the top I would place C. William O'Neill, a very conservative Republican, who is chief justice of the Ohio Supreme Court and who has served as Governor

of Ohio. I hold him in high respect as a lawyer and as a judge, and would be glad to vote in favor of his confirmation if nominated.

The President deserves criticism for nominating men who are not qualified to sit on the world's most powerful judicial body. His response, as indicated by his statement to the press yesterday, is that of a juvenile who has spilled his milk and cries out that he will never drink milk again. Rather than throw a tantrum at Senators for voting in accord with their consciences, President Nixon would do well to disregard altogether the advice of Attorney General Mitchell. During such time that John Mitchell remains as Attorney General—I do not know how long a time that may be, I doubt if it will be as long as the time that I shall be here in the Senate—but during such time, I think that the President should simply go ahead on his own and from 440 Federal judges, many of whom are Republicans and many of whom are from the South, select for this vacancy an outstanding student of the law or an eminent jurist who is not a bigot but is respected for his fairness and integrity as a citizen and as a judge.

I was one of the majority who could not conscientiously consent to the appointment of Judge Carswell to the Supreme Court. I voted in accordance with my judgment and my conscience.

Mr. President, I have already said that I cannot assail, and will not appraise, the motives of Senators. I am sure that we should not do that. I assert that there was no vicious action whatever taken by any Senator in the course of the vote Wednesday, or the preceding vote. I assert that, despite the statements made here, I further assert, without fear of successful contradiction, that every Senator who voted for or against confirmation of Judge Carswell voted in accordance with his judgment and his conscience. He was performing the duty that the Constitution of the United States places upon every Senator.

Mr. President, I yield the floor.

#### UNEMPLOYMENT AND RISING INFLATION

Mr. JAVITS. Mr. President, I shall detain the Senate just a moment. I wish to report to the Senate that the rise in the unemployment rate in March was to 4.4 percent.

The rise in the unemployment rate of 1 percent over the past 3 months is small but coming when the economy is under test on the downside is ominous and places the burden on the administration and the Congress to seek relief from some of the severe and dangerous side effects of the anti-inflationary effort. As I believe that the administration may be prolonging the agony of cooling off inflation, and thus courting the risk of serious recession, through its refusal to exercise leadership with regard to wages and prices, I recommend: The unanimous recommendations of Republicans in the Joint Economic Committee annual report be implemented promptly—that the Council of Economic Ad-

visers publish the implications of major wage and price decisions.

I believe that the administration should do more to develop contingency plans which can be "taken off the shelf" during times of rising unemployment.

Congress can do much to alleviate the current economic hardship by moving swiftly to pass welfare and manpower legislation along the general lines of the administration proposals. The need for a mechanism to trigger increased manpower funds at times of rising unemployment has now clearly shown, and this is what the administration manpower bill which I sponsored would do. Of equal importance at this time is the development of a Federal income maintenance plan, which is the subject of the welfare bill and the adoption of a public service employment program, as recommended by myself and other Republican members of the Joint Economic Committee, as part of the manpower training bill.

The need for prompt action is urgent not only because unemployment is steadily rising but also because this rise hurts most those groups which can least afford to be hurt: blue collar workers, minority groups, the young seeking their first job, and those who have been most recently hired; the rate of unemployment for these rises two to four times the national average because of their higher incidence of unemployment generally. Rising unemployment makes the situation in our cities increasingly explosive.

It is for these reason that I call this matter to the Senate and hope very much that prompt action along these lines may ensue.

#### STRONG SUPPORT FOR S. 3068, THE COALITION FARM BILL

Mr. HARRIS. Mr. President, on April 6, 1970, representatives of 32 farm organizations met in St. Louis, Mo., and adopted a resolution reaffirming their strong support for the enactment of S. 3068, the so-called coalition farm bill. The resolution states:

The Coalition of Farm Organizations seeks economic equity for agriculture. We seek a system under which farmers can produce to fit the needs of the market. We seek price protection that will prevent hardship. We reaffirm our support of the "Coalition Farm Bill" (H.R. 14014 and S. 3068).

The representatives of the 32 farm organizations went on to say:

The Coalition of Farm Organizations opposes schemes which would weaken production management. . . . We oppose the so-called massive land retirement proposals—whether on a whole farm basis, or farm-by-farm as suggested in the "set aside" plan—because they weaken the production management system.

Mr. President, I have heard responsible people say over and over again that if the farmers could get together on an agriculture program it would be adopted by the Congress and approved by the administration almost unanimously. This year for the first time in my memory practically every major farm organization has joined together in support of the coalition farm bill. Unfortunately,



the administration has chosen not to favor the plan the farmers themselves have brought forward. I think this is a mistake, and I think that not only will the farmers suffer if this plan is not adopted but I think that ultimately the American consumer will suffer as well. I am proud to be a cosponsor of the coalition farm bill and I actively support its enactment and hope that the Senate will adopt this legislation in the near future and that the administration will reconsider its position and support this legislation as well.

Mr. President, I ask unanimous consent that the resolution adopted in support of the coalition farm bill by the 32 farm organizations at the meeting in St. Louis on April 6 be printed in the RECORD.

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

#### RESOLUTION OF NATIONAL FARM COALITION

We, representatives of 32 general farm, commodity, and cooperative groups in the Coalition of Farm Organizations, meeting in St. Louis on April 6, 1970, ask the help of Congress, the Administration, and the American people to make a renewed commitment to the preservation of family agriculture, the attainment of parity prices for agricultural products, and the restoration of rural America.

The industry of agriculture is the greatest creator of wealth in the nation. Farmers do not receive a fair share of the value of this production. Net agricultural income is about the same as it was over 20 years ago. The economic imbalance thus created is resulting in the depletion of rural communities, and urban areas swollen with people and problems.

The Coalition of Farm Organizations seeks economic equity for agriculture. We seek a system under which farmers can produce to fit the needs of the market. We seek price protection that will prevent hardship. We reaffirm our support of the Coalition Farm Bill (HR 14014 and S. 3068).

The Coalition of Farm Organizations opposes schemes that would weaken production management. Agriculture is not a single entity, but many different crops and commodities, each with its own growing cycle and its own market system. Any proposal that does not recognize this risks chaos in the market place.

We oppose the so-called massive land retirement proposals—whether on a whole farm basis, or farm-by-farm as suggested in the "set aside" plan—because they weaken the production management system. The result of such experimentation could be serious overproduction that could bring disastrously low prices, or shortages that could create hardships for consumers.

Price protection must be related to the concept of fairness. Fairness is not possible unless costs of production are considered. This is the central idea of the concept of parity.

The nation must be truly committed to family agriculture, fairness for farmers, and the restoration of rural America. Its commitment must include not only a declaration of purposes and enactment of a sound legal framework, but it must also include allocation of adequate public funds if a viable farm structure is to be preserved and farmers are to share in the nation's economic growth.

Appropriations to meet the needs of agriculture are justified by the fact that consumers now spend less than 17% of their disposal income for food. Of this expenditure, farmers receive only about one-third of the total, or about 5 to 6 percent. No other

major world country has ever had such a bargain and at no time have U.S. citizens received these basic essentials of life for so small a percent of their after-tax income. This has occurred because farm net income has failed to increase along with that of the rest of the economy for the past 20 years.

The Coalition is committed to workable production management on a commodity-by-commodity basis. We seek a permanent law that will include those portions of the 1965 Food and Agriculture Act that have proven to be necessary and effective. We seek to strengthen its weaknesses.

Production planning should not be carried out under the threat of unforeseen events that could create consumer shortages. Reserves of wheat, feed grains, soybeans and cotton—insulated from the market but available for use when needed—would remove such a threat.

The federal marketing order system for milk has worked well. It permits producers to participate in market decisions. It has resulted in a more stable dairy economy and has protected consumers. This system should be extended to other commodities, when and if a majority of producers vote for it in referendums.

The nation's commitment to fair prices to agricultural producers must remain firm. Fair prices to producers can only be achieved when price protection is related to the concept of parity.

The Coalition of Farm Organizations is committed to the conservation of America's basic resources of soil, water, and air. The Agricultural Conservation Program has developed the partnership of farmers and the government to achieve this end, and this partnership must be continued.

The Coalition is committed to the services of mankind through agriculture. Hunger must be ended. Food stamps must be available to all who need them in order to work toward the goal of a balanced diet for every American. Such programs as the Special Milk Program for school children must be continued.

The problems of agriculture cannot be dealt with in general terms alone. The Coalition farm bill improves upon existing law in specific terms. Examples of how the legislation would serve the interests of agriculture are demonstrated by these summary provisions of the bill as follows:

1. The Class I Base Plan for milk should be extended, improved, and made permanent.

2. The present wool program should be extended, including incentive payments to increase domestic wool production.

3. Price protection for corn should be at not less than 90% of parity (\$1.58 per bu., February, 1970), with oats, rye, barley and grain sorghum at comparable levels. The loan levels should be \$1.15 per bushel for corn, and the payment should be 43¢ per bu., with comparable levels for other feed grains.

4. Advance payments for wheat and feed grains payments should be mandatory for up to 50% of payments.

5. The domestic certificate for wheat plus the national average loan rate should provide 100% of parity, or the domestic share of the market.

6. A mandatory wheat export certificate of 65 cents per bu. should be issued to cooperators on not less than 40% of the farm allotment.

7. The cotton program should continue to retain marketing quotas and producer referendums, 65% of parity (Ellender Amendment), and provide for transfer by sale or lease within counties and states where approved in referendum, with a 100-acre limit.

8. Marketing order authority should be extended to any commodity on approval of a majority of the affected producers.

9. The acreage diversion program should be authorized for rice if the national rice allot-

ment in any year is less than that in 1965 with a recommended price floor of 75% of parity.

10. An acreage diversion program for soybeans should be authorized for use when needed.

11. Consumer protection reserves of wheat, feed grains, soybeans and cotton should be established.

#### MEMBERS OF THE FARM COALITION

The National Grange, Washington, D.C.  
National Farmers Union, Denver, Colorado.  
National Assn. of Wheat Growers, Washington, D.C.

National Farmers Organization, Corning, Iowa.

Midcontinent Farmers Association, Columbia, Missouri.

United Grain Farmers of America, Oakland, Illinois.

National Milk Producers Federation, Washington, D.C.

Pure Milk Products Cooperative, Fond du Lac, Wisconsin.

North Carolina Peanut Growers Assn., Rocky Mount, North Carolina.

National Rice Growers Assn., Jennings, Louisiana.

National Potato Council, Arlington, Virginia.

Virginia Council of Farmer Co-ops, Richmond, Virginia.

Grain Sorghum Producers Assn., Lubbock, Texas.

National Corn Growers Assn., Boone, Iowa.

Western Cotton Growers Assn., Fresno, California.

National Wool Growers Assn., Salt Lake City, Utah.

Soybean Growers of America, La Fontaine, Indiana.

Virginia Peanut Growers Assn., Capron, Virginia.

Peanut Growers Cooperative Marketing Assn., Franklin, Virginia.

American Rice Growers Co-op Assn., Lake Charles, Louisiana.

Webster County Farmers Organization, Guide Rock, Nebraska.

Vegetable Growers Association, Washington, D.C.

North Dakota Feeder Livestock Producers Assn., Ambrose, North Dakota.

Farmers Cooperative Council of North Carolina, Greensboro, North Carolina.

National Association of Farmer-Elected Committeemen, Newman, Illinois.

Trans-Pecos Cotton Association, Pecos, Texas.

Rolling Plains Cotton Growers, Inc., Stamford, Texas.

Farmers Union Grain Terminal Assoc., St. Paul, Minnesota.

Farmers Union Central Exchange, St. Paul, Minnesota.

Southwestern Peanut Growers Assn., Gorman, Texas.

Farmers Union Marketing and Processing Assn., Redwood Falls, Minnesota.

#### ADDITIONAL STATEMENTS OF SENATORS

##### THE AIR TRAFFIC MESS

Mr. MOSS. Mr. President, the mess in our Nation's airports and airways cries for immediate investigation by Congress. For more than 2 weeks now, commercial airline service has been cut in half. The loss to the Nation's economy can be counted in many millions of dollars. Americans everywhere have been inconvenienced and, in some cases, air traffic safety has been endangered.

In light of this major disruption, I was amazed to read in the New York Times that no one in the Federal Government

has taken any steps to either avert this controversy or to attempt to settle it after it began more than 2 weeks ago. Neither Transportation Secretary John Volpe nor FAA Administrator John H. Shaffer have made one single attempt to bring this serious disruption to a satisfactory conclusion. Mr. Shaffer's public view, to quote Columnist Clayton Fritchey, "is that the sick-out is illegal and there is nothing to negotiate."

While I do not condone the action of the air traffic controllers in staying away from their jobs, I nevertheless feel that an individual examination of the facts in the case indicates a remarkable neglect on the part of the Federal Aviation Administration toward both its employees and the flying public.

I was particularly struck by the statement accompanying the civil contempt decision against the Professional Air Traffic Controllers Organization issued "with reluctance" by Federal Judge George L. Hart, Jr., here in the District of Columbia. Judge Hart, a most distinguished jurist appointed by President Eisenhower, declared that the controllers had begun the "sick-out" against the FAA only after "extreme provocation from the agency's top officials."

Mr. President, what kind of Government agency is it whose leaders indulge in "extreme provocation" toward a group of valued, hard-working employees whose arduous job it is to protect the safety of people who fly in airplanes? I am appalled that a Federal judge would find Mr. Shaffer and the other officials of the FAA in such a peculiar stance.

Is it true, as many controllers claim, that the officials of the FAA have engaged in a personality struggle against the controllers organization's leadership in an attempt to "break" them? If so, I think it is a shocking maneuver that trifles with the safety of the flying public and endangers the economic well-being of the airlines.

Mr. Shaffer is quoted by the New York Times as saying as much. He told reporters:

I intend, through my demonstrated leadership to bring them (controllers) around to my view or bring them back to the FAA, I should say.

If what we have witnessed and experienced in the last 2 weeks is any indication of Mr. Shaffer's demonstrated leadership, then I find it very curious indeed. When he talks like this, at a time when reason and responsibility are needed, Mr. Shaffer reminds me of a misguided missile.

Now let me ask the question: Did the controllers have a valid reason for reporting "sick" across the country over the last 2 weeks?

A Federal judge in Cleveland, Thomas J. Lambos, decided to find out. He appointed a panel of physicians to examine the "sick" controllers. The results of these tests were chilling. Seven of the men examined were found to be permanently unfit for work at radar control. Ten were judged temporarily unfit and 23 were found well enough to work. In other words, over 40 percent of the men examined actually were sick. And, perhaps, most shocking of all, seven con-

trollers had been working who should have been permanently retired from radar control, in the opinion of the team of examining physicians.

As a person who flies a good deal, as do most Members of Congress, I am terribly concerned by these figures. If the medical examination of the Cleveland controllers is any indication of what the situation is nationally, then there are many controllers who have been working who should not have been. I, of course, do not know what similar examinations of their 8,500 journeymen controllers in the FAA system would reveal. But from my conversations with controllers at Salt Lake City about their jobs and medical problems, I would suspect that the Cleveland case may not be unique.

Mr. President, the apparent disregard that the FAA has shown for the health and well-being of its controllers—the symptoms of which are revealed in the Cleveland examinations—is symptomatic of the state of employee-management relations within this agency.

Last August, Secretary Volpe, to his considerable credit, appointed a blue-ribbon committee headed by Dr. John J. Corson, of Princeton University, to study the problems of the FAA's air traffic controllers.

The Corson committee did a painstaking job. Its 108-page report, released in January, constitutes a shocking indictment of FAA management methods. Let me quote briefly from that report:

FAA cannot now command the full support of many members of the work force in its terminals and centers. Indeed, members of this Committee have never previously observed a situation in which there is as much mutual resentment and antagonism between management and its employees.

I could go on and on quoting from the Corson committee report, but that brief statement is enough to give you an idea of what Secretary Volpe's committee found. Mr. President, it has been proven time and time again in previous studies that date back to 1961 that the air traffic controllers do, indeed, have a legitimate case. They are dreadfully overworked; some controllers in the high-density centers, such as New York and Chicago, work as many as 60 hours per week. Large numbers of these controllers do suffer from a variety of physical and psychiatric ailments that are a result of the strain under which they must work. A distinguished psychiatrist, Dr. W. Wayne Sands, of Des Moines, Iowa, has conducted extensive studies of many controllers, and his findings would be enough to curl the hair of anyone who flies regularly.

We pride ourselves on the greatest system of commercial aviation in the world. Well trained stewardesses, in-flight movies, splendid food, comfortable riding conditions, convenient schedules, able pilots, and expert engineers and maintenance men are as good as can be found anywhere in the world.

But what sometimes is failed to be realized is that, regardless of the efficiency of the airline, the safety of every passenger ultimately passes into the hands of the controllers who direct the planes onto the runways. They are the respon-

sibility of the FAA, and from all the facts available it is apparent that the FAA is not fully meeting that responsibility.

Congress already has done much of its part in providing the FAA with the necessary tools. After the controllers dramatically brought to public attention how inadequate the Nation's air traffic system was, through a slowdown in the summer of 1968, Congress acted promptly. Authorization and funds for almost 4,000 new controllers were approved. Controllers' salaries were increased. Funding was voted for better radar equipment and the airport-airways development legislation, which hopefully will pass the Congress within a matter of weeks, was speeded on its way.

In the light of what has now happened, I believe it is fair for Congress to ask: Has the FAA done its job? Why has this unfortunate controversy—stemming from issues that should and could have been settled within a matter of hours—been allowed to happen?

More important, what of the future? When this "sick-out" ends, how will the FAA treat the controllers when they return to their jobs? Will Mr. Shaffer carry out his announced intention of taking punitive action against the leaders and active participants in the "sick-out"? Will a spirit of recrimination and revenge exist throughout the agency? If it does, Mr. President, I fear for the American air traffic safety system. Angry, embittered controllers will not return in the frame of mind to give their best efforts. At best their job is ulcer-prone and neurotic. Punitive conditions could create a calamitous situation.

For these reasons, I believe that we have before us a dispute of the utmost importance to the safety of the innocent bystanders, the people who fly. As a member of the Aviation Subcommittee of the Committee on Commerce, I would propose that hearings be commenced in the near future to determine how this controversy can be resolved to the view of all concerned and to further insure that similar situations will not reoccur in the future. The safety of American aviation demands that we act soon.

#### VIETNAM NEGOTIATIONS

Mr. MANSFIELD. Mr. President, by necessity the distinguished Senator from Maine (Mr. MUSKIE) is absent from the Senate at the moment. He has prepared a statement, however, on the Paris peace negotiations—a subject of continuing interest to him, to the Senate, and to the entire Nation. I ask unanimous consent that Senator MUSKIE's thoughtful statement be printed in the RECORD.

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

#### ERA OF NEGOTIATIONS?—PART III

Mr. MUSKIE. Mr. President, I was distressed to learn, yesterday, that American casualties in Vietnam reached the highest level in seven months this past week. South Vietnamese casualties were the highest in two years. Total American battle deaths are now 41,274. One-fourth of these deaths have occurred since President Nixon took office.

We are not going to end the fighting and killing in Vietnam by Vietnamization. We



can end it only through a negotiated settlement. We can negotiate a settlement only by committing our best efforts to the Paris talks. Such efforts require a top level negotiator with the prestige and authority to take the initiative in Paris.

There have now been 62 meetings of the Vietnam negotiators since Ambassador Lodge left Paris. The longer the talks drag without a replacement, the more futile they become.

When President Nixon speaks to the nation, next Thursday, I hope he will address himself to the questions I have raised in this series of questions I have raised in the Senate. The American people have a right to know when he intends to take meaningful steps toward the "era of negotiations" he promised over a year ago.

#### OCEANOGRAPHY: THE WET FRONTIER

Mr. HATFIELD. Mr. President, I have spoken before on the "Wet Frontier of Inner Space"—that is, oceanography. I recently returned from my State, where I had several discussions with Oregonians on the many facets of oceanography. All spoke of the need for more Federal action, to stimulate private industry and university research.

Our country must not fall farther behind in this area—and we are behind. We must move in a positive fashion to solve the problems of food, of mineral resources, and the other segments of the oceans. Must we wait for a deep-sea "Sputnik" to awaken the public to the fact that the Russians are moving ahead in this area at a faster pace than is the United States?

Mr. President, this is not a completely bleak picture. I call attention to evidence of progress in the area. Two recent articles point out that work is beginning in new and exciting areas of undersea research and development.

Mr. President, I ask unanimous consent that articles on oceanography, published in the Sunday, April 5, 1970, New York Times and the U.S. News & World Report of March 30, 1970, be printed in the RECORD.

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

[From the New York Times, Apr. 5, 1970]

FIRST AQUANAUT TEAM ENTERS UNDERSEA LABORATORY AS 7-MONTH TEST BEGINS  
(By John Noble Wilford)

CHARLOTTE AMALLE, V.I., April 4.—Four scientists and an engineer, the first aquanaut team of Tektite 2, swam down today to occupy an underwater laboratory here and begin an ambitious seven-month study of marine life.

After a three-day delay caused by the late arrival of equipment, the five men donned their rubber jackets, oxygen tanks, face masks and flippers and then slipped off a barge into the clear blue waters at 12:39 p.m., Eastern standard time.

In six minutes they were 50 feet below the surface and safely inside the steel cylinders that are to be their home and laboratory for the next 11 days.

"Hello, topside. Hello, topside," William L. High, the senior aquanaut, telephoned to the command post on the cliff overlooking Beehive Cove. "Hey, we're here." "We're home."

Mr. High is a scientist with the Bureau of Commercial Fisheries in Seattle. The other four crew members are Alan J. Beardsley, also of the Bureau of Commercial Fisheries;

Richard W. Curry and Roger J. Dexter, graduate students at the University of Miami's Institute of Marine and Atmospheric Sciences, and Edward F. Batutis, an engineer with the General Electric Company.

#### SIXTY-TWO SCIENTISTS TO PARTICIPATE

For the next seven months, one team after another—62 scientists, engineers and doctors—will occupy the sea floor laboratory, using it as a base for a series of studies of marine animal behaviour, sea water chemistry, reef ecology and human behaviour under such confinement.

Tektite 2 is the only major man-in-the-sea research program that is now being conducted by the United States. The Navy, because of a shortage of funds and technical troubles, has no immediate plans of sending its Sealab 3 to the ocean floor.

A larger purpose of Tektite, which is coordinated by the Department of the Interior, is to demonstrate the advantages of sea floor habitation in oceanographic studies, especially those in the upper 300 feet of water.

Last year four aquanauts lived in the underwater complex at the same site for 60 days to demonstrate the safety of long-duration sea floor habitation.

The underwater base, which was built by General Electric, consists of two 18-foot-high steel cylinders, each 12½ feet wide, connected by a tunnel 4½ feet in diameter. It is linked to topside by cables and tubes for communications, electricity and the nitrogen-oxygen breathing gasses.

A University of Texas team of researchers, under contract to the National Aeronautics and Space Administration, will monitor by closed circuit television the aquanauts' activities throughout the project. They want to determine how well men get along under such circumstances and what they do with their spare time. The quarters are equipped with television tapes, music, games and books.

"To tell you the truth," Mr. Dexter said, "we're going to be so busy I don't think there'll be a problem getting along with each other."

As the Tektite aquanauts settled down to the routine of sea floor living, the project's chief scientist, John G. Van Derwalker, predicted in an interview that at the end of seven months Lamashur Bay "will be better understood than any other part of the marine environment."

The research projects, Mr. Van Derwalker said, range from "very basic research to about as applied as you can get."

#### FISH BEHAVIOR STUDY SET

On the first mission, for example, Mr. Dexter and Mr. Curry plan three three-hour excursions a day to collect water samples for chemical analysis. They are particularly interested in seeing how the chemistry varies over a 24-hour period and how such variations affect marine activity.

The other two scientists, Mr. High and Mrs. Beardsley, will observe the behavior of fish around three different types of fish traps. The object is to determine the most effective trap design.

A study of the effects of pollution on the growth and mortality of coral will be conducted later this summer. The scientists will apply sub-lethal doses of a common pesticide on coral near the habitat to see if it makes the coral more susceptible to predators.

The relationships of one species to another, especially predator to prey, will be the subject of several studies. A group of woman aquanauts, scheduled to go down in July, plan an experiment in which they will pass silhouettes of predator fish in the vicinity of certain schools of fish to test their response.

It is suspected that fish have an instinctive ability to sense their predators by shape,

but they may also sense danger by sounds and odors.

#### THE OCEANS: COMING INDUSTRIAL FRONTIER (Aboard the *Search Tide* in the Pacific)

A race is underway among U.S. firms to tap ocean resources on a massive scale. The lure: potential earnings of billions of dollars.

Steam along the California coast in this trim research ship, and you can see a mass of evidence of American industry's rapid expansion into business in the oceans.

Oil rich, sand and gravel dredges, fishing boats and experimental undersea operations are scattered near the shoreline by the dozens. They are part of the U.S. "oceanographic market" that has grown to a record-breaking 8 billion dollars a year in volume.

Even faster development is foreseen in the next few years as the U.S. Government becomes more and more involved in the clean-up and exploitation of the oceans. At least 2.5 billions in federal funds is programmed to be spent on oceanographic work over the next five years, part of it in the fight against water pollution recently announced by President Nixon.

#### THE SEARCH FOR FOOD

Hundreds of American firms are plunging into the business of extracting food, minerals, and energy sources from and under the water. Some companies have decades of experience, and others are new to the field.

The annual volume of American business in the oceans is expected by Hayden, Stone, a brokerage firm which keeps close tabs on oceanography, to triple to 24 billion dollars by 1980. That amount excludes surface-shipment and military expenditures.

By far the biggest user of ocean resources is the U.S. petroleum industry. It has made exploring for and extracting undersea oil and gas a 5-billion-dollar-a-year business. Off-shore discoveries in many areas, including Alaska, are likely to increase the pace of the work at about 14 per cent a year over the next decade.

Other big sectors of the oceanographic field include the fishing industry, which is earning 1.5 billion dollars a year, and underwater mining for minerals, which is expected to expand five times within a decade to 750 million a year.

Research and development, largely financed by the U.S. Government, is a 500-million-dollar-a-year business. Other enterprises—including salvage, dredging and construction—are valued at 1 billion a year.

Work in all those fields, except fishing, scarcely existed or was a fraction of its present size in the U.S. 25 years ago.

#### EXPLORING THE SEA

Typical of new activities is the work underway by the Westinghouse Electric Corporation, which uses the 194-ton *Search Tide* for testing devices and operations. The vessel is crowded with rubber-suited divers, engineers and technicians. They work with such equipment as the *Deepstar 2000* submersible—a small submarine—and underwater sound-detecting devices.

Operations aboard the ship include studies of the behavior of sea life—which may help to improve harvests of food from the oceans—and measurements of waves from distant storms.

Dr. Roy Gaul, manager of the Westinghouse Ocean Research Laboratory near San Diego, says the work has contributed to many commercial products and operations, and promises to uncover still more.

Westinghouse scientists, for example, are studying an area of the Atlantic near Key West, Fla., where a water-desalting plant discharges hot brine into the ocean. Several varieties of sea life, the scientists found, congregate near the discharge, apparently craving the warmth—especially in winter.

This discovery, Dr. Gaul says, could lead

to at least two commercial applications: "farming" such sea creatures as lobster in these areas, and developing winter resorts around such artificially created warm water.

Many scientists believe much more cultivation of sea animals and plants in limited areas—such as the Chesapeake Bay oyster beds—will be necessary to feed the world's expanding population by the end of this century. They also predict that "aquaculture" will be a multibillion-dollar business by then.

#### SUDDENLY, A SHARK

Scientists working in this field learn to expect the unusual. On a recent voyage of the *Search Tide* in the Gulf of Mexico, for example, a group of engineers were in the water preparing for an experiment when a 40-foot whale shark appeared in their midst.

One of the engineers, Robert Bradley, impulsively grabbed the shark's dorsal fin and was pulled aboard the animal's back by the momentum. Clad only in orange swimming trunks, the engineer rode the gyrating shark for several minutes until the fish, its curiosity about the operation satisfied, dived and fled. Mr. Bradley and the others, unhurt by the incident, continued the experiment.

Great emphasis is placed on experimental and development work in the oceans because, as one engineer explains, "We have about reached the end of our rope in existing technology" in many fields.

Oil companies, engineers say, can use methods essentially land-based for removing petroleum on the ocean bottoms at depths of about 400 feet or less. But many potentially rich oil fields lie at depths of 600 feet and more, and so new means of tapping the deeper sources are being developed.

One big aerospace firm that has evolved such a system is the Lockheed Missiles & Space Company. Its proposed operation consists of a series of unmanned steel "cellars" over wellheads, connected to a central control station, also unmanned, on the sea floor. Oil would be pumped from there to a surface or shore pickup point.

Plans call for repair work to be done by technicians in a small diving capsule, which would be clamped to the top of the "cellar" during the work. Four oil companies are participating in the development, and the system is expected to be pumping oil by autumn.

#### UNDERWATER DIAMOND MINES

Other firms at work on oil-producing equipment include another big aerospace company, North American Rockwell, and Ocean Science & Engineering, Inc. The latter, a Washington, D.C., firm, is one of many small businesses in oceanographic work. It has expanded since its founding in 1962 into such activities as underwater mining for diamonds off Africa and a shipyard in California.

The search for better oil-retrieving devices is considered all the more urgent because of the outcry over recent incidents involving oil pollution along the U.S. coastline.

Many oceanographic firms have felt the pinch of cuts in the U.S. Government budget, and dozens of companies have posted losses. At least one big firm, which entered the field about five years ago, lost about 5 million dollars.

But the risks have been well worth it for many companies. Lockheed, for example, pumped more than 10 million dollars into oceanographic work. Recently, it won a U.S. Navy contract for a deep-diving vehicle to rescue crews from submarines. The program may eventually be worth about 200 million.

The company believes that work on the vessel could lead to a civilian submersible capable of operating at 20,000 feet, placing 90 per cent of the ocean bottom within reach.

Elmer P. Wheaton, Lockheed's vice president in charge of the program, says it was natural for the aerospace firm to enter the

oceanographic field because the company's technological resources were adaptable.

#### A NEW AGENCY?

The field is opening up so fast, Mr. Wheaton believes, "it is within the realm of possibility that Lockheed will some day work as much in oceanography as in aerospace."

As the pace of underwater work quickens, many scientists have become advocates of a bigger U.S. Government hand in encouraging business and protecting the public's interests. A White House-appointed commission on marine science recommended in 1969 that a National Oceanic Atmospheric Agency be set up. No action has yet been taken.

U.S. businesses, meanwhile, are exploring the oceans as fast as their resources will allow. Even companies that have not yet turned a profit on their investment in such work are hopeful about the future. Says one manufacturing executive:

"We haven't made any money in this yet—but we will. There are billions to be made in this market, and at least we've got our feet in the door."

#### RADIOACTIVE DISCHARGE

Mr. MONDALE. Mr. President, many citizens are justifiably skeptical of the present Atomic Energy Commission standards regulating radioactive discharge.

In my home State, the Minnesota Pollution Control Agency is involved in a controversy because it is seeking to tighten the AEC standards governing discharges into the Mississippi River from a proposed nuclear powerplant.

The AEC, in defending its standards, discounts the criticism as irresponsible or uninformed.

However, two of the leading critics of the current radiation standards—Dr. John Gofman and Dr. Arthur Tamplin—are neither irresponsible nor uninformed. These eminent scientists have been members of the professional staff at the Lawrence Radiation Laboratory in Livermore, Calif., an installation which is under contract to the AEC.

As critics from within, these two men have argued that the present AEC standards are so dangerous that they could lead to thousands of additional cases of cancer each year.

In an editorial page column in the April 2 edition of the Washington Evening Star, Judith Randal discusses the case incisively.

She concludes that the Nation needs to examine the situation more closely.

I also believe that we should examine these AEC standards. As I have announced previously, I support the State of Minnesota in its fight to strengthen the radiation regulations.

Mr. President, I ask unanimous consent that the column be printed in the RECORD.

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

[From the Evening Star, Apr. 2, 1970]

#### NUCLEAR PLANTS AND YOUR HEALTH

(By Judith Randal)

Until about a year ago, Drs. John Gofman and Arthur Tamplin, the former a physician with an advanced degree in medical physics and the latter a biophysicist were content to stick to their Geiger counters and microscopes at the Lawrence Radiation Laboratory in Livermore, Calif.—one of several

scientific installations under contract to the Atomic Energy Commission.

Then a call came from Washington drawing their attention to an article in "The Bulletin of the Atomic Scientists," written at the height of the anti-ballistic missile debate by Dr. Ernest Sternglass, a University of Pittsburgh health physicist.

I charged that nuclear tests already had increased the incidence of cancer. And it predicted that generations of children yet unborn would be affected by atomic weapons experiments, past and future.

The AEC wanted Gofman and Tamplin to rebut Sternglass' conclusions. This was easy to do, because Sternglass had proceeded from incorrect assumptions.

But, as the California scientists dug deeper, they indeed found cause for alarm. They became particularly concerned about unrestrained growth of the nuclear electric power industry.

Says Gofman, "They wanted a whitewash and asked us to produce one by submitting a critique of Sternglass to a prominent scientific journal, and our own analysis of the dangers to an obscure one. We told them they could go to hell."

The Californians' quarrel with the AEC stems from two sources: First, they object to safety standards set by the Federal Radiation Council, a government regulatory body; and, second, they point to recent findings by many scientists that exposure to apparently innocuous levels of several environmental factors can present a new, combined danger that is many times greater than the sum of its parts.

Scientists call this "synergism" and point out that unless the result is dramatic, as with thalidomide, it may go unnoticed until it is too late.

Returning for a moment to the Federal Radiation Council, Gofman and Tamplin argue that its standards are set for the convenience of the AEC. There is some justification for this claim.

The setting of dangerously high levels for occupational exposure in uranium mines is an example. The Federal Radiation Council set a supposedly safe level for this industry, but the council's standard was disputed by individual scientists in this country as well as by the highly respected International Council on Radiological Protection. Two years later, there was a fourfold increase of lung cancer among men working in these mines.

Now the demand for electricity is growing three or four times faster than the United States population, and in the next 30 years an increasing share of this demand will have to be met by atomic energy.

The Federal Radiation Council has set permissible levels for exposure of the general population to radioactivity at 1.7 rads a year—a small amount, says the AEC. In fact, a scientist at a cancer meeting last week termed it "ridiculously low."

Gofman and Tamplin counter that it is too high by a factor of at least 10. They cite many studies—such as that of the uranium miners—as evidence.

"They can discredit us 100 percent, say we're agents of the Martians or anything," says Gofman, "but they can't argue with the published literature."

Gofman and Tamplin concede that danger to the general public today from exposure to radiation from atomic reactors is not great, because there are so few reactors around and because even .17 rad (the Gofman-Tamplin proposal) is not reached anywhere.

But as atomic power plants grow in number and size, exposure levels will creep up unnoticed and, the California scientists insist, eventually the Radiation Council's 1.7 rad limit will be approached.

At that time, they fear, pressure to raise the permissible limit may be just as great



as the periodic pressure on Congress to raise the ceiling on the national debt.

Even if existing standards remain in effect, they say, what the law now allows could lead to 15,000 to 32,000 more people each year developing cancer than at present, to say nothing of the genetic damage which may accrue to future generations.

Yet citizens who object to the construction of a nuclear reactor find themselves up against the AEC a tax-supported agency which is both regulator and promoter of atomic energy for civilian use.

In short, it would appear that this nation needs to examine how much added electrical power it really requires.

#### PSYCHOLOGICAL TESTING OF SMALL CHILDREN

Mr. ALLOTT. Mr. President, quickly, before the unexpected situation passes, never to return, I want to voice my approval of an editorial published in the Washington Post.

The editorial voices strong opposition to a scheme for massive psychological testing of children between ages 6 and 8 years old. The purpose of the tests would be to detect criminal potentialities in these children.

It is said that this proposal elicited some passing interest from someone in the administration. Perhaps. But now that the weather is warm, the baseball season has started, and the surf is up, there are ample distractions for men and women who might otherwise be distracted by the sheer novelty of the proposal to make the world safe from 8-year-olds.

I trust that the proposal will not survive the witty dissection administered by the Post today. I hope the Post can make a habit of what it has until today avoided like the plague—being good-humored and correct. I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Washington Post, Apr. 10, 1970]

#### DR. HUTSCHNECKER'S MODEST PROPOSAL

Unlike Jonathan Swift, who formulated "A Modest Proposal for preventing the Children of Poor People in Ireland from being a Burden to their Parents or Country," Dr. Arnold Hutschnecker does not suggest that the rich should devour the children of the poor by way of solving the nation's social problems. Rather, he merely suggests that the state begin a massive psychological testing program on all 6- to 8-year-olds (to unearth "delinquent character structure") and provide a series of correctional measures for those who flunk, including ultimately "camps" for such young people as resist the state's benevolent ministrations and turn out to be—despite them—"hard-core." That and the fact that, unlike Dean Swift, Dr. Hutschnecker does not seem to be kidding, are the principal differences between these two works of art, one of which is to be found between the covers of any reputable collection of British satire and the other of which turned up in this newspaper last Sunday in an article by Robert Maynard.

Since a covering note to Secretary Finch makes plain that both Mr. Nixon and his assistant John Ehrlichman take the proposal seriously ("The President asks your opinion as to the advisability of setting up pilot projects embodying some of these approaches"), we will refresh your memory as

to what it's all about. Dr. Hutschnecker picks up where the Eisenhower Commission on Violence left off—prematurely and incompletely, in his opinion, since the commission observed that, "only progress toward urban reconstruction can reduce the strength of the crime-causing forces in the inner city and thus reverse the direction of present crime trends." Dr. Hutschnecker disagrees:

"I would like to suggest another, direct, immediate and . . . effective way of attacking the problem at its very origin, by focusing on this criminal mind of the child."

He thereupon cites some projective psychological tests which are the subject of considerable controversy and reservation among psychologists so far as both their potential use and abuse are concerned, and from this scanty material fashions his modest proposal.

Because "delinquent tendencies" can be predicted from tests "even at the age of six," Dr. Hutschnecker contends that what is wanted is a comprehensive testing program. Those children in whom government detected "violent and homicidal tendencies" would get treatment and guidance and finally, if they failed to respond, a place in Camp Hutschnecker-by-the-Sea. There they would be supervised in "group activities" by psychologists, psychiatrists, and "pschomedics" who had been trained with the help of government loans. Dr. Hutschnecker, ever looking on the bright side of things, maintains that in or out of camps even the most intractable adolescents can be redeemed. "There are Pavlovian methods which I have seen used effectively in the Soviet Union."

It should be stated at about this point that Dr. Hutschnecker himself is a physician and that his credentials as a diagnostician of the nation's psychic ills are rather slim. He has not let this fact get in the way of his publicly administered group therapy, however: only last summer Dr. Hutschnecker was promoting in *Look* magazine his universal pass-fail system for grading the mental health of prospective public servants and issuing them a kind of sanity card as proof against—well—who knows what? At that time he also came up with some highly imaginative, if politically suspect, psychological-caleque descriptions of public figures (not Mr. Nixon) whom he of course has never treated.

So Dr. Hutschnecker lacks the two credentials that might have justified in some degree the interest the White House has shown in this document: he is not a satirist and he is not a specialist in the subject on which he made his sweeping recommendations.

Among his other shortcomings we would include what Arthur Godfrey once perceived in Julius La Rosa as a certain want of humility, and we would also cite his gross indifference to the delicate relationship that exists and must be preserved in these matters between the government and the citizen, and between "predictive" concepts of crime of any kind and the actual committing of crime, which is what we punish people for or treat them separately and specially for. Finally, in a somewhat less-thunderous vein, we would commend to Dr. Hutschnecker's attention the inferences of Drs. Gesell and Ilg in the section called "Six Years Old" of the classic work, "The Child From Five to Ten." Some of our best friends are 6-year-olds, and we have no intention of smearing them as a group. But the implication is strong that what with one thing and another, generally speaking, and in terms of decorum, all 6-year-olds are criminals. We don't want to be too fliberty-gibbet: the few truly sick and hurt can be helped by special care, and for those who are trapped in the horror of our urban slums, we think the Eisenhower Commission was doing just fine in its diagnosis without Dr. Hutschnecker's addendum. For the rest of the world's wanton 6-year-olds there is nature's special cure: turning 7.

#### U.S. ACTION ON HUMAN RIGHTS: THE SAME IN 1963 AS IN 1970

Mr. PROXMIER. Mr. President, the international protection of human rights has been a matter of grave import for many years. Six million Jews were murdered by Nazi Germany. World reaction to this monstrous crime against humanity resulted in the United Nations Convention on Genocide. The concern over genocide spread into other areas of human rights, resulting in the United Nations conventions or protocols on forced labor, slavery, the political rights for women, and the protection of refugees.

A letter to the editor of the New York Times in December, 1963, expressed grave concern that—

Fifteen years since the adoption of the Declaration of Human Rights little has been done (by the United States) to act upon its terms.

The letter, written by Phil Baum, director of the Commission on International Affairs of the American Jewish Congress, was printed in the *Anti-Slavery Reporter* and *Aborigines Friend* in January of 1966. The text of the letter was followed by the succinct comment:

Up to the time of going to press, this situation has remained, unaltered.

It is now April 1970, almost 7 years after Mr. Baum's excellent letter, and more than 4 years after it appeared in the *Anti-Slavery Reporter*. And still, "this situation remains unaltered." There has been virtually no action by the United States in the field of international protection of human rights. The situation must change—humanity demands that it do so immediately.

Mr. President, I ask unanimous consent that Mr. Baum's letter be printed in the RECORD.

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

#### THE UNITED STATES AND U.N. HUMAN RIGHTS CONVENTIONS

Members will recall the statement by the late President Kennedy, published in the Society's Annual Report for 1963-64, calling on the U.S. Senate to ratify three international conventions on human rights. The conventions were on slavery, forced labour and the political rights of women.

In December 1963 the following letter appeared in the *New York Times*:

#### Status of Human Rights—Benefits Seen if United States Ratifies U.N. Conventions

To the Editor of the New York Times:

On 10th December, at the invitation of the U.N. Economic and Social Council the United States is to join with other countries in the world in inaugurating Human Rights Week and in celebrating the fifteenth anniversary of the adoption of the U.N. Declaration on Human Rights.

In the past these events typically have been restricted to innocuous ceremonial displays. Rarely have they been of genuine significance either to the communities in which they have been held or to the issues to which they have been directed. This year it is imperative to use this occasion for a precise appraisal of the status of international human rights and of the opportunities that have been taken—more often missed—by our own country to contribute toward their enhancement and improvement.

The fact is that the United States has not

yet ratified a single United Nations treaty in the field of human rights. For the past ten years we have followed a policy of abstinence, first inaugurated by Secretary of State Dulles in April 1953, in an effort to stave off the attempt by Senator John Bricker to impose limitations upon the Executive treaty-making power. To appease the Bricker forces, Secretary Dulles assured the Senate that the United States would not offer for ratification any U.N. treaties touching upon human rights in any form.

And this guarantee has been rigidly carried out. It has immobilized American participation in the international protection of human rights. It has had a disabling effect internally within the United Nations upon numerous treaties that are long pending and awaiting discussion. Our publicly proclaimed abdication not only of leadership but of support has helped to generate an attitude of universal indifference.

But it is heartening that in one of his last Presidential messages President Kennedy took firm steps to change these restrictive policies. In July our late President sent to the Senate for ratification three separate U.N. conventions in the field of human rights dealing with the abolition of slavery, the abolition of forced labor, and the protection of the political rights of women. In his accompanying message he repudiated the concept of isolationism in human rights that has guided our national practice for the past ten years; that, for example, has caused such measures as the Genocide Convention to remain locked in the Senate Foreign Relations Committee without action since 1951, despite extensive public hearings and its own subcommittee's favorable report.

Our ratification of the conventions will yield at least three practical benefits to the United States:

It will attract wide attention abroad among nations whose support we solicit and will encourage similar commitments by other states, especially some of the newly independent countries who look toward the U.N. conventions as a model for their own domestic practices.

It will empower us as a contracting party to call attention to those countries that may have ratified the conventions but have failed to implement them in practice.

It will restore to us the necessary credentials to influence in the future the drafting of other international legal norms.

During the fifteen years since the adoption of the Declaration of Human Rights little has been done to act upon its terms. This way at least we can begin.

PHIL BAUM,

Director, Commission on International Affairs, American Jewish Congress, New York, December 6, 1963.

Up to the time of going to press this situation has remained unaltered.

#### GOOD ADVICE TO OUR PRESIDENT

Mr. YOUNG of Ohio. Mr. President, President Nixon should take immediate action to stop our airline flights from being hijacked to Havana. It would help if our President would issue a proclamation that all men and women, including Cuban nationals, now in the United States, unhappy and yearning to go to Cuba, should forthwith notify State Department officials of their wish to make that one-way trip. Then we should negotiate through the Mexican Government for a one-way trip to Mexico City and from there to Havana courtesy of U.S. Government. Such persons to be barred forever from entering the United States. We Americans gain. Castro might be the loser in the end.

#### SMALL BUSINESS INVESTMENT COMPANIES

Mr. PERCY. Mr. President, against the backdrop of the President's recent statement on minority enterprise, which he made to accompany the legislative package we introduced today, to deal with the special problems in this area, invite the attention of the Senate to an article on SBIC's, published in the Chicago Sun Times.

As the article indicates, SBIC's—small business investment companies—are in large part unknown among the general public. But to many people in the business world and particularly among those who have had the occasion to avail themselves of the SBIC "product"—credit—these companies are well understood and appreciated and their unique potential is highly respected.

The newspaper feature will introduce to the reader, if need be, or extend his knowledge, if that be the need, the goals, procedures, and impact of these investment companies. It is significant to note that Secretary of Commerce Stans has recognized the special merit of the SBIC concept in adapting the SBIC structure to form MESBIC's, one of this administration's major programs to deal with the especially difficult problems of minority enterprise. Already these MESBIC's are making impressive advances in the struggle to give equal stature to America's minorities who desire to enter the marketplace as entrepreneurs.

It is my deep hope, Mr. President, that the increased publicity, the intensified interest, the broadened understanding, and the increased activity surrounding the problems of small businesses will work to strengthen this sector of our economy and make it a live vocational option for all persons whose talents and interests direct them along that route.

I ask unanimous consent that the Sun Times article be printed in the RECORD.

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

SBIC'S: ENTERPRISE PLUS GOVERNMENT ADD UP TO PROFITS

(By Carole A. Foryst)

Ask the ordinary, run-of-the-mill millionaire or investor what an SBIC is, and you are liable to get a shake of the head, a blank stare, a hesitant start, or frank admission that he doesn't know.

It's no wonder. "The SBIC (Small Business Investment Corp.) is somewhat difficult to analyze," says Stanley M. Rubel, a leading spokesman in the SBIC-Venture capital field.

In simple terms, an SBIC is a specialized company established to lend money to small companies which show promise but whose operations are a bit too risky for banks.

But an SBIC is far from being a philanthropic organization. It expects to make a profit from stock options, warrants to purchase stock, or direct investment in stock. And while the major portion of profit is derived from capital gains, it also makes something from interest payments and dividends.

The whole idea was created in 1958 by Congress. It set up the program under the Small Business Administration, thereby creating a new financial industry—small business investment companies.

From then on, companies which previously had to scrape around to find capital to sur-

vive could turn to the SBIC which held the door open for financing and professional management services.

#### PIPELINE ROLE

The system works like a pipeline. An SBIC can borrow at interest ranging from 5 to 7½ per cent (currently the latter) from the SBA, getting \$2 for every \$1 in private capital it has. When private capital exceeds \$1,000,000, an extra \$1 of leverage can be provided for every private dollar, to a maximum of \$10,000,000 from SBA.

According to Rubel, in spite of the high risks of the business, SBICs only absorbed a loss ratio of 10 per cent on outstanding loans, made to 15,000 small businesses over a 10-year period.

Profits in the SBIC industry have climbed at the rate of 24.4 per cent a year. The small businesses which borrowed money from them have averaged a 21.3 per cent growth in sales, their assets have risen 21.6 per cent annually, and their employment increases 24.1 per cent a year.

Performance in the last five years has been exceeding good, with SBICs outperforming mutual funds and the fastest growing businesses, Rubel says. And while the Dow Jones Industrials declined 18 per cent in 1969, SBICs were down only 3 or 4 per cent by average, Rubel says.

Some of the best performing of the publicly-held SBICs (most of which are listed over the counter) were La Salle St. Capital (Chicago); Narragansett (Providence, R.I.), the largest of those publicly-held; Midland (New York and Los Angeles); Citizens and Southern (Atlanta); Continental Capital (San Francisco); First Midwest Capital (Minneapolis); and Business Capital (Chicago) which is listed on the Midwest Stock Exchange.

But the industry from the beginning hasn't been enjoying a smooth upward climb. "When the program first got started, people didn't know enough about it . . . they weren't successful, and the attrition rate was high," Rubel admits.

"The people who were really well organized survived, and now the industry consists of reasonably strong people who have done quite well," he maintains. And they had to be strong.

They have had to work around problems caused by the turnover of SBA administrators and federal budget restrictions which have caused no small number of headaches.

#### BARRED DOMINATION

While SBICs have borrowing power and receive tax benefits, government regulations require them to avoid dominating any company they finance (an SBIC can own only up to 50 per cent of a company's stock), they must charge reasonable interest (now averaging between 8 and 12 per cent with 15 per cent the maximum, and follow other rules.

A recent two-year headache which was industry-wide was brought on by a sudden cut-off of loans from the SBA, caused by a Revenues Control Act in 1968 which aimed to curb expenditures and inflation.

And now it's time for industry smiles. At the end of December, President Nixon signed an amendment marking \$70,000,000 for release to SBA for SBICs. According to one SBA official about 25 per cent of that total already has been released by the Bureau of the Budget. So loan applications are again being approved and the money pipeline is working again.

#### GOVERNMENT FACTOR

Rubel hastens to point out that government loans to SBICs are income-producing for the government. In 1967 the industry paid \$13,000,000 in taxes and in 1968 the amount zoomed to \$20,000,000.

During the same years the program cost \$7,000,000 a year to run, Rubel claims. (The SBA doesn't disagree with his calculations, sur-



it just reserves judgment saying it doesn't have Rubel's figures).

But there is one thing both agree on. Outlook.

It is good, according to Rubel, in spite of the decline in the new issue market in recent weeks. The new issue market remained reasonably strong in 1969, an important factor in SBIC profits. Total underwritings last year went to \$1.369 billion from \$754,300,000 in 1968.

"The new issue phenomenon has meant venture capital companies have been able to see their interests to go public much earlier with bigger issues" maintains Rubel.

And the SBA is right behind him. One program director said "The interest in venture capital (SBICs are often referred to in that way) is tremendous and is growing rapidly." He added that young people are moving into it, new groups are forming, and nationwide seminars on the subject are stirring up interest.

#### F. D. R.'S DREAM

Mr. YOUNG of Ohio, Mr. President, during World War II, President Franklin D. Roosevelt foresaw and hoped for independence for Vietnam, Cambodia, and Laos, then called Indochina. At that time, this was a brutally oppressed French colony occupied by the Japanese. In his memoirs Secretary of State Hull wrote:

The President . . . himself entertained strong views on independence for French Indo-China.

In 1943 F. D. R. said:

The native Indo-Chinese have been so flagrantly downtrodden . . . Anything must be better than to live under French colonial rule.

How ironic it is that in the minds of most Vietnamese and heads of state of Asiatic nations the United States has now replaced France as the imperial aggressor in their land. If F. D. R. had lived to implement his proposal and hope, 500,000 young Americans would not now be fighting, dying, and destroying land and villages with napalm bombs and chemicals in Vietnam, a small faraway country of no strategic or economic importance to the defense of the United States.

#### FREIGHT CAR SHORTAGE PROBLEM CRUCIAL IN IDAHO

Mr. JORDAN of Idaho, Mr. President, because of the deep concern which has been expressed by both Idaho shippers and railroad carriers for the need to alleviate the crucial railroad freight car shortage problem, I ask unanimous consent that the statement which I submitted on March 26, 1970, to the Special Subcommittee on Freight Car Shortages of the Committee on Commerce be printed in the RECORD.

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

STATEMENT OF SENATOR LEN B. JORDAN OF IDAHO BEFORE THE SPECIAL SUBCOMMITTEE ON FREIGHT CAR SHORTAGES OF THE SENATE COMMERCE COMMITTEE

Mr. Chairman and Members of the Special Subcommittee on Freight Car Shortages, I am glad to be a co-sponsor of S. 3223 and am pleased to have had the opportunity to work with Senator Magnuson in preparing what

we believe to be an effective legislative measure which should go a long way toward alleviating the railroad freight car shortage problem.

The problem, as you have no doubt already concluded from the testimony so far adduced in this hearing, has seasonally plagued the shippers of the West and Mid-west for at least the past 50 years. Some writers say it goes back for more than 80 years and actually was the source of the first complaint filed with the ICC. My personal experience with it has been extensive and frustrating, first as a cattle and grain shipper in private business, then as Governor of the State of Idaho and now as a United States Senator.

Few subjects, as reflected by the correspondence files in my office, have caused more concern to my constituents. The necessity is paramount to have railroad freight cars available when needed to ship the products of the farms, forests and mines which provide the basic economic foundation of my State.

One transportation officer of a large forest products firm has expressed his frustration in a recent letter this way:

"I am at a complete loss to explain to our management why we cannot have an adequate supply of box cars when the lines that serve our mills have spent millions of dollars on equipment and have an ample supply of equipment in their ownership to serve their customers but cannot get this equipment to their customers because other railroads do not follow the service rules established by the A.A.R."

The Administrator of the Idaho Wheat Commission on January 5, 1970, made the following report:

"We have been doing some checking with country elevator operators and wheat growers in northern Idaho during this Holiday Season and find that there is still an extreme boxcar shortage in the northern Idaho area. We have been informed that areas around Worley, Moscow, Genesee, Lewiston and Camas Prairie are as much as 30 to 45 days behind on car orders. A great deal of wheat has been sold to meet certain time limitations for delivery at Portland with prospects of not being able to meet the deadlines due to boxcar shortages."

The Secretary of the Wallace, Idaho, Chamber of Commerce which is located in one of the largest lead, silver and zinc producing areas of the United States, wrote to me on February 13, 1970, as follows:

"The Wallace Chamber of Commerce has been informed that Senate Bill 3223 was introduced on December 9, for the purpose of amending the Interstate Commerce Act to (1) establish car hire and car rental charges at a level necessary to maintain an adequate national car fleet and meet emergency car supply problems, and (2) to prescribe such changes solely upon the time the car is held or used. After a thorough discussion of this matter our Chamber is convinced that Senate Bill 3223 is a very desirable piece of legislation from the standpoint of equity to western shippers and carriers. We therefore commend you for your support of Senate Bill 3223."

Additional examples of such correspondence would be only accumulative but the foregoing are typical of the expressions of urgency and need for passage of S. 3223. I have not received a single letter from anyone expressing the view that S. 3223 is not needed or would not be in the public interest. Neither have I seen any communication or evidence from my part of the country that the proposed time-mileage formula would be better for the national transportation system than the per diem only proposal contained in this bill.

It is understandable that the eastern railroads, having much shorter distances to haul than western railroads, would oppose any legislation which would deprive them of the economic advantages of being able to use

freight cars of the western railroads for storage and for hauls between eastern shipping points at rental rates far less expensive than the cost of providing their own rolling stock. This situation is intolerable. It is apparent that Congress must move to correct the serious inequities to the western railroads.

In 1966 the Congress amended Section 1(14)(a) of the Interstate Commerce Act with the hope that the crippling car shortages which were plaguing the nation would be alleviated through action of the Interstate Commerce Commission. This amendment provided for interim incentive rates and exemptions.

Following burdensome studies imposed upon the railroad industry and extensive hearings, the Commission in the incentive per diem case found that interim incentive rates would neither induce the purchase of freight cars nor improve operating practices. When the Commission heard argument in this case, Commissioner Bush observed that the law might have to be amended or repealed.

In the basic per diem case, the Commission presumed to abandon a system of car-hire rates based only upon the time freight cars are used or held, which system has been in use throughout the industry since 1902. Prior to that time experiments with rates based upon time and mileage or mileage alone proved these systems to be impractical. Nevertheless, the Commission prescribed a system of car-hire charges for freight cars in free interchange which can only aggravate the problem. Under this time-mileage system it would be cheaper to let a freight car sit idle and a railroad would be penalized for moving the car where it might be needed. Accounting and auditing for these rates would require railroads to deal with 80 brackets of mileage charges and 560 brackets of time charges in order to embrace cars of all values which are in the national fleet. This would entail very considerable accounting burdens and problems.

Twenty-one states joined railroads owning a large majority of cars in the national per diem car fleet in opposing the Commission's action in court without success. The public interest has thus been ignored and it is only fitting that the practical aspects of railroad operation be revised by the Congress so that it may declare the basic car-hire policies to be followed by the Commission.

I leave the technical explanation of the intricacies and background of the bill to other witnesses. But, basically S. 3223 simply directs the ICC to prescribe a system of compensation to freight car owners predicated solely upon the time a car is held or used. It amends the first section of the Interstate Commerce Act to require the Commission, in fixing compensation, to determine the value base of freight cars and shop facilities, the depreciation thereon and a rate of return on investment, and to convert these costs to daily car-hire rates which shall be recomputed annually.

A key provision authorizes the ICC to impose such charges on carriers, when a shortage or threatened shortage of freight cars exists, in addition to the daily car-hire rates, as in the opinion of the Commission are reasonably calculated to relieve such shortage or threatened shortage during the emergency or threatened emergency. The bill also contains much needed enforcement teeth by doubling the penalties to not less than \$200 nor more than \$1000 for each offense and \$100 per day for each day of continuing violation of ICC orders or directives.

I am persuaded that passage of this bill will provide the Commission with the legislative authority necessary to bring about a very substantial alleviation of the railroad freight car shortage problem.

In my view, S. 3223 is necessary, reasonable and equitable. I consider its passage

important to the public interest and I, therefore, urge your favorable consideration.

#### DISSATISFACTION WITH BUREAU OF INDIAN AFFAIRS

Mr. MONDALE. Mr. President, within the last 2 weeks there have been a number of demonstrations by Indians throughout the country in local offices of the Bureau of Indian Affairs. The specific grievances have varied from city to city, but they all echo a similar refrain: dissatisfaction with the Bureau of Indian Affairs, particularly in regard to its paucity of services for urban Indians.

In this age of demonstrations and counter-demonstrations it is easy to brush aside the protests of a small group. But I think it is important we pay special attention to the Indians' complaints because they are primarily asking for nothing more than the fulfillment of promises previously made by our Government.

Mrs. O. J. Janski, president of the League of Women Voters of Minnesota, looked at the demands made by a group of Minneapolis Indians and then wrote a letter to the Minneapolis Tribune, explaining why the demands deserve support. The League of Women Voters of Minnesota has been an advocate of the Indian's cause for a number of years, and I believe their interpretation of this situation is worthy of widespread attention.

In a March 29, 1970, editorial the Minneapolis Tribune addressed itself to these same protests. The Tribune's analysis of the dilemma of the urban Indian is also deserving of our attention. I ask unanimous consent that these two items be printed in the RECORD.

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

#### INDIAN DEMANDS SUPPORTED

To the EDITOR:

The League of Women Voters of Minnesota supports the demands made on the Bureau of Indian Affairs by a group of Indians in Minneapolis last week.

It seems to us the Indian demands fall into four categories: equal treatment, self-determination, reparations for past claims, and the right to appeal. We believe the public is not sufficiently aware of the basis of these demands.

Indian citizens comprise the most deprived segment of society. They also have more difficulty than any other group in securing public services which, presumably, all citizens deserve. Agencies serving Indians, principally the Bureau of Indian Affairs, are traditionally land-based and services are offered only to Indians on or near reservations, "when services are not available from other sources." Originally, help was to be offered by the federal government only when states and localities abdicated this responsibility.

The League of Women Voters believes that land requirements for services are unrealistic and should be abandoned. We are in favor of a new criterion. Under such a plan, needy Indians on reservations and off would be served equally.

Another league position is that Indians must be permitted to determine their own affairs. The demand that Indian-serving agencies be staffed by Indians is reasonable.

Another category of requests relating to hunting, fishing and water rights, settlement of claims and payment of taxes makes

sense when one understands that Indians have paid the invaders of their country with their land itself and their way of life. They are asking for historic rights or payment of debts.

Finally, it seems to us understandable that under the frustrations they experience in dealing with government agencies, they would wish to seek redress from the United Nations as a higher court to which they could appeal.

Our Indian citizens have made their statement eloquently. It is the hope of the league that they will be heard by the city of Minneapolis, the state of Minnesota and the U.S. government.—Mrs. O. J. Janski, president League of Women Voters of Minnesota, St. Paul.

[From the Minneapolis Tribune, Mar. 29, 1970]

#### THE BIA AND AID TO URBAN INDIANS

Indian protests against the Bureau of Indian Affairs last week are not new and not without merit. Indians picketed BIA offices in Minneapolis five years ago seeking BIA aid for Indian people in the cities as well as those on the reservations.

Nothing much happened as a result of that earlier protest. The BIA did provide funds briefly for an Indian employment center in Minneapolis. But the aid was terminated and the BIA now refers Indian job applicants to the state employment service.

So now the Indians are protesting again, in Minneapolis and in other cities with large Indian populations. And their continued demand that the BIA "serve equally both reservation and urban Indians" is even more pertinent today.

The reason it is more pertinent is that the migration of Indians to the urban centers in search of jobs, housing and a better life leads to estimates that up to 65 percent of the American Indians now reside in the cities. The migration has been dramatic in Minneapolis. One study, projecting school enrollment figures, concludes that the Indian population in this city has grown from 2,000 to nearly 10,000 in the past 10 years.

BIA money, however, has not followed the Indian. The \$500 million in federal appropriations, including some funds in non-BIA programs, goes primarily to the reservations. The BIA does assist those Indians who come to the cities under a BIA employment-assistance program, but many Indians come to the cities on their own and are not eligible for direct services.

BIA officials say that agency and congressional policy restricts their spending to the reservations. This may be true—although the funding of the employment center indicates the policy is not ironclad. Further, there has been no demand on the part of the BIA that Congress change this policy. Owen D. Morken, regional BIA director here, says that he will take the Indian demands to BIA headquarters in Washington. The Indians have made a good case, in our opinion, that the BIA should seek a change in policy, and the necessary funds, to finance programs by and for urban Indians. The federal government is largely responsible for the plight of the American Indian today, and should not duck that responsibility merely because of migration trends.

#### OCEANIC AND ATMOSPHERIC PROGRAMS

Mr. HOLLINGS. Mr. President, in his environmental message last February the President stated that he had requested his Advisory Council on Executive Organization to make its report on Federal organization for environ-

ment, natural resources, and oceanography by April 15. For the reasons I stated in my speech on the floor of the Senate in March, I feel that the decision to be made by the President regarding our Nation's oceanic and atmospheric programs is of the utmost importance.

I have introduced a bill, S. 2841, to create a National Oceanic and Atmospheric Agency, and the Committee on Commerce has nearly completed its hearings and action on that bill. I cannot claim authorship of the idea for NOAA. In one way it has evolved from over 10 years of leadership by Congress, particularly by the distinguished chairman, the Senator from Washington (Mr. MAGNUSON). The idea is directly attributable to the Commission on Marine Science, Engineering and Resources, which arrived at that organizational recommendation after 2 full years of intensive study.

Since the publication of the Marine Science Commission's report entitled, "Our Nation and the Sea" last year, support for an independent oceanic and atmospheric agency has grown, coming from widespread interest groups such as the National Oceanography Association, the National Security Industrial Association's Ocean Science and Technology Advisory Committee, the American Oceanic Organization, as well as from conservation groups. I am pleased to announce that at its February 26 meeting of the board of directors of the Chamber of Commerce of the United States adopted a policy position urging the creation of a National Oceanic and Atmospheric Agency as proposed by S. 2841. I welcome the support of the chamber of commerce, and ask unanimous consent that letters sent to me and to Mr. Roy L. Ash, chairman of the President's Advisory Council on Executive Organization, be printed in the RECORD.

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

CHAMBER OF COMMERCE  
OF THE UNITED STATES,  
Washington, D.C., April 10, 1970.

HON. ERNEST F. HOLLINGS,  
Chairman, Subcommittee on Oceanography,  
Committee on Commerce, U.S. Senate,  
Washington, D.C.

DEAR SENATOR HOLLINGS: I am pleased to tell you that the National Chamber supports the establishment of a National Ocean and Atmospheric Agency, as is proposed by your bill, S. 2841.

We support the establishment of a strong, independent NOAA and a National Advisory Committee on the Oceans, such as proposed by the Commission on Marine Sciences, Engineering and Resources, as being a necessary first step toward improving our national marine capability.

We recognize—and your bill contemplates—that the specific functions and responsibilities of the agency, or any additional allocations of federal funds beyond what is presently budgeted for its components, should be the subject of further study.

I would appreciate your including this letter in the record of your Subcommittee's hearings.

Cordially,

HILTON DAVIS,  
General Manager, Legislative Action.



CHAMBER OF COMMERCE  
OF THE UNITED STATES,  
Washington, D.C., April 8, 1970.

Mr. ROY L. ASH,  
Chairman, President's Advisory Council on  
Executive Organization, Executive Office  
Building, Washington, D.C.

DEAR MR. ASH: At its February 26 meeting, the Board of Directors of the National Chamber adopted a policy position urging the implementation of a major recommendation made by the President's Commission on Marine Science, Engineering and Resources.

The National Chamber urges creation of a new civilian agency (National Oceanic and Atmospheric Agency—NOAA) to administer the nation's civil marine and atmospheric programs. To complement this agency, the National Chamber recommends the creation of a National Advisory Committee for the Oceans (NACO) to advise the head of NOAA concerning his functions and coordinating responsibilities, and to report to the President and the Congress on the progress of government and private industry in achieving the objectives of a national ocean program.

Within the next few days the National Chamber will advise Senator Hollings of the Subcommittee on Oceanography of the Senate Commerce Committee that we support S. 2841 to create the National Oceanic and Atmospheric Agency. The creation of this agency is a necessary first step toward improving our national marine capability.

Sincerely,

JOHN J. COFFEY, JR.,  
Senior Associate for Natural Resources  
and Environmental Quality.

#### THE HILL-BURTON ACT

Mr. PERCY. Mr. President, I am most pleased that the Senate this week passed H.F. 11102, to revise and extend the Hill-Burton Act.

The members and staff of the Health Subcommittee and the full Committee on Labor and Public Welfare are to be commended for the great effort that obviously went into the preparation of this bill. I was particularly pleased with the provisions that permitted the use of Hill-Burton money for the construction and modernization of freestanding outpatient facilities. I have long felt that the neighborhood health centers that can be built with these funds will be fundamental in insuring the delivery of adequate health services to all our citizens.

I wish to thank the Senator from Ohio (Mr. SAXBE) for offering two amendments for me in my absence and the Senator from Texas (Mr. YARBOROUGH) and the Senator from Colorado (Mr. DOMINICK) for graciously accepting them on behalf of the committee.

#### THE ATTACK CARRIER FORCE LEVEL

Mr. MONDALE. Mr. President, the Joint Subcommittee of House and Senate Committees on Armed Services is now holding hearings on the study of the attack carrier force level. This study, which was required under the 1970 military procurement authorization legislation, is focusing on the need for a fourth nuclear carrier, the CVAN-70.

On April 8, 1970, Congressman WILLIAM S. MOORHEAD of Pennsylvania and I testified before this joint subcommittee. Congressman MOORHEAD, one of the

outstanding leaders of the congressional effort to reduce unnecessary military spending and to eliminate Pentagon waste, questioned the Navy's carrier policy during last year's debate on the military authorization bill.

In his testimony of April 8, Congressman MOORHEAD pointed out that—

Since none of the Communist nations have any attack carriers, nor apparently have any intention of building any attack carriers, the question is whether our present superiority of 15 to 0 in aircraft carriers should be maintained or increased, or whether that absolute superiority of 15 to 0 might be reduced to say 12 to 0.

He then argued, as I had done in my testimony, that if only 12 attack carriers are sufficient for defense between now and 1980, then the Congress can afford to postpone any decision to build the CVAN-70—the third of three planned nuclear carriers—until fiscal year 1975.

Congressman MOORHEAD's statement also summarized the results of a most significant paper comparing land and sea-based air power prepared by Herbert Rosensweig—formerly of the Defense Department's Office of Systems Analysis. The Rosensweig study concludes that the optimum number of attack carriers for a balanced force should be 12 or less—a conclusion with which both Congressman MOORHEAD and myself agree.

I hope that every Member of Congress will find time to read this excellent statement. I ask unanimous consent that it be printed at this point in the RECORD.

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

#### TESTIMONY OF CONGRESSMAN WILLIAM S. MOORHEAD

Mr. Chairman, as a former officer in an attack carrier task force in the Pacific during World War II, I appreciate this opportunity to appear before this Special Joint Committee to raise some questions about the future role of attack carriers.

The issue to be determined by this Committee, it would seem to me, is not whether we need any carriers now for I know of few people who would challenge that need for some carriers. Instead, it would appear that what needs to be brought out, discussed and, hopefully, answered is:

1. How many attack carriers do we need now, in five years or in ten years to supply the defensive needs of the country?
2. Can part of the tactical air support mission of the attack carriers be provided more economically by land based aircraft?
3. And finally, is the mission of the carrier in the long term being eroded by increasing technology causing increased vulnerability to the point where the Navy ought to give serious consideration to placing its primary emphasis on up-grading its capability in areas other than attack carriers?

As you are aware, an answer to the first question is imperative if we in Congress are to fulfill our constitutional role of providing for the common defense. Since none of the Communist nations have any attack aircraft carriers, nor apparently have any intention of building any attack carriers the question is whether the present superiority of 15 to 0 in aircraft carriers should be maintained or increased, or whether that absolute superiority of 15 to 0 might be reduced to say 12 to 0.

Although we should not necessarily size our carrier forces to correspond to Soviet forces, it may be useful to look at what the Soviet Union is doing—especially since

so many of our military plans in other categories of defense are based on parity with the Russians. The Soviets are building missile cruisers, missile destroyers, high-speed missile boats, nuclear subs and attack subs—but no attack carrier. However, the Navy has estimated that 40 per cent of its budget goes to maintaining the carrier fleet. In terms of national priorities it is instructive to point out that we spend more than twice as much (over \$400 million) on operating costs of the 15th carrier task force for one year than we spent for water pollution control programs last year.

#### THE STATE OF OUR PRESENT CARRIER FORCE

The answer to the question of whether we should build additional aircraft carriers at this time depends on:

1. The number of CVAs we want to operate in the late 1970's; and
2. The number of CVAs we currently have which will be both seaworthy and capable of operating the modern tactical aircraft in the late 1970's.

At present we have nine modern aircraft carriers; eight *Forrestal* class ships which have been commissioned since 1955 and the nuclear-powered *Enterprise* which was commissioned in 1961. In addition, two new nuclear-powered carriers have been funded by the Congress. The *Nimitz*, which was funded in FY 67, will enter the fleet in 1972 and the *Eisenhower*, which was funded in FY 68-70, will enter the fleet in 1974.

In addition to these 11 ships, there are 3 *Midway* class carriers. These ships, which were commissioned in 1945-1947, have received extensive modernization since that time. The *Midway*, which is currently undergoing a \$200 million modernization program, will be recommissioned this year. After modernization it will be able to operate all of the modern aircraft envisioned for the Navy for at least the next decade. Thus it should be serviceable for at least 10 more years. The *Coral Sea* received an extensive modernization from 1956-1960 and the *Roosevelt* was modernized from 1953-1956. These ships can operate all of the current aircraft except the RA-5C. They will be able to operate all of the Navy aircraft currently under development; including the F-14 fighter.

Finally, there are 5 modified *Essex* class carriers. These are smaller ships which, with the exception of the *Oriskany*, were commissioned during World War II. They cannot operate the modern F-4 fighters or the RA-5 reconnaissance aircraft.

It is difficult to determine the age at which we should replace CVAs. The answer depends on the cost to keep the ships seaworthy and the extent to which they can operate the modern aircraft. While the Navy has indicated that the carriers have a nominal life of 30 years, there are many ships now in service which are substantially older than this. Without going into this issue any further, however, we can draw the following conclusions regarding the need for additional CVA construction:

1. There are 11 ships that will be serviceable well into the 1980's and at least one other (the *Midway*) that will be satisfactory until at least 1980. Since it takes about 5 years to build a CVA, we do not have to fund additional carriers until at least 1975 unless we want to operate more than 12 CVAs in the late 1970's.

2. If we want to operate more than 12 CVAs in the late 1970's, we must decide now on a replacement schedule for the *Midway* and *Essex* class carriers.

Carriers take five years to construct. Hence, we must know how many total attack carriers will be required in five years if we are to take proper action now. I have repeatedly questioned the Navy with regard to the total number of carriers they plan at any given time. Their answers have not been entirely

satisfactory in shedding a proper insight on the matter. For example, in response to questions I put to Rear Admiral Sonenshein after Joint Economic Committee hearings in December, Rear Admiral Johnston on March 9th indicated that only three *Nimitz* class nuclear attack carriers are currently planned within the approved Five Year Defense Plan. These would be the CVAN's 68 and 69 and the proposed CVAN 70. Since the Five Year Defense Plan extends for approximately the same lead time as carrier construction and since this appears to be the only officially sanctioned planning document, we in Congress have no way of determining what the Navy's plans are without knowing the overall size of the attack carrier fleet they plan to maintain.

For example, if the Navy in the years between 1975 and 1980 plans to maintain a fleet of 18 carriers and, further, adheres to the 30 year life guideline, then between now and 1975 we must approve the construction of six additional carriers. If the fleet force should be 15 as is widely mentioned, then we will have to approve the construction of three additional carriers. If, however, only twelve attack carriers are sufficient for defense between now and 1980, then the Congress can afford to postpone any decision to build additional carriers until 1975.

With this basic equation involving total size of the fleet and age as background, I would like to explore certain factors which ought to be considered in determining the size of the carrier fleet.

#### *The role of attack carriers*

The role of the carrier can be roughly separated into three parts which I present in order of ease of justification: 1) providing "presence" in time of crisis but when no overt hostile action has occurred; 2) providing tactical air support in major but limited engagements such as Vietnam and Korea; and 3) some potential role in the event of an all-out conflict with the Soviet Union. Additionally, the Navy has indicated that attack carriers are necessary to ensure continuing freedom of the seas in the face of a growing Soviet naval threat. Each of these roles or missions is somewhat different and ought to be explored separately.

#### *To provide a presence*

The first mission, that is, providing presence in time of crisis but when no hostile action takes place, is perhaps the most difficult to assess. In this situation the carrier is presumed to act as a deterrent. Yet as in any case where hostile action is prevented by presence, no one—probably even the potential enemy—can say what factor tips the balance in favor of deterring aggression. Carriers undoubtedly assist. But so do our strategic bombers and our potential for rapidly deploying land forces and land based aircraft. Last year during the Congressional debate it was cited that since 1945 our carrier forces had been engaged in more than 50 of these incidents throughout the world. Assuming an average level of 15 carrier task forces during this period, this averages out to a cost of about \$2 billion per incident. I think that even the Navy would agree that \$2 billion per incident is a pretty steep price tag. The fact of the matter is that "providing presence" is an imponderable. It is doubtful if so many of our carriers could be justified if all they did was to provide presence. Furthermore, "presence" could have been provided with a reduced total carrier force.

#### **COST OF LAND BASED VERSUS SEA BASED TACTICAL AIR**

The main mission of the carrier fleet in the past 25 years has been to provide tactical air support first during the Korean conflict and of late in the Southeast Asian war. The carrier has augmented our land-based aircraft. The questions raised in this regard deal

with the relative cost of land based tactical air support vis-a-vis carrier based tactical air support.

Much of what follows is gleaned from a well documented paper entitled "Aircraft Carriers—Should We Build More?" prepared by Mr. Herbert Rosenzweig formerly of the OSD office of Systems Analysis and from notes taken in a seminar conducted by Mr. Rosenzweig at the Brookings Institution and attended by a member of my staff.

From these and other sources I would conclude:

1. A land based air wing costs \$165 million less per year to operate than a carrier based wing provided no air-lift support is required. In such a case the land based wings can be deployed almost as quickly as carrier based wings.

2. If airlift is provided to support the land based wing and bare base kits are pre-positioned in Europe, Southeast Asia and Korea, the land based wing is still \$120 million per year less than the carrier equivalent. In such a case the land based wing could be deployed as fast as the fastest possible carrier deployment.

3. In short term conflicts, carrier based and land based aircraft experience approximately equal sortie rates. As the term of the operation lengthens, the overall sortie rate and hence the effectiveness of land based aircraft is from 30% to 100% greater than carrier based aircraft.

4. Carrier based aircraft would be more vulnerable to enemy action in a Central European war than land based aircraft. In Southeast Asia, Korea and other areas of the world, the vulnerability is significantly lower than in the Mediterranean and North Sea and, therefore, in these areas vulnerability should not be as serious a factor in the choice between land based and sea based aircraft.

5. There are more than enough land bases in Europe to meet our needs. In the North Asian theater, we can operate 1,200 fighter/attack aircraft from bases in Korea, Japan and Okinawa. Differing assessments of the needs of another Korean-type conflict range from 500-1200 aircraft for tactical support. In southeast Asia, we have more than enough land bases to meet all of our tactical air needs. In other areas of the world such as Africa or South America our needs are likely to be quite small—probably no more than a few wings of tactical aircraft. The Middle East and the southern flank of Europe presents a difficult problem. In an Arab-Israeli involvement, while land bases are not prevalent, the use of large numbers of carriers in the Mediterranean would be quite risky—especially if the situation were such that the Soviet Union might become involved.

6. In the past, General Purpose Forces were planned to support 2½ wars. The present Administration appears to be heading towards a 1½ war policy. It was difficult to justify 15 CVA's under the previous policy. Under the present policy it seems clear that there ought to be a reduction.

Mr. Chairman, the results of the Rosenzweig study conclude that the optimum number of OVA's for a balanced force should be twelve or less. The report further recommends that the Congress reconsider the action taken last year approving the construction of CVAN 69.

#### *The need for analysis*

As a complete layman in the field of Systems Analysis, I found the arguments presented in Mr. Rosenzweig's paper very persuasive. In all of the debates over this issue, I have never seen any real analysis of the issues involved. This paper is the rare exception and I highly recommend that the Committee obtain a copy for study in order to get a balanced view of the issue that will mean billions of dollars in expenditures over the next few years.

I understand that the Committee has requested the paper from the Brookings Insti-

tution and has been turned down because Brookings hopes to publish the paper shortly.

However, the Pentagon has a copy of both Mr. Rosenzweig's Brookings paper as well as the classified OSD Systems Analysis version of the paper. The Committee should demand that the paper be made available on both a classified and non-classified basis. The issue of the relative cost-effectiveness of land based versus sea based tactical air is skillfully analyzed and is crucial to any determination of the future role of attack carriers.

#### *Questions on the joint study*

On this same subject I have the following questions about this Joint Committee study:

Has the Committee been provided access to last year's highly touted study by the National Security Council on the future role of attack carriers? Has the Committee been briefed on this study and will it be made available to Congress?

Due to the enormous sums involved in the decision of whether to buy any more attack carriers—has the Committee commissioned any studies on the issues in the seven months it has been in existence?

Who is studying the foreign policy implications of the carrier issues?—Is there any liaison with the Foreign Affairs and Foreign Relations Committees?

What is the impact of the President's Guam statement and the new Nixon low profile in foreign policy on the future of attack carriers?

Have any of the analytical people who are carrier critics been invited to testify before the Committee, such as Herbert Rosenzweig, formerly of OSD Systems Analysis; William Kaufman of Brookings, M.I.T., and former Special Assistant to Secretary McNamara; Alain Enthoven, former Assistant Secretary of Defense; Arthur Herrington, currently in the Office of the Secretary of Defense; Arnold Kuzmack, formerly of Systems Analysis; and Ivan Sellin, former Assistant Secretary of Defense for Systems Analysis. And I am sure there are other qualified people outside of the Pentagon who could address these issues and substantially increase the level of debate.

Now I would like to make some observations on what I view as a critical issue—the vulnerability of the attack carriers.

#### **CARRIER VULNERABILITY**

The question of carrier vulnerability has been debated for some time. There are a number of scenarios that must be considered—some of them reasonable and some that are really far less than reasonable. The first is an all-out war with the Soviet Union. In such a situation, the war would most likely be fought with both tactical and strategic nuclear weapons. In this case, I am quite sure that even the Navy would admit that carriers would be extremely vulnerable. Only through a quirk of fate would any survive.

The remaining potential enemies do not constitute a significant threat to our carriers. The Chinese do have about 30 conventional submarines of medium endurance. However, their tactical missileery could not be considered a major threat, although in any engagement we probably would not get off scott free. The North Vietnamese present no real threat to the carriers. The Egyptians do present a modicum of trouble for carriers in a first strike since they do possess the Soviet-built Styx missiles. However, it is unlikely that any sustained attack could be mounted since the Egyptian patrol boats would be quickly destroyed. The remainder of the nations of the world present no significant threat to our carriers.

#### *Conventional war at sea with the Soviets?*

These then are the reasonable scenarios. Let us consider an unreasonable one, but one which many people continue to dwell upon with analytical fascination: a conven-



tional war with the Soviet Union. Carriers do not fare too well when considering their vulnerability in this situation.

The vulnerability of aircraft carriers in a conventional United States/Soviet War is an issue that has not been sufficiently studied; or if it has, the results have not been made available to the Congressional membership. The Navy has not stated in a clear-cut manner what the survivability of aircraft carriers would be against a potent enemy such as the Soviet Union under conventional war time conditions. Rear Admiral Johnston has stated that carriers are not completely vulnerable and they are not completely invulnerable. This is less than marginal help. Last year during Congressional debate, Admiral Moorer made the statement, purporting to demonstrate the invulnerability of carriers, that during World War II not a single carrier had been sunk by Kamikaze attack. This statement is technically cor-

rect. However, it is misleading for two reasons. First, the comparison is not good because the Kamikaze is a vintage 1945 weapon. The weaponry of this country cannot be predicated upon defending against an enemy armed with obsolete weapons. For example, if the Army were to propose an anti-aircraft weapon capable of destroying Sopwith Camels, I hardly think the Congress would swallow such a rationale. Modern defenses must be capable of countering an enemy equipped with equally modern weapons. Another reason the Kamikaze statement is misleading is that while no carriers were sunk by these human guided missiles, a number were seriously damaged and put out of action for extended periods or permanently. I have been informed that 13 carriers were seriously damaged by Kamikaze attacks, but the following list is the most comprehensive we could put together on short notice:

#### CARRIERS BADLY DAMAGED BY KAMIKAZE ATTACKS

| Ship <sup>1</sup>  | Date          | Number of hits | Notes                                     |
|--|---------------|----------------|---|
| Saratoga (CV-3)  | Feb. 21, 1945 | 4              | Serious damage, went out of commission.   |
| Ticonderoga (CV-14) <sup>2</sup>                         | Jan. 21, 1945 | 2              | Returned to base.                         |
| Bunker Hill (CV-17) <sup>2</sup>                         | May 11, 1945  | 2              | Returned to base, went out of commission. |
| Intrepid (CV-11) <sup>2</sup>                            | Nov. 25, 1944 | 2              | Returned to base.                         |
| Enterprise (CV-6)  | May 13, 1945  | +1             | Returned to base, went out of commission. |
| Others listed as badly damaged by Morison <sup>2</sup> : |               |                |   |
| Franklin (CV-13) <sup>2</sup>                            | Mar. 18, 1945 |                |   |
| Wasp (CV-18) <sup>2</sup>                                | Mar. 19, 1945 |                |   |
| Hancock (CV-19) <sup>2</sup>                             | Apr. 7, 1945  |                |   |
| Intrepid (CV-11) <sup>2</sup>                            | Apr. 16, 1945 |                |   |

1. M. Korotkin, "Battle Damage to Surface Ships During World War II." Translation 310, David Taylor Model Basin, Feb. 1964.

<sup>2</sup> Essex Class or later.

<sup>3</sup> Vol. 14, pp. 389-392.

So instead of dwelling on an enemy armed with historical relics, let us dwell for a moment on modern weapons that carriers might face if we were at war with the Soviets.

Soviet attacks on our carriers might be expected from one or a combination of three sources: manned aircraft armed with air to surface missiles or bombs; surface-to-surface missiles launched by surface ships; and submarines launching either torpedoes or underwater launched guided missiles.

#### Aircraft and ASM threat

Considering the first source, that is, armed manned aircraft, we know that the Soviet Union has a considerable force of Badger, Blinder, and Bear aircraft. These are capable of carrying up to 10 missiles per plane. From 6 to 10 of these aircraft can be launched simultaneously which means that they can direct bursts of from 10 to 20 missiles at the carrier. Since we cannot expect over 90% reliability of our defense systems, the carrier probably would not survive. Admittedly the utility of these plans is limited by their range. However, areas of vulnerability include the Mediterranean, the North Sea and the area around Japan, Korea, and off the East Coast of the Soviet Union.

#### Missile and torpedo threat

The other sources of potential threat to our carriers stem from missiles and torpedoes fired from submarines or surface ships. Surface-to-surface missiles launched either from surface ships or submarines present a real threat to our carriers. The enemy objective is to try to hit aviation fuel supplies causing extensive damage. Experts estimate that two to four missile hits are sufficient to knock out a carrier for an extended period of time. This particular threat may be increasing considerably. According to an article in the Chicago Daily News on April 2, the Soviet Union is developing a new missile that has a range far in excess of the Styx. It can be fired from a submerged submarine and speeds to its target in the air just above the waves. The potential danger of such a missile is increased not just by its extended range or the fact that it can be stealthily fired, but also be-

cause of its altitude. A low altitude missile is quite difficult to defend against with our own surface to air missiles.

Torpedoes also constitute a threat to carriers. There are two types of torpedoes: straight running and homing. The damage potential of straight running torpedoes is low. A carrier could probably sustain 20 hits with low effect. However, according to experts the damage potential of homing torpedoes is relatively high despite the fact that counter-measures exist. Homing torpedoes are generally designed to home on the ship's screws. A carrier most frequently has 4 screws. If two are hit and rendered inoperable the carrier would most likely be incapable of fulfilling its mission of launching aircraft. While the carrier might not be sunk it would have to withdraw for some period of time.

The torpedoes mentioned thus far are conventional in their mission. Experts now believe that there is a possibility that the Soviets could develop a new type of torpedo capable of actually sinking a carrier. Such a torpedo would be designed to explode under the hull, in effect breaking the back of the carrier.

These conventional weapons exist and they can incapacitate or destroy carriers. This country does possess carrier defenses in the form of missiles and aircraft. However, no one, not even the most optimistic, could expect these defensive systems to operate in excess of 90% reliability. Therefore, we must assume that even under conventional war-time conditions with the Soviet Union, in the face of determined opposition attack carriers are quite vulnerable.

#### CONCLUSION

Mr. Chairman, there are any number of questions that this committee should answer. Detailed analyses exist that show that carriers are not cost-effective when compared to land based aircraft. The committee should study this report. It should request the Navy to provide similar studies justifying its position. Unless the Navy can provide additional insight and information, additional carriers seem not to be warranted at this time. Beyond the question of cost-effectiveness there

are very real indications that carriers are becoming increasingly vulnerable to sophisticated weaponry such that in the event of a major conflict with the Soviets, they would not survive.

For these reasons I believe that a balanced force should not exceed 12 carriers and that under these circumstances the Congress need not make a decision on the procurement of additional attack carriers until 1975.

#### ATTACK AIRCRAFT CARRIERS

| Number  | Class      | Name                     | Date commissioned |
|---------|------------|--------------------------|-------------------|
| CVA-14  | Essex      | Ticonderoga <sup>1</sup> | 1944              |
| CVA-19  | do         | Hancock                  | 1944              |
| CVA-31  | do         | Bon Homme Richard        | 1944              |
| CVA-34  | do         | Oriskany                 | 1950              |
| CVA-41  | Midway     | Midway <sup>2</sup>      | <sup>3</sup> 1945 |
| CVA-42  | do         | Roosevelt                | <sup>4</sup> 1945 |
| CVA-43  | do         | Coral Sea                | <sup>5</sup> 1947 |
| CVA-59  | Forrestal  | Forrestal                | 1955              |
| CVA-60  | do         | Saratoga                 | 1956              |
| CVA-61  | do         | Ranger                   | 1957              |
| CVA-62  | do         | Independence             | 1959              |
| CVA-63  | do         | Kitty Hawk               | 1961              |
| CVA-64  | do         | Constellation            | 1961              |
| CVAN-65 | Enterprise | Enterprise               | 1961              |
| CVA-66  | Forrestal  | America                  | 1965              |
| CVA-67  | do         | Kennedy                  | 1968              |
| CVAN-68 | Nimitz     | Nimitz                   | (?)               |
| CVAN-69 | do         | Eisenhower               | (?)               |

<sup>1</sup> To become a CVN (ASW carrier) when Midway rejoins the fleet in 1970.

<sup>2</sup> To rejoin the fleet in 1970.

<sup>3</sup> Undergoing modernization.

<sup>4</sup> Modernized 1953-56.

<sup>5</sup> Modernized 1956-60.

<sup>6</sup> Under construction.

Note: Total, 18. In addition, there are presently 8 ASW carriers.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUGHES). Is there further morning business? If not, morning business is concluded.

#### PEACE CORPS ACT AMENDMENTS OF 1970

The Senate resumed the consideration of the bill (S. 3430) to amend further the Peace Corps Act (75 Stat. 612), as amended.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GOLDWATER. Mr. President, it was my intention earlier to offer an amendment to the pending bill, S. 3430, which would restore \$4 million of the 10 percent cut made by the committee. The committee cut the amount from \$98 million to \$90 million. However, in thinking it over, I have come to the conclusion that we could probably do better by waiting for the conference, because the House figure, although they have not acted as yet, is still at 98 plus million dollars.

I think the House would prevail. Also, I do not think it would be fair to act on an amendment today because so many

Senators are absent that I question whether we could even get enough Senators here to secure the yeas and nays.

Mr. President, I have talked to the chairman of the committee and to members of the committee, and they concur with my decision.

It may seem strange, Mr. President, for a conservative Republican to be asking for the restoration of funds, because I usually support cuts. However, I have been an avid backer of the Peace Corps. I do not say that it is in good shape across the board, but in the critical area involving South America there is much good being done. And under the leadership of Mr. Joe Blatchford, I am certain that the deficiencies of the Peace Corps will be corrected.

Mr. President, I am sorry that the committee saw fit to make the cut that it did, but I am glad that they did not take the 20-percent cut that was suggested in committee by the distinguished Senator from Delaware (Mr. WILLIAMS).

To me the Peace Corps is the best thing we have going in the field of foreign relations. It is the type thing that I think we must do more of—the person-to-person approach in foreign countries where the young people and the older people are able to show the people of other lands how we accomplish things with our hands.

I do not know whether we realize it or not, but this is the faculty we have that has made America so unique and so different. I think it stems from the fact that all of us come from so many different countries and different origins. The ability to get along by ourselves, the ability to accomplish things with our hands and with tools, has created the greatest industrial complex in the history of the world. It has made prosperity come to more people than has been possible in any other country in the history of the world.

If we can accomplish the passing on of this know-how to other people, it will do far more good than the passing out of money.

I have never voted for a foreign aid bill in my life, and I do not intend to. I am convinced that we cannot buy the friendship of people. I think it is very evident after 25 or more years of passing out money that we have not bought friendship. What we have done is to buy a lot of high-priced automobiles, planes, and other things for a handful of rulers around the world.

The Peace Corps approach to me is the way to get the word of America across.

I would like to see the time come when there is a great deal more interest in the corps by young people and even by retired people who still have the ability to teach and get along with other people.

Mr. President, with those few words, I hope that we can have speedy passage of the pending bill. I will not offer my amendment. I will rely on the House being able to provide it in conference.

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed

for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Peace Corps Act to authorize additional appropriations, and for other purposes."

Mr. MANSFIELD. Mr. President, the swift and efficient disposition of this measure is an outstanding tribute to the distinguished Senator from Arkansas (Mr. FULBRIGHT). As the chairman of the Committee on Foreign Relations he has demonstrated again his excellent legislative skill and ability. So to him, to Senator AIKEN the ranking minority member of the committee, to Senator GOLDWATER, and others who joined in support I offer the gratitude of the entire Senate.

Mr. President, the Senior Senator from Texas (Mr. YARBOROUGH) is necessarily absent today. However, he has a long-standing interest in the Peace Corps and has a statement on the pending bill. I ask unanimous consent that Senator YARBOROUGH'S statement be printed at this point in the RECORD.

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

CONTINUATION OF THE PEACE CORPS—AMERICA'S AMBASSADORS OF GOOD WILL TO THE WORLD

Mr. YARBOROUGH. Mr. President, I support the pending bill S. 3430 authorizing funds for the Peace Corps for fiscal year 1971. I have strongly and enthusiastically supported this program from its beginning. I feel that dedicated young men and women who endure physical hardships and deprivation to help people in less developed nations of the world are our best ambassadors of good will. They are an embodiment of the spirit of dedication and freedom for which this nation stands.

The Peace Corps was first conceived and brought into operation under President Kennedy, and it has continued to operate under two Administrations. By passing this bill, we are enabling the Peace Corps to continue its good work for still another year.

Mr. President, I take great personal pride in my record of support for this program. I feel that it is one of the great legislative monuments of the 1960s. I urge adoption of this bill.

DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 760, S. 2846. I make this request in order that this measure may be the pending business, with the understanding that no action will be taken on the measure today.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2846) to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes, reported from the Com-

mittee on Labor and Public Welfare with amendments.

PROGRAM FOR MONDAY

Mr. BYRD of West Virginia. Mr. President, as I understand the orders previously entered into at the request of the able majority leader, the Senate will shortly adjourn until 12 o'clock noon on Monday next.

Immediately after the disposition of the reading of the Journal on Monday, the able Senator from Arizona (Mr. FANNIN) will be recognized for not to exceed 30 minutes.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the statement by the able Senator from Arizona on Monday, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

ORDER OF BUSINESS

Mr. HARRIS. Mr. President, I ask unanimous consent that I may be recognized for 3 minutes on a matter not related to the pending business.

Mr. BYRD of West Virginia. I have no objection.

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

THE UNEMPLOYMENT RATE FOR MARCH

Mr. HARRIS. Mr. President, I was very sick at heart to learn today that the unemployment rate announced for March of this year has now gone up from 4.2 percent to 4.4 percent—a rise of 1.1 percent since President Nixon took office. At the same time this announcement was made by the Department of Labor, it was also announced that the real wages of workers are below what they were at this time last year. So, once again, we see statistics which show that we are in an inflationary recession.

I think it is a most unfortunate and misguided policy which purposely increases the number of those who are jobless in our country in order, as it is said, "to get control of the economy." By disdaining what has been termed "jaw-boning" and "fine tuning," this administration has left the adjustment of the economy to what might be called "gross manipulation," and by gross manipulation this administration has gotten things out of kilter to such a degree we are in a very anomalous situation where prices have continued to rise at the same time unemployment has continued to rise.

I am one of those who feels very strongly that the high interest rate, tight money policy, which has been followed during this past year and in re-



cent months has also been highly mistaken. It has enriched a few, with big bank profits having reached their highest level in history, and greatly distorted the economy, all to the great detriment of the many.

I believe that these policies, that is, the failure to at least express an opinion concerning wage and price decisions, even in the basic industries, a policy which was announced immediately upon the advent of this administration, and the mistaken reliance upon high interest rates have been the wrong medicine; that has now been proved, it seems to me, by this month's statistics.

I think it is imperative that the administration change its fiscal and monetary policies. I think it is imperative that we recognize people in this country have a right to a job.

I believe legislation which is presently before Congress expanding private and public employment—particularly the O'Hara bill pending in the House and other legislation being considered or pending in the Senate—must be passed.

I believe we need an income maintenance system in this country which is realistic; and I believe we need a manpower program which guarantees every person in America a job and sufficient training to do that job. I believe these and other measures now are more urgently needed than ever before. I hope the administration, will at long last, look with favor upon them.

#### ORDER OF BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, at the conclusion of routine morning business, the unfinished business be laid before the Senate.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next the time limitation under the Pastore germaneness rule not begin to run until the expiration of the orders entered into heretofore.

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

Mr. BYRD of West Virginia. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 2846.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

#### THE NIXON ADMINISTRATION IS NOT RESPONSIBLE FOR CONDITION OF THE ECONOMY

Mr. GOLDWATER. Mr. President, I am no happier than anyone else in this body about unemployment, but I think we should recognize the facts of the case. The Nixon administration is not responsible for the condition of the economy. This economic condition was inherited from the Johnson administration and inflation under the Johnson administration was instituted by and fired by uncalled for high expenditures by the Federal Government; and it is going to continue to be fired by unearned wage increases.

This was my concern the other day when this body passed what I consider to be unearned wage increases to members of civil service working on the Hill. Certainly, postal workers were entitled to the raise.

I think we will see a continuation of inflation, and I think we will see a continuation of jobs going down until we in Congress start acting with a little more intelligence on the bills that call for money, and in the attitude of this Congress toward the call for higher wage rates that have not been earned.

Mr. President, I think we are in very serious trouble, and I am as concerned about it as any other Member. But we have to be realistic about it. Many Members of this body attack the military-industrial complex, as they call it. In the aircraft industry, for example, tens of thousands of people have been laid off precisely due to cuts that have been made by this administration and by this body, cuts which I think have been uncalled for and cuts which are going to decrease the strength of our military. So I think we in Congress have to take some blame for inflation in this country and increasing the jobless rate.

The President has already acted to cut the high interest rates. These high

interest rates were reached under the Johnson administration and not under the Nixon administration.

I am happy to say that building is now beginning to turn up. I think there are indications that inflation has been hit a little bit, but I am afraid if we continue to approve wage increases across the country when they have not been earned, we are going to get in serious trouble.

I could not allow to pass remarks made this morning indicating the Nixon administration is responsible for the economic situation of the country and the unfortunate situation involving unemployment.

#### ADJOURNMENT TO MONDAY, APRIL 13, 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 Monday next.

The motion was agreed to; and (at 1 o'clock and 30 minutes p.m.) the Senate adjourned until Monday, April 13, 1970, at 12 o'clock meridian.

#### NOMINATION

Executive nomination received by the Senate April 10, 1970:

##### CHILDREN'S BUREAU

Edward F. Zigler, of Connecticut, to be chief of the Children's Bureau, Department of Health, Education, and Welfare, vice Pardo Frederick DelliQuadri, resigned.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate April 10, 1970:

Nomination from the Commissioner of the District of Columbia confirmed by the Senate April 10, 1970:

##### DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

Stephen S. Davis for reappointment as a member of the Board of Directors of the District of Columbia Redevelopment Land Agency for a term of 5 years, effective on and after March 4, 1970, pursuant to the provisions of section 4(a) of Public Law 592, 79th Congress, approved August 2, 1946, as amended.

## EXTENSIONS OF REMARKS

### COURAGE AND JUDGE CARSWELL

#### HON. WALTER FLOWERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

Mr. FLOWERS. Mr. Speaker, various accounts by the news media of the Carswell vote in the Senate are truly amazing. Senators who joined in this second anti-southern spectacle have been called "heroic" and men of "conscience" and "courage" without parallel or political motivation. Is it more than a coincidence that such high-sounding phrases are reserved for those in basic agreement

with the liberal media? If not, Mr. Speaker, where were such compliments for those who opposed the confirmation of Judge Fortas as Chief Justice a short while past? Surely they were just as heroic but they happened to be on the wrong side for the eastern press.

Is it not possible that some men of "conscience" supported the Carswell nomination? After all, this same Senate had confirmed him for the high judicial post that he now holds just last year—another Senate had confirmed him for U.S. district court judge previously—and yet another had confirmed him for U.S. district attorney—all unanimously as well.

In the vast space assigned to this subject in the national news media in recent days, one would expect to find some commendation at least for the integrity of a President trying to fulfill a campaign pledge to restore balance to the Supreme Court. My judgment is that the people of our great Nation demand and deserve no less—some members of the press and the U.S. Senate notwithstanding.

As for "courage," taking issue with the liberal eastern press is the stuff that courage is made of. "Courage," "conscience," "heroic"—the left has no corner on these qualities, and I commend those Senators who voted to confirm Judge Carswell.