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 immediiately 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.

WILL NADER AND COMPANY LOOK AT NLRB AS WELL AS THE INTERSTATE COMMERCE COMMISSION?

HON. BARRY GOLDWATER

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Friday, April 10, 1970

Mr. GOLDWATER. Mr. President, lately, Mr. Ralph Nader and his organization have been taking after some of the bureaus in our Government, suggesting the abolition of the Interstate Commerce Commission because, as they put it, it is controlled by management.

This has interested and rather intrigued me. I have written an article for the Los Angeles Times syndicate, asking Mr. Nader to look at the National Labor Relations Board because that is completely dominated by labor.

If it is wrong, as Nader says, for management to have a hand in the Interstate Commerce Commission, then I believe it is just as deeply wrong for organized labor to completely control the National Labor Relations Board, which is supposed to be nonpartisan, if we want to put it that way, and completely fair and unbiased, which it certainly has not been.

Mr. President, I ask unanimous consent to have printed in the Extensions of Remarks the article I have referred to, entitled "Will Nader & Co. Look at NLRB?"

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

HELPING THE "LITTLE FELLOW": WILL NADER AND COMPANY LOOK AT NLRB?

(By Senator BARRY GOLDWATER)

Such liberals as Ralph Nader who are anxious to abolish the Interstate Commerce Commission because of its alleged control by management would do well to turn their attention to the National Labor Relations Board.

If Nader and Co. are seriously interested in the little fellow, their attitude toward the NLRB could help to prove that point.

A Senate investigating committee found that in recent years the NLRB has thrown its weight repeatedly on the side of labor unions in cases which infringed on the rights of the individual rank-and-file union member.

But Nader's Raiders haven't shown any interest in this area of federal regulations.

It must be remembered, however, that Nader made his reputation by criticizing big business, the automotive industry to be precise. He has also maintained his command of the headlines in the nation's press through the same medium.

The question now arises as to whether Nader's concern for the little man is more powerful than his dislike for large corporations. If so, there is no sound reason why the measurements which Nader's group applied to the ICC should not be applied to the NLRB.

Both are regulatory agencies of the federal government. Both have important power and authority over large elements of the nation's economy. Neither should be exempt from the closest kind of examination for philosophical or ideological reasons.

Reporting on its investigation of the ICC Nader's team of youngsters charged that the nation's oldest regulator agency has become a "captive" of the transportation industry it is responsible for supervising.

This is pretty much the same charge that the Senate Judiciary Subcommittee on Congressional Oversight brought against the NLRB.

The committee report, which did not seem to be given the same prominence that Nader's report received in the public print, charged the NLRB with using a double standard for labor and management and with showing a definite bias toward the maintenance of strong unions.

As the Senate panel put it:

"The threshold question is whether the board ought to be retained in its present form. That has no obvious answer, for the board itself is hardly an ideal vehicle for the carrying out of congressional purpose. Where the board has discretion, it tends to exercise it without a fair weighing of competing factors. Where its direction is limited, it goes way out of its way to find any means to work its own will. . . .

"On the basis of this study, the subcommittee had found that in choosing between conflicting values . . . the NLRB has of late unreasonably emphasized the establishment and maintenance of collective bargaining and strong unions to the exclusion of other important statutory purposes which often involve the rights of individual employes.

"Unions unable to persuade a majority of employes to opt for collective bargaining have been able to get the board to impose it for them. And the board has been able to do this by a freewheeling interpretation of the statute's more general provisions, by applying double standards and by ignoring plain legislative mandates."

The subcommittee further charged that the NLRB clearly believes that it knows what is best for the workers and all too frequently "subordinates individual rights to the interests of organized labor."

ALASKA NATIVE LAND CLAIMS

HON. HOWARD W. POLLOCK

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

Mr. POLLOCK. Mr. Speaker, I am today inserting in the CONGRESSIONAL RECORD a comprehensive treatise which I have written on the Alaska native land claims question. As many of you know, the Eskimos, Indians, and Aleuts of Alaska have laid claim to large areas of the State. These native claims are derived from "Indian title"—the right to lands continuously used and occupied over many generations.

In order to understand the various arguments which have been adduced to justify or deny settlement of the land claims, one must be acquainted with the evolution of the concept of Indian title and with the historical and legal background of the Alaska native claims. Therefore, my treatise begins with a relatively brief chronology of the relevant constitutional, treaty, statutory, and judicial aspects of the land claims question. In subsequent sections, I have presented the arguments for and against a liberal land claims settlement and have analyzed the measures presently pending before the House and Senate to extinguish forever the aboriginal land claims of Alaska's native people. Finally, I have made some suggestions and counterproposals of my own for the consideration of the Congress and the citizens of Alaska. My suggestions deal with such facets of the land claims as land allocation, monetary compensation, revenue sharing, participation by the State of Alaska, administration of the settlement moneys, and other matters which must be considered in connection with any land claims settlement. I am hopeful that my conclusions and recommendations will be of assistance to the House and Senate Interior Committees in bringing the Alaska claims question to a prompt and satisfactory conclusion.

Mr. Speaker, not since the pursuit and achievement of statehood has the Congress dealt with an issue of such immediate and vital importance to the citizens of Alaska. Until the land claims are settled, the social and economic progress of Alaska will continue to be seriously impeded. As a result of the present unresolved land claims situation, the native one-fifth of the Alaskan population remains without title or security on those lands that they and their ancestors have occupied and used for untold generations. Devoid of landownership and the monetary security that it often brings, many are poor and in need. Moreover, the current land claims situation also has profound implications for the State of Alaska. Because of the imposition of a "super land freeze," the State is halted in the land selection program which was authorized in the Alaska Statehood Act. A third regrettable result of the current situation is that for the first time in the history of my State, the people of Alaska have divided along racial lines. As time passes, the opposing positions of native and non-native have tended to polarize further, thus making resolution of the land claims question even more complex. So that the people of Alaska can put this divisive issue behind them, I respectfully request you, my distinguished colleagues, to give your careful consideration to the treatise that I have prepared, for it will hopefully provide you with a comprehensive understanding of the various facets of the land claims question:

ALASKA NATIVE LAND CLAIMS

I. INTRODUCTION

At this juncture in history, Alaskans have come face to face with a most difficult matter of substantial importance, which demands the immediate attention of the United States Congress and the earliest possible resolution—settlement of the Alaska aboriginal Native land claims. After more than a hundred years of relative inaction, the United States Congress is at least seriously considering this long-standing and complex question. Not since the pursuit and achievement of statehood has the Congress dealt with an issue of such immediate and vital importance to the citizens of Alaska.

Until the land claims are settled, the social and economic progress of Alaska will continue to be seriously impeded. As a result of the present unresolved land claims situation, the Native one-fifth of the Alaskan population remain without title or security on those lands that they and their ancestors have occupied and used for untold generations. Devoid of land ownership and the

monetary security that it often brings, many are poor and in need.

The current land claims situation also has profound implications for the State of Alaska. Because of the "super land freeze" imposed by the previous Secretary of the Interior Stewart Udall, and retained by the present Secretary Walter J. Hickel, the State of Alaska is halted in its land selection program authorized in the statehood enabling legislation.

Because of the deep misunderstandings which have arisen in connection with the land claims, no issue in the history of the State has ever so divided the people of Alaska. Regrettably, with the passage of time, the opposing positions of Native and non-Native have tended to polarize, thus making resolution of the land claims question even more complex. The purpose of this Special Report on the Alaska Native Land Claims is to present some of the historical, treaty, constitutional, statutory, moral, and economic reasons for a land claims settlement, and to propose a solution which hopefully will be of some assistance in bringing the claims issue to a satisfactory conclusion.

II. THE HISTORICAL AND LEGAL BACKGROUND OF THE NATIVE LAND CLAIMS

In order to understand the various arguments adduced to justify or deny settlement of the land claims, one must be acquainted with the historical and legal background of the claims. A relatively brief chronology follows of the relevant constitutional, treaty, statutory, and judicial facets which deal with the concept of "Indian title"—the right to lands continuously used and occupied.

1. The "Treaty of Cession" (1867)—The United States purchased all of the right, title, and interest of Imperial Russia in Alaska. The terms of the treaty drew a distinction between the white inhabitants and "civilized tribes" (those aboriginal inhabitants who traded with the Russians and adopted the Russian Orthodox religion) on the one hand, and the "uncivilized tribes" on the other. Only the former were granted "all the rights, advantages, and immunities of citizens of the United States."

2. The Act of May 17, 1884—This legislation was the first explicit Congressional policy pronouncement with respect to Alaska's Native people. Section 8 of the Act stipulates that Alaska's Natives should "not be disturbed in the possession of lands actually in their use or occupancy or now claimed by them." However, the precise terms under which actual title could be acquired were reserved for future legislation.

3. The homestead laws of the United States were made applicable to Alaska under the Homestead Act of May 13, 1898. However, because Alaska's Natives were not granted citizenship until the Citizenship Act of 1924, they were excluded from the benefits to be derived from the Homestead Act and other legislation relating to the acquisition of title to land. While the Act preserved suitable tracts of land along navigable waterways for the landiing of Native canoes and other craft, this legislation did not otherwise protect the land holdings or water rights of Alaska's Native people. Section 7 of the Act specifically excluded Indian reservations from the homestead laws.

The legal position of Alaska's Natives prior to 1924 is summarized on page 434 of the Federal Field Committee report, *Alaska Natives and the Land:*

"Physically they comprised the major part of Alaska's population. Officially, they were invisible."

4. Notwithstanding the provisions of Paragraph 3 above, the Congressional Appropriation Act for Fiscal Year 1900 explicitly protected the Native possession of lands in Alaska:

"The Indians . . . shall not be disturbed in the possession of any lands now actually in their use or occupation . . ."

5. *U.S. vs. Berrigan* 2 Alaska 442 (1905): This case held that the vacant, unoccupied, and unappropriated lands in Alaska at the date of cession became a part of the public domain of the United States. The importance of this case is the determination of the Court that the U.S. Congress alone has the power to dispose of lands reserved by it for the use and occupancy of Alaska's Native people.

6. *U.S. vs. Alcea Band of Tillamooks* 329 US 40 (1946): Although it did not deal with the land claims of the Natives of Alaska, this United States Supreme Court case is very helpful in understanding the concept of "Indian title." In defining this concept, the Court said that the title to lands occupied by Indians vested in the federal government by virtue of discovery. However, the Indians obtained the right of occupancy because of their original possession. The Court recognized the right of the sovereign to extinguish Indian occupancy, but held also that taking away original "Indian title" without compensation does not satisfy the "high standards of fair dealing" required of the United States. The right to fair compensation arises from the fact that the Indians have more than a "merely moral claim." Elaborating on the concept of "Indian title," the Court said that the constitutional power of Congress over Indian affairs (Article 1, Section 8 of the United States Constitution) does not enable the federal government to give tribal lands to others or to appropriate them for its own purposes without assuming an obligation to render just compensation. However, once the right of occupancy is extinguished, the land becomes "free and clear."

In another portion of the decision, the Court recognized that the determination of "Indian title" is usually a political question, presenting non-justiciable issues. But, if Congress chooses to do so, it can through legislation confer jurisdiction on the Courts to adjudicate specific cases involving claims arising out of "Indian title."

7. In both the Alaska State Constitution (Section XII) and the Alaska Statehood Act (Section IV), Alaska disclaimed "all right and title to any lands or other property not granted or confirmed to the State . . . and to any lands or other property (including fishing rights), the right or title to which may be held by any . . . Natives, or held by the U.S. in trust for said Natives."

8. *Tee-Hit-Ton vs. U.S.* 348 U.S. 272 (1955)—In this celebrated case, the U.S. Supreme Court further elaborated on the concept of "Indian title." The Court said that "Indian title" is not a property right, but amounts to a right of occupancy which the sovereign grants and protects against intrusion by third parties. Reversing a trend which was discernible in many earlier cases and which reappeared in subsequent decisions, the Court concluded that the "right of occupancy may be terminated and such land fully disposed by the sovereign itself without any legally enforceable obligation to compensate the Indians." The Court's decision was based in large measure on the finding that the tribe had not perfected a proprietary interest in the lands under adjudication before Imperial Russia conveyed the lands to the United States.

9. In the case of *Kake Village vs. Egan* 369 U.S. 60 (1961), the U.S. Supreme Court said that by means of the disclaimer by the State and its people of any right or title to any property held by or for the Natives, which is contained in Section 4 of the Statehood Act, the Congress sought to preserve the status quo with respect to aboriginal and possessory Indian claims, so that statehood would neither extinguish the claims nor recognize them as compensable. The Court observed that the Congressional architects of the statehood legislation intended that the State be left free to choose Indian "property," but that such a taking would leave unimpaired the right of the Natives to sue the United States (not the State) for compensation at a later date.

10. Notwithstanding the Tee-Hit-Ton case, the Court of Claims held in *Tlingit and Haida Indians vs. U.S.* 177 F. Supp. 452 (1959) that the Tlingit and Haida Indians had established use and occupancy, i.e., "Indian title" to certain lands and waters in Southeastern Alaska. The Court said that "the use and occupancy title . . . was not extinguished by the Treaty of 1867 between the U.S. and Russia, nor were any rights held by the Indians arising out of their occupancy and use extinguished by the Treaty." The Court stated that the Treaty "was not intended to have any effect on the rights of the Indians of Alaska, and it was left to the U.S. to decide how it was going to deal with the Native Indian population of the newly acquired territory."

11. The Alaska "Land Freeze"—In December of 1966, then Secretary of the Interior Stewart Udall imposed an informal "land freeze" on all federal land transactions in Alaska including State selection of 103 million acres of land granted by the federal government in the Statehood Act. Under the terms of the land freeze, the Interior Department was ordered not to transfer any additional lands to the State or to any private entryman until the U.S. Congress resolved the Native land claims issue. Following announcement of the freeze, a number of bills were introduced in Congress to settle the Native land claims. None of these bills was reported out of Committee during the 90th Congress. Consequently, on January 17, 1969, Secretary Udall converted the informal land freeze into Public Land Order No. 4582. As a result of this administrative decision, all vacant, unappropriated, and unreserved public lands in Alaska were withdrawn from appropriation and disposition under any Public Land Law.

At his confirmation hearings, Secretary-designate Walter J. Hickel agreed not to modify PLO No. 4582 without first obtaining approval from both the U.S. House and Senate Committees on Interior and Insular Affairs. By the terms of PLO 4582, the land freeze will expire on December 31, 1970.

12. *The State of Alaska vs. Hickel* Ninth Circuit (December 19, 1969).

In this case, the Court of Appeals for the Ninth Circuit reversed the summary judgment of the Federal District Court of the District of Alaska. The State had argued successfully in the lower court that aboriginal title derived from Native use and occupancy could not affect the status of lands in Alaska as "vacant, unappropriated, and unreserved." In remanding to the lower court for further hearing of the case on its merits, the Circuit Court added:

"In view of the pendency in Congress of proposed legislation which, if enacted, would probably resolve all or most of the issues . . . the district court may, in the exercise of its discretion, hold the trial in abeyance for a reasonable period of time."

III. THE ARGUMENTS PRO AND CON

Using some of the same statutes, treaty provisions and judicial decisions, advocates and adversaries have come to diametrically opposite conclusions on the land claims issue. Accordingly, it would perhaps be useful to a fuller understanding of the entire issue to here briefly summarize some of the more important arguments adduced by proponents and opponents of a meaningful claims settlement.

A. Arguments in support of the Native claims

Those who support the Native claims contend that Imperial Russia did not own Alaska, that its traders and agents only barely touched and briefly occupied peripheral and isolated coastal areas of the great land, had never seen or subjugated most of the aboriginal inhabitants, and were in fact, as the Russian America Company, directed by the Russian government not to spread their rule from the coast where trapping and hunting were taking place, nor, to make any effort to conquer the tribes inhabiting the coasts. It is further advocated that the historical international law of right to possession, title, and sovereignty by conquest did not pertain so far as Alaska and its people were concerned, that the simple planting of a national flag on the soil by a foreign intruder and exploiter would not secure the land of Alaska for that nation or any nation at no cost to it, and, accordingly, that the United States really bought stolen property from Russia.

The spokesmen for the Natives assert that since the land of Alaska has never been wrested from the Indians, Eskimos, and Aleuts by any act of hostility or conquest by either Imperial Russia or the United States, nor taken by a legislative act or judicial determination of abandonment on the part of the Natives, the land continues to belong to them by reason of aboriginal and historic use and occupancy. Further, it is pointed out that Alaska was sold to the United States by the Russian government without consultation with the Indian, Eskimo or Aleut inhabitants, and at no time since then has there even been any agreement by aboriginal Natives to extinguish their ownership in the lands of Alaska.

The Native leadership and their counsel point out that in treaties, legislation and numerous judicial decisions, there is explicit and implicit government recognition of an existing and continuing right in the lands the Natives have historically used and occupied, known as "Indian Title," and that it has legal basis sufficient to cast cloud on any and all land conveyances regardless of who the parties are, and whether or not the federal government imposes a land freeze.

The Native further asserts that resolution of the land claims issue should not be based in sympathy nor in recognition of the massive needs for bettering his way of life. He wants the matter resolved upon the dignified basis of extinguishment of a governmentally-recognized legal and moral right to use, occupancy, and ownership of lands of Alaska derived by aboriginal claim. The emerging educated and capable young Native leadership contends that the Alaskan Native does not wish to continue in the role where he is considered an incompetent government ward or second class citizen whose affairs must be forever subjected to the scrutiny and approval of a benevolent and paternal governmental trustee, nor does he wish to exist in ignominious indignity as a perpetual recipient of a degrading welfare system. He is acutely aware that only a tiny fraction of the privately held land in Alaska is owned by the first inhabitants and that, with the historic inability of the Native to acquire and hold title to land, relatively little benefit has accrued to him of the economic development and enormous potential of Alaska. The Native feels there must be a significant change in the law to firmly recognize and clarify his status as to land ownership.

With reference to the preference right on land selections, the Native feels that the aboriginal right substantially predates the right of the State of Alaska to select 103 million acres of land under the statehood enabling legislation.

B. Arguments against a liberal land claims settlement

Many who oppose the Native view contend that the Native is entitled to no more nor less than any other Alaskan. It is contended that the Native today enjoys the dual benefits of being an Alaskan and American citizen on the one hand, and, on the other hand, of being at the same time in a privileged and select special status group who are beneficiaries of a governmental trustee relationship.

It is the feeling of many that a substantial number of non-Natives have been in Alaska for generations, and, therefore, have as much right to the use, occupancy, and ownership of the land as the Natives have. Some opponents further argue that since the Natives have received untold millions in special benefits over the years for education, health, housing and welfare, they do not deserve any further compensation at this time, that any compensable claims that they might once have had have been satisfied through past largess. Others assert that if any settlement be made, whether based on political expediency or on sound legal or moral principles, the compensation be offset by an amount equal to all the many millions of dollars previously appropriated by the federal and state governments since 1867.

Other non-Natives postulate that if the Natives are successful in claiming millions of acres of land, their ownership will interfere with the efforts of the State to accelerate its economic development for the benefit of all Alaskans. A corollary of this argument is that by providing additional special benefits to the Natives, the Congress and perhaps the State would further segregate Natives from non-Natives, a conception which is abhorrent to all Alaskans at a time when emphasis should be on desegregation and acculturation into a single Alaskan society.

A number of non-Natives maintain with substantial vehemence that if the Natives lay claim to millions of acres of land and demand millions of dollars of compensation for lands which they now use and occupy as they always have, it is totally unwarranted, and their efforts at obstructing progress in a fully integrated society should not be honored or dignified by recognition or compensation in any manner.

The most aggressive and dogmatic opponents castigate the attorneys for the Natives charging them with chicanery, overreaching opportunism and greed, and lay blame for the whole bothersome issue at their feet.

To the contention of the Natives that they enjoy a preference right over the State of Alaska on land selections since their aboriginal right or "Indian title" substantially predates statehood, the more-informed opponents respond and counter with the assertion that since Congress in the Act of May 17, 1884 reserved for itself future legislative prerogatives as to the terms under which Natives of Alaska might acquire title to lands, Congress was aware of its power of determination at the time the Statehood Act was enacted, and nevertheless, with intent to create a preference, gave to the State a subsequent but preferable and preemptive right of selection paramount to all other claims or entries. This position, they contend is buttressed by the legislative history of the Alaska statehood enabling legislation, and they point to the refusal of the Interior and Insular Affairs Committee of the U.S. House of Representatives to exclude or exempt Native property from State selection in the legislation on the ground that this would virtually destroy Alaska's right to select lands (the U.S. Supreme Court took cognizance of this legislative history and intent in *Kake Village vs. Egan*, 369 US 60 (1961)).

These advocates of the non-Native position point to the Supreme Court decision which holds that "Indian title" can be extinguished by the federal government without legal obligation to provide any compensation (*Tee-Hit-Ton vs. U.S.*, 348 U.S. 272 (1955)). To the argument that the State of Alaska and its people had a compact with the federal government in the Statehood Act and ratified the new state constitution, both of which had provisions that they forever disclaim all right or title to any property held by or for the Natives, the opposing spokesmen declare (a) that, short of a few reservations authorized by special legislation, Alaska is not held by nor for the Natives; (b) that the Supreme Court has already recognized that, notwithstanding the disclaimers by the State and its people in the Statehood Act and state constitution, it was the understanding and intention of Congress that the state be free to select any otherwise vacant, unreserved, and unappropriated public lands in Alaska, regardless of claims of "Indian title"; and further (c) that if any compensation were later due the Natives as a result of any judgment arising out of such State selection, it would be an obligation of the federal government and not the State of Alaska (*Kake Village vs. Egan*, 369 US 60 (1961)).

IV. LAND CLAIMS LEGISLATION CURRENTLY PENDING BEFORE THE UNITED STATES CONGRESS

Notwithstanding the great diversity of opinion as to how the Native land claims issue should be resolved, it is clear (a) that most Alaskans feel that the land claims issue must be resolved as soon as possible, (b) that the Alaska Native is entitled to something, if for no other reason than simply to extinguish the cloud of "Indian title" and to have relief from the land freeze, and (c) that the difficult burden of decision devolves upon the Congress if this divisive issue and its concomitant dislocations are to be put behind us this year or any time in the immediate future. The matter of Native interests in land in Alaska has gone unresolved for more than a century, and it is no wonder that prior Congresses have seen fit to defer coming to grips with this complicated matter that defies easy resolutions.

Several bills have been introduced during this Ninety-First Congress to settle the Native land claims, and all are still pending, of course. In addition to these legislative proposals, other interested parties such as the State of Alaska and the Alaska State Chamber of Commerce have made their positions known to the Congress and to the people of Alaska. At the top of page 4 is a brief summary of the pertinent provisions or positions of each. There are fundamental differences in land allocation, monetary compensation, revenue sharing, and subsistence rights.

The elements of most of the proposals are readily understandable, although there is a wide divergence of opinions to the desirability of inclusion of each. However, because of its complexity and significance, the 2% overriding royalty feature of H.R. 14212 (and its counterpart in the Senate, S. 3041) deserves special consideration.

Originally, the Federal Field Committee for Development Planning in Alaska proposed a 10% royalty on revenues derived from federal and state lands in Alaska for a ten-year period. The AFN bill would convert the 10% royalty into a perpetual 2% royalty, not on revenues derived from the lands, but rather on the gross value of all leaseable minerals taken from all lands which were in federal ownership at the time of Statehood. This includes all State selections, of course.

It is important to understand that 2% of the gross value derived from leaseable minerals really means 2% of the total 100% value of the minerals, not 2% of the 12½% or ⅛ royalty interest retained, from which the federal and State governments normally derive their revenues. The 2% of the gross value is actually equivalent to 16% of the federal and State share. Since, pursuant to Section 28(a) of the Statehood Act, Alaska receives 90% of the revenues from the federal lands in Alaska, and the federal govern-

ment government retains 10% of such revenues for deposit into the general treasury, the 2% overriding royalty provision of the AFN proposal would have an especially detrimental impact on State revenues. The net effect would be that of the 16% of the royalty interest going to the Natives, the State would have to contribute 14.4% and the federal government would contribute only 1.6%.

SUMMARY OF PERTINENT PROVISIONS OF SEVERAL LEGISLATIVE PROPOSALS TO RESOLVE THE NATIVE LAND CLAIMS

	Land	Money	Revenue sharing	Subsistence land	Other significant features
1. Federal Field Committee: H.R. 10193 (House). S. 1830 (Senate).	5,000,000 acres (1 townsite per village).	$100,000,000	10 percent of revenues derived from public lands in Alaska for 10 years, plus 10 percent of revenues from disposition of minerals taken from the Continental Shelf (for 10 years).	No grants of subsistence land. Reliance for protection is placed in State management.	A. Land grants to individuals for remote homesites presently occupied, plus areas for reindeer husbandry. B. Only competitive bidding on mineral leases, with part of proceeds to Natives.
2. Department of the Interior: Amendments to S. 1830.	10,000,000 acres (2 townsites per village).	$500,000,000 over a 20-year period.	No revenue sharing or overriding royalty.	No provision for subsistence protection beyond the 2-townsite allocation.	A. Monetary settlement to be administered by a statewide Alaska Native Development Corp. B. With a few notable exceptions, this bill follows H.R. 10193.
3. Alaska Federation of Natives. H.R. 14212. S. 3041.	40,000,000 acres (including surface and mineral rights).	$500,000,000 over a 9-year period.	A perpetual 2 percent of the gross value of leaseable minerals held in Federal ownership at time of Statehood.	Subsistence is protected by 100-year right to go upon the public lands.	A. Establishes village, regional, and statewide corps to manage funds. B. All mineral rights are to be conveyed to regional corps. C. Homesites, campsites, and reindeer tracts are conveyed to individuals.
4. Position of State of Alaska.	Approximately 10,000,000 acres of land, which would provide for present village needs plus anticipated expansion over next century (maximum of 2 townsites, but only 1 townsite in S.E.).	$500,000,000 paid by Federal Government over a 20-year period.	No overriding royalty or other revenue sharing.	No special hunting, fishing, rights. Protection should emanate from State laws and regulations.	A. No special tax privileges on either the income from $500,000,000 or the land settlement. B. Land settlement should not include State selected, tentatively selected, or patented lands. C. Settlement may include lands in Federal reserves (subject to Federal approval).
5. Position of Alaska State Chamber of Commerce.	Title to lands presently in use and occupancy, plus sufficient land for expansion.	"Equitable and just" monetary settlement, paid entirely by the Federal Government.	No overriding royalty or sharing of State revenues.	No lands to be set aside or special privileges granted for hunting, fishing, etc. cetera.	No special tax privileges on income from money or lands included in the settlement.
6. Stevens-Gravel tentative Senate compromise.	Grant of village sites and land around them for reasonable expansion.	$500,000,000 by Federal Government in 10 annual installments of $50,000,000.	For 10 years or until $500,000,000 is realized: A. 2 percent of the revenue from State selected land for 10 years. B. 2 percent of Federal revenue from Federa land for 20 years. C. 2 percent of Federal revenue from Continental Shelf off Alaska for 30 years.	Up to 40,000,000 acres; Use by "higher and better use" permit. Subject to "higher and better use" doctrine.	A. Phasing out of the BIA within 5 years. B. Some Native contribution to support of State educational system. C. Alaska Native Development Corporation administers the $500,000,000.

Thus, instead of receiving 90% of the revenues from federal lands as it now does, the State would receive 75.6%, the federal government would receive 8.4% and the Natives would receive 16%.

At the present time, the various land claims measures are pending before the House and Senate Committees on Interior and Insular Affairs. Both of these Committees are diligently searching for a satisfactory solution to the complex problems posed by the land claims. Although the proposals made by the State of Alaska, the Chamber of Commerce, and Senators Stevens and Gravel, have not been incorporated into new or existing legislation, these recommendations are also being carefully considered, and a modified compromise version will surely emerge.

V. SUGGESTIONS AND COUNTERPROPOSALS FOR CONSIDERATION

A. Frame of reference

Some of the factors, guiding principles, and considerations which lend to a sensible compromise solution for this complex controversy are summarized below.

1. As previously stated, it seems clear that the burden of ultimate resolution should rest with the U.S. Congress if we are to put this divisive issue behind us in the near future. A judicial resolution would be costly, time-consuming and otherwise extremely unsatisfactory. Because judicial determinations would most likely take place on a tract by tract basis, the State land selection process would be seriously impeded. As a result Alaska's economic development likely would be retarded for many years, and it is possible that the State and its people would incur large litigation costs by being compelled to participate in multitudinous individual suits. Also, it is unlikely that a judicial resolution would fully and finally extinguish "Indian title", so the resolution might well not be final.

Moreover, the Natives would also suffer from a judicial solution. There would be difficulty proving an actual taking of lands presently used and occupied by the Natives. Historically, court judgments have resulted in inadequate money judgments, with no provisions being made for conveyance or issuance of title. Almost always, many aspects of the total problem are left unresolved.

2. In my view, the creation of Native reservations in Alaska where they do not now exist would be extremely undesirable. This is paternalistic segregation, certainly at a wrong time in history. Whatever may be the historic validity of the reservation concept in the "Lower 48" or continental United States, reservations in Alaska can only serve to withdraw the Natives from the mainstream of our society. The initial purpose of the few reservations which still exist in Alaska was not to confine the Natives, as was done elsewhere in the United States, but to protect them from exploitation (See *Metlakatla Indian Community, Annette Islands Reserve vs. Egan* US 45 (1961)), or to preserve hunting and fishing areas for those who only knew how to subsist and survive off the land. The legislation under consideration can meet these diminishing needs by other means. However, the creation of any new reservations would indeed be unfortunate and should be avoided.

3. The land claims solution which is ultimately adopted should protect the rich cultural heritage of Alaska's Indians, Eskimos, and Aleuts. Yet, the claims settlement must be designed to afford the Natives the opportunity to become assimilated into the general society of Alaskans. Certainly, assimilation can take place without destroying the cultural heritage of our Native people, and the cultures and traditions of both our Native and non-Native citizens will be greatly enriched.

4. The land claims settlement should not create a massive Native superstructure which would exist within but in potential conflict with the general government of the State of Alaska; therefore, the creation of a separate and segregated, powerful Native "government" within a government is not necessary, and would be harmful. For this reason, I advocate the establishment of perhaps twelve regional corporations, each of which would have a single delegate or representative on a statewide coordinating assembly or board, with the settlement monies and land going to the regional corporations, and without the legislation sanctioning creation of a statewide corporation. To insure that benefits sift down to the "grass roots" or local level, it would seem desirable to insure that each Native community has a director on the board of the regional corporation in the area where the community is located. With local representation at the regional level, and regional representation at the state level, the views and desires of the individual Native would be best reflected.

5. One of the primary objectives of any solution must be the economic enhancement of the Native community, not because of sympathy or because of need, but for sound and logical geopolitical and geoeconomic reasons. From the legal point of view, any settlement would be in consideration of the extinguishment of "Indian title" in all of Alaska's land and adjacent waters for now and forever more.

6. All of us must recognize that the $900 million in North Slope oil lease bonus payments which the State of Alaska received last September will have a substantial impact on the final resolution of the land claims question. Congress no longer conceives of Alaska as a "poor stepchild." Of course, Alaska still has massive unemployment, a pitifully inadequate "pioneer" highway system, a tragically inept communications network, a crying need for airports and airport and port facilities, et cetera, et cetera, and yet to be perfectly candid, this "new wealth" has immeasurably complicated an already complex situation. Paradoxically, the $900 million, which is so essential to the social and economic development of Alaska, may have a detrimental impact on certain aspects of the final claims settlement.

7. One of the most baffling and complex questions concerning the land claims settlement is whether the State or the Natives should have preference with respect to the selection of land. The legal aspects of this matter have been discussed earlier; however, there are other considerations. Alaska is an immense land mass. Roughly one-fifth the size of the rest of the United States, the State contains approximately 375 million acres of land (586,400 square miles). Nevertheless, the amount of usable land is severely limited. Only one-third or approximately 125 million acres of the total land mass of Alaska can be used for extended human habitation. This includes all of the land located below the one-thousand-foot elevation, the point customarily used in Alaska to delineate areas hospitable to the establishment of city and village life, farming, and other normal human habitation. Viewed from another perspective, Alaska's land mass includes about 10 million acres of inland waters, 85 million acres of federal withdrawals for wildlife refuges, forest areas, parks and monuments, defense establishments, et cetera, 32.6 million acres of glaciers and icefields, and half a million acres within the periphery of or under the jurisdiction of incorporated communities. Of the usable land in Alaska, the State has already patented 5.8 million acres, obtained tentative approval on an additional 7.9 million acres, and has been granted selection rights on another 26 million acres. Thus, in propounding a satisfactory solution to the land claims issue, one must deal with an amount of land significantly less than the total area comprising the land mass of the State or even the total amount of usable land in Alaska.

Recognizing this situation, the Native community has challenged the selection rights which the State has already acquired. The State itself is caught between the Native challenge and the fact that much of the prime land in Alaska already belongs to the federal government. A solution is later proposed which, hopefully, will contribute to the resolution of the selection issue.

8. In recent weeks, the Secretary of the Interior has requested broad authority to modify the "super land freeze" instituted by former Secretary Udall. Althoug. the present freeze has created serious difficulties for many Alaskans, it has generated continuing great pressure, militating toward an early resolution of the land claims issue. This pressure will likely dissipate if broad modification authority is granted by the Congress, thus returning this frustrating issue to the benign, unpressured and unresolved status which was extant before imposition of the freeze. Aside from the need for early resolution of the land claims issue, unquestionably everyone would be delighted with the earliest possible lifting of the land freeze. It is distasteful, uncomfortable and a governmental harassment which we have endured for some time; yet, the objective for which it was levied has not been accomplished. Passage of a meaningful bill at the earliest possible date will bring about an immediate and full lifting of the land freeze.

B. The Pollock proposal

1. The Allocation of Land

a. Every person on the Native roll living at the date of enactment of the land claims legislation would be entitled to the personal, individual, private ownership of a small piece of land, perhaps one acre. This land would be held in fee simple absolute title by the Native, not by the village or regional corporation or other entity.

In villages where the houses are built close together, a homeowner should be allowed to select a new site within or outside the village boundaries. In this way, every Native would be assured of his full individual land allotment. However, individual selections should not be allowed to conflict with community needs. To make certain that conflicts do not occur, each village should be permitted to reserve enough vacant land to satisfy both village needs and individual land requirements. Perhaps a five-year time limit should be set on the selection of individual lots. During this period, any alienation of individually owned Native land would be subject to the approval of a Statewide Native Commission. Natives living beyond the boundaries of Native community should likewise be entitled to select comparable acreage on vacant, unreserved, and unappropriated federal land.

b. Each Native village and community should be entitled to select lands within the boundaries of the community to provide central sewer and water facilities, power generation facilities, community hall and multipurpose area, cemetery space, waterfront and airport facilities, access roads, and churches. Additional lands should be allocated to each village for reasonable expansion. Perhaps the total allotment to each village under this subsection should not exceed three times the present village area, without regard to acreage. This community allotment would not include land needed for wood gathering, fishing, berry picking, or for investment purposes, but would be limited to lands needed for general community requirements. As in the case of acreage allotted to individual Natives, land allotments for community purposes would be held in absolute fee title, both as to the surface and mineral estates. However, the title should contain a reverter clause or condition subsequent in the event the area is ever abandoned by reason of the village, settlement or community moving elsewhere.

Native villages located within national forests, game reserves or other federal reserves, or in state land selections should nevertheless be permitted to obtain sufficient lands for community needs and reasonable expansion. However, except as may be specifically authorized in the legislation, neither villages nor individual Natives should be allowed to select lands within national forests, military reservations, national monuments, nor should individual Natives be allowed to select lands within reserves, national parks, or encompassing historical sites.

c. Land areas should also be made available within reasonable proximity to the Native communities for subsistence hunting and fishing, food gathering, berry picking, the grazing of reindeer, and other surface uses. The ownership of this land would remain in the United States government, but the subsistence needs of Natives and non-Natives alike would be protected as long as subsistence hunting and fishing continue to be important to the livelihood of the people involved. Accordingly, subsistence areas should be established and be given a preferential status over sport fishing and hunting, homesteading, timber harvesting, and similar uses. These areas would be in lieu of reservations. To insure their adequate protection and preservation, the legislation should stipulate that subsistence lands could not be converted to any "higher and better use" without a public hearing held after reasonable notice. In such a hearing, the burden of proof would rest with the individual, corporation, or governmental entity seeking a "higher and better use."

d. A reasonable amount of land should also be allocated to the regional corporations purely for investment purposes, including both the surface and mineral estates in fee. While individual land selections, community selections and subsistence area selections should be given precedence over State land selections, it appears equitable and just that the State should have a preference in selection over a significant portion of the land to be selected by the regional corporation for purely investment purposes. However, if the State were to be permitted to select all its authorized 103 million acres of federal lands before any Native selections were accomplished, it is obvious that virtually all of the valuable land would be chosen by the State. Therefore, a selection preference system must be devised, perhaps as follows:

1. Recognizing that the revenues derived from State-owned lands will be used for the benefit of all Alaskans, it would seem the State should be permitted to select up to 68.7 million acres or two-thirds of the 103 million acres allocated to it under the Statehood Act before any Native investment selection is made by the regional corporations. The time for the initial State selections should be limited to perhaps eighteen months from the date of enactment of the land claims legislation so that the Natives can commence their land investment program as soon as possible. Since the State has already patented or selected 39.7 million acres to the present time, only 29 million of the initial acreage allotment remains to be selected before the Native regional corporations commence selections.

2. Once the State has completed its initial selection rights of up to 68.7 million acres, each of the twelve Native regional corporations shoud be permitted within two years to select 300,000 acres within its boundaries for its own corporate purposes. This will involve a total additional selection of 3.6 million acres.

3. Next, the statewide board of advisors or delegates from the regional corporations should then be allowed within an additional two years to select a further 300,000 acres of available remaining vacant, unreserved and unappropriated public land from anywhere in the state for each regional corporation. This would likewise involve a total additional selection of 3.6 million acres.

4. Thereafter, following the initial Native selections, the State would then again exercise its selection rights within eighteen months on up to 34.3 million acres, the remaining one-third of the acreage to which it is entitled under the Statehood Act.

5. Next, again each regional corporation would be permitted within two years to select an additional 300,000 acres within its boundaries for its own corporate purposes. This would again involve an additional total selection of 3.6 million acres.

6. Finally, the statewide board of advisors or delegates would be permitted to select another 300,000 acres of available land for each of the regional corporations from anywhere in the state, thus utilizing another total additional selection of 3.6 million acres.

The selection process which I have just described would permit Alaska's Natives to claim 14,400,000 acres of land for investment purposes. This amount would be in addition to the individual allotments, the community allotments, and the substantial subsistence acreage previously discussed.

By permitting the statewide board composed of delegates from each of the twelve regional corporations to select one-half of the total 14,400,000 acres of investment land for the regional corporations, the Natives would be able to acquire ownership of large

blocks of land in those areas of the State where the investment potential is greatest, or where large amounts of land are necessary to make certain uses feasible, i.e., reindeer herding. Also, the selection method outlined above would help to facilitate a relatively equal distribution of wealth between the richer and poorer regional areas.

2. The Taxation of Lands Privately Owned by Natives

Ultimately, lands privately owned by Natives should be subject to the same laws regarding taxation and alienation as are now applicable to lands owned by non-Native Alaskans. However, before equal treatment can become practicable, individual Natives must acquire more knowledge and sophistication about property laws and taxation. Therefore, indoctrination can be accomplished through a program of gradual increased tax liability on personally owned real property. As an example, an individual Native could be required to pay only 10% of any property tax assessed during the first year following his acquisition of property pursuant to the land claims legislation. In other words, there would be a 90% moratorium on real property taxes in the first year. During the second year, the moratorium would be applicable to 80% of the assessed property taxes, thus, requiring a 20% payment. The third year, the moratorium would be reduced to 60%, then to 40% in the fourth year, and 20% in the fifth year. Thereafter, Natives would be required to pay the same property taxes as non-Natives. If an individual Native conveyed his land any time during the five-year moratorium period, the moratorium would automatically terminate and the land would be subject to full taxation by the successor in interest, whether he or she is a Native or not.

3. Money Grant as Part of Consideration To Extinguish Claim

The Department of the Interior and the Bureau of the Budget have previously approved a grant of $500 million for the Alaska Natives as part of the settlement, as consideration for the full, permanent extinguishment of all past, present, and future aboriginal claims, i.e., for the abolishment of all claims of whatever nature based upon "Indian title." The $500 million should be authorized and the money appropriated by the Congress according to the following formula: $11.5 million for the first year for each of the twelve regional corporations (a total of $138 million), and thereafter, $5 million per year for each of the twelve regional corporations (an additional total of $60 million annually) for six additional years (or a total of $360 million for the additional six years.) This will utilize $498 million of the $500 million appropriation. The remaining $2 million could be placed at the disposal of the state-wide board of regional delegates.

Anyone who understands the federal budget, fiscal and expenditure process knows that the Congress customarily authorizes funds in one piece of legislation and appropriates in another. Therefore, there is a danger that this Congress might well authorize the full amount according to the legislative formula, but that future Congresses may be reluctant to appropriate the authorized annual allocations. This hazard can be alleviated by a full understanding by the Congress of the good faith commitment and implied contract by the United States in exchange for the extinguishment of a previously recognized and honored "Indian title" held by the Alaska Natives. Of course, this presupposes that the Administration will likewise continue to honor the commitment by annually including the authorized dollars in the budget.

4. Revenue-Sharing

Unquestionably, the most controversial aspect of the entire Native land claims issue is the provision in the AFN proposal calling for 2% of the gross value of all leaseable minerals produced from any lands in federal ownership from the time of statehood as additional consideration for the extinguishment of all aboriginal land claims. This was the proverbial "straw that broke the camel's back", as far as the non-Native community was concerned. Until this revenue-sharing provision was introduced, there was much general support and only passive resistance to the enactment of the land claims legislation. Its introduction began the polarization of advocates and adversaries.

Yet, there is perhaps a middle ground that both sides can tolerate so that the revenue-sharing concept need not be fully accepted nor fully rejected. Later in this treatise, the possibility of State participation is discussed more fully with reference to monetary contributions derived from oil revenues to finance State public works projects in remote areas, such as water and sewer systems, power generation facilities, access roads, schools, refrigeration and storage facilities, and the like. This would be in lieu of a further state contribution of any percentage of the value of leaseable minerals. However, legislation could provide that the federal government contribute 20% of its share of revenues derived from federally owned lands in Alaska, plus 2% of all revenues derived from the continental shelf off Alaska for a period of twenty years or until the amount of $500 million of such revenues is sooner contributed.

5. Administration of the Land and Moneys

To the extent possible, each of the twelve regional corporations would be approximately equal in size and population and would encompass a recognizable geographical area. As indicated above, the investment land and the money would be channeled into the regional corporations. Such an allocation of grant funds would result in each of the twelve corporations receiving approximately $41.5 million. Not less than approximately half of this amount, or $21,000,000, should be placed in the regional investment fund. The welfare fund would be used for scholarship funding, perhaps community utilities, housing, and for similar endeavors which are not generally recognized economic responsibilities of the state, and possibly even a limited per capita distribution of cash from the investment fund could be used to finance business and other economic ventures for the region.

Each regional corporation would be authorized to issue shares of stock to the Natives enrolled in that region. Each share would represent an individual Native's participation in the financial aspect of the land claims settlement. When it would be financially sound to do so, distributions to the shareholders could be made out of earned surplus. However, it may be desirable that the stock in the regional corporations be inalienable for a period of five or ten years. By that time, the welfare fund would likely be exhausted, and the regional corporation could then assume the status of any other investment venture. At that point in time, the corporation shares could be made public and be traded on the open market to anyone who wished to purchase them because of their sound investment potential.

6. Functions of the Statewide Board of Regional Delegates

The statewide board of regional delegates, alluded to earlier, would have a dual coordinating function. First, it would administer the statewide selection of the second category of acreage for each regional corporation, as previously indicated, and would distribute miscellaneous surplus income to the twelve regional corporations. Second, the statewide board might provide such administrative services, legal counseling, and financial and other technical services as may be requested by the regional corporations. The statewide board should be authorized to assess a reasonable service fee to cover costs incurred in connection with these functions, with requirement for annual audit, the results of which should be made available to the regional corporations.

7. State Participation in the Land Claims Settlement

If the resolution of the land claims is to be accomplished by legislation, Congress must determine, among myriad things, whether it will attempt to compel the State of Alaska to participate in the final settlement. Many Alaskans argue with considerable conviction that there is no valid Native land claim against the State, but only against the federal government. These people point out that no state has ever been compelled to participate financially with the federal government in the settlement of an aboriginal land claim. From this, they conclude that Alaska cannot be forced to share in the federal obligation involved in the land claims unless every other state is also required to participate. Adherents to the non-participation view further contend that the State cannot constitutionally appropriate funds on a racially oriented basis for only one segment of the population.

From a judicial point of view, it would appear that the State could not be forced to participate in the land claims settlement. Nevertheless, the Governor and the Legislature must still make a considered collective determination whether there are moral, economic, or political reasons which would justify a meaningful state contribution. Certainly State participation in the land claims settlement is not a new idea. The Alaska Legislature enacted Chapter 177 in the 1968 session, providing $50 million out of revenues derived from lands in Alaska, but conditioned upon passage of federal land claims legislation in the Congress of that year, which did not occur.

Some members of the House and Senate Interior and Insular Affairs Committees feel strongly that the State should participate in some manner. If, in fact, the members of these Committees do have such an opinion, there can be little doubt that State participation would help substantially to insure the enactment of relevant legislation during the present session of Congress.

Should the State determine to participate, its monetary contribution could be derived from oil revenues without otherwise utilizing available state funds. Such a contribution might also be allocated equally to each of the twelve regional corporations, or the state could decide instead to appropriate funds to finance State projects in remote areas. Such funds might be used in areas heavily populated by Natives to construct water and sewer systems, power generation facilities, access roads, community building, schools, and refrigeration storage facilities, as an example. In the wisdom of the Legislature, the contribution of the State could be made contingent upon Congressional action to resolve the land claims situation.

8. Native Enrollment

Historically, one-fourth blood has been used to determine whether or not a particular individual qualifies as a Native for the purpose of receiving benefits under federal land claims legislation. In Alaska, such a criterion would impose a considerable hardship on hundreds of our citizens, for many Natives in Alaska, such as the Aleuts, have been closely associated with non-Natives for over two hundred years. It would seem that the one-fourth blood criterion should be expanded to include any person of lesser Native blood who is actually living as a Native and is considered to be such by the community or regional corporation. Because the qualification decision will often be a difficult one, and because an adverse determination would create severe hardship, an ag-

grieved applicant should have the right of appeal and ultimate judicial review.

9. Administrative and Judicial Review

In order to resolve disputes concerning blood quantum, to compile a list of Natives who qualify for land claims participation, to settle disputes arising out of land selections, and to process the appeal of any other matter relating to land claims legislation, a five-member Alaska Native Claims Commission should be established for limited duration. This Committee would be appointed by the President of the United States and would have initial administrative jurisdiction over all disputes arising out of the claims settlement. Three members of the Commission should be Alaskan Natives, the fourth would be recommended by the Governor of Alaska and approved by the State Legislature in joint session assembled, and the fifth would be a member-at-large chosen by the President. No more than two of the Native members nor more than three members of the total Commission should be from the same political party. Recognizing that many public entities created for a temporary purpose often manage to achieve a permanent status in contravention to original legislative intent, the life of the Commission should be limited to perhaps five years. The Commission members would be federal employees in an annual salary range approximating $25,000, perhaps with an additional $2,500 for the Commission chairman. The Commission should be authorized necessary staff and allowances. If a further extension of time for the life of the Commission proves necessary and is authorized by the Congress, the compensation of Commission members could then be placed on a per diem basis instead of continuing on an annual salary.

10. Competitive Versus Noncompetitive Mineral Leasing

The legislative proposals which represent the positions of the Federal Field Committee, the Department of the Interior, and the Alaska Federation of Natives all contain provisions that would prohibit the future granting of non-competitive leases on certain minerals, including oil, located in public lands in Alaska. This prohibition should be eliminated from the bills under consideration for two reasons. First, the subject of competitive leasing is not germane to a land claims settlement, and thus, it is inappropriate in the legislation. Second, there should be a provision in the law for some balance between the awarding of competitive and non-competitive leases. Otherwise, the small mineral developer with little capital will be prohibited from competing in the exploration and development. This opportunity should not be a privilege reserved to large and wealthy petroleum and mining concerns. Alaska has many small and struggling mining firms which rely on non-competitive leases, because they cannot afford to compete on the open market with the very large companies. Also, many individual Alaskans invest in non-competitive oil leases on the geographical fringes of discovery areas and in regions of exploration and often financially assist small concerns in their exploratory ventures. This is healthy involvement of the interested citizen. The continuation of the present system of laws and regulations regarding mineral leasing would insure the prosperity of both the large and small producers.

11. Homesteading and Other Entries versus Native Land Claims

Any homestead or other legal entry made on public lands prior to December of 1966 (when the informal land freeze was inaugurated), should be honored pursuant to existing law, without regard to the Native land claims. Any entry on public lands after that time should be presumed to be with knowledge of the land freeze and the claims of Alaska's Natives.

12. The Bureau of Indian Affairs and the Public Health Service

The benevolent and protective Bureau of Indian Affairs could be phased out of Alaska within a reasonable period of time. Most of the functions now performed by the BIA could be assumed by the State, including the administration of federal educational funds for the Natives of Alaska under the applicable federally administered programs.

In addition, Public Health Service hospitals in remote areas of Alaska, now available only to Natives, should also be made available to non-Native patients when other medical facilities are not readily available. Those Natives and non-Natives who can afford to pay for medical care should do so, but the indigent of all races should be treated on a cost-free basis. Both the BIA and PHS services and facilities in Alaska and elsewhere in the nation are government bureaucracies which foster segregation needlessly at the taxpayer's expense.

VI. CONCLUSION

It must be abundantly clear that we are dealing with an exceedingly complex problem, and a solution totally acceptable to all will not be possible. Thus, it is of utmost importance that every Alaskan citizen, Native and non-Native alike, provide the Alaskan Congressional delegation with trust, understanding, and confidence that the best possible end result will emerge for all. Every possible alternative will be explored and maximum effort will continue to be exerted to achieve a satisfactory balance between the opposing extremes. Hopefully, this treatise will contribute to a satisfactory resolution by bringing about a more comprehensive understanding of the Native land claims issue.

I am convinced that a "political" solution is preferable to a piecemeal or any other judicial determination. Yet, if a legislative solution is not achieved during the present session of Congress, the federal legislature will likely enact enabing legislation to permit the Native community to seek judicial redress from the United States government. Because of the profoundly deleterious impact which the time-consuming judicial alternative would have on the Natives and on the entire State, everything possible must be done to bring about a satisfactory legislative solution.

Recognizing the present wide divergence of opinion as to a proper solution, and the polarization of opposing views, perhaps the ultimate criterion of whether the Congress has handled the matter wisely will be the extent to which all interested parties are equally unhappy. Hopefully, in the near future the matter will be put to rest, and this explosive issue which has divided Alaskans will be but a cloudy moment in the otherwise radiant history of a determined and happy people who are privileged to live in a dynamic, emerging young state.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

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

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

REVOLUTIONARY PLAN WILL NOT END WELFARE MESS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

Mr. FISHER. Mr. Speaker, probably the most misunderstood measure of importance which has faced the Congress in recent years is the pending welfare reform bill. It is being sold to the country as a "workfare" approach, designed to take people off of welfare rolls and get them into productive labor. But this conclusion is not a valid one. It is a fantastic proposal which would immediately add some 15 million to the relief rolls, with little reason to expect any reduction in the welfare load during the foreseeable future.

Under leave to extend my remarks, I include a statement by Mr. Arch N. Booth, executive vice president, U.S. Chamber of Commerce, and also an interview with Congressman PHIL M. LANDRUM, a member of the Ways and Means Committee. The two items referred to follow:

REVOLUTIONARY PLAN WON'T END WELFARE MESS

(By Arch N. Booth)

Reforms in our welfare system are badly needed. The National Chamber encourages and supports valid reform.

There is much in the Nixon Administration's proposal that is commendable and should be supported.

The bill before Congress should be amended to eliminate the provisions for a guaranteed family income plan.

What few people realize is that, rather than reform the welfare mess, this part of the proposal would make it worse. It would, in fact, expand the program and double welfare costs.

It would do this by providing guaranteed incomes and adding three million families to the welfare rolls. That's 15 million more people—about three times as many as are now getting welfare.

These 15 million people are in families headed by fathers who are working full time. Some have incomes as high as $7,000 or $8,000 or more.

We fully agree that we must clear up our welfare mess. We should do a better job of taking care of those persons unable to support themselves—the aged, blind and disabled.

And we should do more to help all able-bodied persons train for jobs that will make them self-supporting and will restore their human dignity.

The present welfare system is indeed a colossal failure, as many will agree. But let's correct the existing problems instead of making them at least 300% worse by introducing a revolutionary guaranteed family income plan.

EXCLUSIVE INTERVIEW WITH REP. LANDRUM: "IF THE PUBLIC UNDERSTOOD THIS BILL THEY WOULD OPPOSE IT"

If the Nixon Administration's welfare program is enacted in its present form "the surtax will go back to at least 10%, and you and I will never live to see the day when it comes off," Rep. Phil M. Landrum (D-Ga.) a member of the Ways and Means Committee, warned last week in an exclusive interview with Washington Report.

If the Rules Committe permits the bill to be amended on the House floor, a majority probably will vote to take out provisions

which open the door to a guaranteed annual income, he said.

Bills like this from the Ways and Means Committee usually are closed to amendments. The National Chamber is urging that this one be given an "open" rule.

Rep. Landrum is convinced that if the people could be made to understand what is in the bill, and what the implications are, they would be putting pressure on their congressman to amend it.

The bill, he said, is not really a reform measure; it is, rather, a "revolutionary step" which runs contrary to the American tradition of providing people with incentives to work.

His main objection is to a provision which would add 3,000,000 families—a total of 15,000,000 persons—to the welfare rolls, almost tripling the number on welfare now. All these additional families are headed by fathers who work full time but earn less than the Administration thinks they should have.

Because more than half of the father's earnings would be disregarded, he might, if he had a large family, be earning more than $8,000 and still get some federal aid.

"Anyone earning that much," the congressman said, "is likely to be a man with some skill, some incentive. Yet we would be saying to him, 'You're in poverty. We've got to help you.'

"It would be saying to him, in front of his family: 'You're not able to support your children'."

The effects on family pride, and discipline, and on the children's future motivations, are some of the things that trouble Rep. Landrum about the bill.

The Administration calls this section of the bill aid to the "working poor."

"Well, I know a whole lot of people who would designate themselves as working poor," he said.

To pay for these benefits, either the surtax would have to be reimposed or some other special tax enacted, he asserted, adding that the surtax rate might have to be higher than the 10% in effect last year.

The Georgian believes that an income guaranteed, once established, would tend to keep growing.

"Once people got a taste of something-for-nothing, they don't want to give it up."

Even if it became apparent that the program was a mistake, that it didn't really solve people's problems, that it was to costly, the odds would be all against repeal, he said.

"What we would see is candidates running for Congress, saying: 'Your allotment is too small. Send me up there and I'll increase it.' "

The bill would provide a basic guarantee *to all* families with children. For a family of four, the guarantee would be $1,600 a year. Those who earn money for themselves would still get aid, up to certain limits.

Rep. Landrum believes there would be continued pressure to raise the guarantee, and every time it rose $100 a year the tax burden would jump more than $500 million.

The bill would require the heads of "working poor" families to register with the public employment service and accept better-paying jobs if any could be found. The result of this, he believes, would be to swamp the employment services with a job placement task they couldn't handle.

He does not believe that the job training and work requirements which the bill would impose on some of the mothers who head welfare families are realistic, either—not when you consider that "bleeding-heart social workers" would be the enforcers.

The congressman feels that it is far different for an employer to guarantee pay to employees than it is for government to guarantee payments out of public funds.

"The whole idea of government helping full-time workers just doesn't make sense. . . . We want to help the less fortunate, and this bill tries to do something of that nature. But we can't do all the things that are necessary to run the country properly and still guarantee incomes to everybody."

Commenting on the fact that public opinion polls show that most persons oppose the idea of a guaranteed income—yet favor the Administration's bill—Rep. Landrum said:

"Very few persons really understand what a guaranteed income is or what it involves. Neither do they know what is in this bill. It's just too complex for the ordinary person.

"They do realize that what we have now is not satisfactory and they are anxious to try something new. . . . But if they understood this bill, they would oppose it."

He said the average person could help if he would "let his Member of Congress know that he'd like reform, but not based on a guaranteed income."

The present bill, stripped of the provision for aiding the "working poor," could serve as a "vehicle upon which we could improve our present structure," he said.

In summary, he concluded, "the present bill, despite the so-called incentives offered by the Administration, will make people more dependent."

"The priorities in this bill are: Cash, first; food, second; and work, third.

"I would like to see a reversal in priorities: Work, first; food, second; and cash, last."

SELECTIONS FROM THE ENVIRONMENTAL HANDBOOK: IV

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

Mr. BROWN of California. Mr. Speaker, the following two articles are part of the valuable introduction to ecological issues contained in "The Environmental Handbook," edited by Garrett De Bell and published by Bantam Books:

THE SST

(Brenn Stilley)

The supersonic transport (SST) summarizes, in one project, our society's demented priorities. It is a virtual catalog of the reasons why the United States is ailing in the midst of its affluence—nationalistic vanity, pandering to corporate profit, the worship of technology, and the deteriorating human environment.

It is scarcely possible to make out a case for building the SST on the grounds that it will make life better. At best, it will result in a meager saving of time for an infinistesimal percentage of the world's population at a huge financial, physiological, and psychological cost to the rest.

Flying at 1800 m.p.h. instead of the 600 m.p.h. of present jetliners, the SST should, in theory, be able to transport its passengers between a traffic jam in New York and a traffic jam in London in one-third of the time now required. Taking into account delays on highways en route to and from airports, waiting at the airport, and the plane's wait to take off and land, the actual saving in time will be considerably less. It is estimated tha' the total door-to-door travel time on a transatlantic flight would be about 8 hours as opposed to 11 hours by conventional jet, a mere 27 percent reduction. Who needs it? Why this insane passion for speed at any cost? Is life *that* short? Not so long ago, transatlantic travelers spent 5 days making the voyage by ship; strangely enough, many enjoyed it.

Other arguments for the SST are all economic or political. It is claimed that sales of the SSTs to foreign airlines would improve the country's balance of payments. But if the passengers are mostly American businessmen and tourists, the fares paid to the foreign airlines and the money they spend overseas might well equal or exceed the cost of the plane. Another argument claims that the manufacturer of 500 to 1200 American SSTs—and there is no assurance that anything remotely approaching that number would ever be ordered—would create 50,000 jobs. Many, however, would simply be transfers from jobs on other types of airplanes. Moreover, the great need is for jobs for less skilled workers, not the highly skilled groups who would build SSTs.

Other countries are building SSTs: The French and British Concorde, the Russia Tu-144. Our "prestige" supposedly will suffer if we don't build an SST as well. But what pride can we take in the degradation of our own environment? What if the United States is *not* first among nations producing SSTs? Italians, Norwegians, New Zealanders, and many others manage to live out their lives knowing that their countries are not always going to be first in everything. Why can't we?

In a sense, it is pointless to try to refute the official case for the SST. Aside from nationalism, the real reason that the SST is being built is the reason that most things are done in America—profit. Boeing (to whom the government awarded the SST development contract) and its subcontractor stand to make a mint. It is difficult to say how much will eventually be spent on the SST, since initial cost estimates for such projects are notoriously prone to be revised upwards. It will certainly be at least $1 billion; the Federal Aviation Agency itself, sponsor of the project, estimates about $2.5 billion; other estimates range as high as $3.5 billion. The taxpayers will foot most of the bill, as they have so far. In October, 1969, President Nixon requested from Congress $662 million to support the program in the next five year period. Donald F. Anthrop, writing in the *Bulletin of Atomic Scientists*, May, 1969, put the issue bluntly: "The whole SST program is an economic boondoggle, the prime beneficiary of which is the aircraft manufacturing industry."

Ironically, the SST may well turn out to be a financial failure. At least 300 Boeing SSTs must be sold (at $40 million each) if the undertaking is to be an economic success. So far, airlines have placed tentative orders for 122, with no additions in the last two years. The Institute for Defense Analysis, in a painstaking two-volume study, concluded that if supersonic travel is to be restricted to overwater flight, only 120 to 200 planes would be sold.

The amount that the government is asked to spend on the SST is, of course, insignificant compared with the billions which the people's representatives dole out each year to the "defense" industries. But it seems inconceivable that, at a time when many are calling for vast increases in spending for environmental improvement, we should with the other hand subsidize a project which will cause further damage to the environment.

Supersonic transport flights will produce shock waves, called sonic booms, in a roughly 50-mile-wide area below the plane's flight path during the entire time it is flying above the speed of sound. During a 2500-mile trip, of which about 2000 miles would be supersonic, the area struck by the sonic boom would be 50 miles times 2000 miles, or 100,000 square miles, equal to about 10 times the area of Massachusetts.

There is extensive evidence of the damage which sonic booms can cause. The U.S. government has conducted several series of tests of the effects of sonic booms over cities.

In St. Louis, in 1961 and 1962, 150 supersonic flights resulted in 5000 complaints, 1,624 damage claims, and $58,648 in damage payments. A more extensive test series over Oklahoma City in 1964, involving 1,254 flights, caused 15,000 complaints, 4,901 damage claims, and over $100,000 in damages awarded so far—many claims are still pending. This, despite a massive pro-SST publicity campaign and the fact that Oklahoma City's economy is largely dependent on aviation. Only 49 flights over Chicago in 1965 produced 6,116 complaints, 2,964 damage claims, and $114,763 paid for damages.

SST booms were found to crack and shatter glass windows, to crack plaster, masonry, tiles, building foundations, and fragile antiques and art objects. They shook shelves, causing dishes and other objects to fall and break. They have also triggered rock slides. In 1966 a boom from an Air Force plane caused 80,000 tons of rock to fall on ancient cliff-dwellings in the Canyon de Chelly National Monument in Arizona, causing irreparable damage. A similar incident occurred in 1968 when a sonic boom loosened 66,000 tons of rock in Mesa Verde National Park.

Psychological and physiological damage is harder to estimate. At best, sonic booms are annoying; 27 percent of the people polled in Oklahoma City said that they could "never learn to live with the boom." Sonic booms are loud, sounding like an explosion or a titanic door slamming, and they occur without warning. They excite in human beings the typical "startle reaction," and prolonged exposure to them can result in harmful cardiovascular, glandular, and respiratory effects. Light sleepers would be continually awakened by them. A woman in England has been awarded damages for permanent loss of hearing from sonic booms. The high noise level of modern life, often called "sound pollution," is now recognized as a major environmental problem. The SST would make it infinitely worse.

The adverse effects of the booms are so clear that it would seem inconceivable that SSTs could be flown over cities. But there are no guarantees that they would not be flown over land, and economic considerations make it likely that the pressure to allow SST routes over sparsely populated land areas will be tremendous. What this means is that all those who have escaped to the country to find peace will have their tranquility shattered by teeth-rattling sonic booms, and there will be hardly a place left on earth free from the less desirable aspects of modern civilization. Even in the unlikely event that SSTs are restricted to overwater flights, people on boats would be affected. Are fishermen and mariners second-class citizens? Should they have to endure what city dwellers can't tolerate?

The SST will pour out vast amounts of carbon dioxide and water vapor into the atmosphere above the level of effective wind circulation. As with many environmental questions, the possible effects of this are not yet certain, but they may include a blanketing effect which will alter the climate.

There is no *need* for the SST. The new "jumbo" jets such as the Boeing 747, can carry more passengers (more than 400 *vs.* 280) over a longer range (6300 miles *vs.* 4000 miles) at fares lower than those at present (while SST fares are expected to be 15 to 20 percent higher). At subsonic speeds, they will produce no sonic booms. The problems of air travel today include overcrowded air lanes, overburdened air traffic control systems, delays in passenger processing, and excessive noise around airports. The SST would solve none of these, and make most of them worse.

By renouncing the intention of building an SST, the United States could make it clear to the world that we value the wishes of a few jet-setters and our corporations less than the need of everyone for a quiet and peaceful environment. Will we do it?

The Highway and the City

(By Lewis Mumford)

FROM THE HIGHWAY AND THE CITY

When the American people, through their Congress, voted a little while ago (1957) for a twenty-six-billion-dollar highway program, the most charitable thing to assume about this action is that they hadn't the faintest notion of what they were doing. Within the next fifteen years they will doubtless find out; but by that time it will be too late to correct all the damage to our cities and our countryside, not least to the efficient organization of industry and transportation, that this ill-conceived and preposterously unbalanced program will have wrought.

Yet if someone had foretold these consequences before this vast sum of money was pushed through Congress, under the specious, indeed flagrantly dishonest, guise of a national defense measure, it is doubtful whether our countrymen would have listened long enough to understand; or would even have been able to change their minds if they did understand. For the current American way of life is founded not just on motor transportation but on the religion of the motorcar, and the sacrifices that people are prepared to make for this religion stand outside the realm of rational criticism. Perhaps the only thing that could bring Americans to their senses would be a clear demonstration of the fact that their highway program will, eventually, wipe out the very area of freedom that the private motorcar promised to retain for them.

As long as motorcars were few in number, he who had one was a king: he could go where he pleased and halt where he pleased; and this machine itself appeared as a compensatory device for enlarging an ego which had been shrunken by our very success in mechanization. That sense of freedom and power remains a fact today only in low-density areas, in the open country; the popularity of this method of escape has ruined the promise it once held forth. In using the car to flee from the metropolis the motorist finds that he has merely transferred congestion to the highway and thereby doubled it. When he reaches his destination, in a distant suburb, he finds that the country side he sought has disappeared: beyond him, thanks to the motorway, lies only another suburb, just as dull as his own. To have a minimum amount of communication and sociability in this spread-out life, his wife becomes a taxi driver by daily occupation, and the sum of money it costs to keep this whole system running leaves him with shamefully overtaxed schools, inadequate police, poorly staffed hospitals, overcrowded recreation areas, ill-supported libraries.

In short, the American has sacrificed his life as a whole to the motorcar, like someone who, demented with passion, wrecks his home in order to lavish his income on a capricious mistress who promises delights he can only occasionally enjoy.

For most Americans, progress means accepting what is new because it is new, and discarding what is old because it is old. This may be good for a rapid turnover in business, but it is bad for continuity and stability in life. Progress, in an organic sense, should be cumulative, and though a certain amount of rubbish-clearing is always necessary, we lose part of the gain offered by a new invention if we automatically discard all the still valuable inventions that preceded it.

In transportation, unfortunately, the old-fashioned linear notion of progress prevails. Now that motorcars are becoming universal, many people take for granted that pedestrian movement will disappear and that the railroad system will in time be abandoned; in fact, many of the proponents of highway building talk as if that day were already here, or if not, they have every intention of making it dawn quickly. The result is that we have actually crippled the motorcar, by placing on this single means of transportation the burden for every kind of travel. Neither our cars nor our highways can take such a load. This overconcentration, moreover, is rapidly destroying our cities, without leaving anything half as good in their place.

What's transportation for? This is a question that highway engineers apparently never ask themselves: probably because they take for granted the belief that transportation exists for the purpose of providing suitable outlets for the motorcar industry. To increase the number of cars, to enable motorists to go longer distances, to more places, at higher speeds, has become an end in itself. Does this overemployment of the motorcar not consume ever larger quantities of gas, oil, concrete, rubber, and steel, and so provide the very groundwork for an expanding economy? Certainly, but none of these make up the essential purpose of transportation. The purpose of transportation is to bring people or goods to places where they are needed, and to concentrate the greatest variety of goods and people within a limited area, in order to widen the possibility of choice without making it necessary to travel. A good transportation system minimizes unnecessary transportation; and in any event, it offers a change of speed and mode to fit a diversity of human purposes.

Diffusion and concentration are the two poles of transportation: the first demands a closely articulated network of roads—ranging from a footpath to a six-lane expressway and a transcontinental railroad system. The second demands a city. Our major highway systems are conceived, in the interests of speed, as linear organizations, that is to say as arteries. That conception would be a sound one, provided the major arteries were not overdeveloped to the exclusion of all the minor elements of transportation. Highway planners have yet to realize that these arteries must not be thrust into the delicate tissue of our cities; the blood they circulate must rather enter through an elaborate network of minor blood vessels and capillaries. As early as 1929 Benton MacKaye worked out the rationale of sound highway development, in his conception of the Townless Highway; and this had as its corollary the Highwayless Town. In the quarter century since, all the elements of MacKaye's conception have been carried out, except the last—certainly not the least.

In many ways, our highways are not merely masterpieces of engineering, but consummate works of art: a few of them, like the Taconic State Parkway in New York, stand on a par with our highest creations in other fields. Not every highway, it is true, runs through country that offer such superb opportunities to an imaginative highway builder as this does; but then not every engineer rises to his opportunities as the planners of this highway did, routing the well-separated roads along the ridgeways, following the contours, and thus, by this single stratagem, both avoiding towns and villages and opening up great views across country, enhanced by a lavish planting of flowering bushes along the borders. If this standard of comeliness and beauty were kept generally in view, highway engineers would not so often lapse into the brutal assaults against the landscape and against urban order that they actually give way to when they aim solely at speed and volume of traffic, and bulldoze and blast their way across country to shorten their route by a few miles without making the total journey any less depressing.

Perhaps our age will be known to the future historian as the age of the bulldozer

and the exterminator; and in many parts of the country the building of a highway has about the same result upon vegetation and human structure as the passage of a tornado or the blast of an atom bomb. Nowhere is this bulldozing habit of mind so disastrous as in the approach to the city. Since the engineer regards his own work as more important than the other human functions it serves, he does not hesitate to lay waste to woods, streams, parks, and human neighborhoods in order to carry his roads straight to their supposed destination.

The fatal mistake we have been making is to sacrifice every other form of transportation to the private motorcar—and to offer, as the only long-distance alternative, the airplane. But the fact is that each type of transportation has its special use; and a good transportation policy must seek to improve each type and make the most of it. This cannot be achieved by aiming at high speed or continuous flow alone. If you wish casual opportunities for meeting your neighbors, and for profiting by chance contacts with acquaintances and colleagues, a stroll at two miles an hour in a concentrated area, free from needless vehicles, will alone meet your need. But if you wish to rush a surgeon to a patient a thousand miles away, the fastest motorway is too slow. And again, if you wish to be sure to keep a lecture engagement in winter, railroad transportation offers surer speed and better insurance against being held up than the airplane. There is no one ideal mode of speed: human purpose should govern the choice of the means of transportation. That is why we need a better transportation *system*, not just more highways. The projectors of our national highway program plainly had little interest in transportation. In their fanatical zeal to expand our highways, the very allocation of funds indicates that they are ready to liquidate all other forms of land and water transportation. The result is a crudely over-simplified and inefficient method of mono-transportation: a regression from the complex many-sided transportation system wé once boasted.

In order to overcome the fatal stagnation of traffic in and around our cities, our highway engineers have come up with a remedy that actually expands the evil it is meant to overcome. They create new expressways to serve cities that are already overcrowded within, thus tempting people who had been using public transportation to reach the urban centers to use these new private facilities. Almost before the first day's tolls on these expressways have been counted, the new roads themselves are overcrowded. So a clamor arises to create other similar arteries and to provide more parking garages in the center of our metropolises; and the generous provision of these facilities expands the cycle of congestion, without any promise of relief until that terminal point when all the business and industry that originally gave rise to the congestion move out of the city, to escape strangulation, leaving a waste of expressways and garages behind them. This is pyramid building with a vengeance: a tomb of concrete roads and ramps covering the dead corpse of a city.

But before our cities reach this terminal point, they will suffer, as they do now, from a continued erosion of their social facilities: an erosion that might have been avoided if engineers had understood MacKaye's point that a motorway, properly planned, is another form of railroad for private use. Unfortunately, highway engineers, if one is to judge by their usual performance, lack both historic insight and social memory: accordingly, they have been repeating, with the audacity of confident ignorance, all the mistakes in urban planning committed by their predecessors who designed our railroads. The wide swaths of land devoted to cloverleaves, and even more complicated multi-level interchanges, to expressways, parking lots, and parking garages, in the very heart of the city, butcher up precious urban space in exactly the same way that freight yards and marshalling yards did when the railroads dumped their passengers and freight inside the city. These new arteries choke off the natural routes of circulation and limit the use of abutting properties, while at the points where they disgorge their traffic they create inevitable clots of congestion, which effectively cancel out such speed as they achieve in approaching these bottlenecks.

Today the highway engineers have no excuse for invading the city with their regional and transcontinental trunk systems: the change from the major artery to the local artery can now be achieved without breaking the bulk of goods or replacing the vehicle: that is precisely the advantage of the motorcar. Arterial roads, ideally speaking, should engirdle the metropolitan area and define where its greenbelt begins; and since American cities are still too impoverished and too improvident to acquire greenbelts, they should be planned to go through the zone where relatively high-density building gives way to low-density building. On this perimeter, through traffic will bypass the city, while cars that are headed for the center will drop off at the point closest to their destination.

Since I don't know a city whose highways have been planned on this basis, let me give as an exact parallel the new semicircular railroad line, with its suburban stations, that bypasses Amsterdam. That is good railroad planning, and it would be good highway planning, too, as the Dutch architect H. Th. Wijdeveld long ago pointed out. It is on relatively cheap land, on the edge of the city, that we should be building parking areas and garages; with free parking privileges to tempt the commuter to leave his car and finish his daily journey on the public transportation system. The public officials who have been planning our highway system on just the opposite principle are likewise planning to make the central areas of our cities unworkable and uninhabitable. Route 128 in Boston might seem a belated effort to provide such a circular feeder highway; but actually it is a classic example of how the specialized highway engineer, with his own concerns solely in mind, can defeat sound urban design.

Now it happens that the theory of the insulated, high-speed motorway, detached from local street and road systems, immune to the clutter of roadside "developments," was first worked out, not by highway engineers, but by Benton MacKaye, the regional planner who conceived the Appalachian Trail. He not merely put together its essential features, but identified its principal characteristics: the fact that to achieve speed it must bypass towns. He called it in fact the Townless Highway. (See *The New Republic,* March 30, 1930.) Long before the highway engineers came through with Route 128, MacKaye pointed out the necessity for a motor bypass around the ring of suburbs that encircle Boston, in order to make every part of the metropolitan area accessible, and yet to provide a swift bypass route for through traffic.

MacKaye, not being a one-eyed specialist, visualized this circuit in all its potential dimensions and developments: he conceived accordingly a metropolitan recreation belt with a northbound motor road forming an arc on the inner flank and a southbound road on the outer flank—the two roads separated by a wide band of usable parkland, with footpaths and bicycle paths for recreation. In reducing MacKaye's conception to Route 128, without the greenbelt and without public control of the areas adjacent to the highway, the "experts" reduced the multipurpose Bay Circuit to the typical "successful" expressway: so successful in attracting industry and business from the center of the city that it already ceases to perform even its own limited functions of fast transportation, except during hours of the day when ordinary highways would serve almost as well. This, in contrast to MacKaye's scheme, is a classic example of how not to do it.

Just as highway engineers know too little about city planning to correct the mistakes made in introducing the early railroad systems into our cities, so, too, they have curiously forgotten our experience with the elevated railroad—and unfortunately most municipal authorities have been equally forgetful. In the middle of the nineteenth century the elevated seemed the most facile and up-to-date method of introducing a new kind of rapid transportation system into the city; and in America, New York led the way in creating four such lines on Manhattan Island alone. The noise of the trains and the overshadowing of the structure lowered the value of the abutting properties even for commercial purposes; and the supporting columns constituted a dangerous obstacle to surface transportation. So unsatisfactory was elevated transportation even in cities like Berlin, where the structures were, in contrast to New York, Philadelphia, and Chicago, rather handsome works of engineering, that by popular consent subway building replaced elevated railroad building in all big cities, even though no one could pretend that riding in a tunnel was nearly as pleasant to the rider as was travel in the open air. The destruction of the old elevated railroads in New York was, ironically, hailed as a triumph of progress precisely at the moment that a new series of elevated highways was being built, to repeat on a more colossal scale the same errors.

Like the railroad, again, the motorway has repeatedly taken possession of the most valuablè recreation space the city possesses, not merely by thieving land once dedicated to park uses, but by cutting off easy access to the waterfront parks, and lowering their value for refreshment and repose by introducing the roar of traffic and the bad odor of exhausts, though both noise and carbon monoxide are inimical to health. Witness the shocking spoilage of the Charles River basin parks in Boston, the arterial blocking off of the Lake Front in Chicago (after the removal of the original usurpers, the railroads), the barbarous sacrifice of large areas of Fairmount Park in Philadelphia, the partial defacement of the San Francisco waterfront, even in Paris the ruin of the Left Bank of the Seine.

One may match all these social crimes with a hundred other examples of barefaced highway robbery in every other metropolitan area. Even when the people who submit to the annexations and spoilations are dimly aware of what they are losing, they submit without more than a murmur of protest. What they do not understand is that they are trading a permanent good for a very temporary advantage, since until we subordinate highway expansion to the more permanent requirements of regional planning, the flood of motor traffic will clog new channels. What they further fail to realize is that the vast sums of money that go into such enterprises drain necessary public monies from other functions of the city, and make it socially if not financially bankrupt.

Neither the highway engineer nor the urban planner can, beyond a certain point, plan his facilities to accommodate an expanding population. On the over-all problem of population pressure, regional and national policies must be developed for throwing open, within our country, new regions of settlement, if this pressure, which appeared so suddenly, does not in fact abate just as unexpectedly and just as suddenly. But

there can be no sound planning anywhere until we understand the necessity for erecting norms, or ideal limits, for density of population. Most of our congested metropolises need a lower density of population, with more parks and open spaces, if they are to be attractive enough physically to retain even a portion of their population for day-and-night living; but most of our suburban and exurban communities must replan large areas at perhaps double their present densities in order to have the social, educational, recreational, and industrial facilities they need closer at hand. Both suburb and metropolis need a regional form of government, working in private organizations as well as public forms, to reapportion their resources and facilities, so as to benefit the whole area.

To say this is to say that both metropolitan congestion and suburban scattering are obsolete. This means that good planning must work to produce a radically new pattern for urban growth. On this matter, public policy in the United States is both contradictory and self-defeating. Instead of lowering central area densities, most urban renewal schemes, not least those aimed at housing the groups that must be subsidized, either maintain old levels of congestion or create higher levels than existed in the slums they replaced. But the Home Loan agencies, federal and private, on the other hand, have been subsidizing the wasteful, ill-planned, single-family house, on cheap land, ever remoter from the center of our cities; a policy that has done as much to promote the suburban drift as the ubiquitous motorcar.

In order to cement these errors in the most solid way possible, our highway policy maximizes congestion at the center and expands the area of suburban dispersion—what one might call the metropolitan "fall-out." The three public agencies concerned have no official connections with each other: but the total result of their efforts proves, once again, that chaos does not have to be planned.

Motorcar manufacturers look forward confidently to the time when every family will have two, if not three, cars. I would not deny them that hope, though I remember that it was first voiced in 1929, just before the fatal crash of our economic system, too enamored of high profits even to save itself by temporarily lowering prices. But if they don't want the motorcar to paralyze urban life, they must abandon their fantastic commitment to the indecently tumescent organs they have been putting on the market. For long-distance travel, a roomy car, if not artfully elongated, of course has many advantages; but for town use, let us insist upon a car that fits the city's needs; it is absurd to make over the city to fit the swollen imaginations of Detroit. The Isetta and the Goggomobil have already pointed the way; but what we need is an even smaller vehicle, powered by electricity, delivered by a powerful storage cell, yet to be invented; the exact opposite of our insolent chariots.

Maneuverability and parkability are the prime urban virtues in cars; and the simplest way to achieve this is by designing smaller cars. These virtues are lacking in all but one of our current American models. But why should our cities be destroyed just so that Detroit's infantile fantasies should remain unchallenged and unchanged?

If we want to make the most of our New Highway program, we must keep most of the proposed expressways in abeyance until we have done two other things. We must replan the inner city for pedestrian circulation, and we must rebuild and extend our public forms of mass transportation. In our entrancement with the motorcar, we have forgotten how much more efficient and how much more flexible the footwalker is. Before there was any public transportation in London, something like fifty thousand people an hour used to pass over London Bridge on their way to work: a single artery. Railroad transportation can bring from forty to sixty thousand people per hour, along a single route, whereas our best expressways, using far more space, cannot move more than four to six thousand cars; even if the average occupancy were more than one and a half passengers, as at present, this is obviously the most costly and inefficient means of handling the peak hours of traffic. As for the pedestrian, one could move a hundred thousand people, by the existing streets, from, say downtown Boston to the Common, in something like half an hour, and find plenty of room for them to stand. But how many weary hours would it take to move them in cars over these same streets? And what would one do with the cars after they had reached the Common? Or where, for that matter, could one assemble these cars in the first place? For open spaces, long distances, and low population densities, the car is now essential; for urban space, short distances, and high densities, the pedestrian.

Every urban transportation plan should, accordingly, put the pedestrian at the center of all its proposals, if only to facilitate wheeled traffic. But to bring the pedestrian back into the picture, one must treat him with the respect and honor we now accord only to the automobile: we should provide him with pleasant walks, insulated from traffic, to take him to his destination, once he enters a business precinct or residential quarter. Every city should heed the example of Rotterdam in creating the Lijnbaan, or of Coventry in creating its new shopping area. It is nonsense to say that this cannot be done in America, because no one wants to walk.

Where walking is exciting and visually stimulating, whether it is in a Detroit shopping center or along Fifth Avenue, Americans are perfectly ready to walk. The legs will come into their own again, as the ideal means of neighborhood transportation, once some provision is made for their exercise, as Philadelphia is now doing, both in its Independence Hall area, and in Penn Center. But if we are to make walking attractive, we must not only provide trees and wide pavements and benches, beds of flowers and outdoor cafes, as they do in Rotterdam: we must also scrap the monotonous uniformities of American zoning practice, which turns vast areas, too spread out for pedestrian movement, into single-district zones, for commerce, industry, or residential purposes. (And as a result, only the mixed zones are architecturally interesting today despite their disorder.)

Why should anyone have to take a car and drive a couple of miles to get a package of cigarettes or a loaf of bread, as one must often do in a suburb? Why, on the other hand, should a growing minority of people not be able again to walk to work, by living in the interior of the city, or, for that matter, be able to walk home from the theatre or the concert hall? Where urban facilities are compact, walking still delights the American: does he not travel many thousands of miles just to enjoy this privilege in the historic urban cores of Europe? And do not people now travel for miles, of an evening, from the outskirts of Pittsburgh, just for the pleasure of a stroll in Mellon Square? Nothing would do more to give life back to our blighted urban cores than to reinstate the pedestrian, in malls and pleasances designed to make circulation a delight. And what an opportunity for architecture!

While federal funds and subsidies pour without stint into highway improvements, the two most important modes of transportation for cities—the railroad for long distances and mass transportation, and the subway for shorter journeys—are permitted to languish and even to disappear. This is very much like what has happened to our postal system. While the time needed to deliver a letter across the continent has been reduced, the time needed for local delivery has been multiplied. What used to take two hours now sometimes takes two days. As a whole our postal system has been degraded to a level that would have been regarded as intolerable even thirty years ago. In both cases, an efficient system has been sacrificed to an overfavored new industry, motorcars, telephones, airplanes; whereas, if the integrity of the system itself had been respected, each of these new inventions could have added enormously to the efficiency of the existing network.

If we could overcome the irrational drives that are now at work, promoting shortsighted decisions, the rational case for rebuilding the mass transportation system in our cities would be overwhelming. The current objection to mass transportation comes chiefly from the fact that it has been allowed to decay: this lapse itself reflects the general blight of the central areas. In order to maintain profits, or in many cases to reduce deficits, rates have been raised, services have decreased, and equipment has become obsolete, without being replaced and improved. Yet mass transportation, with far less acreage in roadbeds and rights of way, can deliver at least ten times more people per hour than the private motorcar. This means that if such means were allowed to lapse in our metropolitan centers—as the inter-urban electric trolley system, that complete and efficient network, was allowed to disappear in the nineteen-twenties—we should require probably five to ten times the existing number of arterial highways to bring the present number of commuters into the city, and at least ten times the existing parking space to accommodate them. In that tangled mass of highways, interchanges, and parking lots, the city would be nowhere: a mechanized nonentity ground under an endless procession of wheels.

That plain fact reduces a one-dimensional transportation system, by motorcar alone, to a calamitous absurdity, as far as urban development goes, even if the number of vehicles and the population count were not increasing year by year. Now it happens that the population of the core of our big cities has remained stable in recent years: in many cases the decline which set in as early as 1910 in New York seems to have ceased. This means that it is now possible to set an upper limit for the daily inflow of workers, and to work out a permanent mass transportation system that will get them in and out again as pleasantly and efficiently as possible.

In time, if urban renewal projects become sufficient in number to permit the design of a system of minor urban throughways, at ground level, that will bypass the neighborhood, even circulation by motorcar may play a valuable part in the total scheme—provided, of course, that minuscule-sized town cars take the place of the long-tailed dinosaurs that now lumber about our metropolitan swamps. But the notion that the private motorcar can be substituted for mass transportation should be put forward only by those who desire to see the city itself disappear, and with it the complex, many-sided civilization that the city makes possible.

There is no purely local engineering solution to the problems of transportation in our age: nothing like a stable solution is possible without giving due weight to all the necessary elements in transportation—private motorcars, railroads, airplanes, and helicopters, mass transportation services by trolley and bus, even ferryboats, and finally, not least, the pedestrian. To achieve the necessary over-all pattern, not merely must there be effective city and regional planning, before new routes or services are planned; we also need eventually—and the sooner the

better—an adequate system of federated urban government on a regional scale.

Until these necessary tools of control have been created, most of our planning will be empirical and blundering; and the more we do, on our present premises, the more disastrous will be the results. In short we cannot have an efficient form for our transportation system until we can envisage a better permanent structure for our cities. And the first lesson we have to learn is that a city exists, not for the constant passage of motorcars, but for the care and culture of men.

MANY UTAHANS ACHIEVE HIGH EDUCATIONAL STANDING

HON. LAURENCE J. BURTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 9, 1970

Mr. BURTON of Utah. Mr. Speaker, recently one of my constituents mailed to me a copy of a letter he wrote to the mangaging editor of the Salt Lake Tribune, in Salt Lake City, Utah, elaborating on the high educational accomplishments of the alumni of Utah educational institutions. Dr. Gibbs commented on the "unique cultural background" which contributes to this tendency, and offered a most interesting evaluation of this noteworthy accomplishment.

Particularly because his examination of the statistics presents a view of the incentive of a segment of the American student population which is quite different from the unflattering impression of present-day students which we so frequently see in the news media, I present it for your examination:

THE UNIVERSITY OF UTAH,
Salt Lake City, Utah, January 20, 1970.

Mr. ARTHUR C. DECK,
Managing Editor,
Salt Lake Tribune,
Salt Lake City, Utah

TO THE EDITOR, SALT LAKE TRIBUNE: You carried an AP release on 20 January 1970 in which Dr. D. Wayne Thorne of USU discussed the remarkable tendency for alumni of Utah colleges to be cited by "American Men of Science." In the 1961 edition of that work, the University of Utah was the 42nd ranking contributor of alumni, Utah State University 56th, BYU 67th, and so forth. Professor Thorne went on to discuss the unique cultural background which he felt was predisposing toward interest and success in science. We wholly agree with his analysis of motivations, and we also feel that it is important for the people to appreciate what they have been able to achieve. The evidence for excellence and scholarship covers a broader field than science, though the intensity is greater there. In this spirit, we offer some more recent statistics, gathered in our own planning in which we take some pride.

The achievement levels in science of Utah public schools have beeen noteworthy. According to the State Department of Public Instruction, the percentage of 12th grade children achieving the 90th percentile in science scores in 1965–6 was more than double the national average, and slightly less than that above the 75th percentile.

The National Academy of Sciences (Doctorate Recipients from United States Universities 1958–66) surveyed the geographical origin of the 48,491 doctorates awarded in the United States during fiscal years 1964–66. The high schools in Utah produced more of these doctorates than 27 other states: more than any other state in the Rocky Mountains—more than Arizona, New Mexico, and Wyoming combined—and more than either Oregon or Maryland. The probability of a Utah high school graduate going on to the doctorate was the highest in the nation and 2.5 times the national average. The "relative doctorate productivity" of Utah high schools (measured as a fraction of the 1965 Utah census) was 0.516. Nebraska ranked second at 0.360, while the national average was 0.203. Florida and Alaska were lowest with 0.095 and 0.040, respectively.

The situation is even more pronounced at the baccalaureate level, where Utah colleges and universities were the baccalaureate source of more doctorates than 33 other states. The "relative doctorate productivity" rises to 0.703 for Utah baccalaureates while the national figure is 0.213. Thus, a Utah baccalaureate is 3.3 times as likely to get a doctorate as the national average, and this is a factor 2.2 times better than Nebraska, the second state above.

The Academy report tabulated the 100 leading baccalaureate-source institutions of doctorate recipients during fiscal years 1958–66. The rank order of those in the mountain states, or ranking near to Utah, are as follows:

University of Washington	20
Stanford University	21
Michigan State University	22
Iowa State University	23
?	24
University of Utah	25
Rutgers University	26
Northwestern University	27
University of Missouri	28
University of Pennsylvania	29
Wayne State University	30
Brigham Young University	35
University of Colorado	38
Utah State University	53
Colorado State University	79
University of Arizona	88
University of Denver	94

If the baccalaureate origin of Ph.D.'s is taken as a measure, then the state of Utah has need of more highly developed graduate facilities than 33 other states, including Connecticut, Nebraska, Maryland, Colorado, Washington, Oregon, or the group Arizona, New Mexico, Wyoming, and Nevada combined.

The University of Utah ranked 50th in the nation in total doctorates granting during 1958–66, according to the National Academy, and 47th in the science doctorates 1962–3 (according to Science Degrees OEMS, NSF). According to the Utah Coordinating Council of Higher Education, there were 2,124 Ph.D.'s awarded by Utah institutions during fiscal years 1958–67 as follows: University of Utah 1,763 or 83%, Utah State University 224 or 10.5%, Brigham Young University 137 or 6.5%.

The so-called "decline of the Physics major" has not been reflected at the University of Utah. Rather, the opposite has occurred: the number of entering Physics major has essentially doubled each year during the past two years of the writer's acquaintance, though one must be careful with numbers, when it is quality that is of significance. However, according to the Educational Testing Service of Princeton, we rank 11th in the nation in absolute numbers of successful high school Advanced Placement Physics students this fall. According to this source, the colleges receiving the largest numbers of successful A. P. Physics candidates in 1969 are as follows:

MIT	1
Cornell	1
Harvard	3
Michigan	4
Yale	5
Rensselaer	6
Princeton	7
Illinois	8
Stanford	9
Brown	10
University of Utah	11
Pennsylvania	12
Carnegie-Mellon	13
Columbia	14
Northwestern	15

The University of California at Berkeley ranks 21, Michigan State 23, New York (SUNY) at Stonybrook, 24, and Colorado 31. Moreover, according to interests expressed to the High School Services division, there may be a dozen national merit finalists, semifinalists, or commended students in this one department next year.

It is encouraging for us to contemplate that we are building an undergraduate student body which is within the dozen strongest in the nation when measured in these terms.

Respectfully yours,

PETER GIBBS,
Professor and Chairman,
Department of Physics.