United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

SENATE—*Tuesday, February 2, 1971*

(Legislative day of Tuesday, January 26, 1971)

The Senate met at 11:15 o'clock a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

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

Eternal God, whom the pure in heart see and the loving know, keep ever before us the holy vision of a new and better world, where men are transformed and made new by the power of Thy spirit, where justice abides and brotherhood prevails. Make us bold in purpose and audacious in action for the healing of the nations and the bringing of peace.

Bless this Nation which Thou hast given us for our heritage. Give us grace to bridge the chasm between man and man and nation and nation. Guide our leaders by Thy higher wisdom and lead us in the way everlasting.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, February 1, 1971, be approved.

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

SENATOR FROM GEORGIA

Mr. TALMADGE. Mr. President, I present the certificate of appointment of the Honorable David H. Gambrell to the U.S. Senate, to succeed the Honorable Richard Brevard Russell, signed by the Governor of Georgia. I ask that it be read.

The PRESIDENT pro tempore. The certificate of appointment will be read.

The legislative clerk read as follows:

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Georgia, I, Jimmy Carter, the Governor of said State, do hereby appoint Honorable David H. Gambrell a Senator from the State of Georgia to represent said State in the Senate of the United States until the vacancy therein, caused by the death of Honorable Richard Brevard Russell, is filled by election as provided by law.

Witness: His Excellency our Governor, Jimmy Carter, and our seal hereto affixed at the State Capitol in Atlanta, Georgia, this 1st day of February, in the year of our Lord 1971.

By the Governor:

JIMMY CARTER, *Governor.*
BEN W. FORTSON, Jr.,
Secretary of State.

The PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the oath of office will be administered to him.

Mr. Gambrell, escorted by Mr. TALMADGE, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief recess for the purpose of greeting our new colleague.

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

Thereupon, at 11 o'clock and 20 minutes a.m., the Senate took a recess until 11:24 a.m.

On expiration of the recess, the Senate reassembled, and was called to order by the Senator from Alabama (Mr. ALLEN).

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, pending the arrival of the distinguished Senator from Arizona (Mr. FANNIN), I wonder if I might be recognized briefly so that what I say now I will not have to say later.

Mr. SCOTT. Mr. President, if the Senator will yield, I ask unanimous consent that notwithstanding the previous order, the distinguished Senator from Montana (Mr. MANSFIELD) may proceed, and that thereafter other Senators may proceed upon being recognized, pending the arrival of the Senator from Arizona.

The PRESIDING OFFICER. Without prejudice to the rights of the Senator from Arizona, it is so ordered.

How much time does the Senator from Montana request?

Mr. MANSFIELD. I will make the request for 3 minutes. I will stay within the rule.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNFINISHED BUSINESS OF THE 91ST CONGRESS

Mr. MANSFIELD. Mr. President, last Tuesday, January 26, the President of the United States submitted to the Congress a message covering what was termed the "unfinished business" of the 91st Congress. In listing these items the President requested that they be made the first order of business for the 92d Congress. It should be noted that some of these proposals had been acted upon by the Senate. Some were passed in the form in which they were submitted. Others were modified to meet legitimate concerns. It is my understanding that all but a very few of them received a full degree of consideration.

At this time I wish to report that the President's message has been referred and the various committees involved have been appropriately notified. Draft proposals on the various items mentioned by the President in this message are beginning to be received from the administration. As they are referred to the committees, the majority leadership is fully confident that they shall receive the appropriate priority fitting for a Presidential request. The full attention of the committees is thus requested, including necessary hearings, reports, studies, investigations, and all other actions involved in according any matter full consideration.

To be sure, changes will be made in some of the proposals to meet various impairments that will become apparent during consideration. I do think, however, that as the majority party in the Senate, we are obliged to pledge our full cooperation in considering each of the President's requests. Therefore, the program outlined in this message will be disposed of with the same degree of diligence and high regard that is accorded any proposal that is submitted to the Congress as a request of the President of the United States.

Finally, Mr. President, I have directed that a compilation of items based on the President's message of January 26 be prepared. This compilation identifies the measure very briefly, and indicates the date on which any supporting draft proposal was forwarded. I ask unanimous

consent that this compilation be printed at this point in the RECORD.

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

PRESIDENT NIXON'S MAJOR LEGISLATIVE RECOMMENDATIONS, 92D CONGRESS, 1ST SESSION, AS CONTAINED IN THE SPECIAL MESSAGE OF 1/26/71

Farmers Home Administration—Insured Loans (1969; Special Message 1/26/71; Draft 1/27/71; Budget 1971).

Rural Telephone Bank (Special Message 1/26/71; Draft 1/27/71; Budget 1971).

Stockpile Disposals (1970; Special Message 1/26/71; Draft 1/27/71).

Cost Accounting Standards Board—Transfer of Authority to Executive Branch (1970; Special Message 1/26/71).

Defense Production Amendments (1970; Special Message 1/26/71; Drafts 1/27 and 1/28/71).

Federal City Bicentennial Development Corporation (1969; Special Message 1/26/71; Draft 1/29/71).

Silver Certificates—Writeoffs (1970; Special Message 1/26/71; Draft 1/27/71).

Small Business Reforms (1970; Special Message 1/26/71; Draft 1/28/71).

Natural Gas Act Amendment (1970; Special Message 1/26/71; Draft 1/27/71).

Ports and Waterways Safety Act (1970; Special Message 1/26/71; Draft 1/27/71).

Vessel-to-Vessel Radiotelephones (1969; Special Message 1/26/71; Draft 1/27/71).

Wholesome Fish and Fishery Products Act (1969; Special Message 1/26/71; Draft 1/27/71).

Capitol Program Financing Act (1970; Special Message 1/26/71; Draft 1/27/71).

USER TAXES

Aircraft, Hijacking (1970; Special Message 1/26/71; Draft 1/27/71; Budget 1971).

Highways (1969; Special Message 1/26/71; Draft 1/27/71).

Asian Development Bank—$100 Million Contribution to Special Fund (1970; Special Message 1/26/71; Budget 1971).

Inter-American Development Bank—U.S. Contribution (1970; Special Message 1/26/71; Budget 1971).

Federal Power Commission—Authority to Designate Chairman (Special Message 1/26/71).

Grant Consolidation Act (1969; Special Message 1/26/71; Draft 1/27/71).

Joint Funding Simplification Act (1969; Special Message 1/26/71; Draft 1/27/71).

Protection of Public Buildings by GSA (1970; Special Message 1/26/71; Draft 1/27/71).

Alaska Native Claims (1969; Special Message 1/26/71; Budget 1971).

Federal Employees Indian Tribal Organization Transfer Act (1970; Special Message 1/26/71).

Indian Control Over Federally Funded Programs in Departments of Interior and HEW (1970; Special Message 1/26/71).

Indian Education, etc.—Channelling of Funds Directly to Indian Tribes and Communities (1970; Special Message 1/26/71).

Indian Financing Act (1970; Special Message 1/26/71).

Indian Trust Counsel Authority—Establishment (1970; Special Message 1/26/71).

Interior Department—Additional Assistant Secretary for Indian and Territorial Affairs (1970; Special Message 1/26/71).

Long-Term Leasing of Indian Lands (1970; Special Message 1/26/71).

Micronesian Compensation and Claims Commission (1970; Special Message 1/26/71; Draft 1/28/71)

Repeal of Policy of Termination of Trusteeship Relationship Between Federal Government and Indians (1970; Special Message 1/26/71).

Licensing of Nuclear Power Reactors—Fees (Special Message 1/26/71; Draft 1/29/71).

Immigration and Nationality Act Amendments (1969; Special Message 1/26/71; Draft 1/27/71).

Nontestimonial Identification—Judicial Orders (1970; Special Message 1/26/71; Draft 1/27/71).

Obscene Materials—Prohibition of Transportation to Minors (1969; Special Message 1/26/71; Draft 1/28/71).

Salacious Advertising—Prohibition of Transportation (1969; Special Message 1/26/71; Draft 1/27/71).

Wagering Tax Amendments (1969; Special Message 1/26/71; Draft to Finance 1/27/71).

Drug Identification Act (1969; Special Message 1/26/71; Draft 1/28/71).

Emergency School Aid Act (1970; Special Message 1/26/71; Draft 1/28/71; Budget 1971).

Longshoremen's and Harbor Workers' Compensation Act Amendments (1970; Special Message 1/26/71; Draft 1/26/71).

National Institute of Education—Establishment (1970; Special Message 1/26/71; Draft 1/28/71; Budget 1971).

Burial Allowance—Elimination of Duplication (Special Message 1/26/71; Draft 1/28/71; Budget 1971).

Hospital Care—Reimbursement from Private Insurers (Special Message 1/26/71; Draft 1/28/71; Budget 1971).

Tuberculosis Disability Compensation (1969; Special Message 1/26/71; Draft 1/28/71; Budget 1971).

Veterans' Administration—Sale of Direct Loans (1969; Special Message 1/26/71; Draft 1/28/71).

Vietnam Veterans Education Allowance (1970; Special Message 1/26/71; Draft 1/28/71).

STATEMENT OF SENATOR MANSFIELD TO DEMOCRATIC CAUCUS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a statement made by me on January 21, 1971, before the Democratic caucus be printed in the RECORD.

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

STATEMENT OF SENATOR MIKE MANSFIELD TO DEMOCRATIC CAUCUS

We meet at a time when the sounds of war in Indochina again grow ominous. We meet just as the official indicators of the nation's economic activity register an overall decline for 1969—the first decline in a dozen years.

Let me say that reports of an intensified U.S. military role in Cambodia were not unexpected; nor were they needed to remind us that there is still a deadly war in Indochina. We are reminded by the casualties—a hundred this week, a hundred the week before, a hundred next week—the continum stretches back years and reaches forward into the indefinite future. As Members of the Senate, we know those casualties not as statistical counts. We know them as the sons, husbands and friends of our constituents.

The Senate did not need, either, the statistics of economic contraction to make the point of a recession. Letters of the unemployed to Senators tell the story and they tell it in human terms. Senators have long been aware of the trend in the economy. We have some sense of what its prolonged persistence portends for the nation.

Abroad, the war in Indochina. At home, the recession. We do not establish the overriding questions of the 92nd Congress. They will be there to confront us at the beginning. Together with the President and the House, it is our responsibility to see to it that they are not there at the end.

To be sure, from the outset of his Administration, the President has searched for an end to the war. He has striven to reduce U.S. casualties in Indochina and to cut the costs of the involvement. His efforts have achieved a great deal in these respects. He has withdrawn tens of thousands of Americans from Vietnam. In so doing, he has had the encouragement of Members of both parties in the Senate. Insofar as the Majority is concerned, he will continue to have full support for any—*any*—further reductions in the presence of the United States forces—ground, air, sea or whatever, in this ill-fated war.

For the present, however, it is clear that we are still deeply in the war and we are still committed to remain until the end, whenever that may be. It is the form of the U.S. involvement which has been changed; not the involvement itself. In so saying, I do not minimize the significance of that change. It has saved U.S. lives by reducing our presence on the ground. But it has also enlarged the area of our assumed responsibility, from South Viet Nam where it was at the beginning of the last Congress to include, now, all of Indochina. If we have less men in Southeast Viet Nam we have at the same time consigned to those who remain a larger geographic area of responsibility. If we have taken Americans out of zones of combat in South Viet Nam, we have sent them by air or however to where they have not been before—into Laos and, apparently, within inches of the ground in Cambodia—in connection with the expansion of the war into those other two countries. In short, we may be in a war of different tactics but it still is a war in which we are involved. It is still a mistaken war. Americans are still dying in that mistaken war which does not, involve the vital interests of the United States.

The Senator shares with the President the responsibility for this situation. To be sure, in a most proper exercise of Constitutional function, Cooper-Church was an effort to inhibit the deepening of the American involvement. Yet, recent news accounts suggest a stretched and, perhaps, distorted interpretation of the intent of that leigslation in Indochina.

In his Congress, therefore, there must be even greater vigilance. Every effort must be made, in concert with the President, to bring the actions of all of the agencies of this government into the line with the desires of this nation—as expressed through its elected officials—to curb the involvement—to close the involvement in Indochina.

Until the tragedy is ended, the Senate's concern with Indochina cannot end and will not end. There are but two vital interests of this nation, in my judgment, which justify the continuance of any U.S. military presence in this mistaken war. One is the safe return of the prisoners-of-war. The second is the safety of all remaining U.S. forces from Viet Nam, as they are withdrawn in an orderly fashion. They are responsibilities which must take precedence over the interests of other governments. The President will have my support and I believe the support of Senators on both sides of the aisle in the singular pursuit of these objectives through negotiations.

With regard to the economy, both the President and the Congress—together I would hope—must seek out new initiatives to erect a firm bulwark against rising prices and to move the nation out of the economic doldrums. Ways must be sought and found to strengthen the government's resolve and effectiveness in this connection. The human consequences of the economic recession can no longer be ignored. If the Executive Branch has its responsibilities in this connection, so, too, has the Congress. Therefore, the Leadership makes this request now of all

who will serve as Chairman of Committees of the Senate which deal with economic questions. I ask that they put their Committees to work without delay, on the basis of the President's views and their own initiatives, in order to develop concrete recommendations for the Senate. The Majority Leadership pledges every cooperation of the Majority Policy Committee in moving those recommendations to the floor.

There will be neither a cut in prices nor an end to the recession, in my judgment, unless the Federal government keeps a rein on expenditures which are currently so wasteful of the nation's resources. An end to the war in Viet Nam, for example, would be the greatest single foreseeable contribution to the economic welfare and social well-being of the nation. But there are other aspects, too, of our foreign relations in which gaping holes have been torn in the nation's purse; they are holes which must be closed.

In this connection, it would be my hope that the Senate will expand upon the steps which were taken last year to curb antiquated national commitments overseas. We should do our best to develop legislation which will be in concert with the Nixon "low profile, self-support Doctrine." There is, for example, still the case of the massive deployment of American military under NATO. An encampment of about 500,000 U.S. military personnel and dependents in Europe in the year 1971 is in consonance with neither a "low profile" nor the great capacity of the European nations for self-supports. In its present form, the deployment is a wasteful anachronism. At a time of economic recession at home it is still being maintained in a most extravagant fashion. An estimated $14 billion pours out of the federal purse every year to sustain this establishment. I would hope, therefore, that the President would join with the Senate to stem this outflow of resources which are badly needed for urgent purposes within the nation. However it is done, by legislation if necessary, ways must be found to bring about a sharp reduction in this costly deployment.

The 92nd Congress, I believe, would also be performing a necessary public service by continuing to seek to cut expenditures for exotic weapons which are of dubious utility or are already in excessive supply. Over the years, billions, perhaps, tens of billions have been wasted in this fashion, as the Senator from Wisconsin (Mr. Proxmire) so ably illustrated in the last Congress. The fact is that we can ill afford the kind of waste in a military budget which, at $75 billion annually, already chews the lion's share of federal revenues and contributes greatly to the rise in prices.

As the session begins, an agenda of carry-over items from the last Congress will confront the Senate. These include the Supersonic Transport whose final disposition fell between the clashing views of the two houses. There is also the matter of the Family Assistance Plan, which is of national importance and of deep Presidential interest. The subject is one for priority consideration and the joint leadership—Republican and Democratic—has pledged every effort to try to see that it is so treated.

An increase in Social Security payments is very high on the list of carry-over business. The Senate agreed to a 10% increase and a minimum payment of $100 at the close of last session. It would be my hope, therefore, that the final enactment of this proposal can be accomplished before early spring and that it will be back-dated to January 1, 1971.

The new Congress will also be confronted by many new questions. Among those already unveiled is the matter of "revenue-sharing." It is not so much a new concept as it is a new phrase. In one way or another, the federal government has been "sharing" revenues with the states and localities for decades and for a great variety of purposes. The Subcommittee on Intergovernment Relations has held general hearings on new approaches to this old relationship and the President has urged consideration of the question. It seems to me that the key question is the integrity of the expenditures which may be made at the State and local levels out of federally collected funds. The phrase "revenue-sharing" must not become a cover-all for lack of accountability and fiscal irresponsibility. The federal revenues are the last bulwark between this nation and economic chaos and they must be safeguarded. Moreover, we should also bear in mind that the hard-pressed federal taxpayer and the hard-pressed state taxpayer is one and the same; he must not be squeezed further, in the name of "revenue sharing." Indeed, some assurance of relief, in particular, for the small property owner who pays a variety of taxes in every community of this country may well be in order in connection with any new federal revenue-sharing scheme. Finally, a preliminary study of the range of burdens which are now borne by taxpayers and the disparities between states and within states might well be a necessary preliminary to any intelligent new legislation on "revenue sharing."

The continued health of our Federal system certainly requires special efforts to restore fiscal balance as among Federal, State, and local governments. Just what shape such a proposal finally takes, however, should be determined only after the most careful investigation by the Congress.

That is not to say that Congress can ignore the enormous financial burdens which now fall upon the localities and on the metropolitan areas in particular. There is no state in the Union which now lacks these areas and the solutions of their problems are becoming ever more national in scope. In short, the issue is not whether the federal government should help more than it is already helping. It is *how* shall the federal government help?

Initiatives which are related to this question may be expected from the new Congress; additional innovative efforts to curb pollution, to stimulate housing, to improve educational opportunities and medical services and to extend comprehensive health insurance in the nation.

The war, the economy and the great range of issues at hand establish a most formidable responsibility for the Senate in the next two years. There is no gainsaying the fact that the practices and procedures of the Senate—notably, as they operated towards the end of last year—did not appear, at times, to be equal to that responsibility.

To be sure, the new Congressional Reorganization Act will be in effort this year. Moreover, the Joint Leadership has already given its endorsement to an array of procedural innovations which were suggested by Senators Cranston, Hughes, Saxbe and Schweiker and I have asked these Members to continue to pursue their explorations with the fresh viewpoints of relatively recent arrivals in the Senate. Other proposals may be expected from other sources.

When that has been said, however, it seems to me that the Senate must still confront the reality that the ⅔ cloture rule is a fundamental part of the difficulty. This rule enjoins a debate so protracted that in times of sharp or multiple disagreement it is an open invitation to evasion and an inaction bordering on breakdown. It permits the consumption of such a chunk of the total available time on one or two issues that the Senate cannot accommodate to the balance of the great load of work which is now a continuing reality of the Congress. The need for a change in Rule XXII, it seems to me, was demonstrated beyond a shadow of a doubt during the last session. The time for a change is now.

As the Members of the Conference know, I have long favored ⅗'s cloture. I hope that the Senate will be able to look to the merits of a proposal of this nature this year and would do so at the outset of the session and without prolonged debate.

Whatever changes may be made in procedures, however, I must stress that it is the Leadership's considered judgment, today, as it was, when this Leadership began a decade ago, that there is no substitute for comity and cooperation among the members of the Senate—all of the Members of the Senate and both sides of the aisle. Insofar as the leadership is concerned, it will continue to function on that basis, and no other. There will be no steam rollers; no parliamentary shenanigans. There is no indication in the legislative history of the Senate of recent decades that such tactics are effective in creating a body of constructive legislation. Even if there were, the Leadership would still not be a party to them.

We are members of a majority, to be sure, but before that we are—all of us—members of the Senate with one vote each and each entitled to equal consideration. What emerges from the Senate in the coming Congress will bear the mark of a Majority. It will not be, however, a majority composed of Democrats alone; nor of Republicans alone. It will be a majority of the Senate.

To be sure, there are differences among us, differences between Democrats, between the parties and between the Senate and the President. Differences, notwithstanding, we have—all of us—a great deal in common. There is a far higher stake than the fate of this Majority. There is a far higher stake than the political fortunes of any one of us. There is the stake in the future of America and our individual responsibilities to that future.

Insofar as the Senate is concerned, therefore, it would be my hope that the politics of 1972 will be left to November 1972. It would be my hope that the concern of the Congress no less than the Administration will be with the needs of the nation now and in the years ahead. That is what the people ask of us. That is what they have a right to expect. That is what the Majority Leadership sets as its single purpose in this Senate of the 92nd Congress.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER (Mr. ALLEN). The Chair lays before the Senate the pending business, which the clerk will state.

The legislative clerk read as follows:

A resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion to proceed to the consideration of Senate Resolution 9.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in view of the developments which have occurred, that we have a portion of the morning hour for the conduct of morning business at this time, under the 3-minute limitation.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business will be transacted.

ORDER FOR RECESS UNTIL 11:15 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:15 a.m. tomorrow.

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

THE ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, immediately following the laying before the Senate of the pending business, the approval of the Journal, if there is no objection, and the recognition of the able majority leader and the able minority leader, under the standing order of January 29, the able Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 45 minutes, for the purpose of conducting a colloquy with other Senators.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order that was vacated recognizing the able Senator from Arizona for not to exceed 15 minutes be reinstated.

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

At this time, the Chair recognizes the distinguished Senator from Arizona for not to exceed 15 minutes.

Mr. FANNIN. I thank the distinguished Senator from West Virginia.

THE EFFECT OF NONTARIFF BARRIERS ON CITRUS GROWERS IN ARIZONA AND CALIFORNIA

Mr. FANNIN. Mr. President, during the past 12 months the Congress has been intensely concerned with matters relating to foreign trade. I have made several statements regarding serious problems in foreign trade, and I introduced a bill to regulate unfair import practices.

Our trade problems have not gone away; they have become even more acute as time has passed.

Mr. President, the foreign trade policy of the United States since World War II has been to support and stimulate free trade. But free trade requires more than the removal of tariff barriers.

Through a series of negotiations under the General Agreement on Tariffs and Trade—GATT—tariffs have been progressively lowered to a point where most industrial goods are now exchanged in increasing amounts and with increasing ease throughout the more developed world.

With these reductions, tariffs have become relatively unimportant as a factor in restricting international trade. Obstacles of much greater importance have sprung up. These are the so-called nontariff barriers that exist in different forms in most countries. The most troublesome on these nontariff barriers are national buying policies, administrative procedures, the indirect subsidizations of exports, and preferential tariff arrangements.

Today I want to bring to the attention of my colleagues one very serious problem being caused by nontariff barriers. This situation provides a good example of the frustrations encountered by many American businessmen seeking to do business abroad.

This specific case involves citrus growers in Arizona and California who are fighting to maintain their historical access to markets in the European Economic Community—EEC.

The first exports of American citrus to Europe began in the late 1800's. Exports in significant quantities started in 1930. The EEC represents the largest overseas export market for U.S. fresh citrus exports. Exports to the world market from California and Arizona over the last 5 years averaged 27 percent of gross sales and totaled approximately $70 million. Fresh oranges are the largest earner of foreign exchange of all fresh and canned fruits and vegetables. Thus, it is important to maintain export markets not only for the citrus growers, but for the entire United States.

The citrus case is one which should have been resolved months ago, and would have been, if the United States had been defending its exporters. The case involved a clear cut violation of the most favored nation—MFN—principle. It is significant that the principle involved is the cornerstone of the general agreement on tariffs and trade. For without this principle, there is no reason for continuing with GATT. This may sound like a startling statement, but there is no point in deceiving people into believing that GATT is useful, when in fact it is not observed. This is especially true in light of the fact that the State Department advises that the EEC says that it is not interested in discussing principles. Without the observance of basic principles, there can be no orderly world trade.

Mr. President, it is important to note that five of the six members of the EEC do not produce citrus. The citrus produced in Italy is, with small exception, consumed in Italy. In other words, the EEC has no domestic production that it is protecting.

The current citrus fight began in late 1969. On September 1, 1969, the EEC signed an alleged association agreement with Tunisia and Morocco. The principal purpose was to grant those two countries an 80-percent reduction in the common external tariff on fresh oranges and lemons. At approximately the same time, but not by treaty, the EEC granted a 40-percent reduction in the common external tariff to Spain and Israel on oranges, lemons, and grapefruit.

Brazil, South Africa, and the United States, the three major non-Mediterranean suppliers of citrus, protested this action to GATT. The EEC, recognizing the illegality of its action, requested a waiver of the MFN rule. A working party was organized to study the tariff reductions. It became apparent that the waiver the EEC requested on the preferential duty reductions to Spain and Israel would not be granted. Rather than receive a negative vote, the EEC withdrew its request for a waiver and said it would withdraw the duty reductions to Spain and Israel.

Although the EEC announced that it would take this action in January, it did not do so until April and the action was not effective until May. This had the effect of allowing Spain and Israel to enjoy the preferential duty reduction during the major part of their shipping season. Additionally, on October 1, 1970, treaties between the EEC, Spain, and Israel reestablished the discriminatory 40-percent duty reduction.

The effect of the preferences in 1970, the first year of their existence, was a direct loss of $2¼ million to citrus growers in Arizona and California. In the Netherlands market, for example, each country with a preference increased its market share while every country without a preference decreased its market share.

The California-Arizona Citrus League on behalf of the producers of fresh citrus for export requested a hearing as provided for in the Trade Expansion Act of 1962. Evidence was presented at that hearing documenting the illegality of the EEC's action. The United States has since stated publicly that the EEC action was illegal, and asked to consult with the EEC under the applicable provision of GATT. The consultation took place January 18, 1971, in Brussels. The ECC admitted it was discriminating, but said it did not matter. A second meeting is scheduled for February 15–20.

The importance of this case is so significant that in August of 1970, I personally appeared and testified at the hearing held pursuant to section 252 of the Trade Expansion Act of 1962. I did this because of my conviction that the United States must achieve MFN treatment or else come to realize that its trading partners have no interest in dealing fairly with the United States.

In order to maintain the creditability of the United States in world trade and to emphasize to the EEC that the United States will not allow other trading blocs to discriminate against it, the United States must win this fight for equal treatment.

Unless the most favored nation principle can be firmly reestablished through this action, the entire structure of the fair trade rules established by GATT will be further, and perhaps fatally, undermined.

The importance to the United States of obtaining a MFN solution cannot be overstated. While citrus is the commodity concerned this time, next time it could be any industrial or agricultural commodity. If the EEC is willing to disregard its commitment to observe the most favored nation principle embodied in GATT, then it cannot be trusted to observe any other commitment. If the EEC wishes continued access to the U.S. market, then it must permit U.S. products to enter its market without discrimination.

The citrus case is fortunate in that both the principle and damages sustained are clear cut and well documented. If the United States cannot obtain most-favored-nation treatment for itself, this will be another clear signal of the need to reexamine the GATT agreement to ascertain whether these provisions offer the United States full reciprocity in international trade.

Mr. President, the time for negotiating a solution is fast running out. I would hope that the Department of State can remedy the discriminatory EEC practices under existing provisions of law. However, if the Department of State fails to resolve the issue, it will become necessary to enact legislation which will affect the imports of EEC products into this country. There is strong support in the Senate for a trade bill. Last year, such a bill passed the House of Representatives. It would not be difficult to use an important House bill as a vehicle for an amendment forcing a resolution of the citrus fruit problem which is vital to the economy of the State of Arizona—as well as California. Texas, Florida, and other States.

If the State Department refuses to face the issue squarely, the Congress will be forced to act.

Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

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

AERONAUTICS AND SPACE REPORT: MESSAGE FROM THE PRESIDENT H. DOC. NO. 92–42)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Aeronautics and Space Sciences:

To the Congress of the United States:

In this first year of the new decade, we have been working to establish a firm basis for a balanced national aeronautics and space program which is compatible with our national priorities, goals and resources and which insures continuing progress throughout the decade. 1970 has been a year of transition from past successes to new challenges.

The activities of our space program during the year are consistent with the recommendations I made in March for a balanced space program. Our goals are continued exploration, scientific knowledge and practical applications. The technology acquired through our space programs has many practical applications on earth ranging from communications, meteorology and navigation to agriculture, education and transportation.

Specific objectives guide our space endeavors. We should continue to explore the moon and increase the scientific return on the investment in the Apollo program. We should also continue to explore the planets of our solar system and the universe. We must strive to reduce the cost of space operations. We should try to expand our knowledge of man's ability to perform productively in the hostile environment of space and to relate this knowledge to uses here on earth. We must apply space-related technology to the critical assessment of our environment and to the effective use of our resources. We should also promote international cooperation in our space program by pursuing joint space ventures, exchanging scientific and technical knowledge, and assisting in the practical application of this knowledge. We are greatly encouraged by European interest in joining us in cooperative post-Apollo planning.

From our aeronautics activities have come substantial contributions to continued U.S. pre-eminence in civil aviation, major improvements in aeronautical services, and impressive developments in a sound SST program. This year has been the initiation of new military aeronautics programs that will enhance our national security. We must consider other new means to insure that our national aeronautics program is given the opportunity and encouragement to contribute to our national well-being.

I am pleased to transmit to Congress this report of our national aeronautics and space activities during 1970. I take this opportunity to express my admiration for the men and women whose devotion, courage and creativity have made our aeronautics and space progress a source of national pride.

RICHARD NIXON.

THE WHITE HOUSE, *February 2, 1971.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Section 396(i) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the Annual Report of the Corporation for Public Broadcasting covering the fiscal year July 1, 1968 to June 30, 1969.

RICHARD NIXON.

THE WHITE HOUSE, *February 2, 1971.*

PROPOSED ESTABLISHMENT OF THE FEDERAL EXECUTIVE SERVICE—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–41)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In my State of the Union message, one of the six great goals that I proposed to the Congress was a renewal of the Federal Government itself through a sweeping reorganization of the executive branch. The structural changes I outlined would enable us to bring greater coherence to the management of Federal programs, and to raise them to a new level of effectiveness. But even the best of structures requires the effective utilization of highly qualified people. The need for the best people and for making the best use of their talents becomes more vital as we improve the structure and organization of the Federal Government.

It is on our Federal executives—both career and non-career—that the task of translating broad public policy into operational reality rests most heavily. These men and women are among the most valuable resources that we have as a government. We must not use them wastefully. We must not let their talents and their dedication be squandered. And we must constantly seek better ways of attracting into the executive ranks of the Federal service new people with the capacity and the drive to help us meet our national needs.

The time has come, therefore, to take a critical look at the existing Federal system for selecting, training, assigning and rewarding executive manpower, and to see whether it cannot be improved. We have carried out such an examination, and have concluded that it can be significantly improved by incorporating principles of modern personnel management.

For some time now, the Government's executive manpower systems have shown increasing evidence of weakness. The present arrangements have grown up over the years without any comprehensive plan. Disparate systems for the authorization, appointment and assignment of Government executives have prevented adequate planning and provision for constantly changing requirements. The resulting complexities and rigidities have reached a point at which it is now futile to try to patch the present

structure further. Too often, the present system serves only to frustrate the conscientious agency head and the dedicated career executive alike.

At my request, the Civil Service Commission has completed a painstaking and systematic analysis of the existing manpower management programs for executives. The Commission has informed me that reforms are essential, reforms that cannot be made within existing law. I agree. Accordingly, I recommend legislative action to establish an entirely new personnel system for upper-level officials of the executive branch, to be called the Federal Executive Service.

This Service would apply to those persons—now about 7,000 in all—serving in executive branch positions presently established at grades GS–16, 17, and 18, or within the same pay range under several other salary systems. It is designed to meet the special needs of managing the Federal establishment, and at the same time to preserve and strengthen merit principles.

In order to accomplish these purposes, the legislation I am proposing would:

—Abolish the present so-called supergrade system and establish the Federal Executive Service, to include both career and non-career officials. Preserving the present ratio, it would establish a minimum of 75 percent career appointments and a maximum of 25 percent non-career appointments.

—Establish a general salary range (from about $28,000 to the equivalent of level V, now $36,000), within which the agency head can set the salary of each individual member, provided that he maintains an average salary for all members of the Federal Executive Service employed by his agency as established annually by the Civil Service Commission after collaboration with the Office of Management and Budget.

—Require the appointment of Qualification Boards to pass on the eligibility, under merit standards, of all persons selected for future entry into the Federal Executive Service as career members. Holders of present supergrade positions and persons chosen for non-career appointment to the Federal Executive Service would be exempt from this requirement.

—Provide that new entrants into the career system be employed under renewable three-year agreements, and give present holders of career type supergrade executive positions the choice of entering the new Service under the renewable three-year agreements or retaining their present positions and salaries.

—In the case of a career Federal executive whose employment agreement expires without being extended (whether because renewal was not offered by the agency, or because the executive chose not to accept the renewal offered), the legislation would provide for either severance pay, retirement, or reversion to the top grade of the Classification Act (GS–15) without reduction in pay from his previous level for a period of two years.

—Provide for the Civil Service Commission, after collaboration with the Office of Management and Budget, to establish annually maximum numbers and average salary for members of the Federal Executive Service in each agency, taking into account program priorities, level of work, work load, and budget allowances for the agency concerned.

To assure proper, periodic Congressional review of the operation of the Federal Executive Service the proposed legislation would also require the Civil Service Commission to make an annual report to the Congress on April 1, detailing the number of Federal Executive Service members it proposes to allow each agency for the coming year and the average salary level it proposes to set for each agency. At the same time, the Commission would report any variances it had allowed during the previous year under its statutory authority to meet emergency needs or provide for needs occasioned by changes in existing programs. If the Congress did not make any changes within the 90-day period, the Commission's proposed authorizations would take effect.

By establishing eminent Qualifications Boards, composed of highly respected professionals, to review the qualifications of all persons proposed for entry into career positions, this legislation would ensure the continued high quality of Federal career executives and enhance the prestige associated with executive service in the Federal Government.

By differentiating clearly, for appointment and retention purposes, between executives who make the Federal service their career and those appointed for brief periods, it would preserve the integrity of the career service.

By providing for renewable, fixed-term agreements for career executives, it would give agency heads the flexibility needed to use their high-level personnel most effectively in meeting the changing demands made on the Federal Government.

By giving him access to positions of high responsibility without jeopardizing his career rights, it would enlarge the horizons of the individual career executive. One of the many faults of the present system is that it results too often in bunching non-career officials at the top, with career officials relegated to lower positions. This new proposal would strengthen executive development programs and reduce the present obstacles to executive mobility.

By providing for an annual assessment of executive manpower requirements in relation to program activity in each agency, it would make it possible to respond promptly to changing needs and to eliminate wasteful overstaffing of low-priority programs.

In addition, it would give the Congress annually a comprehensive overview of Federal executive manpower programs and policies, an indispensable measure for ensuring the exercise of Congressional responsibilities in monitoring the use of this manpower resource in partnership with the executive branch.

The Federal Executive Service proposal has been designed to ensure against an increase in the partisan political component of the executive group. It is to this end that I am recommending retention of the approximate present ratio of career to non-career executives—a ratio that has proved an effective one during several administrations of both political parties. I feel that it is imperative that we strengthen the career service and make Government careers more rewarding to individuals of high ability. This proposal will materially serve that end.

The proposed new Federal Executive Service would result in simplification of the existing fragmented system. But its most important result would be to improve the capacity of the executive branch to meet the challenges of our democratic system. Freed from unnecessary obstacles and from much red tape, the career executives of the Federal Government would be better able to realize their potential, both personally and in terms of program accomplishment. At the same time those responsible for agency performance would be given sufficient authority over the selection and use of their most able manpower to meet their agencies' goals more fully and more efficiently.

The demands upon Government today are great and pressing. I am convinced that the Government has attracted, and will continue to attract, men and women of the highest caliber. But too often we have enmeshed them in a web of rigid and intricate personnel policies which have frustrated their efforts and arrested their professional growth.

We need both dedication and high performance from our Federal executives. Mere competence is not enough. Mere continuity is self-defeating. We must create an environment in the Government service in which excellence and ingenuity can flourish—and in which these qualities are both encouraged and rewarded.

It is to this end that I urge prompt and favorable consideration of this landmark legislation.

RICHARD NIXON.

THE WHITE HOUSE, *February 2, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

COMMUNICATION FROM FOREIGN CLAIMS SETTLEMENT COMMISSION

Mr. HRUSKA. Mr. President, it is the understanding of the Senator from Nebraska that there is a communication at the desk from the Foreign Claims Settlement Commission. It includes the proposal and recommendation of the execu-

tive branch for consideration of a draft of a proposed bill, the text of which is attached to the letter.

I ask unanimous consent that it be referred to the Judiciary Committee.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION TO AMEND THE UNIFORM TIME ACT

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Uniform Time Act to allow an option in the adoption of advanced time in certain cases (with an accompanying paper); to the Committee on Commerce.

REPORT OF AUDIT OF POTOMAC ELECTRIC POWER COMPANY

A letter from the Vice President and Comptroller, Potomac Electric Power Co., transmitting, pursuant to law, a report of audit of the company for the year ended December 31, 1970 (with an accompanying report); to the Committee on the District of Columbia.

REPORT OF THE U.S. INFORMATION AGENCY

A letter from the Director, U.S. Information Agency, transmitting, pursuant to law, a semiannual report of the Agency for the period ended June 30, 1970 (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, a report of the Commission, dated January 31, 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the potential for improvements in Department of Defense maintenance activities through better cost accounting systems, dated February 2, 1971 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION TO AUTHORIZE APPROPRIATIONS FOR THE SALINE WATER CONVERSION PROGRAM FOR FISCAL YEAR 1972

A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to authorize appropriations for the saline water conversion program for fiscal year 1972, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION RELATING TO THE TERMS OF OFFICE OF THE MEMBERS OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION

A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting a draft of proposed legislation to amend subsection (d) of section 2 of the War Claims Act of 1948, as amended, relating to the terms of office of the members of the Foreign Claims Settlement Commission of the United States (with an accompanying paper); to the Committee on the Judiciary, by unanimous consent.

REPORT ON MARIHUANA AND HEALTH

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on marihuana and health, dated January 31, 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF DEPARTMENT OF DEFENSE ON POSITIONS IN GRADES GS–16, GS–17, AND GS–18

A letter from the Assistant Secretary of Defense, Manpower and Reserve Affairs, transmitting, pursuant to law, a report with respect to positions in grades GS–16, GS–17, and GS–18 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF CIVIL SERVICE COMMISSION ON POSITIONS IN GRADES GS–16, GS–17, AND GS–18

A letter from the Chairman, Civil Service Commission transmitting, pursuant to law, a report of the Commission with respect to positions in grades GS–16, GS–17, and GS–18 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF THE FOUR CORNERS REGIONAL COMMISSION

A letter from the Federal Cochairman, Four Corners Regional Commission, U.S. Department of Commerce, transmitting, pursuant to law, a report of the Commission for 1970 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the General Assembly of the State of South Carolina; to the Committee on Commerce:

"GENERAL ASSEMBLY OF SOUTH CAROLINA

"A concurrent resolution memorializing Congress to enact legislation changing the last day of daylight saving time to an earlier date

"Whereas, the present termination date of Daylight Saving Time requires school children to depart from school in almost total darkness and creates similar difficulties in certain farming and other activities; and

"Whereas, this situation could be remedied with great benefit and increased safety to those concerned and with little inconvenience to the general public if Daylight Saving Time ended at an earlier date. Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring:

"That the Congress of the United States is hereby memoralized to incorporate within the Uniform Time Act the provision that the effective date for yearly terminating Daylight Saving Time should be no later than the first Sunday following Labor Day.

"*Be it further resolved* that copies of this resolution be forwarded to the Clerk of the United States Senate, to the Clerk of the United States House of Representatives and to each member of Congress from South Carolina."

A concurrent resolution of the General Assembly of the State of South Carolina; to the Committee on Public Works:

"GENERAL ASSEMBLY OF SOUTH CAROLINA

"A concurrent resolution memoralizing the Congress of the United States to restrain Federal agencies from interferring with projects not financed with Federal funds except projects deemed unsafe or unhealthy and which involve Federal jurisdiction

"Whereas, there is an ever increasing traffic burden on the present route to James Island from the mainland of Charleston County; and

"Whereas, approval of a proposed bridge to alleviate this situation has been voiced by all interested State and Federal agencies insofar as the design and compatibility with land and water traffic are concerned; and

"Whereas, the proposed bridge would be paid for with State funds only; and

"Whereas, Federal approval of the proposed bridge is being withheld because of provisions contained in the National Environmental Policy Act of 1969; and

"Whereas, it is believed that the intent in passing this act did not include the use of its provisions by Federal agencies to frustrate trans-water traffic improvements especially when they are to be completely financed by State funds; and

"Whereas, it appears that such act should be amended so as to reflect the true intent of Congress. Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring:

"That the Congress is hereby requested to amend the National Environmental Policy Act of 1969 so as to exempt its provisions from improvements financed entirely from funds other than Federal and to take any other action necessary to restrain Federal agencies from interferring with projects financed by public funds other than Federal except projects deemed unsafe or unhealthy and which involve Federal jurisdiction.

"*Be it further resolved* that a copy of this resolution be forwarded to the President of the Senate, Speaker of the House of Representatives and to each member of Congress from South Carolina."

A resolution adopted by the board of directors, Chamber of Commerce of the New Orleans Area, New Orleans, La., praying for the provision of whatever moneys, authority, and guidance is necessary to obtain the naval and military power required to guarantee our survival as a free nation; to the Committee on Armed Services.

EXECUTIVE REPORT OF A COMMITTEE

Mr. LONG. Mr. President, as in executive session, I ask unanimous consent to send to the desk a report and favorable vote of the Senate Committee on Finance on the nomination of former Gov. John Connally, of Texas, to be Secretary of the Treasury.

The final vote was a vote of 13 Senators favoring the nomination of the distinguished former Governor of Texas, and no Senators voting against, with two abstentions—the Senator from Oklahoma (Mr. HARRIS) and the Senator from Wisconsin (Mr. NELSON).

The Senator from Oklahoma wished information which he had requested and which will be forthcoming as soon as it can be obtained for him.

The Senator from Wisconsin desired to review the hearings before he cast his vote.

There was one absentee, the Senator from Arkansas (Mr. FULBRIGHT), who will be recorded, I am sure, at a later date.

The PRESIDING OFFICER (Mr. CASE). Without objection, the report will be received and the nomination will be placed upon the Executive Calendar.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 520. A bill to authorize the construction, operation, and maintenance of the closed basin division, San Luis Valley project, Colo., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MANSFIELD:

S. 521. A bill to amend the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Labor and Public Welfare.

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

S. 522. A bill relating to the status of the Little Shell Band of Chippewa Indians of Montana; to the Committee on Interior and Insular Affairs.

By Mr. MUSKIE (for himself, Mr. BAKER, Mr. BAYH, Mr. BOGGS, Mr. EAGLETON, Mr. GRAVEL, Mr. MONTOYA, Mr. RANDOLPH, Mr. SPONG, Mr. TUNNEY, and Mr. NELSON):

S. 523. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Public Works.

(The remarks of Mr. MUSKIE when he introduced the bill appear below under the appropriate heading.)

By Mr. BENNETT:

S. 524. A bill for the relief of Alberto Orduna; to the Committee on the Judiciary.

By Mr. PROUTY:

S. 525. A bill to amend the Longshoremen's and Harbor Worker's Compensation Act to improve its benefits, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. PROUTY when he introduced the bill appear below under the appropriate heading.)

By Mr. BENTSEN:

S. 526. A bill to provide for better regulation of the Federal elective process, to provide a means of encouraging broad voter participation in the financing of Federal election campaigns, and for other purposes; to the Committee on Rules and Administration:

By Mr. CHURCH:

S. 527. A bill directing the Secretary of the Interior to set aside certain public lands for the purpose of providing permanent cover and food for wildlife; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. CHURCH when he introduced the bill appear below under the appropriate heading.)

By Mr. HOLLINGS:

S. 528. A bill for the relief of Joyce Shiela John; and

S. 529. A bill for the relief of T. Michael Smith; to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. MONDALE):

S. 530. A bill to provide for child care programs and services including developmental preschool programs to families with children who may need such services; to the Committee on Labor and Public Welfare.

(The remarks of Mr. BAYH when he introduced the bill appear below under the appropriate heading.)

By Mr. FULBRIGHT (by request):

S. 531. A bill to authorize the United States Postal Service to receive the fee of $2 for execution of an application for a passport; to the Committee on Foreign Relations.

(The remarks of Mr. FULBRIGHT when he introduced the bill appear below under the appropriate heading.)

By Mr. STEVENS:

S. 532. A bill for the relief of the estate of Lowell W. Gresham; and

S. 533. A bill for the relief of the Bill Ray Company; to the Committee on the Judiciary.

S. 534. A bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union; to the Committee on Interior and Insular Affairs.

By Mr. HART:

S. 535. A bill to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. HART when he introduced the bill appear below the appropriate heading.)

By Mr. SPARKMAN:

S. 536. A bill for the relief of Mary Margaret Threadgill (Tran-Thi-Hong); to the Committee on the Judiciary.

By Mr. ANDERSON:

S. 537. A bill to amend title XVIII of the Social Security Act so as to include chiropractor's services among the benefits provided by the insurance program established by part B of such title; to the Committee on Finance.

S. 538. A bill to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo of Cochiti; to the Committee on Interior and Insular Affairs.

By Mr. MONDALE:

S. 539. A bill for the relief of Grant J. Merritt and Mary Merritt Bergson; to the Committee on Interior and Insular Affairs.

S. 540. A bill for the relief of Jose Carlos D. Simpao; to the Committee on the Judiciary.

By Mr. HARRIS:

S. 541. A bill for the relief of Mrs. Essat Jatala; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 542. A bill for the relief of Emil and Edith Anna Giesti; to the Committee on the Judiciary.

By Mr. CASE:

S. 543. A bill to establish the Sandy Hook National Seashore; to the Committee on Interior and Insular Affairs.

By Mr. BENNETT:

S. 544. A bill to amend the Internal Revenue Code of 1954 to ease the tax burdens of small businesses, and for other purposes; to the Committee on Finance.

(The remarks of Mr. BENNETT when he introduced the bill appear below under the appropriate heading.)

By Mr. WILLIAMS (for himself, Mr. BROOKE, Mr. CASE, Mr. CHURCH, Mr. CRANSTON, Mr. COOPER, Mr. EAGLETON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. RANDOLPH, Mr. RIBICOFF, and Mr. STEVENSON):

S. 545. A bill to improve and increase postsecondary educational opportunities throughout the Nation by providing assistance to the States for the development and construction of comprehensive community colleges; to the Committee on Labor and Public Welfare.

(The remarks of Mr. WILLIAMS when he introduced the bill appear below under the appropriate heading.)

By Mr. CASE (for himself, Mr. HARRIS, Mr. HART, Mr. NELSON, Mr. PROXMIRE, Mr. TUNNEY, Mr. KENNEDY, and Mr. WILLIAMS):

S. 546. A bill relating to the construction of an oil pipeline system in the State of Alaska; to the Committee on Interior and Insular Affairs.

By Mr. GRIFFIN:

S. 547. A bill for the relief of Pasqualina D'Aguanno;

S. 548. A bill for the relief of Doctor Hahn Joong Lee;

S. 549. A bill for the relief of Toshiko Saito;

S. 550. A bill for the relief of Soon Nam Pyun;

S. 551. A bill for the relief of Doctor Petre Lubarovski; and

S. 552. A bill to insure the separation of Federal powers by amending the National Labor Relations Act transferring jurisdiction over unfair labor practice and representation cases to the U.S. Labor Court, and for other purposes; to the Committee on the Judiciary.

S. 553. A bill to provide that no regular appropriation act for a fiscal year shall become effective until enactment of the last regular appropriation act for that year; to the Committee on Government Operations.

S. 554. A bill to provide for the establishment of a Council to be known as the National Advisory Council on Migratory Labor; to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself, Mr. BIBLE, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FONG, Mr. MILLER, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RANDOLPH, and Mr. WILLIAMS:

S. 555. A bill to authorize the establishment of an older worker community service program; to the Committee on Labor and Public Welfare.

(The remarks of Mr. KENNEDY when he introduced the bill appear before under the appropriate heading.)

By Mr. GRIFFIN:

S.J. Res. 25. A joint resolution to create a joint congressional committee to review, and recommend revisions in, the laws relating to industrywide collective bargaining and industrywide strikes and lockouts; to the Committee on Labor and Public Welfare.

S. 523—INTRODUCTION OF THE NATIONAL WATER QUALITY STANDARDS ACT OF 1971

Mr. MUSKIE. Mr. President, a year ago, when I introduced expanded water pollution legislation I said in complete candor that the Federal water quality program is still lagging behind the goals set by the Congress. Little has happened to change that fact.

It was 6 years ago that the Congress first declared a national policy for improvement of water quality, set up the Federal Water Pollution Control Administration, and put in motion the program for high water quality standards.

A year later in the Clean Water Restoration Act, the Congress authorized $3.4 billion worth of Federal grants to assist in the construction of municipal waste treatment plants. The major cities were encouraged to take part in the program.

The results to date are skimpy. Millions of dollars have been spent on research and planning with little effect upon water quality. Standards have been promulgated, but only a minority of States have had standards approved for all interstate waters.

But inadequate funding has delayed implementation of these standards. Of the $3.4 billion authorized for waste treatment plants, only $2.2 billion has been appropriated. Many States and localities have not yet been reimbursed for the Federal share of plants already built and in operation.

The Federal Water Pollution Control Administration itself has been a stepchild. Short of funds and manpower, its enforcement activities have been spotty. Now, under a new name, it is getting a new start with the Environmental Protection Agency.

While abatement conferences have dragged on in private, citizens have not been fully involved in the struggles for

water quality. Vigorous actions against polluters have been commenced but have not been taken to court. Polluters have continued to foul rivers, lakes, and coastal zones.

New problems also have developed. During the past year, the problems of ocean dumping of nerve gas and Navy oil, of mercury in the food chain, of phosphates and nitrilotriacetic acid—NTA—in detergents, were considered by the Congress.

The Senate Subcommittee on Air and Water Pollution alone devoted 14 days in April, May, and June to public hearings on more than a dozen bills dealing with some of the old—and some of the new—water pollution problems.

Last year both houses agreed to an appropriation of $1 billion—from an authorization of $1.25 billion—for construction of waste treatment plants in fiscal year 1971.

Fortunately, in my opinion, the $1 billion appropriation is the last available under the 1966 act. On June 30, 1971, unless the Congress takes further action, the authority for the water quality program will expire.

And so, now is the proper time for the Congress to revise the Federal water quality program, to require stricter standards and tougher enforcement, to encourage greater public participation and certainly to authorize adequate funding for construction of waste treatment plants needed in all parts of the country.

To accomplish these purposes, Mr. President, I offer for introduction in the Senate a bill to amend the Federal Water Pollution Control Act and to authorize $2.5 billion in Federal grants for each of the next 5 years, the Federal share of $25 billion worth of waste treatment plants.

Let me emphasize that I believe a 5-year, $25 billion national program is neither too little nor too much for the country to handle. The administration last year, in my opinion, recommended too little: A 4-year, $10 billion national program with the Federal Government contributing $4 billion.

During the subcommittee's hearings, I asked the National League of Cities and the U.S. Conference of Mayors to survey the national needs for water pollution control. Their report estimated the needs over the next 6 years at $33 to $37 billion.

The survey covered more than 1,000 cities, counties, and special districts serving 89.4 million persons. It concluded that—

> A $3 to $4 billion a year Federal program can be easily justified in light of present needs.

Some portions of the bill I introduce today are similar to proposals considered by the subcommitee during its hearings last year. Some portions of the bill are newly developed from testimony received and from the subcommitee's experience with other environmental legislation.

Among the proposals considered last year and retained in the new bill are:

First. Incentives to encourage river basin development and financing of treatment systems for all sources of waste within the basin.

Second. Extension of the water quality standards program and implementation plans to all navigable waters.

Third. A requirement that all new industrial facilities which use the navigable waters of the United States shall incorporate the best available pollution control technology.

Fourth. A requirement that enforceable effluent standards and compliance schedules be included in any implementation plans for water quality.

Fifth. Tighter Federal enforcement procedures on a uniform, effective basis with quick access to the courts.

Sixth. Greater public participation in the development of water quality standards.

Seventh. Extension of public participation to enforcement by permitting citizen suits against alleged violators of water quality standards and the Administrator of EPA.

Eighth. A requirement that Federal water quality criteria for all pollutants be published and revised on a regular schedule as a sound basis for developing water quality standards and implementation plans.

Among the newly developed portions of the bill are the following:

First. A requirement that all water quality standards be adopted within a statutory deadline and attained within 3 years of approval by the EPA Administrator.

Second. A prohibition against any degradation of present water quality.

Third. Authority for the EPA Administrator to assure protection of water quality in the territorial sea and the contiguous zone through regulation of ocean dumping.

Fourth. A requirement that new industrial facilities must be certified by State and Federal governments to comply with water quality standards, and closed cycle systems must be used as they become available.

Fifth. Authority for the EPA Administrator, whenever he finds a violation of water quality standards, and State enforcement is inadequate, to order abatement or go to court for an injunction against the violation.

Sixth. Civil penalties for negligent violation of water quality standards of $10,000 a day. A knowing violation would be subject to a criminal penalty of $25,000 a day, or up to 1 year in prison, or both. After the first conviction, the penalties would be doubled.

Mr. President, I ask unanimous consent to have an analysis of the bill printed at this point in the RECORD.

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

The bill (S. 523) to amend the Federal Water Pollution Control Act, as amended, introduced by Mr. MUSKIE (for himself and other Senators), was received, read twice by its title and referred to the Committee on Public Works.

The analysis of the bill presented by Mr. MUSKIE is as follows:

ANALYSIS OF THE BILL

1. *State assistance grants.*—Beginning in fiscal year 1972, the bill doubles the authorization for grants to State and interstate water pollution control agencies to $20 million annually.

The bill provides that this money be used to supplement, not supplant, State and interstate funds.

The bill adds a new requirement that Federal assistance funds be used to help develop and carry out effective plans for the implementation, maintenance, and enforcement of water quality standards and effluent requirements under the water quality standards program. If a State fails to have its plans approved or implement them in timely fashion, grant money can be forfeited.

2. *Waste treatment construction grant program.*—The bill continues the present direct grant program for construction of waste treatment works for five fiscal years (1972, 1973, 1974, 1975, and 1976) with several changes designed to improve the program, achieve more efficient waste treatment, and make it more consistent with national water quality standards program.

The bill increases the authorization from $1.25 billion in fiscal year 1971 to $2.5 billion annually through fiscal year 1976. If fully funded, this authorization would generate the construction of $25 billion worth of municipal waste treatment works.

The bill also extends the reimbursement provisions of the Act to June 30, 1976. Funds allotted to a State would be available for new treatment works to reimburse communities for works constructed since 1966.

The present provision of the Act for allocation of the first $100 million appropriated each year on the basis of a formula designed to help rural areas is retained. The bill requires that funds not obligated within six months after the beginning of the fiscal year because of a lack of State approved and certified treatment works shall be reallotted to States eligible for 50 to 60 percent grants.

The present grant program authorizes 30, 40 and 50 percent grants for treatment works depending on the level of State assistance and water quality standards.

RIVER BASINS

As an additional incentive to river basin planning the bill authorizes a Federal share of 60 percent of the cost of treatment works located in basins designated by the Administrator. 40 percent of the cost of construction would be shared by the participating States, communities and industries located in the basin.

The Administrator would designate basins eligible for these increased grants and would make such increased grants after a finding that an effective and economical system for the collection and treatment of all waste discharges in the basin has been established consistent with approved water quality standards.

CONSTRUCTION PRIORITIES

Under the present system, each State sets its own priorities for the funding of treatment works construction. This bill requires that the criteria for determining these priorities must at least be consistent with the State plans for implementation, maintenance and enforcement of water quality standards. The Administrator is authorized to withhold grants from States that do not have priority systems consistent with this plan.

3. *Water quality standards.*—The bill establishes that the purpose of water standards is to protect and enhance the existing quality of all waters; encourages public participation in the development, enforcement and revision of such standards; extends the water quality standards program to all navigable waters and their tributaries in the United States; requires that all standards

be adopted with statutory deadlines and attained within three years of approval; prohibits degradation of present water quality; requires that all standards include effluent requirements and compliance schedules; requires a review and, where appropriate, a revision of standards by the States at a minimum of every five years; extends water quality standards to the waters of the contiguous zone; and authorizes the Administrator and his representatives to enforce all standards.

4. *Ocean dumping and new sources.*—Discharges into the ocean would be regulated through permits granted by the Administrator to assure protection of water quality of the territorial sea and the contiguous zone.

The bill directs the Administrator to issue regulations requiring that any new building or facility subject to water quality standards use the latest available pollution control technology. New facilities must be certified by the State and Federal governments to comply with water quality standards, and closed-cycle systems must be used as they become available.

5. *Enforcement.*—The bill provides that the discharge of any wastes in violation of water quality standards, effluent requirements, schedules for compliance, or prohibitions of discharges of hazardous substances is prohibited. Whenever the Administrator finds such a violation, and that State enforcement is inadequate, he is authorized to order abatement or go to court to seek an injunction against the violation.

The bill provides that a negligent violation of a water quality standard, a requirement of an implementation plan, or an order of the Administrator would be liable to a civil penalty of $10,000 per day of violation. A knowing violation of a water quality standard, a requirement of an implementation plan or an order of the Administrator, or any violation of a prohibition of discharge of a hazardous substance, would be subject to a criminal penalty of $25,000 per day of violation or imprisonment for up to one year, or both.

The penalties are doubled after the first conviction.

The Administrator is granted broad powers to enter and inspect effluent sources, to sample, and to require monitoring and reporting of effluents and other relevant data, and to make such information available to the public.

6. *Imminent endangerment.*—The bill authorizes the Administrator to bring suits in the United States district courts in cases where he has evidence that an effluent source presents (a) an imminent or substantial endangerment to the health of persons or fish and wildlife, or (b) substantial economic injury to persons marketing shellfish or shellfish products. This provision should enable the Administrator to act promptly to protect people, fish and wildlife, and our commercial shellfish industry.

7. *Citizen suits.*—Any person may sue a polluter to abate a violation of water quality standards, effluent requirements, schedules for compliance, or prohibitions of hazardous substance discharges, or such person may sue the Administrator to seek enforcement or the performance of any duty under the Act. Costs of litigation, including attorney and expert witness fees, could be awarded to any party.

8. *General.*—The bill abandons the conference procedure in favor of the quicker and more effective enforcement of water quality standards.

In the case of pollution that endangers the public health or welfare of another Nation the bill provides that the Administrator, at the request of the Secretary of State, shall convene a hearing board to recommend appropriate action to abate the pollution.

9. *Employee protection.*—The bill protects workers who give information in any proceeding under the Act, including testifying in a proceeding to enforce water quality standards, by making the discharge or discrimination of such worker illegal. The Secretary of Labor shall review cases and investigate. If the Secretary finds illegal discharge or discrimination, he shall issue a decision ordering the rehiring or reinstatement of the employee compensation.

10. *Federal procurement.*—The Federal government would not purchase goods or services from a person convicted of a knowing violation until the condition was corrected. The President would be required to issue an executive order implementing the policies of the Act in the procurement practices of the United States.

11. *Hazardous substances.*—The bill provides that any discharge of a hazardous substance designated under Section 12 of the Act would be prohibited, and any discharge would subject the person responsible to liability for all damages caused by the discharge, including clean-up costs, without regard to negligence or willfulness.

12. Also the bill provides for a study of run-off from agricultural areas and from highways and roads.

Mr. BOGGS. Mr. President, it is an honor for me to join the distinguished Senator from Maine (Mr. MUSKIE) in cosponsoring this important bill to clean up our Nation's rivers and lakes. It is legislation that will prevent the creation of new dead seas off our coast or in our lakes, and revive those waters that now are dying.

Senator MUSKIE has offered a bill that contains many important concepts discussed last year within our Subcommittee on Air and Water Pollution. Many of the provisions and mechanisms, for example, run parallel to those that we established in last year's amendments to the Clean Air Act.

But, in addition, this bill offers several innovative proposals that deserve very careful attention before current authorizations expire June 30.

Within the next week or so, President Nixon will send to the Congress his environmental message, to be accompanied by a series of significant pollution-control measures. While I have not had the opportunity to read the specific provisions the President will offer, I know that they seek the same goal as this bill: A cleaner, healthier world.

It is my intention to cosponsor the President's proposals when they are sent to the Senate. And I hope many of my colleagues will join with me at that time.

The Committee on Public Works and its Subcommittee on Air and Water Pollution have established an effective foundation for environmental enhancement during the past several years. This progress has, in great measure, been accomplished because of a cooperative approach by all Members in a knowledge that the most effective legislation could only be achieved through a careful evaluation of all proposals.

I am honored to cosponsor these bills, as well as those of the administration, in an effort to assure that these concepts receive the fullest evaluation.

S. 525—INTRODUCTION OF THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1971

Mr. PROUTY. Mr. President, I introduce a bill to amend the Longshoremen's and Harbor Workers' Compensation Act, and ask that it be appropriately referred.

This is the administration's bill, Mr. President, which I am introducing by request.

It implements the general proposals made in this area by President Nixon in his message to Congress of January 26 which appears in the CONGRESSIONAL RECORD of that date.

It is high time, Mr. President, that Congress acted to bring this compensation law up to date.

A bill was introduced for this purpose in the 89th Congress, but hearings were never held on it by the Labor and Public Welfare Committee.

Hearings were held on this subject during the 90th Congress, but a bill was never reported by our committee for the Senate's consideration.

In the 91st Congress, I also inroduced the administration's proposals to amend the Longshoremen's and Harbor Workers' Compensation Act, and a similar bill was introduced by the distinguished junior Senator from New Jersey.

Again, however, hearings were not even held on this important matter by the Labor Committee.

In the meantime, Mr. President, the average weekly earnings of covered employees have increased approximately 35 percent as the result of both greater efficiency and the ever-increasing cost of living.

For example, the present minimum compensation payment for disability of $18 per week was established in 1956, and the maximum compensation payment for disability of $70 per week was established in 1961.

These figures alone, Mr. President, demonstrate how outdated this law has become and underlines the urgency for action in this field by the 92d Congress.

One of the basic premises underlying any compensation law, Mr. President, is that it provides exclusive compensation to injured employees regardless of fault.

Through the years, however, the courts have developed a doctrine permitting injured longshoremen to bring damage suits against the owner of the ship on which he is working when injured.

These are the so-called "third party actions." While such suits benefit the legal profession and some injured workers, by and large their impact is detrimental to the vast majority of employees covered under this law and have also made the cost of compensation insurance almost prohibitive.

The administration's bill, Mr. President, contains provisions to terminate this circular liability and to reinstate the exclusive liability principle set forth in the Longshoremen's and Harbor Workers' Compensation Act.

This bill also contains many other improvements which were included in

the bill I introduced in the 91st Congress, but in the interests of time, I shall not discuss them again at the present time.

I am in complete agreement with the administration's approach and the philosophy on which this bill is based.

I do, however, intend to introduce a similar bill in the near future that will provide somewhat higher benefits which I feel are warranted by our present economic situation. This bill will also incorporate a measure introduced in the 91st Congress by the distinguished senior Senator from Texas to extend the provisions of the Longshoremen's and Harbor Workers' Compensation Act to marine petroleum employees working in marine extractive operations.

Mr. President, I ask unanimous consent that the bill, together with an explanatory statement and a section-by-section analysis, be printed in the RECORD at the conclusion of my remarks.

The Presiding Officer (Mr. BENTSEN). The bill will be received and appropriately referred; and, without objection, the bill, statement, and section-by-section summary will be printed in the RECORD.

The bill (S. 525) to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits, and for other purposes, introduced by Mr. PROUTY, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1971."

DEFINITIONS

SECTION 1. (a) Section 2(4) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, as amended) is amended to read as follows:

"(4) The term 'employer' means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any drydock), and includes any vessel as defined herein."

(b) Section 2 of such Act is amended by renumbering paragraph (19) as (20), and adding a new paragraph (19) to read as follows:

"(19) The term 'vessel' means any vessel upon which or in connection with which any person entitled to benefits under this Act suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, character or bare boat character, master, officer or crew member."

LIABILITY FOR COMPENSATION

SEC. 2. Section 4(a) of such Act is amended to read as follows:

"Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under sections 7, 8, and 9 of this Act: Except, That a vessel shall be liable for and shall secure the payment of compensation only if another employer of the employee entitled to benefits hereunder does not secure the payment of such compensation. Where one or another employer, as defined herein, has secured compensation, such compensation shall be the exclusive remedy against any employer. In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment."

TIME FOR COMMENCEMENT OF COMPENSATION

SEC. 3. Section 6(a) of such Act is amended by striking "more than twenty-eight days" and substituting "more than twenty-one days."

INCREASES IN MAXIMUM AND MINIMUM LIMITS OF DISABILITY COMPENSATION AND ALLOWANCE

SEC. 4(a). Section 6(b) of such Act is amended to read as follows:

"Compensation for disability shall not exceed $119 a week and compensation for total disability shall not be less than $35 per week: *Provided, however,* That if the employee's average weekly wages, as computed under section 10, are less than $35 per week, he shall receive as compensation for total disability his average weekly wages."

(b) Section 14(m) of such Act is amended by striking "$24,000" and substituting "$40,800."

DISFIGUREMENTS

SEC. 5. Section 8(c)(20) of such Act is amended to read as follows:

"(20) Disfigurement: Proper and equitable compensation, not to exceed $3,500, shall be awarded for serious disfigurement: (1) of the face, head, or neck; or (2) of other areas normally exposed while employed and which handicap the employee in securing or maintaining employment."

INJURY FOLLOWING PREVIOUS IMPAIRMENT

SEC. 6. Strike section 8(f) of such Act and insert the following new section 8(f):

"(f) Injury increasing disability: If an employee receives an injury which of itself would cause only permanent partial disability, but which combined with a previous disability does in fact cause permanent total disability or death, in addition to compensation for temporary total or temporary partial disability or both, the employer shall:

(1) if the injury results in a disability which would entitle the employee to compensation for scheduled injuries under subdivision (c)(1) through (20) of this section, provide compensation as prescribed therein or for 104 weeks whichever is greater, or

(2) if the injury results in a disability which would entitle the employee to compensation under subdivision (c)(21) of this section or death, provide compensation for 104 weeks only. After cessation of the payments for the period of weeks provided for herein, the employee or his survivor entitled to benefits shall be paid the remainder of the compensation that would be due for permanent total disability or for death out of the special fund established in section 44."

STUDENT BENEFITS

SEC. 7(a) Section 2 of such Act is further amended as follows:

(1) In paragraph (14) insert "(1)" in the fourth sentence between "are" and "under"; delete the period after "disability" at the end of the sentence; and add ", or (2) are students as defined in paragraph (21) of this section."

(2) Add a new paragraph (21) to read as follows:

"(21) The term 'student' means a person regularly pursuing a full-time course of study or training at an institution which is—

"(A) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or

"(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body, or

"(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, or

"(D) an additional type of educational or training institution as defined by the Secretary,

but not after he reaches the age of twenty-three or has completed four years of education beyond the high school level, except that, where his twenty-third birthday occurs during a semester or other enrollment period, he shall continue to be considered a student until the end of such semester or other enrollment period. A child shall not be deemed to have ceased to be a student during any interim between school years if the interim does not exceed five months and if he shows to the satisfaction of the deputy commissioner that he has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration which, in the judgment of the deputy commissioner, he is prevented by factors beyond his control from pursuing his education. A child shall not be deemed to be a student under this Act during a period of service in the Armed Forces of the United States or while receiving educational or training benefits under any other program authorized by the Congress of the United States."

(b) Section 8(d) of such Act is amended by striking the words "under the age of eighteen years" in paragraphs (1), (2), and (4) thereof.

INCREASE IN DEATH BENEFITS

SEC. 8. (a) Sections 9 (b) and (c) of such Act are amended by striking "35" wherever it appears, and substituting "45".

(b) Section 9(d) of such Act is amended by striking out "15" and substituting "20".

(c) Section 9(e) of such Act is amended to read as follows:

"In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than $178.50, nor less than $52.50, but the total weekly compensation shall not exceed the weekly wages of the deceased."

(d) Section 9(g) of such Act is amended by striking the comma after "may" and the words "at his option or upon the application of the insurance carrier shall" and "one-half of".

DEFENSE BASE ACT DEATH BENEFITS TO ALIEN AND NONNATIONAL SURVIVORS

SEC. 9. Section 2(b) of the Defense Base Act (55 Stat. 622), as amended, is amended by striking the comma after "may" and the words "at his option or upon the application of the insurance carrier shall" and "one-half of".

TIME FOR NOTICE AND CLAIMS

SEC. 10. (a) Section 12(a) of the Longshoremen's and Harbor Workers' Compensation Act is amended to read as follows:

"(a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within sixty days after the date of such injury or death, or sixty days after the employee or beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury occurred and (2) to the employer."

(b) Section 13(a) of such Act is amended to read as follows:

"(a) Except as otherwise provided in this section, the right to compensation for disability or death under this Act shall be barred unless a claim therefor is filed within one year after the injury or death. If payment of compensation has been made without an award on account of such injury or

death a claim may be filed within one year after the date of the last payment. Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or such death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment."

SPECIAL FUND

SEC. 11(a). Section 8(d) of such Act is amended to read as follows:

"(d) Any compensation to which any claimant would be entitled under subdivision (c) of this section excepting subdivision (c–21) shall be payable upon his death without surviving wife, dependent husband, or child, into the special fund established under section 44(a) of this Act. Where there are survivors if death arises from causes other than the injury such compensation shall be payable to or for the benefit of the persons following:"

(b) Section 44(c)(1) of such Act is amended by striking out "$1,000" and substituting "$20,000".

DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION ACT

SEC. 12. Section 1 of the Act of May 17, 1928, as amended (45 Stat. 600), extending the Longshoremen's and Harbor Workers' Compensation Act to the District of Columbia, is amended to read as follows:

"(a) The provisions of the Longshoremen's and Harbor Workers' Compensation Act and all amendments thereto, except as indicated in subsections (b), (c) and (d) hereof, shall apply in respect to the injury or death of an employee of an employer carrying on any employment in the District of Columbia, irrespective of the place where the injury or death occurs, except that in applying such provisions the term 'employer' shall be held to mean every person carrying out any employment in the District of Columbia, and the term 'employee' shall be held to mean every employee of any such person.

"(b) Compensation for disability and for death benefits in the District of Columbia shall not exceed $85 a week.

"(c) The total money allowance payable to an employee in the District of Columbia under section 14(m) of the Longshoremen's and Harbor Workers' Compensation Act shall in no event exceed the aggregate of $29,160.

"(d) In computing death benefits in the District of Columbia the average weekly wages of the deceased shall be considered to have been no more than $127.50."

APPROPRIATION

SEC. 13. Section 46 of such Act is amended to read as follows:

"(a) There are authorized to be appropriated for the current fiscal year and for each succeeding fiscal year such sums, to be deposited in the administration fund established under section 45 of this Act, as may be necessary for the administration of the Act.

"(b) There are also authorized to be appropriated for the current fiscal year and for each succeeding fiscal year, such supplementary funds, to be deposited in the special fund established under section 44 of this Act, as may be necessary to meet the obligations incurred under the authority of that section."

TECHNICAL AMENDMENT

SEC. 14. Section 3(a)(1) of such Act is amended by striking out the word "nor" and substituting the word "or".

EFFECTIVE DATE

SEC. 15. (a) The amendments made by sections 1 and 2 shall become effective thirty days after enactment.

(b) The amendments made by sections 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall become effective six (6) months after the date of enactment and said amendments shall relate only to injuries and deaths occurring after the effective date.

The statement and summary, presented by Mr. PROUTY, are as follows:

EXPLANATION OF A BILL TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

INTRODUCTION

The purpose of this bill is to improve the Longshoremen's and Harbor Workers' Compensation Act by increasing benefits, liberalizing certain provisions of the Act, and removing the dual liability of stevedore and ship repair contractors for employment injuries to employees covered by the Act. At the present time, these employers are liable for compensation required by the Act and may also be liable for reimbursement to shipowners of amounts paid in damages by the shipowners to the same employees for the same injuries.

A comparatively small number of employees now recover substantial damages for their employment injuries from shipowners which must be ultimately paid by the Longshore Act employer, while the benefits under the Act, which the great majority of employees depend on for income when disabled, are inadequate and out of date. The proposal combines provisions to break the circular liability chain and significantly improve benefits.

CIRCULAR LIABILITY CHAIN—LONGSHOREMEN V. SHIPOWNERS V. STEVEDORES

The initial point for consideration in the present circular liability chain which exists with respect to the Longshore Act is that the Act explicitly states that the liability of the employer for damages for injury or death resulting from employment of employees covered by it shall be *exclusive*.

The Longshore Act covers approximately 266,000 longshoremen and harobr workers. Of this number, 14,464 received workmen's compensation at some time during fiscal year 1968. In that same fiscal year, 1,320 cases were filed by Longshore Act employees in the U.S. district courts against third-party shipowners for damages for employment injuries.

Beginning in 1946 the courts established the principle that a shipowner owes an absolute warranty for seaworthiness to Longshore Act employees. This warranty has no relation to negligence and, under the decisions, makes a shipowner a virtual insurer for any employment injury which befalls a longshoreman, ship repairman or harbor worker aboard ship.

Under existing principles also formulated by the courts and first stated in 1955, the Longshore Act employer is liable to reimburse the shipowner for recoveries by Longshore Act employees for injuries for which the employer stands primarily liable under the Act. Since election between receiving compensation from an employer and bringing suit against a shipowner for the same injury is not required, the same employees are involved in an unknown number of both claim and litigation cases. Recoveries made by employees against shipowners, however, are offset against compensation payments under the Act. The courts in 1963 began applying the new principle that a shipowner employing longshoremen directly to unload his ship (acting as his own stevedore), is subject to damage suits by the longshoremen for employment injury, despite the fact that the shipowner is an employer under the Longshore Act.

The provisions of this bill relating to the circular and enhanced liability of Longshore Act employers are intended to reinstate the exclusive liability principle of the Act.

INCREASE OF PRESENT MAXIMUM AND MINIMUM COMPENSATION

The existing minimum disability compensation payment of $18 weekly was established in 1956 and the existing maximum payment of $70 weekly was established in 1961. In the interim since 1961 to September 1970, the average weekly wage in ship and boat building and repair has increased by 35%.

We estimate that in 1970 most longshoremen were earning nearly $200 a week. The base rate under union contracts was $4.60 an hour on the east coast and gulf coast and averaged $4.81 an hour on the west coast for a standard 8-hour day (including a guarantee of 2 hours overtime daily). In the Great Lakes the basic rate was $4.02 an hour, increasing to $4.37 an hour in 1971. The 1970 rates for the west coast became effective in June 1970, for the east and gulf coasts in October 1970, and April for the Great Lakes.

In 1961, when the present $70 weekly maximum was put into effect, the average earnings of a longshoreman working a 40-hour week, handling general cargo, were $129.60 on the west coast. In 1970, the comparable figure was $192.60, an increase of 49%. The weekly earnings in 1970, again assuming a 40-hour week and using the general cargo rate, was $184.00 in most east and gulf coast ports and $160.80 on the Great Lakes. These earnings represent increases over 1961 of more than 50%. It should be noted, however, that these calculations are made on basic general cargo rates. Most workers earned considerably more because of penalty cargo rates paid for handling certain types of cargo and for different working conditions.

In view of the above facts, an increase in the maximum compensation under the Longshore Act to $119 a week is recommended.

In the District of Columbia, to which the Longshore Act applies, the average wage in 1969 was $138.81 and is estimated to have been $144 in 1970. Accordingly, a lower maximum of $85 is set for employment in injuries in that jurisdiction and the overall maximum for temporary total disability is set at $29,160. The $85 maximum would be in line with the higher of the two maximums currently prevailing in the States contiguous to the District ($62 in Virginia and $85 in Maryland). The Department of Labor supports legislation to create a separate compensation system for the District of Columbia. The provisions of this bill upgrading benefits for the District are intended only as a contingency proposal until separate legislation is enacted.

The minimum compensation would also be increased from $18 to $35 weekly to provide a totally disabled employee with sufficient funds to meet the cost of minimum subsistence. Employees whose wages do not exceed the new minimum are entitled to their entire wages free of the Act's percentage limitation otherwise applicable. With today's living costs it is evident that employees making less than $35 weekly would not be able to subsist on 66⅔ percent of their earnings.

The Act presently provides that temporary total disability benefits may not exceed $24,000. An increase in this overall maximum proportionate to the increase in the weekly maximum is provided. The increase would be to $40,800 except in the District of Columbia.

INCREASE IN DEATH BENEFIT PERCENTAGES AND AUTHORIZATION OF STUDENT BENEFITS

The percentage of an employee's wage which may be drawn by a widow is increased from 35% to 45%, and of surviving grandchildren and sisters and brothers eligible for benefits, from 15% to 20%.

Further, surviving children in a student status, as defined by the bill, would be authorized to continue to receive benefits after reaching 18 years of age.

DISFIGUREMENT

The lump sum payment of $3,500 is extended to be paid for disfigurement of the

neck, as well as of the face and head, and also of other normally exposed areas which would affect employability.

REDUCTION IN LENGTH OF DISABILITY BEFORE ELIMINATION OF WAITING PERIOD AND EXTENSION NOTICE AND CLAIM TIME

Since 1956 the Act has provided that there must be a 3-day waiting period unless the disability continues for at least 28 days. The bill reduces the period to 21 days, after which compensation is payable for the waiting period. This improvement is in line with modern workmen's compensation law trends.

The Act now provides that notice of injury or death shall be given within 30 days and claim for compensation or death shall be filed within one year after the injury or death. These time limits do not take into consideration the later development of latent disability from a relatively minor accident, or disease casually related to the employment. The time for giving notive of injury and filing claim for compensation or death is, therefore, extended to 60 days after the employee or the beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of a relationship between the disabling condition or the death and the employment.

SPECIAL FUNDS

Two special funds are established under the Act. One, is for employees covered by the Longshore Act and its extensions; and the other, for workers in the District of Columbia. The funds provide continuing compensation for permanently disabled workers, or their survivors, when so-called second injuries are suffered by employees with existing physical impairments. The special fund payments begin when payments attributable to the second injury have been completed by the employer or insurance carrier who is liable.

The funds also provide compensation payments when an employer becomes insolvent, and for expenses of vocational rehabilitation when necessary in certain cases, including a living allowance not to exceed $25 a week.

Financing of the funds is provided by fines and penalties collected under the Act, interest, and sums of $1,000 paid into the fund in non-survivor death cases. The Longshore Act fund is now in a precarious state. Annual disbursements are in excess of annual income and the outstanding liabilities agaist the fund exceed the amounts it contains.

In order to finance the Longshore special funds adequately, the bill requires that employers or insurance carriers in cases where an employee suffering employment injury dies and there is no eligible beneficiary pay into the funds any amounts remaining unpaid under a schedule award. It also increases from $1,000 to $20,000 the amount which must be contributed by employers or carriers into the funds in all cases where an employee dies from an employment injury and there is no eligible beneficiary. At present compensation levels, the average compensation paid in fatal cases under the Longshore Act is $35,000. The contribution of $20,000, therefore, where the potential liability is so much greater appears reasonable.

In view of the length of time since improvements have been made in the compensation program under the Longshore Act early action is sought to provide income maintenance for injured employees within its terms in keeping with wages and other current economic factors.

SECTION BY SECTION SUMMARY OF BILL TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKER'S COMPENSATION ACT

Section 1—*Definitions*—(a) Amends section 2(4) of the Act to extend the definition of "employer" to include "vessel."

(b) Amends section 2 of the Act by renumbering paragraph (20) and adding a new paragraph (19) to define "vessel."

Section 2—*Liability for Compensation*—Amends section 4 of the Act, requiring employers to secure compensation, to except vessels unless another employer of an employee entitled to benefits under the Longshore Act does not secure compensation. Provides further than when an employer, as defined under the Act, secures compensation, such compensation shall be the exclusive remedy against any employer.

Section 3—*Waiting Period*—Amends section 6(a) of the Act to permit payment of compensation without a waiting period when the disability exceeds 21 days. A three-day waiting period is now specified unless the disability exceeds 28 days.

Section 4 (a) and (b)—*Maximum and Minimum*—Amends section 6(b) of the Act to increase the maximum of $70 a week to $119 a week; the minimum from $18 to $35; and amends section 14(m) to increase the overall money limit for temporary and partial disability from $24,000 to $40,800.

Section 5—*Disfigurement*—Amends section 8(c)(20) of the Act to expand the meaning of compensable disfigurement to include, in addition to the face and head, disfigurement of neck, or of any other area normally exposed while employed which would handicap an employee in obtaining or holding employment.

Section 6—*Injury following previous impairment*—Amends section 8(f) to clarify and make definite the conditions under which an employer provides compensation for disability caused by subsequent injuries and thus to encourage employment of handicapped persons.

Section 7—*Student benefits*—(a) Amends section 2(14) of the Act to add "student" to definition of eligible "child" and adds a new paragraph (21) to define "student" for the purpose of continuing benefits to certain surviving dependents while they are in school.

(b) Amends section 8(d) to allow surviving dependents to receive benefits beyond 18 years of age if in a student status.

Section 8—*Death benefits*—(a) Amends section 9(b) and (c) of the Act to increase the death benefits to the surviving wife or dependent husband from 35 to 45 percent of the deceased employee's average wages.

(b) Amends section 9(d) to increase the death benefit for dependent grandchildren, brothers or sisters from 15 to 20 percent of such average wages.

(d) Amends section 9(e) to increase the maximum weekly wages for computation of death benefits from $105 to $178.50 and increases the minimum from $27 to $52.50.

(d) Amends section 9(g), which provides for the commutation of compensation benefits to certain aliens who are not residents of the United States or Canada. The section now requires the Secretary, upon application of an insurance company, to commute future installments of compensation to such aliens by paying one-half the commuted amount of future compensation. The amendment removes the requirement for commutation payments and permits the Secretary to commute in his discretion.

Section 9—*Defense Base Act-Benefits to Alien Survivors*—The Defense Base Act extends the benefits of the Longshoremen's and Harbor Workers' Compensation Act to employees of contractors at United States bases or on public works where such contracts are performed outside the continental United States. Section 2(b) of that Act respecting compensation payments for nonresident aliens is similar to section 9(g) of the Longshoremen's Act. This bill, therefore, amends section 2(b) of the Defense Base Act to conform to amendment to Longshore Act described in preceding section.

Section 10—*Time for Notice and Claim*—Amends section 12(a) to extend the time for giving notice of injury or death to the deputy commissioner and to the employer, from 30 days after the injury or death to 60 days after the employee or the beneficiary is aware or in the exercise of reasonable diligence should have been aware of a relationship between the injury or death and the employment.

(b) Amends section 13(a) to defer the time for filing a claim for compensation for injury or death in latent disability cases. The Act now provides that a claim must be filed within one year after the injury or death, or if payment of compensation has been made without an award a claim may be filed within one year after the date of the last payment.

The amendment provides that the time for filing claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware of the relationship between the injury or death and the employment.

Section 11—*Special Fund*—(a) Amends section 8(d) by providing for payment into the special fund, described in section 44(a) of the Act, of any disability compensation due to an employee under a scheduled award when he has no survivors.

(b) Amends section 44(c)(1) by substituting $20,000 for the $1,000 now required to be paid into the special fund by the employer or insurance carrier upon the death of an employee resulting from employment injury when there are no survivors.

Section 12—*D.C. Workmen's Compensation Act*—(a), (b) and (c) Provides that the maximum compensation rate in the District of Columbia under extension of the Longshore Act in (45 Stat. 600), will be $85 a week and the overall maximum in temporary total disability cases will be $29,160.

(d) Provides the basis for computing death benefits shall be considered to be no more than $127.50.

Section 13—*Appropriation*—Amends section 46, (a) to authorize appropriation of amounts necessary for administration of the Act, and (b) authorizes supplementary funds as necessary to meet obligations of special fund under section 44 of the Act.

Section 14—*Technical Amendment*—Makes grammatical change of substituting "or" for "nor" in section 3(a)(1) of the Act.

Section 15—*Effective Date*—Provides for effective dates for different sections and that higher benefits and other related provisions shall apply only to injuries and deaths therefrom sustained after the effective date indicated.

S. 527—INTRODUCTION OF A BILL TO PROVIDE WILDLIFE COVER ON RECLAMATION PROJECTS

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill directing the Secretary of Interior to set aside certain public lands for the purpose of providing permanent cover and food for wildlife.

This proposed legislation would authorize and direct the Secretary of the Interior to set aside, out of each 640-acre section of public lands utilized in connection with reclamation projects hereafter authorized and constructed in accordance with the Federal reclamation laws, areas totalling not less than 40 acres to provide food and refuge for wildlife.

In the past, wildlife has been an accidental byproduct of most farming operations, but if we are to keep our present wildlife populations or enhance them, we must embark on a well-designed program which can be integrated with new plans for development of our public lands.

There are reclamation projects in my State of Idaho, such as the Minidoka,

Hunt and Black Canyon projects, where certain features of the land have caused farmers to leave fence row, roadside and other cover, as well as willow patches and sagebrush pockets. Here, small game has flourished and survived against the inroads of intensive farming, proving that such a program as provided by this bill is not only workable but necessary if we are to salvage and enhance our wildlife on new projects.

On too many reclamation projects in the West, so-called clean farming practices have removed much of these cover areas, destroying natural wildlife habitat and wiping out game populations. Should this pattern of development continue to characterize future reclamation of new lands, small game population, including game birds of all kinds, will suffer avoidable and unnecessary diminution.

The 40 acres out of each section would not be set aside as a solid block, but in separate areas such as strips along road systems, waterways and other topographical land features not desirable for farming.

Mr. President, I believe this to be a much-needed program, and one which will repay many times over its small investment.

Irrigators would not have to bear any additional costs under this bill, since any increases would be repaid under the provisions of the Federal Water Projects Recreation Act.

The areas would be managed by the Secretary of Interior in cooperation with the appropriate State wildlife agencies.

Mr. President, I send the bill to the desk and ask that the text of the bill be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. BENTSEN). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD as requested by the Senator from Idaho.

The bill (S. 527) directing the Secretary of the Interior to set aside certain public lands for the purpose of providing permanent cover and food for wildlife, introduced by Mr. CHURCH, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized and directed to set aside, out of each 640 acre section of public lands of the United States utilized in connection with reclamation projects hereafter authorized and constructed in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto), areas totalling not less than 40 acres thereof which he determines are suitable or capable of being made suitable for providing food and cover for wildlife. The Secretary shall make such designations with a view to utilizing, to the extent feasible, areas along road systems, waterways, and other areas not suitable for farming.

(b) Any such areas so designated shall be administered by the Secretary of the Interior in cooperation with the appropriate state wildlife agencies. The Secretary of the Interior is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

SEC. 2. Any additional costs to carry out the purposes of this Act shall be repaid under the provisions of the Federal Water Projects Recreation Act (Act of July 9, 1965 (79 Stat. 213)).

SEC. 3. As used in this Act, the term "wildlife" includes birds, fishes, mammals, and all other classes of wild animals.

S. 530—INTRODUCTION OF UNIVERSAL CHILD CARE AND CHILD DEVELOPMENT ACT OF 1971

Mr. BAYH. Mr. President, on December 10, I announced that in the 92d Congress I intended to introduce a Universal Child Care and Child Development Act of 1971. I rise today on behalf of myself and the Senator from Minnesota (Mr. MONDALE) to introduce that bill. In the weeks between December 10 and today, evidence has continued to accumulate which points up the need for this legislation. Here in Washington, we have learned of the tragedy of Junior Village—a tragedy that is composed not just of institutional failure to respond as adequately as necessary, but a tragedy that is also partially due to the past inattention of the Congress. Here in Washington, and throughout the Nation, our children are in trouble—and hence our Nation is in danger—and we must move quickly, boldly, and with all the resources needed to reverse the process of child destruction now taking place.

First, we find that the problems of children are not isolated, but related to their families and their entire communities. I was pleased to join my colleague, Senator MONDALE, in his statement on justice for children this past December. My colleague was right on target as he discussed the need for increased participation and "sharing of power and alleviation of powerlessness" at the local community level. Senator MONDALE stated further that—

> No one really knows more about whether a program is working or not, and whether it is being properly administered than those whom it is supposed to benefit. More important, the only way to eliminate paternalism, laziness and unresponsiveness is to share power. If we do nothing else in the 1970's we must make it our goal to achieve participation in programs by those who are supposed to benefit from them and by the community generally. Such participation, such sharing of power, should become a familiar aspect of our national life.
>
> Fortunately, the political and other struggles of the past decade have given us some models for participation.
>
> The Headstart program at its best has shown us what a marvelously rich experience parent involvement can be—both in terms of the parents coming to understand what quality education is and also in terms of the enhanced learning experience of a child. The extension of that kind of parent involvement throughout the elementary and secondary schools as well, would be a great boom in our society.
>
> It is critical that the method of participation that we adopt be one in which real power is shared. There is always the bureaucratic temptation to try to coopt—to try and create nice-sounding advisory boards which have no power, are convened once or twice a year in a fancy board room or hotel and are then ignored. The struggle to create the proper mix for participation will not be easy. There is an appropriate role for professionals in both administration and policy, and citizen participation must include both those who are served by the program and representatives of the community generally.

For these reasons, we are recommending in this legislation that a new kind of machinery be set up to respond to these needs at the place where the work must be done—at the community level. This new concept we call the child service district, and in many respects it is similar to the public school districts which have served the Nation well, and which, once they pass through this period of reevaluation and reorientation, will continue to serve the Nation well. In the same sense, the child service district will be serving children and parents through locally designed and locally controlled agencies. I realize, when I say locally designed and locally controlled, that these are ideas that are accorded much lipservice these days. Certainly, we hear a great deal about the principle of local control, we still support the concept of local elections, we remain committed to the ability of local citizens to get together to solve most of their own problems. But local control is neither neat nor easy to package. It does not fit easily into the computers of the social scientists of various philosophical leanings who believe in programing our future. Nor does it fit into the simple, one-dimensional molds that a nation grown used to easy labeling feels comfortable with. The election process in this bill is difficult—but I would rather put up with the occasional inefficiency of the democratic process a hundred times over than submit to the dictates of either well-meaning technocrats or zealous wordsmiths.

I realize, too, that this bill's emphasis harkens back to many of the principles that were contained in the original community action programs, now declining in almost every area under the heavy hand of autocratic domination and reliance on bureaucracy. In a sense, I realize that by making it possible for these programs to continue by providing for coordination of existing programs rather than wholesale repeal of existing authorities, I stand the chance of offending those colleagues who have determined that community action had been an idea that failed. I think that community cooperation has not failed, that it has not really been tried, and that through this bill it can be tried for the first time.

One of the reasons for the belief that the original community action idea failed is that there was less reliance on the willingness of people of all income levels, races, and cultural backgrounds to come together than there should have been. There was instead a narrowing of focus, a nondeliberate but nonetheless effective pitting of various needy groups against each other for the few resources available. As a result, programs never were funded at the level required by even our most needy citizens. Perhaps one reason for this was that worthwhile programs like Headstart were not available for all children. We intend to try a different approach. We want to make these programs available to all citizens who require them, and to make it possible for the entire community to work together to use these

services in the way that serves the parents and children in their communities best. Because we have not despaired of ability and willingness of people to work together, we have endeavored to carry this spirit out throughout this legislation. At the local, county, and State levels too, we have attempted to encourage the involvement of all citizens, and the various Government agencies responsible to these citizens, so that this program will work. We also encourage your examination of the role we have selected for the States. We know that most States are responsive to the needs of their citizens and we are certain that this legislation will encourage their participation in a way that has not happened before. In the same way, we recognize the duty of the Federal Government to carry out its proper role. In those cases where local and State governments fail to carry out their responsibilities there is provision for the Federal Government to meet these responsibilities.

We feel that our handling of the very delicate matter of State and local standards for child-care services illustrates our intention throughout this bill. We recognize that there are good and bad standards at every level, that it takes personnel to carry out these standards, and that cooperation is required at every level to make good standards mean something. We believe that our writing into law of basic standards, with money for enforcement and technical assistance to make these standards practical is one response to the problem. We believe another response is to provide within the legislation a mechanism that makes it possible for standards to be reviewed by fair hearings on the local level to insure that the Federal Government does not overreact and attempt to accomplish by fiat what cannot be accomplished by suggestion.

We need a new constituency for this bill, a constituency of people that want to do their own planning, their own setting of priorities, their own hiring and firing. We need a constituency that rises above racial lines, class lines, income lines and cultural lines, a constituency that is wiling to work for the benefits of all the citizens of a community, not just a favored few. And we are determined that this constituency shall have the power to work from a position of strength to respond to the specific needs of each community. Throughout this bill, there are many specific provisions that will be of interest to my distinguished colleagues, most of which were touched upon when I made my initial statement of intention to introduce this legislation and, subsequently, when I rose on this floor to join the Senator from Minnesota, Mr. MONDALE, in his eloquent plea for a new, fairer and brighter day for the Nation's children. This is my dream—that our communities shall one day be healthy, be together, be united—and it is my belief that universal concern for children and families is the best way to begin making that dream a reality.

Mr. President, the recent White House Conference on Children produced a list of 16 "overriding concerns" which speak directly to essential developmental needs of our children. I ask unanimous consent that a summary of these concerns which appeared in the Washington Post of December 19, 1970, be included in the RECORD at his point. I ask also that my press conference statement of December 10, 1970, be included along with a section-by-section analysis and full text of the bill I am introducing today.

The PRESIDING OFFICER (Mr. BENTSEN). The bill will be received and appropriately referred; and, without objection, the material and bill will be printed in the RECORD.

The bill (S. 530) to provide for child care programs and services including developmental preschool programs to famlies with children who may need such services, introduced by Mr. BAYH (for himself and Mr. MONDALE), was received, read twice by its title and ordered to be printed in the RECORD.

The material submitted by Mr. BAYH is as follows:

EXCERPTS FROM THE WHITE HOUSE CONFERENCE ON CHILDREN

Here is background on the "concerns" as prepared from summaries by panel and caucus chairman:

"Reordering of national priorities beginning with a guaranteed basic family income adequate for the needs of children." More specifically, there should be, in the next decade, an increase of at least 50 percent in the proportion of the gross national product devoted to children and youth.

Development of programs to eliminate the racism which "cripples all children." "The tragedy is that we are unaware of our subconscious feelings of superiority and inferiority."

"Elimination of racism demands many meaningful federal programs, particularly an adequate family income maintenance floor." The black caucus, which petitioned this "concern" onto the ballot, did not specifically endorse the $5,500 level demanded by the Welfare Rights Organization for the President's proposed family assistance program (FAP).

"Health, welfare, educational and bi-lingual—bi-cultural growth of ALL children must be given top priority." Narciso L. Aleman and Piri Thomas of the sponsoring Spanish-speaking and Spanish-surnamed caucus have spelled out a wide range of penalties that society imposes on children because English is the dominant language.

"The Indian representatives . . . recommend that all levels (of society) embark on a vigorous practical approach to enhance the future of our children." The American Indian caucus, which formulated this "concern," said it wants the President to follow through with his stated Indian policy of self-determination for American Indians, without termination of government responsibilities with Indian tribes.

"Universal developmental child care without sex role stereotyping will help to eliminate institutional, individual sexism." The women's caucus, which petitioned this onto the ballot, emphasized that child developmental services should be available to all families seeking them, not merely those needing them because, say, of poverty. The caucus censured the conference itself "for demonstrating sexism through the domination of decision-making processes by men and execution of details by women.

"Improve the nation's system of child justice so law responds in timely, positive ways to needs of children." Drastic remedies are needed: more and better-trained sexism." The womens caucus, and juvenile laws "to humanize, not stigmatize," and "a massive plan for small community-based care facilities, foster homes, group homes, and day care."

"A change in our national way of life to bring people back into the lives of children." Among other institutions, business and industry must enable children and adults to spend time together in offices and factories.

"Comprehensive family-oriented child development programs including health services, day care and early childhood education." This issue, similar to the foregoing, asks federal funds at once to provide spaces for 500,000 children in the first year, and spaces for 250,000 each year thereafter.

"A federally financed national child health care program which assures comprehensive care for all children." This would be the first step in a broader national health program.

"A system of early identification of children with special needs and which delivers prompt and appropriate treatment." Presently, the back-up declaration said, little heed is given to cries for help from the retarded, the physically and mentally handicapped, the intellectually gifted, and "those whose environment produces abuse, neglect and directs the child to antisocial conduct."

"Immediate, massive funding for development of alternative, optional forms of public education."

"Establishment of a child-advocacy agency financed by the federal government and other sources with full ethnic, cultural, racial and sexual representation."

"A national land use policy must be developed to guarantee the quality of leisure services, social services and our nation's natural resources for all children."

"All institutions and programs that affect children must involve children as active participants in the decision-making process."

"Establish immediately a Cabinet post of children and youth to meet the needs of all children." This was the "concern" of the "concerned kids' caucus."

STATEMENT BY SENATOR BIRCH BAYH ON CHILD CARE BILL

The French writer Victor Hugo once said, "Greater than the tread of mighty armies is an idea whose time has come."

The decade of the 1960's saw many ideas whose time had come.

We recognized the need for medical care for older Americans.

We recognized the need to break down barriers that prevented some of our citizens from enjoying the full rights and privileges enjoyed by the majority.

We recognized the fact that the Federal Government had a direct responsibility to assist in the education of the nation's children.

All ideas whose time had come; all ideas with sufficient force to bring men together, across party lines.

Now there is another idea whose time has come: provision of universal child care, utilizing voluntary and community organizations and other means, for all mothers who feel their children would benefit from this service.

Actually, it is strange that this idea has been so long in coming. We, who consider ourselves leaders of the free world, have long been surpassed in this area by national child care programs in such nations as Sweden, Israel, and even the Soviet Union.

In addition, we have ourselves had long ago, though partial, experience with the contribution that child care can make to both children and families.

The roots of child care in the United States can be traced back as far as 1863 when Philadelphia mothers engaged in making uniforms and bandages for the Union Army were assisted by a child care center. During the Great Depression poor families and unemployed teachers and nurses were assisted by WPA child care centers. Once again, during World War II, the need for such child care centers was obvious, and many thousands of mothers and children benefited from pro-

grams established in centers throughout the nation.

At least we are beginning to understand that child care centers are too significant to become the creature of emergencies. They should have a permanent place in the structure of American social services, because they fulfill a permanent need.

Those needs are both obvious and increasingly urgent. They are needs that are not centered in any one area of the country or in any economic group.

For example:

There are 14 million children in this nation who have working mothers (8 out of 10 of these children are cared for through makeshift arrangements);

There are 2,790,000 mothers who work because they are the sole support of their families;

Of those mothers who work, nine out of ten do so to satisfy an otherwise unmet economic need: basic support; medical bills; to provide for the future education of the children, etc.;

The need reflected by these figures is neither temporary nor declining. Indeed, as we become a more urbanized nation the extended family—with a grandmother or elderly aunt or unmarried sister available to take care of the children—has gradually disappeared. Thus—

While the proportion of working mothers with preschool children was 10% in the 1940's and 40% in the 1960's, it is estimated that the percentage will increase to between 60 and 70% in the decade of the 1970's;

And U.S. Department of Labor Women's Bureau figures reflect a similar trend, by showing that the 3.7 million working mothers with under-5 children will increase to 5.3 million by 1980.

The figures also clearly show that provision of such care would make a measurable and positive economic impact on both national productivity and on the status of the individuals involved, particularly since one-third of all poor families in the U.S. are headed by women. However, the need for child care is by no means confined to the lowest income group since, for example, 57% of all working mothers are from families that have incomes of $6,000 or more annually, and 48% from families with incomes from $6,000 to $10,000 annually. Further, it is estimated, based on 1967 population figures that 10.6 million mothers at *all* economic levels would like to work, including one-third of the mothers now on welfare rolls. The majority of these who would like to work, however, are modest- to middle-income mothers who find it increasingly necessary to supplement their husbands wages to make ends meet. Their earnings often mean the difference in providing full educational opportunity for their children.

Though this program would fill a significant nd growing need among mothers who work or would like to work, the major point is that it would have a highly beneficial effect on the children of such mothers. Research on early child development, etc. is providing convincing evidence of the importance to intellectual and character development of the early years. We owe it to the millions of mothers who must work, we owe it to the children, to provide some nationwide, effective, professional network of child care centers.

The Bill I am proposing today—the Universal Child Care and Development Act of 1971—will take a major and much needed step toward providing this network.

Briefly, the bill establishes a new network of public institutions (called the Child Service Districts) for the provision of the variety of services necessary for adequate child care and development. Included among these services eligible for funding are: infant care; comprehensive pre-school programs; general child care services during evening and night time hours; day care programs before and after school; emergency care; day care and night care programs to aid working parents; and combinations of such programs. Health, nutritional, and social services will be an integral part of the programs funded. Planning, research, and construction funds are also provided for.

Each Child Service District will consist of a limited geographic area small enough to reflect the specific needs of parents and children residing in the District. Direct community participation is assured through the election of boards of directors composed of parents of the children to be served. State and local governments will be responsible for developing plans for the District boundaries.

The bill provides for Child Service Advisory Councils to be established in each District to assure the participation of representatives of public and private agencies with established interest and expertise in child care and development services.

My bill calls for an appropriation of 2 billion dollars for the fiscal year ending June 30, 1972, 4 billion for the fiscal year ending June 30, 1973; and 6 billion for the fiscal year ending June 30, 1974. This level of funding has been recommended by every major organization concerned with providing universal care for American children.

Loans in the amount of 600 million dollars are authorized through fiscal 1974 for construction or remodeling of appropriate facilities—300 million dollars for the fiscal year ending June 30, 1972; 200 million dollars for the fiscal year ending June 30, 1973; and 100 million dollars for the fiscal year ending June 30, 1974. Loans and grants would be applied for by and rewarded to the individual Child Care Service Districts through the Office of Child Development of the Department of Health, Education and Welfare.

During this and previous sessions of Congress we have witnessed with approval the introduction of many bills aimed at responding to this natural and proper desire for all Americans, whether poor, near-poor, or non-poor, to have their children receive the benefits of early childhood programs. Some of these proposals have a single purpose, reflecting the Member's concern with a particularly urgent problem that needs solving. Our legislation is designed to provide more comprehensive services, and aims at a reform of all programs now serving young children.

Our concern today in introducing this bill is not only to draw together the best features from all of these proposals, but to take an additional significant step. Not only is there a need for adequate nutritional services, for adequate health services, for educational and social services needed by the child and his family, but also we believe it important that these programs must involve the parents not only in the final stages, but in the earliest, planning phases.

We are aware, also, of the wasteful and unnecessary duplication which has resulted from the fragmentation of these programs among the various Federal agencies. For that reason, it is our hope that comprehensive programs can be designed and administered through this bill, and that one Federal agency can have the main responsibility for seeing that the programs work.

In this bill, also, we have taken that final step which we believe is necessary in fairness to all the American people. We are recommending that *all* children, regardless of income or status, receive those services in such degree and at such locations and during such hours as they require. Recognizing the need for parents to work and to study, but believing that the children of parents who need not be absent from the homes also require these programs, we are recommending that child care services be recognized and provided as a matter of right to every child in America, no matter what the income of his family.

Certainly it is in the national interest as well as their own, that our children grow into whole, humane citizens who can function in a democracy. And in fulfilling the needs of these children, we simultaneously serve them, their parents and our society.

In this bill, we stress the developmental nature of these programs because we believe that the years of experience and the results of studies made of Head Start programs demonstrates that early involvement, properly planned, can best benefit all children, not just the few children of the poor and near-poor now served. For this reason, a variety of programs must be provided. Each must meet the needs of the child as an individual, and the individual development of that child must be paramount.

One of the greatest incentives to positive action in the Bill is the benefits our society and the economy will realize by allowing parents to take training and employment, safe in the realization that their children are enrolled in quality child care programs. Through this program, then, the professionals and para-professionals needed by the millions in our social services and our industries can re-enter the labor market. Hence, not only will the welfare recipients benefit through finding an alternative to the degrading status of welfare but our economy wil benefit from an influx of middle- and upper-income workers into the marketplace. In addition, this bill provides for situations such as visitation to those homes where a child may be too ill to attend his or her child care facility.

It should be noted that this bill defines young children broadly with services to be provided for children from birth through age 14. The legislation is designed to serve this age group because, in the course of each child's development, he requires programs at every stage. Past programs have failed to recognize the need for services for infants and have failed to provide sufficient funds to offer programs that will not produce more human tragedy in the form of psychologically-crippled children. In this bill, adequate personnel will be provided to avoid institutionalized crippling.

At the same time, this legislation will recognize the needs of school-age children for before-and-after school programs and for summer programs. Not only those children that require remedial programs will be enrolled; all children will be eligible for enrollment. Attention under the terms of the Bill will also be accorded to the urban, suburban and rural children who are too often left to their own devices, and who form the seedbed from which springs our growing numbers of juvenile delinquents and drug users.

Another area which this bill emphasizes is the practical need of parents who must take training or jobs, or who are ill, but have no place for their children. Too often, the working parent must work at night; classes in the evening are also common. This bill would provide night-time programs for the children of these parents.

We have still another interest in offering this bill, and that is a desire to restructure child assistance on a more rational basis. Now, it is common for several public agencies to have partial responsibility for children. No local, community-based agency has full responsibility. We wish to change this picture, so that agencies that see childcare as a secondary purpose will still be involved, but the children they are serving will be the responsibility of an agency that has child welfare as its primary job.

There is clearly a need to create a continuing structure which will assume the task of providing child services to the population on a truly universal basis. This permanent structure must be composed of both professionals and non-professionals committed to

the task. In that way, citizens employed as para-professionals, can work together with their neighbors who have been trained as teachers and are increasingly unable to find a job. It will be the responsibility of these locally-controlled groups to design and determine where resources can be focused most effectively on the needs of the children involved. Citizen participation, both professional and non-professional, will insure that a broad range of perspective and training is brought to the task. It will also insure that race, economic factors, or even political philosophy will not delay services which are greatly needed by every community.

Parental and community participation is, we have come to realize, a requirement for successful child development programs, particularly those that reflect and build on the culture and language of children, families, and communities being served. At every age, children require services of such range and diversity that without complete parental and community participation, some children will not get what they need. And we must recognize that every child who fails costs society and the community not only in terms of his lost potential contribution but through the very real and considerable costs which he may cause to society as an adult.

To guarantee that parental involvement through this Bill will not be merely advisory, administration and control will be vested in boards of the parents of children who are being served. These boards, given full authority within each community to provide the services needed by that community's children, would operate within broad Federal and State guidelines. Federal standards would of course be required to ensure that Federal funds did not subsidize inadequate or harmful programs. And State participation will be required to guarantee that local planning does not destroy the delicate mechanisms for Federal-State-Local cooperation built up over the past few years. But, at the operational level, community control will be read in the context of parental control.

There is an additional desire accommodated here, the desire that people everywhere have for a greater voice in their own destiny and in that of their children. Perhaps, with the goal of making it possible for all children to grow into healthy, humane citizens we can build a common understanding within our neighborhoods that children are important enough to spur the resolution of our disagreements. This process of resolution involves grappling with the issues of community control as well as other matters of contention that have made public education so controversial of late, particularly in our large cities. Hopefully, the size of the service area proposed in this bill will allow neighbors to work out these tensions, and to build upon, rather than magnify, the diversities which are unique in the American society.

In summary, the act will neither be easy to implement nor inexpensive to finance. To provide what our children need, when they need it, to the extent they need it will require a real, but I am convinced, long overdue and highly creative commitment to reordering national priorities in favor of an investment in human resources. Our children are the Nation's tomorrow and deserve the kind of opportunity this Bill seeks to provide. I believe our society has evolved to a point of humaneness in which it can combine its economic ability to provide childcare with a willingness to do so. In short, this is the idea whose time has come and the Universal Child Care and Development Act of 1971 is a mechanism to translate idea into institution.

SECTION-BY-SECTION ANALYSIS OF UNIVERSAL CHILDCARE AND DEVELOPMENT ACT OF 1971

SECTION 2: STATEMENT OF FINDINGS AND PURPOSE

States (a) the findings of Congress that (1) The provision of adequate childcare, including developmental programs for infants, children of pre-school age and children up to 14 years of age in need of such care is of the highest national priority;

(2) adequate family support for the care, protection and enhancement of the developmental potential of children does not now exist;

(3) the mobility of our society has tended to separate family units from traditional family support thereby affecting the quality of life, including the proper care and nurture of the young;

(4) present opportunities for bilingual and bicultural enhancement of our citizenship are limited, thereby limiting the potential for full participation in our culturally diverse society;

(5) appropriate childcare services and resources are not now available to provide needed family support;

(6) such services and resources are necessary in a modern society to ensure adequate care and development of the children of this Nation, the opportunity for parents to participate as productive members of society and the opportunity for parents to achieve their own potential as humans.

States (b) It is the purpose of this Act to provide financial assistance in order to fulfill the responsibility of the Federal Government to contribute to attaining an optimum level of adequate care, developmental and other services for young children, to help to assure the stability of the family unit, and to offer an increased opportunity for parents to participate in society at the maximum level of ability.

SECTION 3: PROGRAM AUTHORIZED

Authorizes the Secretary of Health, Education, and Welfare to make grants to the public agencies created by the Act.

SECTION 4: ALLOTMENT OF FUNDS

Allots funds in proportion to the number of children in each state, infant to age 14. Specific allotments for research and development, Puerto Rico and trust territories, national advisory councils, and migrant and Indian programs.

SECTION 5: USES OF FEDERAL FUNDS

Authorizes the use of grants for planning and furnishing childcare services including (a) infant care; (b) comprehensive preschool programs including part day and day care programs; (c) general childcare services for children 14 and under during evening and night time hours; (d) day care programs before and after school for school age children 14 and under in need of such care; (e) emergency care for young children 14 and under; (f) day care and night care programs to aid working parents and (g) combinations of such programs. Health, nutritional and social services will be an integral part of programs funded. Planning, research, and construction funds are provided. Also programs for development of professional and nonprofessional personnel, programs for parent education, and provisions for bilingual and bicultural services.

SECTION 6: APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

Sets conditions for the application for and approval of funds granted to the Child Service Districts including criteria for fiscal accountability, periodic evaluation, and other requirements as may be necessary to assure proper disbursement of funds. Programs funded must be consistent with criteria and standards of quality prescribed by the Secretary and consistent with the purposes of the Act.

SECTION 7: CHILD SERVICE DISTRICTS

Authorizes establishment of public agencies named Child Service Districts. Such districts will not be less than the contiguous attendance areas of three public elementary schools nor more than twenty-seven. The geographic boundaries of each district shall be determined by appropriate state and local officials in each standard metropolitan statistical area. State officials will determine district boundaries in all other areas in given states. Governors in each state shall submit a state plan for creation of the districts including the conduct of elections in each district to choose a board of directors. Eligible voters are parents having one or more children who have not attained 15 years of age who reside with their children within the geographic area of the District established pursuant to the Act. The Board of Directors will consist of 9 to 15 members. It will plan for, contract for, and operate programs authorized by the Act. In all municipalities having populations greater than 100,000 persons, one or more Child Service Advisory Councils shall be appointed by the chief executive of such municipality. Advisory Councils shall consist of representatives of public and private agencies with established interest and expertise in the area of childcare and development services, and function as a consultative body to the Districts. For those areas of each State not included in municipalities over 100,000 population, a State Child Service Advisory Council will provide consultation.

SECTION 8: STANDARDS

Authorizes the Secretary to promulgate standards to be known as "Federal Standards for Childcare Services." These personnel and facilitity standards will set requirements for (1) child-staff ratios, (2) staff qualifications, (3) developmental services, (4) physical health and safety, (5) fire safety. Funds are authorized for maintenance of these standards. Hearings are provided to determine pre-emption of state standards that may be higher than Federal standards.

SECTION 9: LOANS AUTHORIZED

The Secretary of Health, Education, and Welfare is authorized to make loans and set terms including forgiveness, to any Child Service District for construction or remodeling of facilities appropriate for use as Child Service Centers and other facilities deemed necessary to provide services assisted under the Act. Applicants must be unable to secure a loan from other equally favorable sources and must assure that construction and remodeling will be both economical and consistent with delivery of quality service. A total of $600 million is authorized to carry out this section; $300 million for the fiscal year ending June 30, 1972; $200 million for the fiscal year ending June 30, 1973; $100 million for the fiscal year ending June 30, 1974.

SECTION 10: RESEARCH, DEMONSTRATION AND TRAINING—PROJECTS AND TECHNICAL ASSISTANCE

The Secretary is authorized to provide for (1) research to improve child care and developmental programs (2) experimental, developmental, and pilot projects to test effectiveness of research findings; (3) demonstration, evaluation, and dissemination projects; (4) training programs for inservice personnel; (5) projects for development of new careers, especially for low income persons.

SECTION 11: NATIONAL ADVISORY COUNCIL ON CHILD CARE AND CHILD DEVELOPMENT

The Secretary is authorized to appoint a National Advisory Council consisting of twelve persons representative of parents, state and local government, and professionals in bilingual and bicultural education, child health and nutrition and child care and development. The Council will study and report annually to the President, Secretary and Congress on matters relating to the purposes of the Act.

SECTION 12: PROGRAMS FOR INDIANS, MIGRANTS, AND SEASONAL FARMWORKERS

Provides for independently funded programs specifically to meet the needs of Indians, and migrant and seasonal farmwork-

ers, in those states and areas within states having the greatest needs for such programs.

It creates Migrant Child Service Agencies and Indian Child Service Agencies at the local level eligible to make applications for and administer the grants for the purposes and under the conditions named in the Act. The Migrant Child Service Agencies are to be organized in communities where migrant families reside or will reside during the course of their employment using maximum feasible participations of migrants in the planning, directing and implementation of the program. Similar provisions are made for the establishment of Indian Child Service Agencies in areas throughout the country that are accessible to communities, groups, tribes, bands and groups of individuals of native American descent.

A National Advisory Council on migrant child care, and a similar national advisory council on Indian child care are created composed of farmworkers in one, Indians on the other and professionals in the fields of health, nutrition, child development and child care who have demonstrated interest in and knowledge of the problems of migrants and Indians. These councils will assist the Secretary in evaluation of proposals and will conduct independent study and submit a yearly report to the President, the Congress and the Secretary containing their findings and recommendations relating to the child care needs of migrant and seasonal farmworker families. In each of these areas, the Secretary is directed to designate full time personnel who are experienced in migrant child care problems and who can communicate with the target population.

SECTION 13: PAYMENTS

Each approved applicant will receive a grant amount equal to the total sums to be expended under the terms of the application or such lesser amount as the Secretary determines on the basis of objective criteria, relating to fees charged to the parents of children to be served, if any, and other similar factors prescribed that the applicant can afford.

SECTION 14: WITHHOLDING OF GRANTS

Grants may be withheld after reasonable notice for failure to comply substantially with any requirement or applicable provision set forth in the Act.

SECTION 15: RECOVERY OF PAYMENTS

Provides that, if a facility which was constructed with the aid of federal funds under this Act ceases to be used as a public child-care facility within 20 years, the government can recover from the facility's owner the portion of its value which is equal to the federal share of the original cost of the building.

SECTION 16: REVIEW AND AUDIT

Provides for access for audit and examination of records by the Comptroller General.

SECTION 17: LABOR STANDARDS

Provides that prevailing wage rates shall be paid to laborers and mechanics employed on construction projects assisted under the Act.

SECTION 18: EMPLOYMENT AND BUSINESS OPPORTUNITIES FOR LOWER INCOME PERSONS

Provides opportunities for training, employment, and business development for lower income persons in the planning and implementation of projects authorized by the Act.

SECTION 19: ADMINISTRATION

Establishes the Office of Child Development within the Department of Health, Education and Welfare to administer the provisions of the Act. The Director of the Office shall report directly to the Secretary.

SECTION 20: EVALUATION AND REPORTS

Provides for complete review of programs assisted under the Act. Requires the Secretary to directly consult with as many of the members of the Child Service District Boards of Directors as possible. Requires the Secretary to submit annually to the Congress a report on the administration of the Act.

SECTION 21: REPEAL, CONSOLIDATION AND TRANSFERS

Consolidates major early childhood, day care, child service, and preschool programs authorized by existing laws to form a single coordinated comprehensive child care and development program in the Department of Health, Education and Welfare.

SECTION 22: DEFINITIONS

Defines the terms used in the Act to insure accurate interpretation of its intent.

SECTION 23: AUTHORIZATION OF APPROPRIATIONS

Fiscal year 1972, $2 billion.
Fiscal year 1973, $4 billion.
Fiscal year 1974, $6 billion.

S. 530

A bill to provide for child care programs and services including developmental preschool programs to families with children who may need such services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Universal Child Care and Child Development Act of 1971."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the provision of adequate child care, including developmental programs for infants, children of preschool age and children up to 14 years of age in need of such care, is of the highest national priority;

(2) adequate family support for the care, protection and enhancement of the developmental potential of children do not now exist;

(3) the mobility of our society has tended to separate family units from traditional family support thereby affecting the quality of life, including the proper care and nurture of the young;

(4) the present opportunities for bilingual and bicultural enhancement of our citizenship are limited, thereby limiting the potential for full participation in our culturally diverse society;

(5) appropriate child care services and resources are not now available to provide needed family support;

(6) such services and resources are necessary in a modern society to ensure adequate care and development of the children of this Nation, the opportunity for parents to participate as productive members of society and the opportunity for parents to achieve their own potential as humans.

(b) It is the purpose of this Act to provide financial assistance in order to fulfill the responsibility of the Federal Government to contribute to attaining an optimum level of adequate care, development and other services for young children, to help to assure the stability of the family unit, and to offer an increased opportunity for parents to participate in society at their maximum level of ability.

PROGRAM AUTHORIZED

SEC. 3. The Secretary is authorized to make grants in accordance with the provisions of this Act, to public agencies created pursuant to this Act for the furnishing of child care services.

ALLOTMENT OF FUNDS

SEC. 4. (a) From the total funds appropriated under this Act the Secretary shall reserve the following amounts (for the purposes indicated:)—

(1) ten percentum for the purposes of section 10 relating to resource and development;

(2) not less than three percentum and as much as the Secretary may determine to be allotted for programs in Puerto Rico, Guam, American Samoa, the Virgin Islands and the trust territories of the Pacific Islands according to their respective needs for assistance;

(3) not more than seven percentum for administrative expense, including expenses incurred by the National Advisory Council on Child Care and Child Development, the Migrant & Seasonal Farmworker National Advisory Council on Child Care and the National Advisory Council on Indian Child Care established under this Act;

(4) not less than that proportion of the total amounts available for carrying out this Act as is equivalent to that proportion which the total number of eligible persons as determined for the U.S. on the basis of the most satisfactory current data and estimates available to the Secretary, which shall be made available for the purposes of section 12(a);

(5) not less than that proportion of the total amounts available for carrying out this Act as is equivalent to that proportion which the total number of eligible persons from Indian and Alaska native descent bears to the total number of eligible persons as determined for the U.S. on the basis of the most satisfactory current data and estimates available to the Secretary, which shall be made available for purposes of section 12(b).

(b) From the remainder of the sums appropriated pursuant to section 20, the Secretary—

(1) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged three to five, inclusive, in such State bears to the number of such children in all States, and

(2) shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children under 14 years of age in such State bears to the number of such children in all States.

For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required, for the period such allotment is available, for carrying out the purposes of this Act shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this Act, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

USES OF FEDERAL FUNDS

SEC. 5. Grants under this Act may be used in accordance with applications approved under section 6, for—

(1) planning for and furnishing child care services, including—

(A) infant care;

(B) comprehensive preschool programs including part day and day care programs;

(C) general child care services for children who have not attained 14 years of age during evening and night time hours;

(D) day care programs before and after school for school age children in need of

such care who have not attained 15 years of age;

(E) emergency care for young children who have not attained 15 years of age;

(F) day care and night care programs to aid working parents; and

(G) combinations of such programs;

(2) planning for and taking other steps to the development of early childhood development and child care services programs including planning grants to pilot programs designed to test the effectiveness of plans so developed;

(3) the establishment, maintenance, and operation of programs described in paragraph (1) of this section, including the acquisition, construction, lease or rental of necessary facilities, including child service centers, and acquisition of necessary equipment and supplies designed to provide adequate developmental and child care services, technical assistance necessary to develop expertise in such programs, including activities and services such as—

(A) comprehensive health services for children needing such assistance in order to profit fully from their developmental opportunities;

(B) food and nutritional services for children in pre-school, emergency, day-care, night care and before and after school care programs, as needed to ensure their physical and emotional well-being;

(C) specialized social services designed to secure needed family child care support, improve the home environment and involve the parent in the child's development;

(D) a program of daily activities, as appropriate, designed to develop fully each child's potential;

(E) other specially designed health, social and educational programs for children (including summer, weekend, and vacation programs) which contribute to carrying out the purposes of this Act;

(F) specialized training programs for development of professional and non professional personnel, including short term training and workshops; and

(G) programs for parents, guardians, and others, including adolescent youths, in child development and nurturing concepts. Which programs shall emphasize the nutritional, educational, and psychological well-being of parent and child; and

(4) planning, establishment and maintenance of bilingual and bicultural child care and child development services including acquisition of necessary teaching materials and equipment designed to enhance and develop the bilingual capabilities of children and develop cultural awareness and pride in their ancestry.

APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

SEC. 6. (a) A grant under this Act may be made to a public agency known as a Child Service District created and operated in accordance with section 7 of this Act, upon application to the Secretary at such time or times, in such manner and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this Act is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes set forth in Section 5 and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in section 5, and in no case supplant such funds;

(4) provide assurances that the requirements of sections 14 and 15 will be met;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this Act;

(6) provide that the applicant will make to the Secretary—

(A) periodic reports evaluating the effectiveness of programs funded under this Act in carrying out the purposes of this Act, and

(B) such other reports as may be reasonably necessary to enable the Secretary to perform his functions under this Act, including assurances that such applicant will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) Applications for grants under this Act may be approved by the Secretary only if—

(1) the application meets the requirements set forth in subsection (a);

(2) the program set forth in the application is consistent with criteria established by the Secretary for the purpose of achieving an equitable distribution of assistance under this Act within each State.

(3) the program set forth in the application is consistent with criteria and standards established by the Secretary for the purpose of achieving programs of a quality level consistent with the purposes of this Act.

(c) Amendments of applications shall, except as the Secretary may otherwise by regulation provide, be subject to approval in the same manner as original applications.

CHILD SERVICE DISTRICTS

SEC. 7. (a)(1) A Board of Directors shall serve Child Service Districts. Said Districts will be formed on the basis of a State plan for such Districts prepared by the Governor of each State and submitted to the Secretary for review and concurrence no later than six months from the effective date of this Act. Such plan shall provide for administrative coordination by the state of those State agencies responsible for services which further the purposes of this act. Such State plan shall result from a proposed set of District geographic boundaries prepared jointly by the Governor and appropriate local officials in each Standard Metropolitan Statistical Area within such State, and District geographic boundaries prepared by appropriate State officials for all other areas in the State;

(2) State plans shall provide for elections to be held for the establishment of a Board of Directors for each District so formed. Candidates for election to such Board for each District shall be limited to the eligible voters in each District as defined in this Act.

(3) For the purposes of this Act, eligible voters shall be any parents having one or more children who have not attained 15 years of age, who reside with their children, within the geographic area of the District established pursuant to this Act.

(4) Sums required to be expended for elections required by this section shall be paid from the appropriate State allotment under section 4(b).

(5) The Child Service District shall be governed by a Board of Directors of not less than nine nor more than fifteen members. The Board of Directors shall have responsibility for the planning and establishment of programs consistent with the needs of children and parents to be served. The Board of Directors shall have authority to operate programs and provide services assisted under this Act or contract for operation of such programs or services with public and private agencies (including agencies for profit) competent to provide such programs and services. The Board of Directors may employ such administrative and program staff as are necessary. Board members shall serve for a period not to exceed three years.

(6) In all municipalities having a population of more than 100,000 persons, one or more Child Service Advisory Councils may be established to serve as advisory bodies to the Districts formed pursuant to this Act. The Child Service Advisory Council shall be appointed by the chief executive of such municipality or other appropriate public official and shall consist of representatives of public and private agencies with established interest and expertise in the area of child care and development services. The Advisory Council will function as a consultative body to the Districts situated in such municipality.

(7) Nothing in this Act shall prohibit the Secretary to directly, or by contract with units of State government, provide such technical assistance and guidance to Child Service Center Districts if he deems necessary.

(8) For those areas of each State not included in Standard Metropolitan Statistical Areas, State Child Service Advisory Councils shall be formed to perform the functions set forth in subsection (5) above.

(9) The Secretary is authorized to develop and implement state plans to carry out the purposes of this Act in states that have not compiled with section 7(a)(1) of this Act.

(b) There is hereby authorized to be appropriated such sums as may be necessary to conduct the elections and costs incident to preparation of the initial proposals required by this Section.

FEDERAL STANDARDS FOR CHILD CARE SERVICES

SEC. 8. The Secretary shall promulgate program standards which shall be applicable to all child care services programs utilizing funds authorized under this Act. These Standards shall be known as the "Federal Standards for Child Care Services," and shall be designed to guarantee that services provided by funds authorized under this Act shall be of a comprehensive, developmental nature. For purposes of this Act, these Standards established under this section shall include requirements for:

(1) adequate child-staff ratios for each kind of service to ensure that developmental needs of each child are met;

(2) adequate qualifications for all staff members to ensure that the purposes of the Act, (as stated elsewhere), are carried out;

(3) provision of such services, including health, nutritional and other services, as are required to guarantee that the developmental needs of each child are met;

(4) maximum physical health and safety precautions in design, use and care of facilities used under this Act;

(5) fire safety standards which are no less than the standards prescribed in the life safety code of the National Fire Protection Association. For the purpose of maintaining such standards, and to assist States and other jurisdictions in complying with such standards, there is hereby authorized to be appropriated, in addition to such funds provided elsewhere for administrative purposes, such additional sums for staff and other costs as may be necessary for these purposes.

Federal Standards shall not pre-empt higher State or local standards without there having been provision made for a prior public hearing to show cause why such State or local standards should be pre-empted.

LOANS AUTHORIZED

SEC. 9. (a) The Secretary is authorized to make loans in accordance with the provisions of this section to the Board of Directors of any Child Service District for the construction or remodeling of facilities appropriate for use as Child Service Centers and other facilities determined to be necessary by the

Secretary to provide the services assisted under this Act.

(b) No loan pursuant to the Secretary may be made unless the Secretary finds:

(1) that the applicant is unable to secure the amount of such loan from other sources upon the terms and conditions equally as favorable as the terms and conditions applicable to loans under this title;

(2) that the construction or remodeling will be undertaken in an economical manner and it will not be in an elaborate or extravagant design; and

(3) such other terms and conditions as the Secretary determines will assist in carrying out the purposes of this Act and will protect the interests of the United States.

(c) In the administration of this section, the Secretary is authorized to postpone payment of the principal and to authorize forgiveness of up to 50% of the loan in cases in which it is determined by the Secretary that the District which is in financial hardship, or would be unable to repay the full amount.

(d) There are authorized to be appropriated $600,000,000 for the purpose of carrying out this section; $300,000,000 for the fiscal year ending June 30, 1972, $200,000,000 for the fiscal year ending June 30, 1973, $100,000,000 for the fiscal year ending June 30, 1974.

RESEARCH, DEMONSTRATION AND TRAINING PROJECTS AND TECHNICAL ASSISTANCE

SEC. 10. (a) The Secretary is authorized to provide either directly or by way of contract, grant, or otherwise, for—

(1) research to improve child care and child development programs;

(2) experimental, developmental, and pilot projects designed to test the effectiveness of research findings in the field of child care and child development;

(3) demonstration, evaluation, and dissemination projects in the field of child care and child development;

(4) training programs to familiarize persons involved in child care and child development programs with research findings and successful pilot and demonstration projects in child care and child development programs; and

(5) projects for the development of new careers and occupations in the field of child care and child development, with priority for employment and training directed towards those individuals who meet the poverty guidelines as established by the Office of Economic Opportunity in accordance with the provisions of the Economic Opportunity Act of 1964.

(b) In order to carry out the provisions of this Act the Secretary is authorized to provide either directly or by way of grant, contract, or otherwise such technical assistance as he deems necessary to Child Service District Boards of Directors.

NATIONAL ADVISORY COUNCIL ON CHILD CARE AND CHILD DEVELOPMENT

SEC. 11. (a) The Secretary shall appoint a National Advisory Council on Child Care and Child Development (referred to in this part as the "Council") which shall consist of—

(1) four parents who are Board members of Child Service Districts;

(2) one governor of a State;

(3) a mayor of a city in excess of 100,000 population;

(4) two individuals from private life with demonstrated experience in bilingual and bicultural education of children;

(5) two from private life who are education professionals in the fields of childcare and child development; and

(6) two from private life who are health professionals in the field of child health and nutrition.

(b) The Secretary is authorized to supply to the Council such technical and support personnel as he deems necessary.

(c) The Council shall study, investigate, conduct research, and prepare a report containing its findings and recommendations concerning matters relating to the purposes of the Act, and shall transmit such report to the Secretary, the President and to the Congress no later than October 1 of each year.

PROGRAMS FOR INDIANS, MIGRANTS AND SEASONAL FARMWORKERS

SEC. 12. (a) (1) Migrant and Seasonal Farmworkers Child Care Programs: Authorization—

(A) funds available for this part shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

(B) in determining the distribution of funds under this part, the Secretary shall give the highest priority to States and areas within States having the greatest need for programs authorized by this part.

(2) Applications for grants and conditions for approval—

(A) grants under this section will be made to public agencies known as Migrant Child Service Agencies, created and operated in accordance with Section 603 of this Section, upon application to the Secretary at such time or times in such manner and containing or accompanied by such information as the Secretary deems necessary. Such application shall:

(i) provide that the programs and projects for which assistance under this part is sought will be administered by, or under the supervision of, the applicant and set forth assurances that the applicant is qualified to administer or supervise such programs or projects;

(ii) set forth a program for carrying out the purposes of this part and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(iii) provide for such fiscal control and fund-accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the applicant under this part;

(iv) provide assurances that provision has been made for the maximum participation in the projects for which the application is made of persons representative of the population to be served; and

(v) provide for making an annual report and such other reports as the Secretary may reasonably require and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and vertification of such reports.

(B) The Secretary is authorized to make grants in accordance with the provisions of this Act, to public agencies created pursuant to Section 12(a)(3) of this Act, for the furnishing of Child Care Services.

(3) Migrant child service agencies—

(A) Migrant Child Service Agencies will be organized in communities where migrant families reside or will reside during the course of their employment using maximum feasible participation of migrants in the planning, directing and implementation of the program.

(B) The Secretary will publish criteria that will be used to determine the locations of Migrant Child Service Agencies throughout the migrant stream and establish rules and regulations to insure that no financial assistance is provided under this part unless the Secretary determines, upon the basis of evidence supplied by each applicant and evaluated and approved by the Migrant and Seasonal Farmworker National Advisory Council on Child Care, established by Section 12(a)(4) that persons broadly representative of the population to be served here have been given an opportunity to participate in the implementation of such programs.

(4) Migrant and Seasonal Farmworker National Advisory Council on Child Care: The Secretary shall appoint a Migrant and Seasonal Farmworker National Advisory Council on Child Care (referred to in this part as the "Migrant Council") which shall consist of—

(A) six individuals broadly representative of the population to be served by this part;

(B) two health professionals from private life who are specialists in the field of child health and nutrition;

(C) two individuals from private life who are professionals in the field of child development and child care and who have a demonstrated interest in and knowledge of the child care problems of migrant and seasonal farmworkers; and

(D) two individuals from private life who have a demonstrated interest in and knowledge of the problems relating to child care among migrant and seasonal farmworker families and who have been actively involved in activities leading to solutions of such problems.

The Migrant Council shall study, investigate, conduct research and prepare a report containing its findings and recommendations concerning matters relating to the purposes of this part and shall transmit such report to the Congress, the President and the Secretary no later than October 1 of each year.

The members of the Migrant Council shall designate their own chairman, vice chairman and secretary. Such council will hold not less than two meetings during each calendar year. The three officers will form the executive committee and be empowered to act for the Migrant Council between meetings.

The appointed members of the Council shall be paid compensation at a rate not to exceed the daily rate prescribed for GS–18 under Section 5332 of Title 5, United States Code, while engaged in the work of the Council, including travel time and shall be allowed travel expenses and per diem in view of subsistence as authorized by law (5 USC 5703) for persons in the Government service, employed intermittently.

The Secretary shall provide the Migrant Council with such staff and services as may be necessary for the Migrant Council to carry out its functions.

(5) Qualified personnel: The Secretary is directed to designate full time personnel with the ability to communicate with the target population and who are experienced in the child care problems of migrant and seasonal farmworkers to have responsibility for program leadership, development, coordination and information and to give special attention to the child care problems of migratory and seasonal agricultural workers and the programs related to child care among migratory and seasonal agricultural workers.

(b) (1) American Indian Childcare Programs—Authorization: Funds available for this part shall be expended for programs and activities consistent with the purpose of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

In determining the distribution of funds under this part, the Secretary shall give the highest priority to States and areas within States having the greatest need for programs authorized by this part.

(2) Applications for grants and conditions for approval—(A) Grants under this Section will be made to public agencies known as Indian Child Service Agencies created and operated in accordance to Section ( ) of this Section, upon application to the Secretary at such time or times in such manner and containing or accompanied

by such information as the Secretary deems necessary. Such applications shall:

(i) provide that the programs and projects for which assistance under this part is sought will be administered by, or under supervision of, the applicant and set forth assurances that the applicant is qualified to administer or supervise such programs or projects;

(ii) set forth a program for carrying out the purposes of this part and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(iii) provide for such fiscal control and fund-accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the applicant under this part;

(iv) provide assurances that provision has been made for the maximum participation in the projects for which the application is made, of persons who are members of federally recognized tribes, bands, and individuals and other groups and individuals of Native American descent; and

(v) provide for making an annual report and other such reports as the Secretary may reasonably require and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(B) The Secretary is authorized to make grants in accordance with the provisions of this Act to public service agencies created pursuant to section 12(b)(3) of this Act, for the furnishing of child care services.

(3) Indian child service agencies: Indian Child Service Agencies will be organized in areas throughout the country that are accessible to communities, groups, tribes, bands and groups of individuals of native American descent.

No financial assistance shall be provided under this part unless the Secretary determines upon the basis supplied by each applicant and evaluated and approved by the National Advisory Council on Indian Child Care established in Section 12(b)(4) of this part, that persons broadly representative of the population to be served have been given an opportunity to participate in the development of programs to be assisted under this part and will be given an opportunity to participate in the implementation of such programs.

(4) National Advisory Council on Indian Child Care: The Secretary shall appoint a National Advisory Council on Indian Child Care (referred to in this part as the "Indian Council") which shall consist of:

(i) six individuals from private life, broadly representative of the population to be served by this part.

(ii) two health professionals from private life who are specialists in the field of child health and nutrition.

(iii) two individuals from private life who are professionals in the field of child development and child care and who have a demonstrated interest in and knowledge of child care problems of native American Indians.

(iv) two individuals from private life who have a demonstrated interest in and knowledge of the problems relating to child care among native Americans and who have been actively involved in activities leading toward solution of such problems.

The Indian Council shall study, investigate, conduct research and prepare a report containing its findings and recommendations concerning matters relating to the purposes of this part and shall transmit such report to the Congress, the President and the Secretary no later than October 1 of each year.

The Indian Council shall review proposals from the Indian Child Service Agencies and advise the Secretary as to its feasibility, adequacy and participation by native Americans.

The members of the Indian Council shall designate their own chairman, vice chairman and secretary who will comprise the executive committee and be empowered to act for the Indian Council between meetings. Such Council shall hold not less than two meetings during each calendar year.

The appointed members of the Indian Council shall be paid compensation at a rate not to exceed the daily rate prescribed for GS 18 under Section 5332 of Title 5, United States Code, while engaged in the work of the Indian Council, including travel time and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 USC 5703) for persons in the Government service employed intermittently.

(5) Qualified personnel: The Secretary shall provide the Indian Council with such staff and services as may be necessary for the Indian Council to carry out its functions.

The Secretary is directed to designate full time personnel with the ability to communicate with the target population and who are experienced in the child care problems of Indians and Alaska Natives to have responsibility for program leadership, development, coordination and information and to give special attention to the child care problems, of native Americans and the programs related to child care among native Americans.

(6) Trust responsibilities: No provisions of this Act shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

PAYMENTS

SEC. 13. (a) From the amounts allotted to each State under Section 4 of this Act the Secretary shall pay to each applicant in such State having an application approved by him under Section 6 an amount equal to the total sums to be expended by the applicant under the application or such lesser amount as the Secretary determines on the basis of objective criteria, relating to fees charged to the parents of children to be served, if any, and other similar relevant factors, prescribed by him that the applicant can afford. For the purpose of this section non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

WITHHOLDING OF GRANTS

SEC. 14. Whenever the Secretary, after reasonable notice and opportunity for hearing to any grantee, finds—

(1) that there has been a failure to comply substantially with any requirement set forth in the application of that grantee approved under Section 6; or

(2) that in the operation of any program or project assisted under this Act there is a failure to comply substantially with any applicable provision of this Act; the Secretary shall notify such grantee of his findings and that no further payments may be made to such grantee under this Act until he is satisfied that there is no longer any such failure to comply, or the non-compliance will be promptly corrected.

RECOVERY OF PAYMENTS

SEC. 15. If within twenty-five years after completion of any construction for which Federal funds have been paid under this Act—

(1) the owner of the facility shall cease to be a State or local public agency, or

(2) the facility shall cease to be used for the child service purposes for which it was constructed, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

REVIEW AND AUDIT

SEC. 16. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received.

LABOR STANDARDS

SEC. 17. All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 27a–276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 USC 276c).

EMPLOYMENT OPPORTUNITIES FOR LOWER INCOME PERSONS

SEC. 18. After consultation with the Secretary of Labor, the Secretary shall make whatever arrangements he deems necessary to assure that opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project.

ADMINISTRATION

SEC. 19. (a) There is hereby established in the Department of Health, Education, and Welfare, an office to be known as the Office of Child Development. The Secretary shall administer the provisions of this Act through the Office.

(b) The office shall be administered by a Director who shall report directly to the Secretary.

(c) Section 53 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"( ) Director of the Office of Child Development, Department of Health, Education, and Welfare."

(d) In order to carry out the provisions of this Act, the Secretary is authorized to make, amend, alter and repeal such rules and regulations as he deems reasonably necessary.

EVALUATION AND REPORTS

SEC. 20. (a) The Secretary shall, either directly or by way of a grant or contract, provide for a complete review of programs assisted under this Act. In carrying out the provisions of this section, the Secretary shall consider evaluation reports obtained pursuant to Sec. 6(a) and where feasible directly consult with as many of the members of the Child Service District Board of Directors as possible.

(b) The Secretary shall prepare and submit annually to the Congress a report on the administration of this Act.

REPEAL, CONSOLIDATION AND TRANSFERS

SEC. 21. (a) The purpose of this section is to consolidate early childhood, day care, child service, and preschool programs authorized by the existing laws referred to in subsections (b) through (h), so as to form a single

coordinated Comprehensive Child Care and Development Program in the Department of Health, Education, and Welfare.

(b) To effectuate such consolidation the Director of the Office of Management and Budget under the direction and supervision of the President shall transfer to the Department the following programs:

1. Section 222(a)(1) of the Economic Opportunity Act of 1964.

2. Part B of Title V of the Economic Opportunity Act of 1964.

(c) Section 162(b) of the Economic Opportunity Act of 1964 is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing day care services for children, but not operation of day care programs for children."

(d) Section 123(a)(6) of the Economic Opportunity Act of 1964 is amended by striking out "day care for children and inserting in lieu thereof "assistance in securing day care services for children" and adding after the word "employment" the phrase ", but not including the direct operation of day care programs for children".

(e) Section 101 of the Elementary and Secondary Education Act of 1965 is amended by striking out "(including preschool programs)" and by inserting "aged five to seventeen" before the end of the sentence.

(f) Section 105(a)(1)(A) of the Elementary and Secondary Education Act of 1965 is amended by insertiing "aged five or older" after the phrase "which are designed to meet the special educational needs of educationally deprived children".

(g) Section 312(b)(1) of the Economic Opportunity Act of 1964 is amended by striking out "day care for children".

(h) Effective July 1, 1971, neither the child care services furnished under a State plan approved under part A of title IV of the Social Security Act nor the child welfare services furnished under a State plan developed as provided in part B of such title shall include day care services or any other organized child development program within the meaning of this Act, and section 422(a)(1)(C) of such Act shall not apply. The Secretary shall prescribe such regulations and make such arrangements as may be necessary or appropriate to ensure that suitable child development programs under this Act are available for children receiving aid or services under State plans approved under part A of title IV of the Social Security Act and State plans developed as provided in part B of such title to the extent that such programs are required for the administration of such plans and the achievement of their objectives, and that there is effective coordination between the child development programs under this Act and the programs of aid and services under such title IV.

(c)(1) Subject to the provisions of this subsection, the Director of the Office of Management and Budget, under the direction and supervision of the President for a period of 3 years after the date of enactment of this Act may transfer to the Department any other function (including powers, duties, activities, facilities, and parts of functions) of any other department or agency of the United States, or of any officer or organizational entity thereof, which relates primarily to the functions of the Secretary under the provisions of this Act and which he determines can more adequately carry out the purposes of this Act by being so transferred. In connection with any such transfer, the President may, under this section or other applicable authority, provide for appropriate transfers of records, property, civilian personnel, and funds.

(2) Whenever any such transfer is made before January 1, 1975, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a full and complete report concerning the nature and effect of such transfer.

(3) After January 1, 1975 no transfer shall be made under this section until (1) a full and complete report concerning the nature and effect of such proposed transfer has been transmitted by the President to the Congress, and (2) the first period of sixty calendar days of regular session of the Congress following the date of receipt of such report by the Congress has expired without the adoption by the Congress of a concurrent resolution stating that the Congress does not favor such transfer.

DEFINITIONS

SEC. 22. As used in this Act—

(1) "Child Service Center" means a center for child care, child development programs, of office, established within a Child Service District as the facility for parents and children in need of programs and services;

(2) "Child Service District" means an area approved by the Secretary pursuant to section 7 to be an attendance area for not less than 3 public elementary schools or not more than the sum of the attendance areas of 27 public elementary schools, which areas are contiguous; except in cases where the Chief Executive of the State and the Secretary jointly determine that an area not consistent with the criteria of this paragraph is best suited to the applicant and will meet the purposes of this act.

(3) "Comprehensive pre-school, part day, and day care programs" means a developmental program for children aged 3 to 5 inclusive, that provides for an educational component, health, nutritional services, psychological services, parental involvement, and social services for the enhancement of the family unit in a part day program of not less than twenty hours per week or a full day program for children of parents who are working or in training for employment;

(4) "Infant care" means are provided to infants from birth to three years of age to ensure their physical and emotional well-being in group or individual placement for a portion of a twenty-four hour day and includes any such service provided by an agency by individuals in groups or as a family;

(5) "day care programs before and after school for school aged children in need of such care" means the provision of care to ensure the physical and emotional well-being of children of parents who are working or in training for employment and who are in need of such care as determined by the Secretary;

(6) "day care and night care programs" means any such program designed to aid parents working during daylight hours or the provision of care in group or individual settings during the evening, night or early morning hours that provides an environment that ensures the physical and emotional well-being of children whose parents work during such hours;

(7) "emergency care" means care to ensure the physical and emotional well-being of children from birth to 14 years of age who need such care during any part of the twenty-four hour day because of a family emergency that incapacitates or otherwise removes the parent from the child;

(8) "Department" means the Department of Health, Education, and Welfare;

(9) "Office" means the Office of Child Development established pursuant to section 16 of this Act;

(10) "parents who work or are in training" means those single parent families who must be apart from their children to secure the training for employment or the actual employment to be self-sufficient and self-supporting, and for those parents who are both employed or in training during the same time of the day or night;

(11) "parents" as used in this act includes any natural or adoptive parent, foster parent or legal guardian with whom the child resides, but any temporary absence of the child from the home not exceeding 6 months shall not affect the eligibility of otherwise eligible parents;

(12) "agency for profit" is limited to corporate enterprises organized by area residents as a community project for the purposes of this Act;

(13) "Secretary" means the Secretary of Health, Education, and Welfare;

(14) "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands;

AUTHORIZATION OF APPROPRIATIONS

SEC. 23. There are authorized to be appropriated for the purposes of carrying out the provisions of this Act, $2,000,000,000 for the fiscal year ending June 30, 1972, $4,000,000,000 for the fiscal year ending June 30, 1973, and $6,000,000,000 for the fiscal year ending June 30, 1974.

S. 531—INTRODUCTION OF A BILL TO AMEND SECTION 214 OF TITLE 22, UNITED STATES CODE

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend section 214 of title 22, United States Code, to permit the Secretary of State to pay to the U.S. Postal Service the execution fee of $2 for each passport application executed before postal officials.

The bill has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary dated January 25, 1971, to the Vice President.

The PRESIDING OFFICER (Mr. BENTSEN). The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 531) to authorize the United States Postal Service to receive the fee of $2 for execution of an application for a passport, introduced by Mr. FULBRIGHT (by request), was received, read twice by its title, referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

S. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso clause in Section 1 of the Act of June 4, 1920, as amended (22 USC 214) is hereby further amended by striking out the period after "$2" and inserting in lieu thereof "or to transfer to the Postal Service the execution fee of $2 for each application accepted by that Service."

SEC. 2. The amendment made by this Act shall become effective on the date of enactment and shall continue in effect until June 30, 1973.

The letter submitted by Mr. FULBRIGHT is as follows:

DEPARTMENT OF STATE,
Washington, D.C., January 25, 1971.

Hon. SPIRO T. AGNEW,
President of the U.S. Senate.

DEAR MR. PRESIDENT: Enclosed is a draft bill to amend section 214 of Title 22, United States Code, to permit the Secretary of State to pay to the U.S. Postal Service the execution fee of $2 for each passport application executed before postal officials.

The constant increase in the number of American citizens seeking passports for travel abroad has seriously overburdened the existing facilities of the Department's passport agencies and of the Federal and state courts that accept passport applications. The Secretary of State's Committee to Facilitate Travel recommended, in June 1970, that, with a view to providing more convenient facilities and a greater number of such facilities for the travelling public, a pilot project be instituted whereby selected Post Offices in Houston, Texas; Detroit, Michigan; and in eight cities in Connecticut would accept passport applications, as the clerks of many Federal and state courts now do under existing arrangements. The purpose of the pilot project was to determine the feasibility of utilizing Post Office facilities nationwide for the acceptance of passport applications.

Pursuant to an agreement between the Post Office Department and the Department of State, the Department of State agreed to reimburse the Post Office Department in the amount of $2 for each application accepted at Post Office facilities during the test period.

The Department of State and the Post Office Department have evaluated the results of the test project to date. Both Departments agree that expansion of the system nationwide is both feasible and desirable.

Present plans call for expansion of the acceptance of passport applications by Post Offices commencing in late February 1971 in a number of additional cities to meet the high-volume period of passport applications beginning in March with expansion thereafter to other cities on a phased basis. At present, the sum of $2 per application appears to be reasonable reimbursement for the service performed by Post Office employees. We are unable, however, to make any meaningful forecast of the number of passport applications that will be made at Post Office facilities. We cannot, therefore, determine in advance the amount of appropriations that should be sought by the Department of State to reimburse the Post Office Department for performance of this function. If, however, the Department of State were authorized to transfer to the Postal Service the $2 execution fee collected for each application executed at Post Office facilities, reimbursement could be effected in a timely and efficient manner. The attached draft bill would permit such a transfer. Under present law the Secretary of State may authorize officials of States accepting passport applications to retain the $2 execution fee. It is contemplated that the transfer to the Postal Service will be accomplished by periodic adjustments of receipts on the books of the Treasury, rather than by dividing the receipts at the time of collection.

Section 2 of the bill limits the authorization to a period from enactment to June 30, 1973. By June 30, 1973 the scope of Postal Service participation in the passport application process should be clearly established and it should be possible to evaluate this new arrangement and to make informal determinations on such matters as the best method to effect reimbursement as well as the proper amount of such reimbursement.

Inasmuch as the draft bill is an essential element in providing more efficient and convenient passport services to the American public, the Post Office Department and the Department of State hope that this proposed legislation may be given early and favorable consideration.

The proposed bill is identical to that submitted to you by my letter of December 11, 1970.

The Office of Management and Budget advises from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

S. 535—INTRODUCTION OF A BILL TO PROTECT THE AU SABLE AND MANISTEE RIVER SYSTEMS, MICHIGAN

Mr. HART. Mr. President, today I am reintroducing a bill to help protect the Au Sable and Manistee River systems in Michigan. The purpose of the bill, which was S. 4570 in the 91st Congress, is to add portions of these two wonderfully wild, increasingly endangered rivers and their tributaries to the list of 27 streams which Congress scheduled for study as potential additions to the wild and scenic rivers system.

Designation of appropriate stretches of these streams and the wild, beautiful settings through which they flow for special preservation is, in my view, absolutely essential. The purpose of this bill is to direct that a study be made, and to assure stronger protection against adverse development during the study period.

Last fall, the State of Michigan enacted its own wild rivers protection law, carefully written to coordinate well with the features of the national law. The bill I introduce today does not conflict with State plans. The study it orders will be a cooperative one, involving State, local, and citizen interests, as well as the Bureau of Outdoor Recreation and the U.S. Forest Service, which administers large national forests near these two rivers. The bill I am introducing has the support of Michigan's Department of Natural Resources.

Much of the immediate flowage lands along these streams has been owned for many years by the Consumers Power Co. of Jackson, Mich. The company, by holding these lands intact, has given us the opportunity we now have. Many of Michigan's conservation-minded citizens are increasingly concerned that absent prompt action these magnificently wild rivers will be overtaken by private development.

The threats are closing in, make no mistake. Oil wells are being drilled—as close as 500 feet to the Au Sable's north branch. Leases have been let and large parcels have been sold off for private development. Action on this bill is needed soon.

We who know and treasure these streams, draw resolve from our image of the inestimable value that wild rivers, in all their uses, will have for the future. We recall that William Mershon said in "Recollections of My Fifty Years Hunting and Fishing" about the Au Sable and the Manistee:

> The splendid trout streams of the upper part of our state also need timely help, or they, too, are doomed.

He wrote that—a plea for timely help—in 1870.

Then, too, there are these words of Henry Stephan, a pioneer whose memories were recalled in "The Old Au Sable" by Hazen Miller:

> I have no great desire to catch a lot of trout now, being satisfied if I get a few to eat and being out fishing, enjoying wildlife and the peacefulness of it all. When the time comes for me . . . I would like to have a resting place on the bank of the beautiful, beloved Au Sable.

Now, as a Michigan weekly newspaper, the North Woods Call, points out, the threats are closing in. The Call asks:

> Are we willing to continue our retreat? Can we rebury Henry Stephan along another stream?

That, I strongly believe, places the question in its most eloquent, forceful, and relevant form. I ask unanimous consent to include at this point in the RECORD the North Woods Call editorial and the full text of the Au Sable-Manistee bill.

The PRESIDING OFFICER (Mr. BENTSEN). The bill will be received and appropriately referred; and, without objection, the bill and editorial will be printed in the RECORD.

The bill, S. 535, a bill to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the National Wild and Scenic Rivers System, introduced by Mr. HART was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276) is amended by adding at the end thereof the following:

"(28) Au Sable, Michigan: the segment downstream from Foot Dam to Oscoda; upstream from Loud Reservoir to the river's source and including its principal tributaries and excluding Mio and Bamfield Reservoirs.

"(29) Manistee, Michigan: the segment upstream from Manistee Lake to the river's source and including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs."

The editorial submitted by Mr. HART, is as follows:

AN OIL WELL AND THE AUSABLE

A DNR geologist has promised that the producing oil well only 900 feet from the North Branch of the AuSable River in Otsego County, cannot possibly pose a threat to the flies-only waters beside which it pumps its black gold. (We assume geologists gave equally emphatic assurance that those oil wells off California and Texas would never become an environmental threat.)

Thanks to Wynn Case, Saginaw trout fisherman, the Call's editor has reference to William B. Mershon's "Recollections of my Fifty Years Hunting and Fishing." Mr. Mershon personally recalls the grayling fishing in the North Branch of the AuSable in the 1870's and pleads, "The splendid trout streams of the upper part of our state also need timely help, or they, too, are doomed."

That was in the 1870's. One hundred years ago.

Mr. Mershon saw the grayling disappear from the North Branch of the AuSable. Eighty years later the Call's editor could not resist the promise of grayling in Alaskan streams. Grayling! The AuSable! They are a part of a Michigan lover's blood.

Many years after Mershon saw this beautiful river, Hazen Miller, in his memorable "The Old AuSable," quotes aging pioneer Henry Stephan: "I have no great desire to catch a lot of trout now, being satisfied if I get a few to eat and being out fishing, enjoying wildlife and the peacefulness of it all.

"When the time comes for me to join (old comrades) Shop and Rube in the 'Happy Hunting Ground', I would like to have a resting place on the bank of the beautiful, beloved AuSable."

Aye, cobber, the "beautiful, beloved AuSable."

It is still beautiful. It is still beloved, by many of us.

But who can think of the silver glory of a sparkling grayling's dorsal fin under the shadow of an oil well? Who can dream of William Mershon and mighty men like the Stephan when their thoughts are interrupted by the god-awful ugly thump of an oil well's pump?

There is still the Jordan. The Two-Hearted. The AuTrain. The Whitefish. And many others. But are we willing to continue our retreat? Can we re-bury Henry Stephan along another stream?

They have drilled an oil well barely a football field's length from the AuSable.

"The Old AuSable," is indeed too old for us to appreciate if that oil well doesn't kindle a fire in our guts.

We make our mistakes, as William Mershon and Henry Stephan did. But will we allow more mistakes like the oil well only 900 feet from "their" and "our" stream?

S. 544—INTRODUCTION OF THE SMALL BUSINESS TAXATION OF 1971

Mr. BENNETT. Mr. President, I am today introducing the Small Business Taxation Act of 1971, incorporating the administration's proposals to ease the tax burdens presently borne by small business. This legislation is identical to proposals made to but not acted on by, the 91st Congress.

The health of small business is critical to the health of the Nation's economy. There are some 5½ million independent businesses in the United States today, of which approximately 95 percent are classified as small businesses by the Small Business Administration. Some 77 percent of our Natior's firms employ fewer than 100 full-time workers, and the small business sector accounts for more than 40 percent of U.S. employment and 37 percent of the gross national product.

Small business provides the diversity, the chance to make good on your own, that epitomizes the American dream. Many of us in this Chamber have been small businessmen—certainly I have—or have been reared in families dependent on small businesses. Directly, or indirectly, the problems of small business are the problems of every American.

The Federal income tax laws have an important effect on the success or failure of small businesses, particularly in the case of the new enterprise. Some of these problems have already been recognized in the tax laws, through the provisions in subchapter S to permit certain qualified corporations to be taxed as partnerships; in section 1244, allowing ordinary loss treatment on investments in small business, and the allowance of a $25,000 surtax exemption.

The legislation which I am introducing today for the Nixon administration is directed toward problems which are particularly acute to small business; that is, securing adequate capital and attracting management talent. It also provides special incentives further to encourage creation and success of minority enterprise. It is a result of intensive study by business and tax experts in the Department of the Treasury, the Department of Commerce, and the Small Business Administration and reflects a number of recommendations from the President's Task Force on Small Business, chaired by Mr. J. Wilson Newman, of New York. The proposals will not solve all the problems of small business. But for a minimal loss in revenue, they will remove some of the more serious disincentives to the growth of small business. Let me also say at this point, I offer them as a starting point or a focus for action. Later in the legislative life of the bill I may want to alter parts of it and add other provisions as they may be needed.

I now turn to a brief description of the major features:

CAPITAL NEEDS

One of the most serious problems facing small businesses in general, and newly organized businesses in particular, is the difficulty of obtaining and keeping the capital required for further growth.

SMALL BUSINESS LOAN DEDUCTION

In order further to increase the funds available to high-risk small businesses, the legislation I am introducing today provides a deduction equal to 20 percent of gross income derived by corporations from obligations guaranteed by the Small Business Administration. Thus, if a bank makes an SBA guaranteed loan to a small business, yielding interest of $1,000 per year, the bank would be entitled to a deduction of $200. The deduction would not, however, be available to subchapter S corporations and personal holding companies. To insure that no taxpayer is able to take undue advantage of the provisions, the deduction could not reduce taxable income to less than 60 percent of the lender's economic income. For this purpose, "economic income" includes tax-exempt interest and all dividends received by the taxpayer.

This is not a new concept. The Newman Commission recommended that an interest incentive be provided to lenders to help make senior money available for small businesses. And in its recommendations to the Senate Finance Committee on H.R. 13270, the Tax Reform Act of 1970, the Treasury Department recommended a similar 5-percent deduction on interest derived from loans for socially desirable purposes, including small business.

It should be noted that the key criterion for an SBA-guaranteed loan is that the borrower would not qualify for a loan under the bank's normal criteria —thus, the incentive tends to be focused on "high risk" small businesses most in need of help, rather than all businesses which are relatively small in size.

NET OPERATING LOSS CARRYOVERS

Under present law, a net operating loss may be carried forward for 5 consecutive years as a deduction. However, if a new business sustains substantial startup losses in its first few years of operation, a substantial portion of the original losses may not be used up before the 5-year period expires. Thus, the proposed legislation would permit business losses incurred by individuals or qualified small business corporations to be carried forward for 10 years as a deduction against income in subsequent years. A corporation will be considered "small" if, together with its affiliates, it has no more than 250 employees, 250 shareholders, and $1 million in net assets.

The extended net operating loss carryover period will be particularly helpful to new businesses which spend large amounts on research and development during their early years but may not begin to show a profit until 6 or 7 years later. Extending the carryover to 10 years would not provide any advantage to a business, but would simply assure the deductibility of a loss which might otherwise be unused before a company turns the corner.

ATTRACTING KEY MANAGEMENT

For the small business with a modest cash flow, attracting and retaining competent management is a chronic problem. Offering the executive a piece of the action is often the only practical way to resolve the problem.

QUALIFIED STOCK OPTIONS

Thus, in the case of qualified small business corporations, the bill would liberalize the requirements for capital gain treatment of qualified stock options under section 422 of the Internal Revenue Code. The period during which such an option could be exercised would be extended from 5 to 8 years, and the period during which the stock must be held after exercise would be reduced from 3 years to 1 year.

Extending the exercise period from 5 to 8 years is based on the same considerations for extending the operating loss carry-forward period from 5 to 10 years: That it simply takes some businesses more than 5 years to begin to show a profit, and a manager will not commit himself to the purchase of the stock until he is reasonably confident that the company is going to be successful.

Reducing the holding period from 3 years to 1 year is intended to remove an impediment in present law to the effectiveness of stock options. Generally, for a young executive to finance the exercise of an option, he must borrow money from a bank. Over a 3-year period, the carrying charges can be quite substantial, and during this time the executive may have up to 50 percent of his own money tied up in the stock. Moreover, the extended holding period introduces a substantial element of risk. The purpose of a stock option is to provide a direct incentive foi managers to increase the value of a bus-

iness, and since the corporation does not receive a deduction for stock options—as opposed to other forms of compensation—there is a certain built-in limitation on possible abuses.

Since competent management, along with adequate financing, is the single greatest need of small business, liberalizing the requirements for stock options is a particularly appropriate method to aid small business.

SUBCHAPTER S

The legislation I am introducing today would increase the number of permissible shareholders in a subchapter S corporation from 10 to 30. This will substantially increase the number of qualifying businesses; and will be particularly helpful to those businesses that wish to offer stock to their key employees.

MINORITY ENTERPRISE

Our current proposals would also permit shares in a subchapter S corporation to be owned by minority enterprise small business investment companies—MESBIC's. MESBIC's, as you know are small business investment companies who specialize in investments to minority-owned businesses. Permitting them to be subchapter S shareholders is specifically designed to permit the MESBIC to utilize a prorata portion of the subchapter S corporation's early year operating losses. This will encourage more large companies to fund MESBIC's, and will encourage the successful MESBIC to take on riskier ventures which have a long leadtime before showing a profit.

Another provision in the bill would allow a charitable deduction for contributions to nonprofit MESBIC's whose earnings do not inure to the benefit of private shareholders. This would recognize the philanthropic nature of such contributions.

Mr. President, the need for small business tax relief is not a partisan issue. Small businessmen represent all parties, and neither the Democrats nor Republicans have a monopoly on this concern. In fact, one of the leading exponents for relief of small business is my distinguished colleague, the senior Senator from Nevada (Mr. BIBLE) who as chairman of the Select Committee on Small Business introduced legislation in the 91st Congress to alleviate the tax burdens on small business. This indicates the range of bipartisan support for the legislation which I am introducing today, and I hope that it indicates prompt passage by the Congress.

I ask unanimous consent to have printed in the RECORD a copy of the bill and a section-by-section analysis of its particular provisions.

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

The bill (S. 544) to amend the Internal Revenue Code of 1954 to ease the tax burdens of small businesses, and for other purposes, introduced by Mr. BENNETT, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 544

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Taxation Act of 1971."

(b) AMENDMENT OF 1954 CODE.—Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. INTEREST ON GUARANTEED SMALL BUSINESS LOANS.

(a) IN GENERAL.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by adding after section 249 the following new section:

"SEC. 250. INTEREST ON GUARANTEED LOANS TO SMALL BUSINESSES.

"(a) GENERAL RULE.—In the case of a corporation there shall be allowed as a deduction an amount equal to 20 percent of—

"(1) the gross income derived for the taxable year with respect to obligations guaranteed by the Small Business Administration, reduced by

"(2) the amount allowable as a deduction under section 171(a)(1).

"(b) LIMITATION.—For any taxable year, the amount allowable as a deduction under subsection (a) shall not exceed taxable income (computed without regard to this section), reduced (but not below zero) by 60 percent of the sum of the following:

"(1) taxable income (computed without regard to this section);

"(2) interest on certain governmental obligations described in section 103(a); and

"(3) the amount allowable as a deduction under section 243.

"(c) EXCEPTION.—This section shall not apply to:

"(1) a personal holding company (as defined in section 542), or

"(2) an electing small business corporation (as defined in section 1371(b))."

(b) BASIS ADJUSTMENT.—Section 1016(a) (relating to adjustment to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon, and by inserting after paragraph (22) the following new paragraph:

"(23) for purposes of section 165 and 166, in the case of a right to receive gross income derived from an obligation guaranteed by the Small Business Administration, to the extent of the allowable deduction under section 250."

(c) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by adding at the end thereof:

"SEC. 250. INTEREST ON GUARANTEED LOANS TO SMALL BUSINESS."

(d) Effective Date.—The amendment made by this section shall apply with respect to loans which are guaranteed by the Small Business Administration after the date of enactment of this Act and with respect to taxable years ending after such date.

SEC. 3. QUALIFIED SMALL BUSINESS NET OPERATING LOSSES

(a) IN GENERAL.—Section 172(b)(1) relating to net operating loss deduction) is amended by adding at the end of subparagraph (G) the following new subparagraph:

"(H) In the case of an individual or a corporation, which is a qualified small business corporation, for any taxable year ending after March 19, 1970, a net operating loss for such taxable year shall be a net operating loss carryover to each of the 10 taxable years following the taxable year of such loss."

(b) CONFORMING AMENDMENT.—Section 172 (b)(1)(B) is amended by striking "and (E)", and inserting in lieu thereof "(E), and (H)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to all taxable years ending after December 31, 1970.

SEC. 4. MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, etc.) is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) Minority Enterprise Small Business Investment Companies.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if—

(i) it is a small business investment company operating under the Small Business Investment Act of 1958;

(ii) it is not organized for profit, and no part of its net earnings inure to the benefit of any private shareholder; and

(iii) it is certified by the Department of Commerce or the Small Business Administration as organized and operated exclusively to increase the ownership of small businesses by socially or economically disadvantaged persons.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any taxable year of a minority enterprise small business investment company beginning after the date of enactment of this Act, and to contributions made to any such company after November 6, 1969. Any company which meets the requirements of section 501(f), as added by subsection (a), for its first taxable year beginning after the date of enactment of this Act, shall be deemed to have met such requirements as of the date of its organization if no part of its net earnings have at any time inured to the benefit of any private shareholder.

SEC. 5. QUALIFIED SMALL BUSINESS CORPORATION STOCK OPTIONS.

(a) IN GENERAL.—Section 422 (relating to qualified stock options) is amended by adding at the end of subsection (c) the following new paragraph:

"(7) Qualified small business corporation. In the case of options granted by a corporation which is a qualified small business corporation as of the end of the taxable year immediately preceding the year in which the option is granted—

"(A) the period referred to in subsection (a)(1) shall be 1 year, and

"(B) the period referred to in subsection (b)(3) shall be 8 years."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to options granted after the date of enactment.

SEC. 6. DEFINITION OF SUBCHAPTER S CORPORATIONS.

(a) NUMBER OF SHAREHOLDERS.—Subsection (a)(1) of section 1371 (relating to the definition of a small business corporation) is amended by striking out "10" and inserting in lieu thereof "30".

(b) MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES.—Subsection (a) of section 1371 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) have as a shareholder a person (other than an estate) who is not—

"(A) an individual, or

"(B) a small business investment company operating under the Small Business Investment Act of 1958, which is certified by the Department of Commerce or the Small Business Administration as organized and operated exclusively to increase the ownership of small businesses by socially or economically disadvantaged persons.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1970.

SEC. 7. QUALIFIED SMALL BUSINESS CORPORATION.

(a) DEFINITION OF QUALIFIED SMALL BUSINESS CORPORATION.—Section 7701 (relating to definitions) is amended by adding at the end of subsection (a) the following new paragraph:

"(35) QUALIFIED SMALL BUSINESS CORPORATION.—

"(A) GENERAL RULE.—The term 'qualified small business corporation' means any corporation which—

"(i) has not in excess of 250 employees (as defined in section 3401 (c)) during two out of four calendar quarters which end in the taxable year;

"(ii) has net equity capital not in excess of $1,000,000 as of the end of the taxable year; and

"(iii) has not in excess of 250 shareholders as of the end of the taxable year.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) in the case of a corporation which is a component member (as defined in section 1563(b)) of a controlled group of corporations, the term 'corporation' shall include all corporations which are component members of such group.

"(ii) the net equity capital of a corporation is the sum of its money and other property (in an amount equal to the adjusted basis of such property for determining gain on sale or other disposition) less the amount of its indebtedness (other than indebtedness to shareholders which are not member corporations described in clause (i)).

For purposes of clause (i), the term '80 percent' as used in section 1563 (a) shall be '50 percent'."

The analysis, presented by Mr. BENNETT, is as follows:

SECTION-BY-SECTION ANALYSIS

SMALL BUSINESS TAXATION ACT OF 1971

Section 1

Section 1 labels the Act as the "Small Business Taxation Act of 1971," and specifies that all amendments contained in the bill are amendments to the Internal Revenue Code.

Section 2

Section 2 adds a new section 250 to the Internal Revenue Code, allowing corporations a deduction equal to 20 percent of the gross income derived from loans guaranteed by the Small Business Administration. However, the deduction could not reduce taxable income below 60 percent of "economic income"—taxable income increased by the amount of tax exempt interest and dividends received for the year.

Section 2(b) of the bill adds a new paragraph (23) to section 1016(a), providing that for purposes of the deduction for losses (under section 165) and bad debts (under section 166), the basis of a right to receive gross income derived from an SBA-guaranteed loan will be reduced by the amount of the deduction allowable under section 2(a) of the bill (section 250 of the Code).

The interest deduction will be allowable with respect to loans guaranteed after enactment of the bill; and the computation of economic income for purposes of the limitation will include all income for taxable years ending after such date.

Section 3

Section 3(a) of the bill amends section 172 (b)(1) by adding a new subparagraph (H), providing that in the case of individuals and qualifying small business corporations (as defined in section 7 of the bill), net operating losses may be carried forward for 10 years, instead of the 5 years allowed under present law. The 10 year carryforward is applicable to taxable years ending after December 31, 1970.

Section 4

Section 4 adds a new subsection (f) to section 501 of the Code, specifying that a non-profit Minority Enterprise Small Business Investment Company (MESBIC) will be treated as an organization described in section 501(c)(3) of the Code, organized and operated exclusively for charitable purposes. Consequently, payments made to such organizations will be treated as charitable contributions under section 170 of the Code.

In the case of contributions made after November 6, 1969, but before the date of enactment of this bill, contributions to a MESBIC will be treated as charitable contributions if the MESBIC qualifies as a non-profit organization for its first taxable year beginning after the date of enactment.

Section 5

Section 5 adds a new paragraph (7) to section 422(c), dealing with special rules for qualified stock options. In the case of a corporation which is a qualified small business corporation (as defined in section 7 of the bill) for the taxable year immediately preceding the year in which an option is granted, an option will be considered "qualified" if it is not exercisable until 8 years after the date it is granted, compared to the 5-year exercise period required in the present law. The provision also permits the shares to be sold or disposed of within one year after the date the option is exercised, as opposed to 3 years under present law. The section applies to options granted after the date of enactment.

Section 6

Section 6 amends section 1371(a), dealing with electing small business ("Subchapter S") corporations, by rewriting paragraph (2) to increase the number of permissible shareholders in a Subchapter S corporation from 10 to 30, and by providing that a MESBIC may be a shareholder in a Subchapter S corporation. The section applies to taxable years beginning after December 31, 1970.

Section 7

Section 7 of the bill adds a new paragraph (35) to section 7701(a) of the Code, defining a qualified small business corporation. A corporation falls within this definition if it has not in excess of: (i) 250 employees (as defined in section 3401(c)) during two out of four calendar quarters in the taxable year; (ii) net equity capital of $1 million as of the end of the taxable year; and (iii) 250 shareholders as of the end of the taxable year. In applying these tests, a corporation must take into account all component members of a controlled group of corporations of which it is a member. A controlled group of corporations includes any group described in section 1563(a) of the Code, plus corporations related to the taxpayer through common control of 50 percent of the voting stock, or value, of each corportaion in the group.

"Net equity capital" is defined as the adjusted basis of all the taxpayer's property (including money) less the amount of its indebtedness (other than indebtedness to shareholders which are not members of the controlled group of corporations).

S. 545—INTRODUCTION OF COMPREHENSIVE COMMUNITY COLLEGE ACT OF 1971

Mr. WILLIAMS. Mr. President, perhaps the most striking development in American education during the past decade has been the phenomenal growth of community colleges. In 1960, more than 600,000 students were enrolled in 2-year community junior colleges. Ten years later, their numbers grew to more than 2 million, including both full- and part-time students. Students enrolled in these 2-year institutions of higher education accounted for nearly 30 percent of all undergraduates and 25 percent of all those attending universities and colleges throughout the Nation.

What accounts for this community college "explosion?"

It has become increasingly obvious that the world we live in no longer views high school as the terminal educational experience. One hundred years ago, we assigned the task of producing a finished product to our secondary schools. But, today, we demand much more of ourselves.

We no longer limit formal education to the years between ages 6 and 18. A person must be able to change his career and his context of living both to accommodate his talents and to fill the needs of the times.

For many young people, the traditional access to higher education is closed. They cannot get started when admissions policies at many institutions judge them on their past performance rather than their future potential. Many young people cannot finance their education because of arbitrary standards which set ability above need in order to qualify for financial assistance. And uncounted numbers see no need for the traditional forms of higher education because these institutions hold out little meaning for their world or their future.

Clearly, then, we have had to find a better means to seek out and develop our precious human resources. We have had to provide the chance for young people to develop and express themselves.

It is the comprehensive community college which has demonstrated that it is best equipped for this task of extending and expanding much-needed educational opportunities in our country.

Its low cost to students, proximity to those it is designed to serve, flexible admissions arrangements, and its strong counseling and advising services are among the explanations for the rapid advance of the community colleges.

Community colleges offer a greater number of programs for a wider variety of students than any other segment of higher educations. The curriculum of a community college grows out of the needs of society, the community it serves, and of its students. It is expressly designed to meet personnel requirements in such diverse fields as medicine, engineering, and social service. And the community college curriculum provides a new direction in urban education as well as offering promise in job preparation and cultural and academic remedial education.

The genius of these schools is best summed up by Dr. Edmund J. Gleazer, Jr., executive director of the American Association of Junior Colleges, who has said:

> The community college is as much a social movement as an educational enterprise, and is perhaps closer to realizing a concept of a "people's college" than any other institution in the United States.

Over the past 10 years, the Federal Government has focused its efforts on imaginative and overdue programs for elementary and secondary education and the more traditional 4-year and graduate institutions of higher education. Now, it is the view of many that a crisis has emerged in our educational system

which demands some sober rethinking and a better balance. The urgency of this imbalance prompted the Comprehensive Community College Act which I first introduced in the Senate almost 2 years ago.

Today, on behalf of myself and Senators BROOKE, CASE, CHURCH, CRANSTON, COOPER, EAGLETON, GRAVEL, HARRIS, HART, HARTKE, HUGHES, HUMPHREY, INOUYE, JACKSON, KENNEDY, MCGEE, MCGOVERN, MONDALE, MOSS, MUSKIE, NELSON, RANDOLPH, RIBICOFF and STEVENSON, I once again introduce for appropriate referral this bill entitled "The Comprehensive Community College Act of 1971."

This legislation, which has been developed with the energetic cooperation of the American Association of Junior Colleges, is designed to improve and increase postsecondary educational opportunities throughout the Nation by providing assistance to the States for the development and construction of comprehensive community colleges. We want to insure, through this act, that the education provided by these colleges is suited to the needs, interests and potential benefits of the total community. A special emphasis will be placed on meeting the needs of those neglected or ignored by traditional forms of education.

The general provisions of the bill call for a year devoted solely to planning so that each State may have time to develop or update a master plan for community college education. This 1-year period will also give the U.S. Office of Education time to create the position of Deputy Commissioner for Community Education and to staff a Bureau of Community Education to administer all Federal programs related to community colleges. An additional 3 years are provided to begin the implementation of these master plans.

The master plans will be developed jointly at the Senate level with all postsecondary education agencies within that State. They will set forth a statewide plan for the improvement, development, and implementation of comprehensive community colleges, including first, the development and implementation of comprehensive curriculum programs that have a special emphasis on the needs of the educationally and economically disadvantaged; second the training and development of faculty and staff; third, household research; fourth, a tuition-free or low-tuition admissions policy, or an adequate financial aid program; fifth, a policy and procedure to assure that Federal funds will not supplant existing State and local efforts; and sixth, where feasible and desirable a plan for interstate planning and cooperation in implementing this act.

Institutions eligible under the provisions of this act are those legally authorized within each State to provide a 2-year comprehensive program of postsecondary education—provided they admit as regular students high school graduates, or anyone 18 years of age or older. Accreditation of these schools will be determined by nationally recognized accrediting agencies and associations.

A National Advisory Council, appointed by the Commissioner of Education, from among those active in comprehensive community colleges, will assist the Commissioner in establishing the criteria for approving and implementing State plans.

Finally, the Commissioner will report to the Congress the results of his investigations and study of all Federal programs assisting community colleges in order to determine which programs are duplicating the benefits of this act and to collect in this new Bureau of Community Education, all Federal programs affecting community colleges.

Mr. President, there are many who ask why we need yet another Federal program in education. There are many reasons.

Community colleges have grown in the past decade from 678 in 1960 to 1,038 at the end of 1969. As I pointed out earlier, enrollment during the 10-year period has skyrocketed from 640,000 to 2,186,272. And what is most striking, is the fact that freshman students at community colleges comprise nearly 50 percent of all first-year students enrolled in institutions of higher education.

But these statistics alone do not tell the complete story. In June of last year, the Carnegie Commission on Higher Education, chaired by the distinguished educator, Clark Kerr, issued a special report on Community Colleges entitled, "The Open Door Colleges," in which it made the case for a new nationwide policy of encouraging and emphasizing community college development. Not only did this report point to the open-admissions policies, the strategic geographic distribution, and the low-tuition policies of these schools, it also described the dramatic innovations which community colleges have made in the field of higher education:

> They offer more varied programs for a greater variety of students than any other segment of higher education. They provide a chance for many who are not fully committed in advance to a four-year college career to try out higher education without great risks of time or money. They appeal to students who are undecided about their future careers and unprepared to choose a field of specialization. And last, but by no means least, they provide an opportunity for continuing education to working adults seeking to upgrade their skills and training.

The Carnegie Commission Report points to some other decided advantages of community colleges:

> Community colleges are more representative of the college-age population of the United States than are students in any other major segment of higher education. They tend to be almost equally divided between students of above-average ability, and the great majority come from families that may be classified as "moderate" or "high" in terms of occupational level. They are predominantly from families with average incomes. The proportion of students from upper-income families tends to be appreciably higher in public four-year institutions and decidedly higher in private four-year institutions than in two-year colleges.
>
> Community college students are also representative of their communities in racial composition. Although, on a nationwide basis, the proportion of minority-group students in community colleges (except for Japanese and Chinese-Americans) falls short of their representation in the youthful population, the position of the community college student body in individual communities tends to reflect the local mix, especially in the northern and western States.

Although there has been a rapid growth of community colleges in the United States, it is clear that there is still a problem of inadequate 2-year college space. A recent survey for the College Entrance Examination Board showed that 23 of the 29 largest cities in the United States have a major deficiency in the accessability of higher education and in 102 areas, the principal city has no free-access colleges. The Carnegie Commission Report estimates that by 1980 there will be a need for approximately 230 to 280 new public community colleges. And, the report continues:

> The Commission's estimates of needs for new community colleges by 1980 are based on the assumption that all public two-year branch campuses and two-year specialized institutions that do not have comprehensive programs will move promptly to develop curricula that are truly comprehensive, as the Commission has recommended. If this should not occur, there would be a need for some 400 to 450 new community colleges by 1980 rather than only 230 to 280.

In addition to an inadequate number of community colleges, we face the fact of there being inadequate Federal funds allocated for these institutions. As we have seen, community colleges serve a truly comprehensive role in the educational system of the United States. Not only do they offer the first 2 years of traditional higher education providing the student who so wishes to transfer to a 4-year school to earn a baccalaureate degree, but their significance as community institutions is found in the ability and effort to provide education at a wide variety of levels. The comprehensive community colleges offer vocational, technical, and other career education. They offer adult and continuing education. They provide remedial education for those who have left high school prematurely or who have been shortchanged at the elementary and secondary levels. Community colleges perform in virtually the whole spectrum of the education world, and yet, during the current fiscal year, it is estimated that they will receive less than 6 percent of the $4.4 billion budget administered by the U.S. Office of Education.

This imbalance of treatment by the Federal Government is not confined to funding alone. The Office of Education has a Bureau of Elementary and Secondary Education, a Bureau of Higher Education, a Bureau of Adult, Vocational, and Technical Education, a Bureau of Education for the handicapped, a Bureau of Libraries and Educational Technology, and a Bureau of Educational Personnel Development—but there is no bureau, division, office, or program for community colleges. Shortly after I first introduced this bill, the administration began taking actions and making promises which seemed to indicate that it had come to recognize the need for a more direct Federal role in community college education. The report of President Nixon's Task Force on Education recommended early in 1969 that:

> In planning the future Federal role in higher education, special attention be given to assisting the States to establish and develop these two-year colleges, especially where they can serve as community-wide learning centers.

Former Secretary of Health, Education, and Welfare, Robert Finch, said at that time:

To begin to tackle that problem and fill that critical gap—that is what impels us in our thinking and planning for the stepped-up development of community colleges.

Unfortunately, when the administration got down to actually grappling with this subject, we found that their rhetoric was more promise than performance. The President's message on Higher Education issued on March 19, 1970, and the bill introduced shortly thereafter, gave short shrift to the needs of community colleges. They decided that these burgeoning institutions should remain a second sister at best.

I had hoped that the introduction of the Comprehensive Community College Act would have succeeded as an expression of philosophy and unmistakeable intent to spark a new Federal role in the nationwide development of this new level of education. During 2 days of hearings last July, we heard exciting and persuasive testimony from educators across the country. Without exception, those individuals made an urgent plea for more direct Federal attention to community colleges. They told the story of the great promise that these schools have provided to their communities in California, Washington, Texas, New York, Florida, Kentucky, and in my own State of New Jersey. We heard of the great flexibility of these young institutions which neither have, nor intend to acquire, the rigidity that comes from overbearing traditions. We found that the shedding of a sense of "status" puts community colleges in closer empathy with the poor, the unaccepted, and the classless. We saw a new breed of administrators who are challenging the "establishment." And we learned that the responsiveness of community colleges to the needs of their constituency has made them "rebellion reluctant."

Within the next 6 months, it will be incumbent upon the Congress to reexamine our present system of Federal aid to higher education. The bulk of this legislation is due to expire at the end of this fiscal year. Since too many States will provide only traditional programs of higher education in traditional institutions, it is time to concentrate this effort on a community college program which would correct the inadequacies of the patchwork and piecemeal nature of existing Federal support of 2-year colleges.

Because the bill which we are introducing today focuses attention on a special form of postsecondary education, some might be tempted to conclude that we want to bolster the community college at the expense of the 4-year university, or the vocational school, or the secondary school. Nothing could be farther from the truth; in fact it is precisely because we believe in the strengths of these other educational systems that we are calling for action on the community college.

The problem is a simple one. We have been treating education as a series of movements for so long that we have neglected to orchestrate the symphony as a whole. We have spent millions of dollars and uncounted hours to build partitions between levels of grades. In all this typing and categorizing, and dividing, we have done an injustice to the long-term continuity of real education.

When you move out of an assigned level of education—by graduating, failing, or dropping out—it has become increasingly difficult to get back. Nowhere in the scheme of things is there an educational system designed simply to reach those who want to learn—and not solely on the basis of birthday, accumulated grade-point average, or prep school lineage. The community college, if it is given help, can fill that void.

Our Nation cannot afford to lock the doors to education.

Comprehensive community colleges can be the key to open those doors and show the way to full educational opportunity for all Americans.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

The bill (S. 545) to improve and increase postsecondary educational opportunities throughout the Nation by providing assistance to the States for the development and construction of comprehensive community colleges, introduced by Mr. WILLIAMS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Community College Act of 1971."

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to assist the States in providing postsecondary education to all persons in all areas of each State through a program of Federal grants to each State for the purpose of strengthening, improving, and developing ocmprehensive community colleges; to insure that the education provided by such colleges is suited to the needs, interests, and potential benefits of the total community; and to assist such colleges in providing educational programs especially suited to the needs of educationally and/or economically disadvantaged persons in each State.

TITLE I—DEVELOPMENT OF STATE PLANS

AUTHORIZATION

SEC. 101. In order to assist the States in developing State plans for the purposes of title II of this Act, there is authorized to be appropriated $15,000,000 for the fiscal year beginning July 1, 1972, which sum shall be made available for expenditure for each succeeding fiscal year ending prior to July 1, 1975. The sums appropriated pursuant to this section shall be used for making payments to States whose applications for funds for carrying out such purposes have been approved.

STATE APPLICATIONS

SEC. 102. The Commissioner shall approve any application for funds for carrying out the purpose of section 101 if such application—

(1) provides that a State agency to be designated by the Governor of that State, which is representative of all agencies in such State which are concerned with postsecondary education or which is presently responsible for the administration of community college education in such State, will be the sole agency for carrying out such purpose.

(2) provides for the development of a State comprehensive community college plan to meet the requirements of section 203 of this Act; and

(3) provides that such State agency will make such reports, in such form, and containing such information as the Commissioner may from time to time reasonably require, and, to assure verification of such reports, give the Commissioner, upon request, access to the records upon which such information is based.

ALLOTMENTS TO STATES

SEC. 103. The sums appropriated pursuant to section 101 shall be allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this title, except that no such allotment to any State shall be more than $300,000.

WITHHOLDING OF PAYMENTS

SEC. 104. Whenever the Commissioner, after reasonable notice and opportunity for hearing to a State agency, finds (1) that such State educational agency is not complying substantially with the provisions of this title or the terms and conditions of its application approved under this title, or (2) that any funds paid to such State educational agency under this title have been diverted from the purposes for which they had been allotted or paid, the Commissioner shall notify such State agency that no further payments will be made under this title with respect to such agency until there is no longer any failure to comply or the diversion has been corrected or, if compliance or correction is impossible, until such State agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

TITLE II—FINANCIAL ASSISTANCE FOR COMPREHENSIVE COMMUNITY COLLEGES

AUTHORIZATION

SEC. 201. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State agencies for the period beginning July 1, 1972, and ending June 30, 1975.

(b) There are authorized to be appropriated for the purpose of making such payments for each fiscal year such sums as the Congress shall deem necessary.

ALLOTMENTS

SEC. 202. (a) From the sums appropriated pursuant to section 201(b) for each fiscal year the Commissioner shall (1) allot not more than 5 per centum thereof among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs and (2) reserve not more than 5 per centum thereof for the purposes of section 206. From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population aged 18 and over in such State bears to the total of such population in all States. For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such propor-

tionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

STATE PLANS AND PAYMENTS

SEC. 203. (a) Any State desiring to receive its allotment of Federal funds under this title shall submit a State plan, in such detail as the Commissioner deems necessary, which—

(1) provides for the administration of such plan by a State agency to be designated by the Governor of that State, which is representative of all agencies in such State which are concerned with postsecondary education or which is presently responsible for the administration of community college education in such State.

(2) sets forth a comprehensive statewide program for the improvement, development, and construction of comprehensive community colleges in the State for the purposes of this Act, including (A) the development and carrying out of comprehensive curriculum programs with special emphasis on programs for educationally and economically disadvantaged persons, including occupational-technical programs, adult continuing education programs, community service programs, developmental programs, counseling-advising programs, and lower division university parallel programs, (B) training and development of faculty, administrators, counselors, and other necessary personnel, and (C) research to be carried out in such colleges to increase the effectiveness of such colleges and to provide data for future development;

(3) establishes priorities for the purpose of carrying out such program;

(4) provides that such colleges will be tuition free or low tuition to State residents or provide adequate financial aid programs. The term "low tuition" as used in this subsection shall be determined by the Commissioner within his discretion upon approval of a State plan.

(5) provides for the necessary State and local financial support to carry out such program with assistance under this title;

(6) sets forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, or funds of comprehensive community colleges, but to supplement and, to the extent practicable, to increase the amounts of such funds that would in the absence of such Federal funds be made available for the purposes of this Act;

(7) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State (including such funds paid by the State to comprehensive community colleges) under this title;

(8) provides for making such reports in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(9) provides to the extent possible for interstate cooperation in carrying out programs pursuant to this title.

(b) The Commissioner shall approve any State plan and any modification thereof which complies with the provisions of subsection (a) and shall pay to such State, from its allotment for each fiscal year, the reasonable cost, as determined by the Commissioner, of carrying out such approved plan for such year.

(c) Payments to a State under this title may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments, and they may be paid directly to the State or to one or more participating colleges designated for this purpose by the State, or to both.

ADMINISTRATION OF STATE PLANS

SEC. 204. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State agency or institution submitting the plan reasonable notice and opportunity for a hearing.

(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency or institution administering a State plan approved under section 103, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of such section, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall notify the State agency or institution that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

LABOR STANDARDS

SEC. 205. All laborers and mechanics employed by contractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

DEMONSTRATION PROJECTS AND RESEARCH FOR COMPREHENSIVE COMMUNITY COLLEGE PURPOSES

SEC. 206. The Commissioner is authorized to enter into such contracts or other arrangements as may be necessary to carry out innovative and exemplary demonstration projects and research to promote the purpose of this Act.

TITLE III—GENERAL PROVISIONS

DEFINITIONS

SEC. 301. As used in this Act—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "comprehensive community college" means any junior college, technical institute, or any other educational institution in any State which—

(A) is legally authorized within such State to provide a program of education beyond secondary education;

(B) admits as regular students high school graduates or equivalent, or persons at least 18 years of age;

(C) provides a two-year postsecondary educational program leading to an associate degree, or acceptable for credit toward a bachelor's degree, and also provides programs of postsecondary vocational, technical, occupational, and specialized education;

(D) is a public or other nonprofit institution;

(E) has a Board of Trustees or other designated governing body which includes individuals representative of the community which it serves.

(F) is accredited as an institution by a nationally recognized accrediting agency or association, or if not so accredited—

(i) is an institution that has obtained recognized preaccreditation status from a nationally recognized accrediting body, or

(ii) is an institution whose credits are accepted on transfer, by not less than three accredited institutions, for credit on the same basis as if transferred from an institution so accredited, and

for purposes of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(3) The term "construction" includes the preparation of drawings and specifications for college facilities; erecting, building, acquiring, altering, remodeling, improving, or extending such facilities; and the inspection and supervision of the construction of such facilities. Such term does not include interests in land or off-site improvements.

(4) The term "college facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for comprehensive community college purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public.

(5) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

ADMINISTRATION

SEC. 302. (a) The Commissioner shall administer the provisions of this Act through a Bureau of Community Education which he shall establish in the Office of Education. Such Bureau shall be headed by a Deputy Commissioner for Community Education, which position is hereby created in the Office of Education. Such Bureau shall, upon request, advise any State with respect to its programs pursuant to this Act.

(b) The Commissioner shall, within 120 days of enactment of this statute, make a report to Congress (1) identifying all other programs administered by the Office of Education which should, for the purpose of consolidating the administration of programs affecting comprehensive community colleges, be administered through the Bureau of Community Education, and (2) what action is being taken to provide for the administration of such programs by such Bureau.

(c) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

JUDICIAL REVIEW

SEC. 303. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 102 or its plan submitted under section 203, or with his final action under section 104 or section 205, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence,

shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PROHIBITIONS

SEC. 304. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for the construction of facilities as a place of worship or religious instruction.

NATIONAL ADVISORY COUNCIL

SEC. 305. (a) The Commissioner shall appoint a National Advisory Council on Comprehensive Community Colleges. The members of such Council shall be appointed without regard to the civil service laws, to represent appropriate fields competent or interested in the development of such colleges for the purposes of this Act.

(b) The Council shall advise the Commissioner with respect to (1) criteria for the evaluation of applications and State plans pursuant to this Act, (2) the administration of title II of this Act, and (3) means of improving the administration and operation of this Act.

(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this Act) to the President not later than March 31 of each calendar year after the calendar year in which this Act is enacted. The President shall transmit each such report to the Congress together with his comments and recommendations.

(d) Members of the Council who are not regular full-time employees of the United States shall, while serving on business of the Council, be entitled to receive compensation at rates fixed by the President, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently.

STUDY AND RECOMMENDATIONS IN ORDER TO AVOID DUPLICATION OF BENEFITS

SEC. 306. The Commissioner shall (1) make an investigation and study of all Federal programs assisting comprehensive community colleges in order to determine which of such programs provide assistance which is a duplication of assistance provided pursuant to this Act, and (2) report to Congress, not later than six months after the date of enactment of this Act, his recommendations, including any necessary legislation, for terminating such duplication.

S. 555—INTRODUCTION OF THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT

Mr. KENNEDY. Mr. President, on behalf of myself, the Senator from New Jersey and a bipartisan group of 12 Senators, I introduce for appropriate reference the "Older American Community Service Employment Act."

As a nation, we pride ourselves on an innovative combination of manpower and technology that has powered our social and economic development. Yet in the United States today, we are wasting the talents of millions of experienced and able men and women. More than 1.4 million men between 55 and 64 years of age are absent from the work force today. Among the 20 million men and women 65 or older, a substantial number would prefer part-time employment, but they have been unable to find it. All too often, our emphasis on the problems and pursuits of the young has meant that we ignore and neglect the potential of the elderly.

For many of the Nation's senior citizens, the golden years are tarnished with frustration, and the fear that their lives have no meaning. Retirement often is involuntary and the Nation suffers along with the individual as the skills and talents of the elderly are wasted.

Even more discouraging has been the recent report of the special committee on aging which has outlined the depths of the economic plight of older Americans.

In December 1969, the number of persons 65 or older living in poverty had increased in 1 year by over 200,000. These 4.8 million aged represent nearly 20 percent of all persons 65 or older. The number of impoverished senior citizens between 60–64 also increased during that period by 12,000.

These older Americans were the only group in the Nation which actually had an increase in the number of persons living in poverty. Over the past 10 years, as the Nation has succeeded in reducing the total number of Americans living in poverty by an estimated 39 percent, the older Americans have been the ones to benefit least. In 1959, Americans 65 and older constituted 15.1 percent of all citizens living below the poverty level. By 1969, that proportion had reached the 20 percent mark.

And for persons 55 and over, the depressing statistics tell the same tale. Their percentage of the total poor population increased from 23.8 percent in 1959 to about 26.5 percent in 1968.

Even more appalling is the finding that since January 1969, the number of jobless men 45 years or older has jumped from 596,000 to 1,017,000. This trend is particularly disturbing because of numerous studies which show that for men in their late forties and early fifties, the duration of unemployment increases sharply and the likelihood of returning to the prior level of earning is substantially diminished.

Legislation is urgently needed now to provide a comprehensive program of employment services for older Americans. Outstanding pilot projects such as senior aides, late start and senior community service aides already have amply proved the value of service programs for older persons and their communities. These programs have been enthusiastically welcomed by the elderly and the number of applicants has been many times the available openings.

The hearings I conducted as chairman of the Subcommittee on Aging of the U.S. Senate last year on the 1970 version of this bill demonstrated both in statistical and personal terms the benefits that could be provided by a comprehensive approach to provide increased opportunities for community service by older persons.

One 72-year-old man, who found new meaning in retirement after obtaining work at a local marine museum, told the subcommittee:

> I knew when I got up in the morning it was going to be a repetition of the day before. It was not very pleasant to know it was the same thing all over again.
>
> But since being down to the museum that all has changed. I know when I get up in the morning I have someplace to go.

A job provides the place to go and for millions of older Americans it also offers vital additions to their income which can mean the difference between poverty and an adequate standard of living.

Under the bill which I introduce today, the Secretary of Labor would be authorized to establish and administer a community senior service program for persons 55 and older who lack opportunities for other suitably paid employment. The Secretary would provide assistance to national voluntary agencies and State and local agencies in developing such programs. He could pay up to 90 percent of the cost of a State or local program and up to 100 percent for emergency or disaster projects.

Older citizens with low incomes would be paid an average of $1.60 to $2.00 an hour for their work in the community. The bill authorizes $35 million for fiscal year 1972 and $60 million for fiscal year 1973 to carry out this program.

The older American community service employment program would have two general benefits:

For the older Americans, it would provide needed incomes, and it would offer them the opportunity to be a working, contributing member of society. It would mean that they were once more in the mainstream of American life.

For the communities, the program would supply needed, experienced and dedicated manpower to perform critical tasks in hospitals, in schools, in libraries and in countless other public agencies.

The test of a nation is the ability to provide for all of its citizens. Too often, senior citizens are unable to impress the institutions of this Nation with the legitimacy of their needs. And as a result, old age unnecessarily becomes equated with obsolescence. I believe this bill would mean substantial progress in avoiding that path by offering older Americans the opportunity to use their skills and talents. I ask unanimous consent to have the full text of the bill printed at the conclusion of my remarks.

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

The bill (S. 555) to authorize the establishment of an older worker community service program, introduced by Mr. KENNEDY, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and

Public Welfare and ordered to be printed in the RECORD, as follows:

S. 555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 2. (a) In order to foster and promote useful part-time work opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter referred to as the "Secretary") is authorized to establish an older American community service employment program (hereinafter referred to as the "program").

(b) In order to carry out the provisions of this Act, the Secretary is authorized—

(1) to enter into agreements with public or private nonprofit agencies or organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement it. No payments shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954 (other than political parties), except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals who do not have opportunities for other suitable public or private paid employment, other than projects supported under the Economic Opportunity Act of 1964, or under this Act;

(F) will result in an increase in employment opportunities for eligible individuals, and will not result in the displacement of employed workers or impair existing contracts;

(G) will utilize methods of recruitment and selection (including, but not limited to, listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(H) will include such short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(I) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed under such programs will be paid at rates comparable to the rates of pay prevailing in the same labor market area for persons employed in similar occupations, but in no event shall any person employed under such programs be paid at a rate less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(J) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons; and

(K) will authorize pay for transportation costs of eligible individuals which may be incurred in employment in any project funded under this Act in accordance with regulations promulgated by the Secretary; and

(2) to make, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this Act.

(c)(1) The Secretary is authorized to pay not to exceed 90 per centum of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project or (B) a project located in an economically depressed area as determined in consultation with the Secretary of Commerce and the Director of the Office of Economic Opportunity.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

ADMINISTRATION

SEC. 3. (a) In order to effectively carry out the purposes of this Act, the Secretary is authorized to consult with agencies of States and their political subdivisions with regard to—

(1) the localities in which community service projects of the type authorized by this Act are most needed;

(2) consideration of the employment situation and the types of skills possessed by available local individuals who are eligible to participate; and

(3) potential projects and the number and percentage of eligible individuals in the local population.

(b) The Secretary shall encourage those agencies and organizations administering community service projects which are eligible for payment under section 2(b) to coordinate their activities with agencies and organizations which are conducting existing programs of a related nature which are being carried out under a grant or contract made under the Economic Opportunity Act of 1964. The Secretary may make arrangements to include such projects and programs within a common agreement.

(c) In carrying out the provisions of this Act, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) The Secretary shall establish criteria designed to assure equitable participation in the administration of community service projects by agencies and organizations eligible for payment under section 2(b).

(e) The Secretary shall not delegate his functions and duties under this Act to any other department or agency of Government.

PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 4. (a) Eligible individuals who are employed in any project funded under this Act shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this Act with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as allowed by State law, that the persons employed under the contract, shall enjoy workmen's compensation coverage equal to that provided by law for covered employment. The Secretary may establish standards for severance benefits, in lieu of unemployment insurance coverage, for eligible individuals who have participated in qualifying programs and who have become unemployed.

INTERAGENCY COOPERATION

SEC. 5. The Secretary shall consult and cooperate with the Office of Economic Opportunity, the Administration on Aging, and any other related Federal agency administering related programs, with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this Act with other public and private programs or projects of a similar nature. Such Federal agencies shall cooperate with the Secretary in disseminating information about the availability of assistance under this Act and in promoting the identification and interests of individuals eligible for employment in projects funded under this Act.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 6. The Secretary shall establish criteria designed to achieve an equitable distribution of assistance under this Act among the States and between urban and rural areas, but no State shall receive more than 12 per centum of any money appropriated in any fiscal year to carry out the provisions of this Act.

DEFINITIONS

SEC. 7. As used in this Act—

(a) "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(b) "eligible individual" means an individual who is fifty-five years old or older, who has a low income, and who has or would have difficulty in securing employment;

(c) "community service" means social, health, welfare, educational, library, recreational, and other similar services; conservation, maintenance or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; economic development; and such other services which are essential and necessary to the community as the Secretary, by regulation, may prescribe.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1972, and $60,000,000 for fiscal year ending June 30, 1973.

ADDITIONAL COSPONSORS OF BILLS

S. 343

At the request of the Senator from New Jersey (Mr. CASE), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Maine (Mr. MUSKIE), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 343 to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States.

S. 485

At the request of the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 485 to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 10

At the request of the Senator from Oklahoma (Mr. BELLMON), on behalf of the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOPER), the Senator from Nevada (Mr. BIBLE), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of Senate Joint Resolution 10, to authorize the President to designate the period beginning March 21, 1971, as "National Week of Concern for Prisoners of War/Missing in Action."

SENATE RESOLUTION 36—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE ON NATIONAL SECURITY POLICY

Mr. CASE. Mr. President, I submit a resolution to establish a Select Committee on National Security Policy, and I ask unanimous consent that it be referred to two committees, the Committee on Armed Services and the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, reserving the right to object, does not the Senator from New Jersey feel that there is a danger of that resolution receiving a somewhat schizophrenic consideration if it is referred to two committees?

Mr. CASE. The adjective is something the Senator from New Jersey missed. What was the adjective?

Mr. ERVIN. Schizophrenic.

Mr. CASE. Oh.

Mr. ERVIN. In other words, there might be a schizophrenic result if the consideration of the resolution were split between two committees.

Mr. CASE. The Senator from New Jersey appreciates the solicitude of the Senator from North Carolina. He thinks, though, that since the subject matter impinges on the jurisdiction of both these committees, he has to take that chance.

Mr. ERVIN. It is like the old adage of escaping one rock and falling on another. The danger the Senator from North Carolina is worried about is the future welfare of the resolution offered by the Senator from New Jersey. He does not want it to suffer the consequences of the possibility that it might find a favorable reception in one committee and an unfavorable reception in another.

Mr. CASE. The Senator from New Jersey appreciates the solicitude of the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey? Without objection, it is so ordered.

The resolution (S. Res. 36), which reads as follows, was referred to the Committees on Armed Services and Foreign Relations, by unanimous consent:

S. RES. 36

Resolution to establish a Select Committee on National Security Policy

Whereas it is essential to provide an effective mechanism by which the Senate can regularly and continuously examine the foreign policy objectives and the security requirements of the United States and the military capabilities needed to meet such objectives and requirements: Now, therefore, be it

Resolved, That (a) there is hereby established a select committee of the Senate to be known as the Select Committee on National Security Policy (referred to hereinafter as the committee") composed of ten members of the Senate appointed as follows:

(1) five members from the Committee on Foreign Relations to be appointed by the chairman of that committee, three of whom shall be from the majority party and two of whom shall be from the minority party; and

(2) five members from the Committee on Armed Services to be appointed by the chairman of that committee, three of whom shall be from the majority party and two of whom shall be from the minority party.

(b) One of the members of the committee shall be designated by the majority leader of the Senate to serve as chairman of the committee. Vacancies in the membership of the committee shall not affect the authority of the remaining members to execute the functions of the committee and shall be filled in the same manner as original appointments thereto are made.

(c) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the committee may fix a lesser number as a quorum for the purpose of taking sworn testimony. The committee shall adopt rules of procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(d) The committee shall have no authority to report any legislative measure to the Senate nor shall it otherwise have legislative jurisdiction.

SEC. 2. (a) It shall be the function of the committee to—

(1) assess the foreign policy objectives of the United States with a view to determining how such objectives relate to the maintenance of American security;

(2) review the appropriateness of this Nation's commitments abroad in relation to such objectives;

(3) evaluate the general contingencies under which the United States is prepared to employ military force to meet its foreign policy objectives, to carry out its commitments abroad, and to protect its security interest; and

(4) examine the missions and capabilities of major United States military components in terms of the contingencies they are designed to meet and the foreign policy objectives which they are intended to serve.

In carrying out this function, the committee shall, insofar as it is practicable to do so, determine the respective policy objectives which can be achieved at various alternative military force levels, identifying within such levels the principal missions, capabilities, and costs of major military components in such detail as is necessary.

(b) The committee shall submit an annual report to the Senate not later than May 15 of each year, the first report to be submitted not later than May 15, 1971. Each annual report shall contain a comprehensive summary of the work of the committee during the preceding year and shall include such recommendations as the committee deems appropriate with regard to the matters referred to in subsection (a) above. The committee shall from time to time make such other reports and recommendations to the Senate as it deems in the national interest.

SEC. 3. (a) For the purposes of this resolution, the committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of such technical, clerical, and other assistants and consultants; and (8) enter into such contracts with private organizational and individual consultants as it deems advisable.

(b) Upon request made by the members of the committee selected from the minority party, the committee shall appoint one assistant or consultant designated by such members. No assistant or consultant appointed by the committee may receive compensation at an annual gross rate which exceeds by more than $2,800 the annual gross rate of compensation of any individual so designated by the minority members of the committee.

(c) With the consent of the department or agency concerned, the committee may (1) utilize the services, information, and facilities of the General Accounting Office or any department or agency in the executive branch of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of the chairman of any other committee of the Senate, the committee may utilize the facilities and the services of the staff of such other committee of the Senate, or any subcommittee thereof, whenever the chairman of the committee determines that such action is necessary and appropriate.

(d) Subpenas may be issued by the committee over the signature of the chairman or any other member designated by him, and may be served by any person designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses.

SEC. 4. The expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 37—SUBMISSION OF A RESOLUTION ON CHINA POLICY

Mr. JAVITS. Mr. President, on behalf of myself and Senators CASE, HART, HUGHES, INOUYE, KENNEDY, MONDALE, STEVENSON, SYMINGTON, and WILLIAMS, I introduce a resolution regarding the question of United States-China policy, with particular reference to Chinese representation in the United Nations.

On the great question of Chinese representation in the United Nations, the vote last November clearly marked the end of an era. This year—when the vote is taken in November—we are likely to witness the long-delayed "moment of truth" respecting the admission of Communist China into the United Nations. It is essential for U.S. diplomacy to adjust to this reality and to adopt a constructive posture. As the Nation which

has done the most to establish and nurture the United Nations, and as the world's greatest power, in my judgment the United States has an obligation to itself and to the world to ease, in a creative fashion—rather than exacerbate—the transition. I speak here with special reference to my experience last year as U.S. Delegate to the General Assembly responsible for the Chinese representation issue.

On November 18, 1970—for the first time in 20 years—a majority of the U.N. General Assembly voted, 51 to 49, with 15 abstentions, to admit the Peoples Republic of China into the United Nations. The result of this vote was obviated, however, by a U.S.-supported procedural resolution establishing that a change in Chinese representation is an "important question" requiring a two-thirds majority. The important question—IQ—resolution was passed by a vote of 66 to 52, with seven abstentions. Most experts now doubt that the important question procedure is likely to be sustained again this year if there is a straight up-or-down vote on the two resolutions voted upon last year.

Last year, as has been the case for many years, the U.N. General Assembly was limited to a narrow choice on the issue of Chinese representation. The so-called Albanian resolution—which received a majority last year—called for the admission of Communist China and the expulsion of Nationalist China on Taiwan. The indications are clear that a majority of the U.N. General Assembly favor membership under some suitable arrangement for both the Peoples Republic of China on the mainland and the Republic of China on Taiwan. This seems to be a reasonable assumption from the vote last year when a majority voted for the Albanian resolution—to admit the Peoples Republic of China—and also voted for the important question resolution—to prevent the expulsion of the Republic of China on Taiwan.

The solution is not simply because both Peking and Taipei oppose a two Chinas solution. I am confident that there are a number of formulas that could be devised to deal with the two Chinas dilemma.

Chancellor Willy Brandt has offered a formula of one German nation, two German states which might be adapted to the China situation.

A simple formula of universality which could open membership to all the divided states is another possibility.

In addition to the wishes of the Chinese Communist Government in Peking and the Chinese Nationalist Government in Taipei, the wishes of the people of Taiwan must also be considered. In my judgment, the wishes of the people of Taiwan should be ascertainable and this can be accomplished by an internationally supervised plebiscite of the people of Taiwan to determine, at a suitable time, what they wish to be the permanent status of Taiwan in the community of nations.

Accordingly, I am introducing a resolution, with several cosponsors, to establish a new policy on this issue, and for the purpose of bringing the issue to the attention of the Senate. I ask unanimous consent that the text of the resolution appear in the RECORD at this point in my remarks.

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

The resolution (S. Res. 37), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 37

Whereas it is the declared policy of the United States to seek a normalization of relations with the Peoples Republic of China on the Mainland, and; Whereas it is important to the prospects for world peace and prosperity that the world's most populous nation should be integrated peacefully into the community of nations;

Resolved, It is the sense of the Senate that United States policy should seek further relaxation of tensions between the United States and the Peoples Republic of China through additional measures to promote the expansion of trade and cultural and scientific exchange, and relaxation of travel restrictions, with a view toward the establishment of diplomatic relations when conditions permit.

It is further the sense of the Senate that the policy of the United States respecting the question of Chinese Representation in the United Nations should be one which encourages a greater universality of membership and participation. Accordingly, United States policy should not oppose the admission of the Peoples Republic of China to the United Nations, while not accepting as a condition of such membership the expulsion from membership of the Republic of China.

It is further the sense of the Senate that this policy should be pursued without prejudice to the legal position of the United States respecting the ultimate disposition of the question of sovereignty over the island of Taiwan, a question on which the United States, as a liberating power in World War II, has reserved its legal position since 1950.

Mr. JAVITS. Mr. President, the record of the Congress to date on the issue of Chinese representation is one of flat opposition to the admission of Mainland China. However, the last rollcall vote in the Senate on this issue was on July 23, 1956 when the Senate passed House Concurrent Resolution 265 by a vote of 86 to 0. Nonetheless it has continued to be the practice of the Senate—and the House—to retain "sense of Congress" phrasing, opposing U.N. admissions of the Chinese Peoples Republic, in foreign assistance and other legislation. The Department of State, Justice, Commerce and Related Agencies Appropriations Act of 1971, passed as recently as October 21, 1970 states:

SEC. 105. It is the sense of the Congress that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

I believe that it is important now for the Congress to revise this position, which is a mechnical carry-over from the tense and bitter days of the Korean war period. And, in a year which may call for a big change in the official U.S. position at the United Nations, I feel it is important for the President and the Secretary of State to know the position of the Senate respecting this major question.

It is my feeling that a majority in the United States now thinks along the lines suggested in the resolution I have introduced, rather than in the stark "cold war" terms of section 105 which I quoted above. If the Senate adopts a new and more enlightened position, I think this will encourage the House and the administration to take a more creative position in the United Nations.

The basic purpose of the resolution which I have submitted today, with such distinguished cosponsors, is to get us to look at this thing again, and not just accept the routine of retaining a sense of Congress statement incorporated in an appropriation bill. The subject is too important to be handled in this manner. Therefore, I hope very much we will have a separate consideration of the China question, based on a report and recommendation by the Committee on Foreign Relations on my resolution.

It seems to me that the winding down of the Vietnam war, and the Nixon doctrine which charts a lower military profile for the U.S. in Asia in the years ahead, both argue in favor of steps to reach a new way of living with Mainland China. Revision of the U.S. position flatly opposing Peking's admission to the U.N. would appear to be the logical next step.

In his first state of the world message of February 18, 1970, President Nixon stated:

The Chinese are a great and vital people who should not remain isolated from the international community. In the long run, no stable and enduring international order is conceivable without the contribution of this nation of more than 700 million people . . . it is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking.

Peking needs to be admitted to the diplomatic councils of the world if meaningful progress is to be made toward a stable peace in Asia. And, no meaningful system of international control of nuclear weapons can be established without the participation of Peking.

In the nondiplomatic field several initiatives have already been taken by the United States to ease trade and travel restrictions. The time has come for new initiatives to expand cultural and scientific exchange between the United States and the Peoples Republic of China. Additional measures to permit greater trade should not be delayed by the lack of diplomatic relations. Indeed, in terms of our bilateral relationship the fields of cultural, and scientific exchange, and expanded trade, appear to be the most propitious fields for development.

Our experience in the decade of the 1960's—including our bitter experience in Vietnam—should give us a new perspective on mainland China. Peking can no longer be viewed as a satellite of Moscow and as a coconspirator in a monolithic international Communist threat. Grave differences have surfaced between Moscow and Peking. Tension and bloodshed mark long segments of the Sino-Soviet border in central Asia.

In Vietnam, we have not had a repetition of the experience in Korea of the massive intervention of Chinese combat

forces. Peking has given diplomatic and material support to Hanoi but it has carefully avoided steps which would provoke military hostilities with the United States. On its part, the United States has taken care not to create an impression of military encroachment on China's borders. In short, both Washington and Peking have demonstrated a desire to avoid direct military confrontation. We no longer appear to be on a mutual collision course in Asia.

I think it is now possible for the United States to begin to establish a more normal relationship with the Peoples Republic of China. I do not think we are close to an era of detente, much less of entente, and I think it would be foolish and counterproductive to try to enter into a "normal" relationship all in one big leap. What is both possible and essential at present, in my view, is an adjustment in U.S. policy so as to make it easier for the world to admit Peking to the United Nations—and not have to do it over our bitter opposition. For this is a real possibility if we lack the grace, the wit and the ingenuity to shape circumstances to enhance prospects for peace and stability in the world.

Mr. President, there is nothing revolutionary in what I have proposed. The moment of truth—and I say this from my experience at the United Nations as well as in foreign affairs—with respect to Communist China is approaching, and I say we are not ready for it. If we deliberately reconsider our position, it may result in our confirming it, but at least we will have done it deliberately; we will know why; all our people will be advised, and we will be pursuing a common policy. I do not think this would be the result, but it is a possibility. As the situation stands now, I believe the matter urgently requires the consideration of the Senate, which is uniquely charged with an interest in the foreign relations of the country.

SENATE RESOLUTION 38—SUBMISSION OF A RESOLUTION RELATIVE TO SELECT COMMITTEE ON SMALL BUSINESS

Mr. STEVENS. Mr. President, on behalf of myself and Senators BURDICK, JAVITS, MCGEE, MILLER, PELL, RANDOLPH, SCOTT, CASE, WILLIAMS, and YOUNG, I submit for appropriate reference a resolution designed to give to the Select Committee on Small Business the authority necessary for it to receive bills and resolutions relating to the problems of small business and to report bills and resolutions to the Senate for floor consideration.

Mr. President, as a Senator from a small State, I know firsthand the importance that small business has to millions of Americans. In thousands of small communities throughout the Nation, small business constitutes the very backbone of community existence. On the other hand, Mr. President, small business also constitutes the economic backbone of our larger urban areas.

In our highly technological society, we sometimes think of business only in terms of General Motors, General Electric, or other large, well-known corporations. Big business certainly is important to the Nation's economic well-being, but small business continues to be the most important factor in our overall economy. There are nearly 5 million small businesses in this country. These small businesses, which constitute 95 percent of the total number of businesses in the country, provide employment for over 30 million Americans. Both in rural and urban areas, small businesses furnish a livelihood for nearly 60 percent of the population and provide direct employment for 40 percent of the population.

At the present time, most of the small business legislation offered in the Senate is considered by the Small Business Subcommittee of the Committee on Banking, Housing and Urban Affairs. Over the years, that committee has had a distinguished record of protecting the interests of small business. The resolution I am introducing today is in no way intended to diminish or criticize the hard work and dedication of the Small Business Subcommittee of that committee.

However, Mr. President, if we in this 92d Congress are to be decided to streamlining the legislative process on a more functional basis, we must realize that the problems of small business have little relationship to the problems of banking, housing, or urban affairs. All of us want our country to grow and prosper without the scourge of inflation. Such growth and prosperity depends in large measure on the health, effectiveness and responsiveness of America's small businesses.

Now is the time, Mr. President, for us in the Senate to give a higher priority to the small businesses in this Nation. I sincerely hope that in organizing the 92d Congress, we will adopt the resolution I am introducing today. This resolution does not establish a new standing committee, but it does give a higher priority to the needs of small business thus greatly increasing the efficiency of the Senate.

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

The resolution (S. Res. 38), which reads as follows, was referred to the Committee on Rules and Administration:

S. RES. 38

Resolved, That S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended, is amended to read as follows:

"That there is hereby created a select committee to be known as the Committee on Small Business, to consist of seventeen Senators to be appointed in the same manner and at the same time as the chairman and members of the standing committees of the Senate at the beginning of each Congress, and to which shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the problems of American small business enterprises.

"It shall be the duty of such committee to study and survey by means of research and investigation all problems of American small business enterprises, and to obtain all facts possible in relation thereto which would not only be of public interest, but which would aid the Congress in enacting remedial legislation.

"Such committee shall from time to time report to the Senate, by bill or otherwise, its recommendations with respect to matters referred to the committee or otherwise within its jurisdiction."

SEC. 2. Subsection (e) of rule XXV of the Standing Rules of the Senate is amended by striking out in paragraph 2 the words "under this rule".

SENATE RESOLUTION 39—SUBMISSION OF A RESOLUTION RELATIVE TO COMMITTEE APPOINTMENTS OF SENATOR GAMBRELL

Mr. BYRD of West Virginia (for Mr. MANSFIELD) submitted a resolution (S. Res. 39) relative to committee appointments of Senator GAMBRELL, which was considered and agreed to.

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

SENATE RESOLUTION 40—SUBMISSION OF A RESOLUTION TO PERMIT TELEVISION AND RADIO COVERAGE OF SENATE DEBATES

Mr. GRIFFIN submitted the following resolution (S. Res. 40); which was referred to the Committee on Rules and Administration:

S. RES. 40

Resolved, That (a) the Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE XLV

"BROADCASTS AND TELECASTS OF SENATE PROCEEDINGS

"The proceedings of the Senate may be broadcast and telecast at such times and under such conditions as may be specified in rules, regulations, or resolutions adopted by the Committee on Rules and Administration."

(b) The second sentence of paragraph 2 of Rule XXXIV of the Standing Rules of the Senate is amended by inserting therein, immediately after the words "radio, wire, wireless", a comma and the word "television".

SENATE RESOLUTION 41—SUBMISSION OF A RESOLUTION RELATING TO SELECT COMMITTEE TO INVESTIGATE IMPROPER ACTIVITIES IN LABOR-MANAGEMENT RELATIONS

Mr. GRIFFIN submitted the following resolution (S. Res. 41); which was referred to the Committee on Labor and Public Welfare:

S. RES. 41

Resolved, That there is hereby established a select committee which is authorized and directed to conduct an investigation and study of the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers to the detriment of the interests of the public, employers or employees, to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities.

SEC. 2. (a) The select committee shall consist of eight members to be appointed by the Vice President, four each from the majority and minority Members of the Senate, and shall, at its first meeting, to be called by the Vice President, select a chairman and vice chairman, and adopt rules of procedure not inconsistent with the rules

of the Senate governing standing committees of the Senate.

(b) Any vacancy shall be filled in the same manner as the original appointments.

SEC. 3. (a) The select committee shall report to the Senate by February 14, 1972, with such interim reports as may be appropriate, and shall, if deemed appropriate, include in its report specific legislative recommendations.

(b) Upon filing of its final report the select committee shall cease to exist.

SEC. 4. For the purposes of this resolution the select committee is authorized as it may deem necessary and appropriate to:

(1) make such expenditures from the contingent fund of the Senate;

(2) hold such hearings;

(3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate;

(4) require by subpena or otherwise the attendance of such witnesses and production of such correspondence, books, papers, and documents;

AUTHORIZATION FOR ADDITIONAL EXPENDITURES FOR INQUIRIES AND INVESTIGATIONS

Mr. SPARKMAN. Mr. President, yesterday I introduced Senate Resolution 29 which requests additional funds for the Senate Committee on Banking, Housing, and Urban Affairs to operate during this session of the Congress.

The resolution which I introduced did not carry the amount of funds the committee was requesting for operation. I ask unanimous consent that a star print be made so that the figure can be properly inserted in the resolution.

I also ask unanimous consent that the resolution be printed in the RECORD.

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

The resolution, ordered to be printed in the RECORD, is as follows:

S. RES. 29

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by section 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Banking, Housing and Urban Affairs, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, to expend not to exceed $330,000 to examine, investigate and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $150,000 shall be available for a study or investigation of—

1. Banking and currency generally.

2. Financial aid to commerce and industry, other than matters relating to such aid which are specifically assigned to other committees under this rule.

3. Deposit insurance.

4. Federal Reserve System.

5. Gold and silver, including the coinage thereof.

6. Issuance of notes and redemption thereof.

7. Valuation and revaluation of the dollar.

8. Control of prices of commodities, rents, or services.

SEC. 4. Not to exceed $180,000 shall be available for a study or investigation of public and private housing and urban affairs generally.

SEC. 5. The committee shall report its findings together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 29, 1972.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, how much time remains under the order for the period for the transaction of routine morning business as previously entered?

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order for the transaction of routine morning business, 35 minutes remain.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS OF SENATORS

SENATOR ROBERT C. BYRD ON "FACE THE NATION"

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD the transcript of the television and radio broadcast of the "Face the Nation" program on which I appeared as guest on Sunday, January 31, 1971.

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

FACE THE NATION

(As broadcast over the CBS Television Network and the CBS Radio Network, Sunday, January 31, 1971—12:30–12:55 p.m., e.s.t.,[1] Origination: Washington, D.C.)

Guest: Senator Robert C. Byrd (D., W. Va.) Senate Majority Whip.

Reporters: George Herman, CBS News; Hays Gorey, Time Magazine; Hal Walker, CBS News.

Producers: Sylvia Westerman and Prentiss Childs.

HERMAN. Senator Byrd, the Secretaries of State and Defense have both been up on Capitol Hill talking a good deal about policy in Southeast Asia. Are you convinced that Mr. Nixon's policy there is both legal and proper?

Senator BYRD. I am.

ANNOUNCER. From CBS Washington, Face the Nation, a spontaneous and unrehearsed news interview with the man who unseated Senator Kennedy to become Senate Democratic Whip, Senator Robert Byrd of West Virginia. Senator Byrd will be questioned by CBS News correspondent Hal Walker; Hays Gorey, political correspondent of Time Magazine, and CBS News correspondent George Herman. We shall continue the interview with Senator Byrd in a moment.

HERMAN. Senator Byrd, you said on the CBS Morning News interview that you were worried about sinking our treasure and our blood into Southeast Asia, you had some reservations about Cambodia. How does the idea of the spread of the war into Laos with South Vietnamese troops and American air power, how do you feel about that?

Senator BYRD. I'm concerned. I think that the American people should be told the facts. I do not believe that the use of American troops would be legal, but I do believe that the use of American air power would be legal and would be proper if, and only as long as it is used for the purpose of protecting American lives in South Viet Nam and facilitating the withdrawal from South Viet Nam

GOREY. Senator, a two-part question, if I may. During your campaign to become Whip of the Senate—Democratic Whip—you were supposed to have argued that a defeat for Senator Kennedy would knock him out of the presidential race in 1972.

Senator BYRD. I didn't argue that.

GOREY. You did not?

Senator BYRD. I did not.

GOREY. Do you feel that the defeat has had that effect?

Senator BYRD. Mr. Kennedy himself indicated, prior to the election of the Whip at the caucus that he had no intention to be a presidential candidate in 1972. I took him at his word then; I take him at his word now.

GOREY. Well, if he should by any chance become the nominee of the party, could you support him?

Senator BYRD. This is an iffy question. I have always supported the nominee of the Democratic Party for president.

WALKER. Senator, aside from the personalities involved, does your election as Democratic Whip mean that the Party has moved to the right?

Senator BYRD. Not at all. Not at all. There are members in the Senate, of course, on my side of the aisle, who are liberals, moderates, conservatives. They will continue to exercise their viewpoints as they have in the past. I don't think this has any bearing one way or the other.

WALKER. I'd like to follow—it's probably no surprise to you that there are many black Americans who have viewed your election as number two man among the Democrats in the Senate with some alarm, something less than pleasure. Have you any way of reassuring black Americans that your election is not a repudiation of black Americans and their needs?

Senator BYRD. They need only to look at the record. Of course, they've been told that I voted against the 1964 and the 1965 Civil Rights Acts, which is true, but I also voted for the 1957, the 1960 and the 1962 and the 1968 Civil Rights Acts. I've appointed black Americans to the military academies; I've employed them in my office. I've employed them on my patronage as policemen. I think that the record will show that I am not anti-black Americans.

[1] This transcript includes the full interview as broadcast on the CBS Radio Network. The program was five minutes shorter on the CBS Television Network because of a CBS News Special Report on Apollo 14.

WALKER. The record will show, sir, that you at one time referred to the late Dr. Martin Luther King as a self-seeking rabble rouser. Have you had occasion any time to regret that characterization?

Senator BYRD. Not at all.

HERMAN. The record will also show, since we're going to go, apparently, through the whole record, several other things which I'm sure will come back to you again and again, that you advocated the spread of the Ku Klux Klan when you were very briefly a member; that you voted against Thurgood Marshall as a justice of the Supreme Court.

Senator BYRD. I would have voted against Thurgood Marshall if he had been a white man. As to my advocacy of the spread of the Ku Klux Klan, my brief connection with the Klan was a quarter of a century ago, and I believe that a lot of young people will look back 25 years from now upon their association with certain radical groups today as having been a mistake. It was a mistake; I have said so a hundred times. I'm glad to say so again.

HERMAN. All right. Now, where do you put yourself, to get back to the Senate Democrats, where do you estimate your position to be? Are you in the middle of them, between left and right wings? Are you somewhat to the right of—Senator, where do you find yourself?

Senator BYRD. Disraeli said that he was conservative, to preserve all that is good in our constitution, and a radical to remove all that is bad. I think that I sort of fall into the category of Disraeli as he viewed himself. I look upon myself as a moderate.

GOREY. Senator, your reference to the Klan and its similarity to groups which youngsters are joining today or have joined, could you specify any groups which you think are comparable to the Klan which are being joined by young people today?

Senator BYRD. I referred to radical groups, for example, the SDS.

HERMAN. You think that there will be people who will look back when they are 25 years older and have to live that down in politics?

Senator BYRD. I suspect that they may very well have to.

HERMAN. Well, now, let me get back to your position in the Senate Democrats. The question always comes up, what is the job of the Whip? Is he going to make his commitment, his feelings, felt through the Senate Democrats? You've said that you can view yourself as a legislative technician. Is that all?

Senator BYRD. The job of the Whip, as I view it, is to do the floor work, assist the Majority Leader, and promote Democratic policy as formulated by the Majority Leader and the Democratic Policy Committee.

HERMAN. You feel that you have no jobs—no say at all in policy as an official of the party, that your views should not get some little push by you as an executive of the Democratic caucus?

Senator BYRD. I have a say as a United States Senator from the state of West Virginia and as an ex-officio member of the Democratic Policy Committee.

WALKER. But Senator, doesn't it say something about the Democrats in the Senate themselves that they chose you, a southern conservative, rather than an eastern liberal, for the post? Doesn't it say something about your colleagues?

Senator BYRD. It only says, I think, that they believe that they chose the man who could best do the work of Democratic Whip.

GOREY. Senator, one of the things that the Senate seems to have before it each year, and certainly this year, is a change in the rule regarding filibusters. Could you tell us just why you think in this day and age that some form of filibuster ought to be maintained in the Senate, which as I understand it is your position.

Senator BYRD. Well, I think that some form of filibuster is necessary to protect minority opinion in the United States Senate.

HERMAN. Presumably you defend it as strongly for the groups which are now using it, which seem to be more often the liberal groups than the conservative groups, I take it.

Senator BYRD. I do. Now, on that point, may I say that I voted for the modification of the rule in 1959, bringing it from a two-thirds constitutional majority to two-thirds of those present and voting, and I am considering supporting a further modification of the rule.

HERMAN. What is your—the current modification that's being debated?

WALKER. Three-fifths?

Senator BYRD. I am considering supporting the current proposal.

HERMAN. Well, you're not only a whip and a Democratic Senator, you're also an experienced politician; what is your guess about the outcome?

Senator BYRD. It will depend upon whether or not cloture can be invoked.

HERMAN. I'm not sure I follow you fully on that.

Senator BYRD. Whether or not we get to the substance of the proposal depends upon whether or not, in my judgment, cloture can be invoked by two-thirds of the members present and voting.

HERMAN. Well, do you think it can be?

Senator BYRD. That remains to be seen.

WALKER. Senator, looking at—you were talking about the record before, your 1970 voting record, shows that you supported President Nixon 57 per cent of the time, overall, and 89 per cent of the time on foreign policy, so, despite your position as the Democratic Whip, do you think you might be counted among that ideological majority the Republicans say they now have in the Senate?

Senator BYRD. I shall face each issue as I come to it. I intend to do what I think is best for the nation, for the Democratic Party, for the state of West Virginia, and for the Senate of the United States.

HERMAN. Reviewing these same figures that Mr. Walker has discussed, I noticed that your adherence to the Nixon position, both on foreign and on domestic policy, diminished considerably, at least statistically in 1970. Does that reflect anything, or is it just a fluke of statistics?

Senator BYRD. I would suppose it to be the latter.

HERMAN. You also said, and I thought it was a very interesting statement, that you thought that the Senate had grown more liberal, you thought there was less pride in being a United States Senator, and that the institution of the Senate and being a Senator had less dignity than it used to when you first came to the Hill. Would you tell us a little about that?

Senator BYRD. Well, I suppose this is a subjective analysis on my part.

HERMAN. So, I would like to hear your analysis about it, why you think it's happened, and how you feel that it's happened.

Senator BYRD. I don't know why it has happened. I just don't think that there is that feeling of respect for the institution—the Senate as an institution, and the pride in being a member of it.

HERMAN. I don't mean to push it too far, but in that particular statement, in that interview, you linked it either by accident or on purpose with the Senate growing more liberal. Was that part of what you think happened?

Senator BYRD. No. No.

WALKER. Senator, in your role as the number two Democrat in the Senate, where are you going to take the Party under your leadership?

Senator BYRD. I intend to stand with my convictions, first of all. In the second place, I intend to do the best I can to promote Democratic Party policy as formulated by the Majority Leader and by the Democratic Policy Committee.

GOREY. Senator, we've had a great deal of discussion lately about expansionary budgets, full employment budgets; are these not the same as what we used to call deficit budgets?

Senator BYRD. The expansionary budget is a deficit budget, and I think it all adds up to pump-priming, which we Democrats have practiced over the years.

GOREY. Well, let me ask you this: is it not time that some branch of the government, whether federal or state or local, faced up to the fact that the tax burden simply has to be increased, rather than the deficits each year, in order to carry out the functions of government?

Senator BYRD. Well, I think there has to be some streamlining of government. There has to be more efficiency all along the line, and I believe that there ought to be a better balance between the federal tax take and the state tax take.

HERMAN. In what manner? Are you interested in the administration's revenue-sharing proposal, which as far as I can read the figures comes to about three and three-quarter billion in this budget?

Senator BYRD. It is an interesting proposal. It ought to be given very careful consideration, and certainly it will receive adequate hearings, but I think that the emphasis should be placed on permitting the states to have additional resources from which they might extract taxes. In other words, I think there ought to be a slimming down of the federal government and along with that a slimming down of the federal tax take, so as to make possible a larger resource from which the states and the state taxpayer, who is also the federal taxpayer, to increase their income with revenues.

HERMAN. You know the main argument against it always is, can we trust the states, and in your own state, I notice that in 1968 the governor and some 20 of his appointees were accused of tax evasion. The question is, can we give federal moneys to the states without some kind of safeguards?

Senator BYRD. Well, you also may have noticed that in my own state, the personal income tax was increased by the state legislature at the same time the Congress removed the surtax on federal income.

HERMAN. I'm not sure that you answered the main thrust of my question—

Senator BYRD. Well, permit me to say, I think that a careful examination by the Congress could effectuate the objective while at the same time overcoming the problem which you have anticipated. For example, I think that the taxpayer should be able to subtract from his federal income taxes the increased state income taxes, and in this way, I think it would encourage the states to increase their taxes, and I have no doubt but that if the federal taxes were in some way lowered, the states would move into the vacuum and increase their tax take.

HERMAN. And you prefer that to revenue sharing direct—

Senator BYRD. I do.

WALKER. You're also going to get, or have gotten, some administration proposals with regard to the reform of the welfare system. And you yourself, as the Chairman of the D.C. Appropriations Committee, had a lot to do with the welfare program in tht District of Columbia itself. You were known most, I guess, best as the author of the man-in-the-house rule.

Senator BYRD. In the first place, I was not the author of the man-in-the-house rule. It existed before I ever became Chairman of the Appropriations Subcommittee on the District of Columbia.

WALKER. Well, for years you've been associated with it, as favoring the rule. Would you favor such a rule in the national welfare reform package?

Senator BYRD. Permit me to say that I think there should be welfare reform, but tripling the welfare caseload and tripling welfare expenditures will not necessarily bring about welfare reform. In connection with my work as Chairman of the D.C. Appropriations Committee—Subcommittee on the District of Columbia, I also doubled the number of social workers. I supported increased foster home care, and I instituted a 13 per cent across the board increase in—in payments to the recipients. My philosophy, in the most simple terms, was simply that those who need help, and who qualify for help, should be helped, and that the rules—which I did not devise—should be enforced; and that those who were not qualified should not be on the caseload.

WALKER. Well, would you favor denying a person welfare aid if there is an able-bodied man in the house? You've been charged, I suppose, almost directly by enforcing that rule, with causing the breakup of poor and black families locally. Is that a legitimate charge?

Senator BYRD. I've been charged with—with that, of course. It is not a legitimate charge. I think there is a great misunderstanding of the substitute parent rule. Only in the case where a man acted in the place of a husband or parent, and it could be shown that he was maintaining a husband-wife relationship with the mother—only then did the substitute parent rule require that the recipient be taken off the caseload. And of course, there were adequate hearings procedures. So I did not—I did not create the rule.

HERMAN. Senator, I know it's sometimes considered improper to talk politics to a Senate official, but you won reelection with one of the highest votes anywhere in the country—78 per cent. How is the political situation in your state? Is there going to be a struggle for power between you and John D. Rockefeller IV for the Democratic Party in your state?

Senator BYRD. I don't anticipate such a struggle.

HERMAN. Do you think that Rockefeller is going to run for and win the governorship the next time around?

Senator BYRD. I do not know what Mr. Rockefeller may be planning. I think that he very well may have a very bright future in the state of West Virginia.

HERMAN. Do you and he have a unified party? Do you work together?

Senator BYRD. We don't work apart. I work in Washington as a member of the United States Senate; he works in Charleston, West Virginia as Secretary of State.

GOREY. Senator, speaking of people being apart and so on, last week two members of your party in the Senate, Senator Stennis for one, and Senator McGovern for another, both were on television, Senator Stennis saying that he felt there should be and would be a step-up, and of course there has been, in American activities in Indochina. Senator McGovern came on and said that he thought any senator who felt this way ought to lead the charge himself. This represents quite a wide division among members of your own party on a very substantial foreign policy matter. Could you tell us, whether you think there is this wide a split in the Democratic Party on many issues of this nature? And also, where would you place yourself between Stennis and McGovern on this one issue?

Senator BYRD. There is such a wide split; there has been all along. Where I would place myself? I suppose I would be placed somewhere in the betwixt and between.

HERMAN. Do you care to graduate a little bit closer to one side or the other?

Senator BYRD. Well, I have supported the Commander-in-Chief, whether he be the late President John F. Kennedy, ex-President Lyndon B. Johnson, or Mr. Nixon, in foreign policy, as a general rule with respect to the war in Indochina. This does not mean that I favor a continuation of the war. I want to see our men brought home, but at the same time, I want to see those men who are there and who have been sent there without it having been their own choice, I want to see them protected; I want to see them brought home. I believe in the Nixon Doctrine, and if I understand it, it is simply this, that the Asians should fight Asian wars themselves, and that we should attempt as best we can to Vietnamize the war in South Viet Nam so that the South Vietnamese can do their own fighting, and that we ought to wind down our participation in the war and bring our men home. I support the Commander-in-Chief in this policy.

WALKER. Will you support those forces in the Senate that will attempt to set real and specific limits on the President's power to widen or wage this war?

Senator BYRD. I voted for the Cooper-Church Amendment, as amended by my language and the language of Mr. Javits and others, and so I do support every effort to appropriately wind down the war.

WALKER. What about the McGovern amendment, which would have set a specific date by which time we should be out of that involvement in Southeast Asia? Would you support that?

Senator BYRD. Not—I would not support a setting of a public timetable. I think that this plays into the hands of the enemy and as far as our purposes are concerned, it would be self-defeating. I do believe there should be a timetable. I think that the administration ought to have one. Perhaps it does have one. But it should not make such a timetable public.

HERMAN. Do you think that winding down the war in this way that you said is going to bring what is usually referred to as a peace dividend, more money which can go to some of the social priorities in the country, or is it all going to be absorbed by the Defense Department?

Sen. BYRD. I think that it would bring more money, which could be assigned to various priorities which are very high in my estimation.

HERMAN. How about the request of the administration for a small expansion in the Defense Department's budget for this year? Would you support that, do you think, or have you had a chance to study it?

Sen. BYRD. Well. I have not had a chance to study it. I will support any dollar which I think is necessary for the defense and the security of this country. At the same time, I think that there is fat in the defense budget. I think it has been shown, if I recall, the over—the defense take, insofar as the overall budget is concerned has decreased from about roughly 45 per cent two or three years ago to maybe 35 or six or seven per cent now.

HERMAN. You also—another question in the budget is the funds for the continuation of the SST. Do you think you will support that?

Sen. BYRD. So, if I may just return to the other question, so while there is an increase in dollars for defense, I think that from the standpoint of percentage, it may be down. Yes, I would expect to support the request for moneys for two prototype planes.

GOREY. Well, certainly that wouldn't be the limit of the program, Senator, two prototype planes.

Sen. BYRD. Well, the purpose, of course, is research, and I—

GOREY. Yes, but once you have prototype, are you obliged to continue to full development and building a number of the planes—

Sen. BYRD. Not necessarily, but I think that if we're going to overcome the problem of noise pollution and air pollution, we're going to have to have some experimental planes with which to—on which we may do the research, so as to overcome these problems.

WALKER. Senator, you know that Senator Kennedy had a poll, showed he had 26 votes, but he actually counted only 24. Who do you think are the two who said one thing and voted the other?

Sen. BYRD. Well, obviously, I'm not going to enter into that kind of speculation.

GOREY. Senator Byrd, I'd like to ask you something concerning your home state and several of your neighboring states, and that has to do with the Coal Mine Health and Safety Act. Could you tell us whether you think that this act is sufficient to handle the problems of the coal mining industry, which apparently have existed for some time in your state, and whether you think the enforcement of it is likely to be adequate to bring about both the safety and the health of the miners?

Senator BYRD. I cannot say whether or not it is sufficient. I think this can only be known in the face of experience as time goes on. Whether or not it will be adequately enforced, I cannot say. I certainly would urge that it be adequately enforced, and I believe that if it is, it will certainly enhance the safety of the coal miners.

GOREY. But you don't intend, or you don't plan any action within the Senate to strengthen it or to insure its enforcement?

Senator BYRD. I'm sure that my senior colleague, Senator Randolph, who is very much closer to this matter than I am, in view of the fact that he is on the committee which has jurisdiction, does plan further monitoring and surveillance of the act and possibly he may suggest further hearings and some further action.

HERMAN. Are you pleased at the action in bringing it to court now?

Senator BYRD. Well, of course, this is something new. The Bureau of Mines has never done this before. I think that if there is evidence that would warrant such action, of course, it ought to be taken to the courts and the judgement would have to be made there.

HERMAN. The usual argument is that strict enforcement of the rules would doom a great many of the mines in your state and cause a good deal of poverty.

Senator BYRD. Well, we heard those arguments when the legislation was before the Senate. However, it passed the Senate unanimously, as I recall. I hope that it will not have that kind of impact, but I think we have to act in the interests of safety.

WALKER. Senator, back in Washington, as a member of the Rules and Administration Committee, you will be going over the President's governmental reorganization plan, a part of the revolution 1970. Do you favor reorganization as presented by the administration?

Senator BYRD. I favor the objective. I think in theory this is good, but I would have to see a road map. As we all recall, Mr. Johnson proposed a joining of the Labor and the Commerce Departments. I think that this proposal, which Mr. Nixon has made, perhaps comes about as a result of his growing knowledge of the duplication of efforts and programs that presently exist in the Federal Government. I believe that serious consideration ought to be given to the proposal. I think that it would have a lot of repercussions in many areas which don't show on the surface. For example, I think that it would reach into the committees of the two houses and bring about quite an upheaval in those committees and revamping and restructuring. So, it has a rugged road to travel, but I think we ought to give the President every consideration.

HERMAN. Are you sanguine? Do you think that these various committees are willing to give up some of the powers? If you put two departments together, you can have only one committee, one chairman. Is Congress likely to do that?

Senator BYRD. Well, I don't think it confines itself to the committees. I refer to the committees. I think there are lobbies and

there are interested parties within the affected agencies themselves.

HERMAN. And it's going to be tough. Thank you very much, Senator Byrd, for being with us on Face the Nation. We'll have a word about next week's guests in a moment.

ANNOUNCER. Today on Face the Nation, Senator Robert Byrd, Democrat of West Virginia, was interviewed by CBS News correspondent Hal Walker; Hays Gorey, political correspondent of Time Magazine, and CBS News correspondent George Herman.

STATE DEPARTMENT MUST ACT NOW TO SAVE U.S. CITRUS EXPORTS

Mr. GOLDWATER. Mr. President, during the past year and a half the citrus growers of my State of Arizona, together with our neighbors from California, have been locked in a monumental struggle for the survival of a giant share of their $70 million export industry. Thirty-five percent of American citrus exports and several million dollars worth of the U.S. balance-of-payments surplus have been placed in total jeopardy because of discrimination against our products by the world's largest citrus importing area—the European Economic Community. This trade malady holds such ominous implications for American trade policy in general that I believe it warrants the immediate attention of Congress and the executive branch before the symptoms spread.

What has happened is this. The European Economic Community, which is perhaps the world's strongest trading bloc, has granted a sizable tariff preferential to four major competitors of U.S. citrus growers, but has not extended the same treatment to U.S. shipments. In August of 1969, the EEC summarily reduced the tariff on citrus commodities imported from Israel and Spain. This was done without the authority of any kind of waiver from the United States or other affected nations. Then in October of 1970, the EEC rubbed this abusive conduct in our faces by arbitrarily extending the preferential duties for another year.

In addition, Tunisia and Morocco have signed agreements with the EEC under which they, too, receive preferential treatment for citrus exports.

The result is that oranges and lemons from Tunisia and Morocco are subject to only 20 percent of the common tariff applied to citrus products. In the case of Spain and Israel, the agreements provide for the payment of only 60 percent of this tariff. In other words, Morocco and Tunisia are granted an 80 percent tariff preference or reduction and Spain and Israel are given a 40 percent preference.

Translated into monetary figures, this works out to a duty of only 16 cents per carton on shipments from Tunisia and Morocco and 48 cents per carton on shipments from Spain and Israel. Compare this, if you will, with the rate on U.S. citrus products, which is 80 cents per carton.

Mr. President, this places American fresh citrus exports in an almost impossible situation. It means American citrus shipped to Europe must compete with oranges and lemons which enjoy a price advantage of as much as 64 cents a crate. It should come as no surprise that the impact upon exports of fresh citrus fruits from Arizona and California was immediate and drastic with the loss of over two and a quarter million dollars in sales within months after the tariff reductions were made effective.

This is an atrocious development, and our Government should take strong measures to correct it without delay. It is an open violation of the basic agreement which governs trade relations between the United States and the EEC; and, to my mind, it warrants the personal attention of the Secretary of State.

Mr. President, our commerce with the six Common Market countries is controlled by the agreement known as GATT—the General Agreement on Tariffs and Trade. The very cornerstone of GATT is article I, the most-favored-nation provision, which is designed to assure that when a preference is given to one country by a GATT nation, it will automatically be granted to all other GATT parties.

However, the most-favored-nation doctrine has been shunted aside by the EEC in the case of American citrus exports. The EEC is acting as if the principle of nondiscrimination in international trade is not meant for U.S. products.

Mr. President, let me put this conflict in its correct perspective. What is at stake is not merely the export future of a single American industry, although that alone is reason enough to justify a display of backbone by the U.S. State Department.

After all, we are talking about $30 million of the American trade balance. This is how much is sold to the EEC countries each year by the growers in Arizona and California. The present level of these exports is 385,400 metric tons of fresh citrus, or 27 percent of the entire American fresh citrus exports.

This is a trade which has been steadily and carefully developed over a period of nearly a half century. It is a market which is supplied by 12,500 citrus growers in Arizona and California. And it is an industry which supports almost 40,000 U.S. citizen employees. No foreign contract workers are used.

Therefore, standing on its own merits, the Arizona–California trade effort deserves the vigorous support of the U.S. Government. But beyond the interests of this one industry, there looms a clear challenge to the entire U.S. industrial and agricultural export community. The whole spectrum of America's trade position is at stake.

Here is why. If the EEC can openly discriminate against oranges and lemons, then it can discriminate against any other item whether it is industrial or agricultural. Automobiles, aircraft, electronic equipment, apples, pears—you name it. They will all be fair game once the precedent is established that the United States will not enforce its trading rights.

While the dollar amount of citrus exports may not be so large as that of some other commodities, this fact serves to emphasize the importance of the citrus problem. If the United States cannot obtain equal treatment for itself on a commodity which the EEC does not itself produce in any significant quantity and in a case where the dollar amount of American exports is relatively small, how can we ever expect to win fair terms when the problem concerns a high dollar commodity or one produced extensively in the EEC.

By allowing the EEC to run roughshod over one American commodity in this instance, we will be putting each and every one of our trade items on the block—to be hacked away at the whim of the EEC.

What is more, there may be even greater risks involved than the danger to U.S. export markets. According to the Chamber of Commerce of the United States:

> The entire international system of multilateral, reciprocal and non-discriminating trading relationships, so painstakingly built up for the past thirty years, is in jeopardy.

The national chamber further contends:

> It must be emphasized that not only the interests of the United States are at stake, but those of all trading countries.

These views are set forth in the recent report drafted by a special National Chamber Task Force on United States-EEC Relations and bear out my position on the vital need for strong initiatives by the United States in support of American products.

As one who backs a policy of free trade accompanied by the expansion of our own exports, I feel it is incumbent upon our Government to assure American business that both sides of the trade avenues will be kept open. It is to the credit of the Arizona-California citrus producers that this crisis has not backed them into a position of demanding the erection of protective tariffs around America's borders. The citrus growers are export minded, not protectionist oriented.

But every law of equity requires that if an American industry is willing to accept the challenge of free competition within its own market, then it should be allowed to compete on equal terms with other producers in foreign markets. There must be reciprocity in order for a successful and thriving world trade to exist.

The answer is obvious. The United States must convince the EEC it is committed to obtaining nondiscriminatory treatment for American export commodities. To this end, I recommend that the Secretary of State himself should participate by instructing all U.S. embassies in the six EEC member countries to increase their efforts on behalf of equality for American citrus products.

A better opportunity could not be at hand for an effective U.S. move than the one now before us. It is reported the EEC will meet on the 15th of this month to consider the citrus export conflict. What better occasion could there be for these nations to be made aware of the intense feeling by the U.S. Government that the same preference given to other third country citrus products shall be given promptly and unconditionally to Arizona and California citrus products as well.

Accordingly, I call upon the President and the Secretary of State to take all ap-

propriate steps within their power to assure the EEC will admit American citrus commodities on equal terms with those of the most favored nation. This is not simply commanded by elementary justice; it is compelled by international law.

INTERVIEW OF FORMER REPRESENTATIVE MILES CLAYTON ALLGOOD, OF ALABAMA

Mr. ALLEN. Mr. President, one of Alabama's most beloved and distinguished sons is a close personal friend of mine. He is former Representative Miles Clayton Allgood, who on February 22, 1971, will be 93 years of age. Representative Allgood remains an active and alert participant and observer of current social and political trends. Recently, Representative Allgood attracted considerable interest by reason of newspaper interviews serialized by the Fort Payne, Ala., Times-Journal. These interviews have special appeal because they reflect anecdotes and insights gathered from the perspective of a full life characterized by public service and an extraordinarily broad range of experience.

Mr. President, a brief résumé of Representative Allgood's experience in public life provides the source of the great interest aroused in his accounts of personal participation in important political, cultural, and economic events during and after his service in Congress.

Representative Miles Clayton Allgood is a native of Blount County, Ala., born February 22, 1878. He attended the common schools of his native county and graduated from State Normal College at Florence, Ala., in 1898. From that time until his retirement from public life in 1943, he taught school in Blount County; served as its tax assessor; on the State democratic executive committee; as county agricultural demonstration agent; State auditor of Alabama; State Commissioner of Agriculture and Industries; delegate from Alabama to the Democratic National Convention at San Francisco, 1920; and was elected to the 68th Congress where he served with distinction from March 4, 1923, to January 3, 1935. He then served as a member of the Farm Security Administration until he retired from public life on December 1, 1943.

Mr. President with the foregoing background information in mind, I ask unanimous consent that one of the serialized interviews with Representative Allgood which appeared in the Fort Payne, Ala., Times-Journal on October 13, 1970, be printed in the RECORD. I invite all who may be interested in pure Americana to read this delightful account from the memories of my good friend, Representative Miles Clayton Allgood.

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

CONGRESSMAN ALLGOOD LOOKS AT THE PAST

There was very little money in Blount County and Dr. Allgood would take anything his patients could spare. Back then hogs were "Piney woods Rooters" and were hogs with long noses. Some folks said, "The hogs could drink molasses out of a jug." These hogs were hard to fatten and it took a BIG hog to weigh 150 pounds. A sow was sold by the number of pigs she had. If she had eight pigs the sow brought $8.

Miles C. Allgood in 1904 attended the World's Fair at St. Louis, Missouri where he saw hogs that weighed 500–600 pounds. The enthused young man went back home and ordered a registered Duroc bred sow from Tennessee. The sow came by express and Allgood turned her loose in the lot. Soon Dr. Allgood came down to see what his son had bought. He looked at the sow and said, "That is a fine hog."

Young Allgood from past experience knew what his father was going to ask next. Dr. Allgood asked, "What did she cost you?"

Miles replied, "Thirty-six dollars and thirty-six cents laid down."

To that exotic price, Dr. Allgood said, "You've gone hog wild!"

But the sow brought seven pigs. The runt Miles gave to his father. Dr. Allgood fattened the runt which became nice size. Young Miles noticed it wasn't long before his father was bringing his friends up to the lot to see the hog. When Dr. Allgood had the hog slaughtered it weighed over 400 pounds and made a can of lard.

Miles went into the registered Duroc hog business. He exhibited his hogs at the State Fairs in Birmingham, Montgomery and Mobile in 1910 and won the prize for the Championship Duroc Boar in the State.

Young Miles feels it was this record as a hog grower that caused J. T. Watt, State Agriculture Agent to appoint him as an Agriculture Demonstration Agent for Blount County. He was Agriculture Demonstration Agent for Blount County three years. Then was appointed District Agent and young Allgood put on a "cover crop campaign" in several counties in North Alabama. One of the counties was Limestone which today is one of the leading livestock producing counties in Alabama.

In 1920 Allgood was going to make some money in sorghum. He paid $250 for a sorghum mill and sowed 10 acres in cane. The cans were 10 cents each. Came the harvesting—and sorghum was only 15 cents! Allgood had paid 10 cents for the cans!

In the wind up, Allgood lost a $1,000 in his Sorghum venture and had to sell 40 acres of land to settle up. With a slight grin, Allgood said, "I didn't plant sorghum the next year."

When Allgood was Tax Assessor each family was allowed two cows and calves without taxation but yearlings were taxable. He was talking to a man one day and asked him, "Do you have any yearlings?"

He replied, "H—, No!" then told of his reason why.

"Years ago," he said, "I had a yearling to get out of my pasture into a neighbors' pasture. We got into a lawsuit and the case was taken from the Justice Court to the County Court, from County Court to Circuit Court from Circuit Court to the Alabama Supreme Court. I wound up with court costs, witnesses cost and lawyers cost—$600 and every time I hear a yearling bellow it makes me mad."

Allgood served from 1908 till 1910 on the State Democrat Executive Committee. He became State Auditor in 1914 and served until 1918. In 1916, Allgood went to Washington, D.C. with a group. He asked Senator Bankhead to see if he could get President Woodrow Wilson to welcome them. Bankhead complied with the request.

President Wilson greeted the group shaking hands with all 60 of them.

The State Auditor's office was right across from the office where Willie Randall Fox was a member of the State Board of Examiners for Teachers' Certificates. And the two met.

Miss Fox was the daughter of David C. Fox born in Bay Minnette, and Annie Randall of Mobile. The Foxes were living in Montgomery and Mr. Fox was a conductor on the L&N Railroad.

Miles and Willie Randall Fox were later married in the Holy Comforter Episcopal Church in Montgomery. And although, perhaps the young bride hadn't realized it, her husband was destined to receive many honors in the political world.

Allgood was elected as a delegate at large from his native state to the National Democratic Convention in San Francisco in 1920. At the time he was serving as State Commissioner of Agriculture and Industries. In 1922, Miles C. Allgood ran for Congress from his district and was elected.

Soon after entering Congress, Allgood sought advice from Bill Bankhead who had been a member of the Irrigation and Reclamation Committee for many years before becoming speaker of the House. Bankhead advised Allgood to apply for a place on this committee and Allgood followed his advice, later becoming Chairman of the Irrigation and Reclamation committee.

A proposed canal from a lake in Idaho to the Columbia River Basin was one of the ideas of irrigating the Columbia River basin which comprised a million acres. Another idea was to dam the Columbia River at Grand Coulee Falls. In 1930 Allgood and the other members of the Irrigation and Reclamation committee were invited by the Chamber of Commerces of Idaho, Oregon and Washington to visit their section.

The group went by train and then the rest of the way to the Grand Coulee Falls in cars. The last speaker on the platform was Allgood, Congressman from Alabama. He spoke eloquently near the end of his talk, Allgood said, "Here is the place to get the water to irrigate a million acres to make the land produce like the very garden of Eden and generate more electricity than is being generated on any other river in our country. Here is the place for the dam."

From 12–15,000 people had gathered at the Grand Coulee Falls and after Miles C. Allgood's speech, the Band began to play "Dixie." In the ensuing minutes of hand shaking Allgood almost missed his train. The train had left the station but Allgood was taken in an automobile across country to intercept the train. The man taking Allgood got out and flagged the train down.

The Coulee Dam was constructed and millions of acres were irrigated. In November of 1932 President Franklin D. Roosevelt called Allgood to Warm Springs in Georgia. He wanted the Alabama Congressman to tell him something to do to help the southern farmer. Allgood pointed out that cotton was the southern farmers' main money crop. "The farmer has to buy fertilizer every year. Muscle Shoals," said Allgood, "was built by the United States government to furnish nitrate for munitions in time of war and fertilizer and power in peacetime. We have been at peace thirteen years and not a sack of fertilizer has been produced and ninety per cent of our farm homes are without light and the machinery is rusting out."

Seated on the porch of his home on the mountain top, the now elderly Congressman, paused in his talk, then he said, "If the United States hadn't perfected the atom bomb and Hitler had perfected it first our main cities, millions of lives would have suffocated, those left would be a providence of Germany. The United States owes a debt of gratitude to Roosevelt that we will never be able to pay. If Roosevelt hadn't produced the atom bomb when he did Germany would have, because Hitler's scientists had the know-how, had they beat us to it, Hitler would have destroyed millions of lives throughout the nation and we would be under the heel of the German ruler.

Hitler destroyed the lives of four million jews."

Later President Roosevelt's secretary, Marvin McEntire, called Allgood from Albany, New York, to invite him to go with a party to visit and inspect the Muscle Shoals prop-

erties. Allgood, Senator Lister Hill, Oliver, Almon from Alabama were also in the party on the special train through Virginia and Tennessee to Alabama.

The greatest accomplishment Congressman Allgood performed perhaps was bringing President Roosevelt to Alabama to visit Muscle Shoals and the Tennessee River. It resulted in the Tennessee Valley Authority bill.

A prized letter of the Honorable Allgood was one dated: April 18, 1934 and headed: The White House, Washington and reads, "My dear Mr. Congressman: Thanks for your letter of April 14th with its friendly expressions.

Knowing your deep interest in the development of Muscle Shoals, I am counting on your continued loyalty and constructive support in the further development of this great project. Very sincerely yours, "this was typewritten, but below the president had penned "I hope to visit the Tennessee Valley in the autumn and I shall look forward to having you accompany me." (The copy of letter is from the papers of Franklin D. Roosevelt in the Franklin D. Roosevelt Library.)

At the time in 1933 that Senator Norris introduced President Roosevelt's TVA Bill in the Senate * * * was a member of the Military Affairs Committee and introduced it in the House.

Congressman Allgood was in Congress twelve years, from March 4, 1923 until January 3, 1935.

It is said that Congressman Allgood's riding with President Roosevelt in his private car, pointing out the potential spots for developing hydro-electric power brought prosperity to this whole region. It is said that creating TVA in this area Allgood did more than any other man to introduce and develope hydro-electric power to America.

Allgood served as a member of the United States Farm Security Administration in Washington from September 4, 1935 until he retired December 1, 1943.

Congressman and Mrs. Allgood have two sons, Miles C. Allgood, Jr., who is City Engineer for Ocean City, Maryland and also serves as the City Manager and Dr. William D. Allgood who is a Dentist in Fort Payne. Dr. Allgood married Janece Johnson of Henagar and a daughter, Mary Fox Allgood. Mary is Mrs. Peter C. Boisseau, her husband is an Aeronautical Engineer. The Boisseaus live in Lee Hall, Virginia, a part of Newport News and have four children.

While Congressman Allgood was in Congress, during the depression his district did not have a CC Camp. He found out Congressional District number seven in Georgia had two C.C. Camps. He personally went to see President Roosevelt and told him about the situation. President Roosevelt took a pad and ordered the man in charge of the C.C. Camps to transfer one to Allgoods' district.

Roosevelt asked, "What county do you want the C.C. Camp located in?"

Allgood replied, "DeKalb County."

"The C.C. Boys cleaned DeSoto Park," said Allgood, "and the first reforestation was in the Sand Mountain section."

While Allgood was campaigning for Congress one fall he spent the night in Mentone at Hal Howe's Hotel. The Congressman was suffering from a severe attack of hay fever. His head cleared up and next morning was feeling fine.

"Hal Howe," said Allgood, "was a smart Yankee that came to this section with a side show. He married a fine mountain girl and located here at Mentone. He had a fine sense of humor.

"Allgood," he said, "You ought to buy you a lot and build you a home at Mentone." "Who's got a lot?" Allgood asked Howe. "I have." Howe replied.

Allgood purchased a lot and built a home on the mountain at Mentone. This was in 1924. And after he retired, Congressman and Mrs. Allgood, made their home on the mountain.

Allgood is a member of the Southern Methodist Church. He joined the church, Shiloh, at the age of nine and his membership is still there. He is an associate member of Valley Head Methodist Church and the Mentone Methodist Church. He occasionally attends services at other churches. Mrs. Allgood is a member of St. Phillip Episcopal Church in Fort Payne. The Allgoods' son, Dr. Allgood is a Lay Reader at St. Phillip Episcopal Church.

Allgood is a life member of the Masonic Lodge at Gadsden and is a member of the Democratic party. Mrs. Allgood is a member of the Valley Head Woman's Club.

The years have gone by since Miles C. Allgood was born at Chepoeltopec—now Allgood—when he was 12, a neighbor, Mrs. S. T. Burnett entertained a visitor who was a fortune teller. The fortune teller told Allgood that he would lead a good life, "You," she said, "will live to be very old and will engage in work which will carry you far away from home. After many years of service you will return home in your old age to become a famous person"

Allgood jogs from one to two miles a day. He cultivates a garden which just now has some tender greens in it. He plays Shuffle Board and doesn't stay idle. Of late, Congressman Allgood has been receiving invitations to speak on several radio and TV stations.

His great desire is to see world peace. He believes that there will be Southerners on the United States Supreme Court. On the rioting students, Congressman Allgood said, "I think the school should go back to teaching patriotism and love of their country. We've got the best country in the world! Thousands of the younger generation don't appreciate it.

"I think the lives of this generation has been too easy. The discipline in the home in many instances is broken down. One marriage out of every four ends in divorce. There are thousands and thousands of children in these divorced homes.

The sunlight flitters through the trees. The afternoon is fast becoming early evening. The trees in the Allgoods' yard, mostly apple, the trees up on the hillside are beginning to put on the appearance of early dusk.

The slender man continued, "The parents are failing to control their children and they've made life too easy for them, letting them run wild, smoke, drink and carouse around the drop out of school with the result we've got hippies by the thousands."

Allgood touched a moment on integration, "If the Negro race and the people that have brought on integration claim that all they want for the Negro is equal opportunities for education—if Congress would appropriate sufficient money to build Negro schools, colleges and Universities where they are needed and educate Negro teachers to the highest degree such as Masters degree to teach them—trades, educate them at law, trades, arts—so they would have equal facilities every way with the white race—it seems to me it would meet the requirements of the Supreme Court.

"If I was in Congress I'd advocate such a measure and require the Negro teacher to teach negro children and the white teacher white children.

"The white race has sufficient schools, colleges and Universities. All it would take would be appropriations for the Negro race. I think this would stop the marching, the rioting, the burning, the looting, the murder and the hatred between the races.

"We have spent billions on highways (which I supported). We now have a splendid system of highways and can cut down on highway appropriations. We have spent billions on Lunar Explorations. The Russians are sending airships to the moon that are radio controlled with no one on board with no risk of life and at greatly reduced expense. I would like to see Congress reduce highway and moon appropriations by billions of dollars and appropriate money to the Federal Educational Department for separate education of White and Negro children, students in colleges, Universities, arts and trade schools. Japan is prospering and making great economic advancement. Japan educates every pupil to work in some trade or profession so they will be self supporting and bring wealth to Japan.

"I would grant scholarships to pupils who's ancestors came from foreign countries for them to go to colleges and Universities in their mother countries to study economics and then make reports to the Department of Commerce and committee on foreign affairs—send Negroes to Africa and require them to compare conditions of Negroes there with conditions in the U.S.A. The youth, especially of the United States are ignorant of the tragic living conditions in most foreign countries.

"I do believe the Negro teachers should teach negro children, white teachers white children. I've prayed over this—it has bothered me. I am now an old man—I'm like my old great-grandfather back in South Carolina—he was seriously ill in 1864 nearing the close of the Civil War. His neighbors came to see him and they were telling of the deaths of members of their families. My great-grandfather told his wife to ask them to please not mention the war, he didn't want to hear the sad occurrences of his neighbors.

"Alabama has been good to me. I appointed Leonard Bradshaw Southerland to the Naval Academy in 1927. He became a Rear Admiral and was serving as Chief of Staff of the carrier—he was killed on November 15, 1958. I appointed Richard Hunt to the Naval Academy and also Austin Keith to West Point but his father became ill and he couldn't go.

"Back to the integration problem—Congress should take charge and settle the Integration problem. I would like to see peace—sweet peace between the races in my last days here on God's footstool."

By now signs of night approaching were visible as a lovely mist began to settle on the trees, the shrubs and the bright sunshine was changing into early sunset. The Allgoods brown dog was quiet.

"I would like to see Congress authorize Federal Commissions of education to take over the education of our children and relieve cities, counties and states of their duties. I would grant scholarships to pupils who's ancestors came from countries for them to go to colleges and Universities in their mother countries—and compare with the conditions they have here—I do believe the Negro teachers and Educators would approve the Government educating their race." The distinguished man repeated, "I would like to see peace between the races."

This man, Miles C. Allgood born in another era, has lived in the changing Twentieth Century using great wisdom as the years came, seeing what was needed for the world to go on and having courage and the know-how to fight without ceasing to get what was needed for his beloved United States. Now, with (hopefully) other men able and courageous and with wisdom to carry on, Miles C. Allgood wants to enjoy the years of retirement—to garden—to jog in the early morning.

And to have the pleasure of the remembrance by others of his years in his state and congress. He treasures letters from Senators, Congressmen, representatives and presidents. He speaks with great respect of many friends. Senator Lister Hill, Senator John Sparkman, Senator Norris, Senator Carl Hayden, Congressman Jim Allen, Congressman Tom Bevil who recently Allgoods' record in

the Congressional Record, and many other outstanding Senators, Congressmen, Presidents, Governors.

Maybe the wisdom of this man on the mountain at Mentone on Integration will reach through to someone in high power and Congress will take charge and settle this problem and let there be peace between the races.

Miles Clayton Allgood, like so many has added to the progress of our great nation with their services to their state, their country, given unselfishly with thoughts for their fellowman.

SENATOR RICHARD B. RUSSELL

Mr. YOUNG. Mr. President, a very good and appropriate editorial concerning our beloved and departed colleague, Senator Richard Russell was published in the Minot, N. Dak., Daily News of January 26.

The editorial places Senator Russell's contributions to our Nation in proper perspective and pays well deserved tribute to him as a Senator of the United States.

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

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

SENATOR RUSSELL—A GREAT MAN

Along with the many who have praised him, we pay our respects most sincerely to the memory of Sen. Richard Russell of Georgia.

We agree with the sentiments of Sen. Milton R. Young of North Dakota, a long-time friend and admirer, that "ours is a greater nation because of Senator Russell."

It is hard for some single-purposed people of the present era of crusading for good causes to understand how a man could be called a great American who for years led the forces in Congress who opposed national Civil Rights legislation. Anyone who offers a tribute to Senator Russell of Georgia must take this fact into account, and explain that many a notable statesman in the history of this country has been proved either wrong or a defender of the losing side on some important cause; but despite that fact has contributed mightily to the nation's sanity and strength.

Senator Russell was not a hypocrite. He was a man whose integrity was unimpeachable, whose humanitarianism could not be questioned, and whose dedication to the Union and to the two-party system, and to the constitutional system of government, was an earnest devotion. He was a true lover of America, a believer in its destiny, and he understood the sources of the nation's strength. He conceived our system of government as "a dual system of sovereign states in an indestructible union" and in his mind and understanding of it this was no shallow conception; it was fundamental.

He loved the Senate in which he served so many years. To him it was unthinkable that the Senate should allow itself a posture of contributing to an image of U.S. weakness abroad, and to an image of national disunity, in time of war or other national emergency. He possessed, and exemplified, that Southern mystique so important to our nation, which enables Southerners to rise to national occasion and subordinate their personal and even sectional interest at times to an overriding concern for the Union and support for the institutions of national government. Part of the mystique is the intuition as when it is essential that this be done. Again and again we have to take off our hats to Southern gentlemen for putting the nation and its government first.

It may be argued that it is one thing to be devoted to the federal form of government in time of need and quite another, perhaps, to discern and be right on the great domestic issues of social justice which call for corrective action. Sometimes the young Northern senators, so disdainful of Southerners, have been right on the urgencies of justice, even when the Northern practice of justice has been far from exemplary. These young liberal senators, who talk so righteously, yet often accomplish so little, often promoting themselves more than their causes, might take a leaf from Senator Russell's handbook. If they did their homework as well as he did, and if they studied the system and made use of its necessary rules of procedure—instead of stomping their feet with impatience—their achievements might be more worthy of respect.

It is always easier to climb on the bandwagon of national minority groups, and be a righteous apostle of change, than to persuade a majority. In times when minority causes are rampant, someone has to have the patience to represent the majority, and give step by step leadership, and sometimes a measure of protection, to the reluctant who are on the road to change and don't know it or can't accept it. Besides, there are stubborn verities in the art of representative government which redhot reform movements are likely to disregard.

THE YMCA IS HERE AND NOW

Mr. McINTYRE. Mr. President, at a time when we frequently hear that traditional institutions in our country are reaching a smaller and smaller percentage of our young people, it is most heartening to see the Young Men's Christian Association remain vigorous and thriving.

I was reminded of this happy fact just last week when my local newspaper, the Laconia Citizen, published a full page ad announcing the celebration of National YMCA Week at the Laconia YMCA.

The local branch, incidentally, was founded in 1886 by a group of 23 local men. This was not too many years after the parent organization, founded in London, England in 1844, crossed the Atlantic to America.

Early Laconia YMCA meetings were held in the South Baptist church, the Smith block, the third floor of the National Bank, and the Edward block on Mill St., which contained a gym, kitchen and reading room.

In 1948 the building committee bought a lot on North Main St., and in October, 1957, the Laconia "Y" building was dedicated.

Today the "Y" in Laconia has a membership of 750 and offers activties for every member of the family. A partial list of these activities is ample proof that the YMCA is still meeting the needs and desires, not only of young people, but of all ages in my home community and throughout the Nation. They include: day camp, kiddie camp, men's volleyball, men's basketball, jogging, slimnastics classes, grade, junior high and senior high gym classes, swimming, preschool swimming lessons, an industrial management club, older girls' conference, youth and government program and many others.

Mr. President, the YMCA continues to be an organization that provides valuable services to our communities, services which otherwise might not be available. The YMCA is appreciated, it is respected, and it deserves our support.

ROTATION OF MILITARY PERSONNEL

Mr. PERCY. Mr. President, on Friday, January 29, the Washington Post published a report of the transfer of the commanding officer of the U.S. Army Intelligence Command at Fort Holabird, Md. The Army Intelligence Command is responsible for all personnel security investigations conducted by the Army. According to the report, Brig. Gen. Jack B. Matthews served less than a year in that position.

Last August I submitted an amendment to the military authorization bill instructing the Secretary of Defense to undertake the necessary steps to implement a 25-percent reduction in the rotation of military personnel in order to save the taxpayers some $140 million in fiscal year 1971. It has been and continues to be my view that the frequent rotation of military personnel is overdone, wasteful, and inefficient. The $1.3 billion amount earmarked for moving military personnel from assignment to assignment could have been significantly diminished by altering the rotation plan.

I was disappointed that this measure, having passed the Senate unanimously, was changed in conference to request the Secretary of Defense merely to implement the procedures to make such cutbacks rather than requiring adherence to specific dollar reductions in rotation costs. It not only had the overwhelming support of the Senate, it also had remarkable support among servicemen and their families, according to the mail I received in my office after its introduction. I will renew my efforts to secure passage of specific reductions in rotation costs of military personnel during the 92d Congress.

My support of reductions in rotation of military personnel does not prevent me from expressing my support of the transfer of Brigadier General Matthews. Increasing criticism of Army intelligence activities has resulted from charges that its agents have investigated nonmilitary targets including several high ranking political figures. Though no specific relationship has been established between General Matthews' transfer and those activities, in my judgment there has been enough controversy and enough questions raised to warrant the move.

I have followed with careful interest the progress of reports on the military surveillance activities. They are a source of deep concern to me. Private conversations with the principles in this controversy suggest that my concerns are not unfounded, though I am confident the hearings later this month before the Constitutional Rights Subcommittee will provide us with the factual background needed to sustain appropriate followup action.

Mr. President, systematic compilations of data are an affront to all citizens who cherish the rights of free speech and free press. To the extent that data collecting activities intimidate those who

would exercise these freedoms, all of us suffer. I will support, and hopefully participate in, the full and careful investigation of these activities. In the meantime, I am pleased that the Department of the Army has seen fit in the midst of the present controversy to make this important transfer.

I ask unanimous consent that the Washington Post article be printed in the RECORD.

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

ARMY INTELLIGENCE CHIEF TRANSFERRED

(By Douglas B. Feaver)

The commanding officer of the United States Army Intelligence Command, which is responsible for all personnel security investigations conducted by the Army, is being transferred Feb. 1 after less than a year on the job, Army spokesmen confirmed last night.

Brig. Gen. Jack B. Matthews, 52, will be reassigned from Ft. Holabird in Baltimore to an Army infantry training center at Ft. Lewis, Wash. His replacement will be Brig. Gen. Orlando C. Epp, 50, currently stationed in Hawaii.

Army intelligence has come under increasing criticism recently as a result of charges that its agents were investigating such nonmilitary targets as political conventions and members of Congress.

A spokesman at Ft. Holabird declined to comment last night on whether there is any relationship between Gen. Matthews transfer and those charges. However, the spokesman said, "all that publicity (about nonmilitary investigations) did concern the Intelligence Command."

Other sources said that Matthews, a longtime infantry officer, had received his new assignment within the past week, considered short notice. His tenure at Ft. Holabird is considered unusually short for such an assignment.

Epp is a longtime Army intelligence officer and one of the few in that specialty to achieve the rank of general. He has considerable experience in European military intelligence operations.

The transfer comes after a major shakeup of military intelligence operations designed to bring them under tighter civilian control, was announced by Secretary of Defense Melvin R. Laird last December.

STATEMENT OF ILLINOIS STATE SENATOR CECIL A. PARTEE

Mr. STEVENSON. Mr. President, prior to the convening of this session of Congress, a historic event took place in Illinois. For the first time a black American, State Senator Cecil A. Partee, was elected president pro tempore of the Illinois Senate. Senator Partee has had a distinguished career in Illinois.

He was elected to five terms in the Illinois House of Representatives before being elected to the State Senate in 1966. Now, as he enters his third session in that distinguished body, his colleagues have honored him with the highest office a member of that body may obtain. I am sure that Senators would be interested in the remarks of Senator Partee on the occasion of his election. I ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF ILLINOIS STATE SENATOR CECIL A. PARTEE

Gentlemen of the Senate: Before I left my hotel this morning, I made three (3) telephone calls; two of them were happy calls, and one was a sad one. The first was to my mother and father, in their late '70's, in St. Louis, Missouri, thanking them for the training and encouragement they gave me throughout the years, and also thanking them for living before me, a life worthy of emulation. Another call went out to my wife, a devoted, understanding, helpful and encouraging person.

The call of sadness went back to Chicago to Mrs. Nettie Campbell, who is the recent widow of my political guide and mentor. Alderman Campbell, who nurtured me politically, departed this life on December 31, 1970, just a few days ago, and was necessarily deprived of the opportunity to see his work product in this august body, in this exhaulted position today.

I am, of course, grateful to my Party for their endorsement and their confidence.

As I stand here and look out into the State Senate, I am looking at friends. You will observe, that I am not looking on either one side or the other of that aisle, but that I am looking at friends on both sides of that aisle. I am looking at new members here, who, I trust, will become friends as time goes on. I have come to recognize a long time ago that on both sides of this aisle there are men of talent, there are men of wisdom, there are men of experience, there are men of devotion to that concept that we categorically define as "Good Government".

As your President, I am sure that we will not forget our party labels, but, more important, that we will put our joint minds, our multi-talents, and our combined energies together in the interest of the people of the great State of Illinois

One gentleman from the press last night asked me if I felt the fact that I was Black would hamper the legislative program of this State. I told him, and I say again here and now, I am an American. I am here to pass, to help pass, that legislation which is in the best interest of this State, as it affects people who are rich or poor, black or white, educated or uneducated. I earnestly solicit your cooperation on behalf of the citizens of this great State. Thank you.

THE FIRST AMENDMENT AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, an objection to the ratification of the Genocide Convention is that based upon the Constitution. It is directed not to the Convention as a whole but to the provision in article III(c) of the Convention, which declares that "direct and public incitement to commit genocide" shall be a punishable act. It is argued by some that to make such conduct a criminal offense would be an infringement of freedom of speech and freedom of the press under the first amendment to the Constitution.

The plea completely overlooks the obvious limitation upon the absolute freedom of speech which is both part of the very same statement of the "clear and present danger" doctrine and its practical application in the past. What was said in *Frohwerk* v. *United States* (249 U.S. 47 (1919)) is especially pertinent:

(We) think it necessary to add to what has been said in *Schenck* v. *United States* (249 U.S. 47) that the first amendment, while prohibiting legislation against free speech as such, cannot have been, and obviously was not intended to give immunity to every possible use of language (*Robertson v. Baldwin* (165 U.S. 275, 281)). We venture to believe that neither Hamilton nor Madison, nor any other competent person then or later, ever supposed that to make criminal the counseling of murder within the jurisdiction of Congress would be an unconstitutional interference with free speech.

The case of *Giboney* v. *Empire Storage Co.* (336 U.S. 490, 498 (1949)) is a recent expression of the Supreme Court that incitement to commit crime enjoys no immunity under, and draws no protection from, the first and 14th amendments. In that case the Court held that peaceful picketing, with use of placards, to induce violation of a State antitrade law—a criminal statute—could be enjoined.

The Court said:

It rarely has been suggested that the constitutional freedom for speech and press extends to immunity to speech and writing used as an integral part of conduct in violation of a valid criminal statute. We reject that contention now." (Giboney v. Empire Storage Co., 336 U.S. 490, 498 (1949)).

Justice Brandeis, in his concurring opinion in Whitney against California, had this to say:

But even advocacy of violation, however reprehensible morally, is not justification for denying free speech where advocacy falls short of incitement and there is nothing to indicate the advocacy would be immediately acted upon. The wide divergence between advocacy and incitement, between preparation and attempt, between aessembling and conspiracy, must be borne in mind.

It is interesting to note that the Section of Individual Rights and Responsibilities of the American Bar Association reported that:

It appears that article III (c) is drawn precisely to satisfy the prevailing interpretations of the First Amendment to the United States Constitution.

It is clear from the choice of the words "direct and public incitement" and from the legislative history, including statements made in the debates by the American and other delegations, that this is wholly consistent with our constitutional safeguards of free speech. Speech in the United States is not protected where it is incitement to illegal action, so there is no inconsistency between our Bill of Rights or the 14th amendment on the one hand and the Genocide Convention on the other.

I therefore urge the Senate to delay no longer in ratifying the Genocide Convention.

VIETNAM: LESSONS LEARNED

Mr. KENNEDY. Mr. President, one of the more important questions that now haunts our Nation's discussion of foreign policy is: What lessons have we—or should we—learn from our tragic experience in Vietnam?

From the beginning, American intervention in Vietnam has involved a crisis of perception. Public opinion, like public policy, has too often been based upon mistaken views and erroneous assessments of the true forces at work in Vietnam. How these misperceptions came to be, how they have come to be shared by so many, and why it has taken us so long

to correct them will obviously be a source of debate and study for years to come. Yet, one thing is clear: These misperceptions have been shared not solely by our national leadership; our journalists, scholars, and the public at large, have also been blinded at times.

The task before us now is to identify these misperceptions and to learn from our experience. A constructive step in this direction has recently been taken by a group of distinguished journalists who, in the current issue of the Columbia Journalism Review, have explored the subject "Vietnam: What Lessons?" As to be expected from such noted correspondents as Jules Witcover, of the Los Angeles Times, Robert Shaplen, of the New Yorker, and Fred W. Friendly, formerly president of CBS News, their reflections on Vietnam and the press coverage of it provide a cogent review of some of the mistakes, blunders, and cultural misperceptions all of us have experienced in Vietnam. I commend these articles to all Senators and ask unanimous consent that they be printed in the RECORD.

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

[From Columbia Journalism Review, winter 1970–71]

THE CHALLENGE AHEAD

(By Robert Shaplen)

The longer one stays in Vietnam and the more one travels around the country, from the northernmost provinces below the Demilitarized Zone to the southernmost parts of the Delta, the more apparent it becomes that the war's overall effects on the Vietnamese have been cataclysmically destructive, not only in physical terms but psychologically and socially. Yet, as in all wars, the pattern is uneven. Poverty-ridden urban slums and rural wastelands are in predominant contrast to spots of "new wealth" for a minority and of considerable prosperity for a good many middle-class entrepreneurs, contractors, restaurateurs, newspaper publishers, dance hall operators, and so on, as well as for what might be called "proletarian profiteers" of the American invasion—cyclo and taxi drivers, prostitutes, and vendors of black-market goods stolen from American Post Exchanges.

What the long-term socioeconomic results of the war have been and will be are as important as the politico-military consequences, yet they have scarcely been written about. Confining the discussion to South Vietnam, let us consider the impact of the war to date in human and social terms. The single biggest effect of the long and tragic conflict has been the urbanization of the 17 million people in the South. Some 60 per cent of the people now live and work, or are unemployed and steal or beg, in and around towns and cities. Before the war, only 20 per cent were urban dwellers. While scores of thousands of city-bound refugees, driven from the countryside by bombing, are gradually returning to their old rural homes or have been resettled in new areas, it seems likely that the urban and suburban population will not go below a 40 per cent level, particularly as the slow postwar process of industrialization begins.

The principal impact of urbanization has been the destruction of family life, of the close-knit family and inter-family relationships, that have marked Vietnamese life—and Asian life in general—for centuries. Even in the countryside, where the fragmentation of family life has perhaps been less drastic, the war has caused the breakdown of family life as it used to exist. The families of regular army soldiers (ARVN) accompany their men from place to place but mostly live in hovels that pass for "temporary camps," and they are separated much of the time anyway. Even in the case of the Regional and Popular Force elements that stick closer to their homes, the old peaceful village and hamlet existence has been destroyed, at least for the war's duration. Politically, there has been some effort to restore local autonomy through recent staggered hamlet and village elections. This has somewhat ameliorated the social dislocation, but the effects so far are more artificial than real, and it will be some time before reunited families can live and work together again under common roofs and in common fields.

There are relatively few areas of populated Vietnam that have not felt the brunt of the war. One of them, in the Delta, is An Giang, a wealthy province dominated by the Hoa Hao sect, which has established its own accommodation with the Vietcong. Here peasants till their land unmolested, prosperity reigns, and one could hardly tell that a war has been taking place. But almost everywhere else, in varying degree, there is ample proof that in the American effort to "save" a nation we have done much to destroy it. From the highlands to the lowlands, whole hamlets and villages (a village in Vietnam generally consists of from four to six hamlets) have been wiped out. Not long ago I flew in a helicopter over what used to be the village of Ap Bac, in the Delta near Saigon. Years ago at the beginning of the "big war" it was totally destroyed in a major battle the Communists claimed as a great victory because it proved their ability to defeat a helicopter-borne government force. Like many other such places, it has never been rebuilt. In fact, if my friend John Paul Vann, who is in charge of the combined American-South Vietnamese pacification program in the Delta, hadn't pointed out the site of Ap Bac I wouldn't have recognized it, for it was nothing but burned-out brown fields spotted with bomb craters. Even the rubble was gone.

What happened to the people of the hundreds of Ap Bacs throughout the country? The answer is, who knows? Certainly scores of thousands of ordinary civilians—no one really knows how many—were killed, and countless other thousands were permanently maimed. Many thousands more became refugees in nearby cities, including Saigon, while others have resettled in far-flung villages, probably working as tenants or more likely as sharecroppers, or living with relatives. The sons of the surviving families are in different communities either serving with the Vietcong, or with the ARVN or the Territorial Forces, which are what the Regional and Popular Forces together are now called.

Vietnam has indeed become a nation of migrants, but the tragedy of the Ap Bacs is not universal. I have visited many other villages in the Delta that have been reestablished and repopulated with a mixture of former inhabitants and new citizens. New hamlets and villages have been created all over the country, mostly along or close to roads and highways that are protected by South Vietnamese troops, including local People's Self Defense Forces. But these new places usually lack the natural symmetry and charm of their now-devastated tree-fringed predecessors, and many of them look like shantytowns.

The most ubiquitous sign of "restoration" in Vietnam is the gleaming tin roof. All along the Street Without Joy, the northern strip of rich coastal farmland in Quang Tri province, one can see hamlet after hamlet where shattered mud-brick homes have been rebuilt and topped with tin roofing supplied by the Americans. Flying at sunset over the once-beautiful city of Hue, one is almost blinded by the reflection bouncing off these bright new roofs. Though it will never again be as beautiful as it was, Hue, which was largely destroyed during the 1968 Tet offensive, has made an astonishing recovery. Though at least 5,000 people were killed in the city—some say many more—it is prospering again, the markets are booming, and in the surrounding rural hamlets the rice harvests are once more rich and new crops of vegetables are being grown.

VIETNAM HAS BECOME A NATION OF MIGRANTS

One of the most common results of the war has been "de-peasantrification" due to widespread American bombing and defoliation. All along the roads of the country one sees small crude shacks with wooden slabs announcing GI WASH CLOTHES or COKE, BEER, SOFT DRINK or WE FIX TYRE. These places are operated for the most part by dispossessed farmers. Only as the level of the fighting has decreased—as it has done markedly in the last year, although it may pick up again—have peasants again begun to till the land; and one now begins to see many small Japanese-mechanized plows run by one man, alongside the traditional ones hauled by water buffaloes. However, Vietnam, a prewar exporter of rice, will still have to import this staple commodity indefinitely. And though the use of miracle rice seeds from the Philippines is starting to increase the yields, it will be years before the effects of the newly introduced land reform, distributing land to the tiller, will be felt. In the meantime tremendous shifts in the peasant population are continuing. Given the movement of peasants back to their old villages or to new ones, and some continued movement into towns and cities, one can only say the population as a whole is in a state of flux that is likely to continue for several years more.

What is thus evolving is a new kind of mixed urban-rural society, though I think the basic trend remains urban. Saigon-Cholon (Cholon is the Chinese section), a city of 400,000 before the war, has now swelled to 2 million, and it is not apt to diminish in size or numbers. The great majority live in slums or in areas that are so overcrowded that they are pseudo-slums, where small wooden-frame or corrugated tin houses are tightly packed together in narrow lanes like so many sardine cans. One of the most familiar sights in downtown Saigon today is that of small girls, aged nine or ten, wandering around begging with their infant sisters or brothers strapped to their backs. Their mothers and fathers, if both are still alive, are working, by day and by night; the father perhaps as a cyclo driver, and the mother as a bar-girl, where she makes herself available to American soldiers, black or white, if they occasionally wander in—no guarantee against VD. The chances are that the members of such families see each other no more than four or five hours a week. Saigon, too, like the rest of Vietnam, is full of widows and vagrants.

Nobody really knows how many orphans there are in Vietnam. Recently I rode back from Paris to Vietnam with a young Belgian nurse who runs a small orphanage in Gia Dinh, the province alongside Saigon. She told me that her home regularly has about twenty-five orphans offered for adoption, and that half are Vietnamese and the other half the products of GI fathers and Vietnamese girls. It is no easy process to adopt an orphan—the paperwork alone takes about a year—so it is safe to assume that the permanent orphan population will also run into scores or hundreds of thousands.

This is only one tragic side of the war in Vietnam. What may prove equally tragic, though in a different way, is the social dislocation that will result when the Americans finally leave and the American-privileged Vietnamese are dispersed. These include not only the 400,000 or 500,000 men and women who have worked directly for the Americans but also the million or more who are their wives and sons and daughters, and perhaps their sisters, brothers, uncles, aunts, and

cousins—for the circle of Vietnamese dependents is wide. Already there have been serious strikes caused by workers who have rebelled against having to go back to work at Vietnamese wages in Saigon's inflated economy, wages that are four or five times lower than what the Americans paid. The inevitable result, aside from more labor troubles, will be an acerbation of what has already occurred—an increase in the rate of crime, delinquency, and hooliganism, with all the attendant abuses of drug addiction and other forms of vice. A familiar sight along Tu Do, the main thoroughfare in Saigon, is the empty bars where the bar-girls who used to drink "Saigon tea"—high-priced colored water—with prowling American soldiers now sit by themselves, hour after hour, waiting for the stray customer and not even talking to each other; just staring emptily. The same is true in the resort cities of Vung Tau and Nhatrang, on the coast and in other cities.

The political effects of social upheaval and dislocation are even more difficult to analyze and predict. In 1966, when the so-called Student and Buddhist Struggle Movement was destroyed in Danang and Hue by the government of Prime Minister Nguyen Cao Ky, with the approval and logistical support of the Americans, the Buddhists dropped out of sight as a political force. Many were jailed, some were killed, others just went underground, while still others became traditional Vietnamese *attentistes*—the French-inherited term for "waiting to see what happens." During the September, 1970, election for the Senate, the Buddhists reemerged politically, stopped their boycott of elections, and captured ten of the sixty seats in the Senate (only thirty seats were at stake this off-year election). The student movement is also active again, and while the Communist minority is responsible for most of the demonstrations and makes the most noise, the majority of student leaders and members of the important student groups are non-Communist but pro-peace. Along with the veterans—both the disabled and healthy ones—the students are likely to become more important politically in the period of readjustment that lies ahead. It may even turn out that the growing movement for peace, mostly urban-expressed, may become and remain strong enough to avert the new civil war that so many fear will follow this one.

In the countryside as well as in the cities, millions of people who are not demonstrating are simply "waiting"—waiting for the Americans to leave so they can determine who will be stronger, the Government or the Communists, and therefore with whom they should make their accommodation. The easy accommodators may yet outnumber the more ardent nationalists in the South and the ultimate outcome of such a development would undoubtedly be its domination by the North, which is partly what Hanoi means when it speaks of "protracted warfare" and of being "patient." If there is a cease-fire as a result of negotiations, and a real political contest begins, Hanoi and the Provisional Revolutionary Government it controls will quickly concentrate on the accommodators, including most importantly the fragmented religious elements in the South. The process of influencing them may take several years, if there is no new war, but the hardheaded and dedicated men of the North will meanwhile find time to rebuild their own shattered nation.

THE POSSIBILITIES OF MILITARY REBELLION CANNOT BE DISCOUNTED

There has been much speculation and considerable writing about terrorism and the possibility of bloodbaths once this war is over. I have read countless documents in which the Communists constantly speak of eliminating "tyrants" and even list, by individual names in specific villages, the people they want to kill—mostly government cadres, teachers, and anyone who has worked for or cooperated with the Americans. On the basis of the number of assassinations and kidnappings still taking place, let alone the proven history of repression and killing that occurred in North Vietnam in 1945–1947 and again during the abortive land reform experiments in the mid-Fifties, there is reason enough to believe that the Communists mean what they say. I have had long talks with ex-Vietminh friends of mine who have outlined whole scenarios of what they think will happen "when the Communists come," of their plans to use village and town hooligans to turn people against each other, and of other terrorist tactics that have been applied before. There is no reason to believe that terror will not beget terror and that a repressive government on the Saigon side would be any less recriminatory or would eschew violence. Both sides at the Paris peace talks, in their endless propaganda, have spoken of "guarantees" against terrorism and reprisals, and if there is any attempt at a rational peace settlement an effort will undoubtedly have to be made under some sort of international supervision at least to limit the degree of such violence. The interregnum between peace and a potential Third Indochina War, however long the interval lasts—perhaps a year or two—will be crucial, and the most crucial period of all will be the first six months.

Economic dislocation and poverty also enter the equation. Although steps have recently been taken to raise the level of wages of civil servants and soldiers, the mounting inflation in the South, particularly in Saigon and other cities (the peasants in the Delta are relatively better off), threatens to burst the seams of the urban economy. At the same time the possibilities of military rebellion are not to be discounted. So long as men in the army, from the rank of private up to captain especially, but in the higher ranks as well, are not paid enough to sustain themselves and their families, the threat of armed rebellion will remain. (A hard-working whore or cyclo driver can make two or three times more a month than a general or a cabinet minister, though of course they don't have the same opportunities to make as much through corruption.) The possibilities of civil strife within a civil war are thus not to be discounted. Right now, unless the United States is willing to give Vietnam another $200 million to $300 million on top of the more than $100 *billion* the war has already cost us, the danger of economic collapse and fresh internal violence are serious. Should such outbreaks in the Government's own ranks take place, the obvious beneficiaries would be the Communists.

"Vietnamization" in this sense has an inbuilt fallacy. The Vietnamese can scarcely finance the maintenance of delicate helicopters and modern jet fighter-bombers in the manner in which *we* are accustomed, let alone support an army of a million in a nation of 17 million. In fact, three-fourths of the Vietnamese national budget of some 230 billion piasters currently is devoted to military expenditures, under already inflated conditions. The social implications herein, too, are thus dire to contemplate. Grandiose postwar plans have been drawn up by combined American and Vietnamese experts—the chief American architect of the official 700-page plan has been David Lilienthal, former chairman of the Tennessee Valley Authority—but, in the opinion of most Vietnamese economists I have talked to, these long-term planners have had their heads in the clouds. Far better are some much more modest contingency plans, being worked out privately by small groups of Vietnamese in Saigon and in Paris, for postwar recovery based on agricultural improvements and then on light-industry development on a year-by-year basis.

The dichotomy of prosperity and poverty that has already afflicted the wealthy nations, notably the United States, is already evident in wartime Vietnam, too, and one shudders to think what we have wrought in this regard. In the shabby shantytown communities of Saigon and other cities, and parts of the Delta, too, one can see thousands of television aerials poking up into the sky—they are by no means restricted to fancy new modern structures being built by the get-rich-quick war profiteers and corrupt bureaucrats. The bug of the affluent society has already bitten the Vietnamese in many other ways as well, even amid the breakdown of classes and the destitution of the war. There is a generic term for it all—"the Honda society"—and it dates back several years to the policy instituted by the Americans to soak up piasters by creating a consumer climate. There is nothing wrong in every Vietnamese having a Honda (except for the increase in pollution this causes), but as one Vietnamese economist and sometime cabinet member I have known for many years says, "You shoved all these expensive things we didn't need down our throats in order to keep your kind of war going, and then, overnight, you order us into austerity and tell us to tighten our belts while we go on fighting a war we can't possibly pay for with our resources." It is no idle prediction to state that, short of the United States' continuing to give the Vietnamese $2 billion worth of economic assistance a year for at least five years after the war ends (which seems hardly likely, given the current mood of Congress), the country may simply blow up or fall apart economically, with obviously more disastrous political and social consequences.

These and other factors have contributed to the growing anti-Americanism in Vietnam. We are not, as the Communists repeatedly accuse us, "neocolonialists" in that we are not out to "conquer" or occupy Vietnam; but what we have done, unwittingly, is to create an ambience of colonialism, in social and economic ways, and the ultimate effects are not that different from what the French did before us. Perhaps they are worse in some ways, because so much more waste has been involved. In this sense the dislocation we have caused in the South, let alone the destruction by bombing and artillery, may prove to be as disastrous as the damage caused by bombing in North Vietnam.

WE ARE NOT REALLY ATTEMPTING TO DISCOVER WHAT WENT SO WRONG

What do the Vietnamese think of it all, and of us? They are divided and bewildered. One reads the daily translations of the Vietnamese newspapers, and talks to friends who are reporters and editors, to authors and writers of cynical songs, and the feeling one comes away with is not that they are bitter or unforgiving but that they have begun to wonder whether it was all worth the price after all. It is not that they feel they were not worth saving or even that they did not need and welcome outside help, but that they now realize, belatedly, they could and should primarily have done more to save themselves, from Communism or anarchy, and that what we did was simply shove them over a different kind of precipice. One constantly asks oneself the question of whether a totally controlled society such as that in North Vietnam is not bound to win, one way or another, over a *partially* controlled one, such as has existed in South Vietnam since 1945.

There has been considerable difference of opinion, both in Vietnam and in the United States, about how the foreign press—especially the American correspondents—have covered the war. I think our coverage, generally, has been fairly good, though spotty. At the same time, however, far too little has been written, in any kind of depth, about either the politics or the social and economic

aspects of the long conflict—and this has been made more difficult by the fact that the longer the war has lasted, the less willing the Vietnamese themselves have been to talk to any Americans, officials as well as reporters. Among other things, the Vietnamese have become mighty tired of the constantly changing American faces—the average tour of duty for a correspondent has roughly been similar to the eighteen months for an embassy official, though there have been some notable exceptions.

I have always been astonished at the lack of interest in the politics of the war shown by most American reporters. This may be due, in part, to the fact that a great many of them have been young men in their twenties who were gung-ho and eager to get out where the action was. Action stories, and action shots, were "what the American public wanted," and I do think that much of the revulsion of the war back home was caused by the overemphasis placed by television on battle coverage. It became virtually impossible, again with some rare exceptions, for a TV man to persuade his home office that there were other aspects of the war and of Vietnamese life worth shooting in film. I remember one producer, Al Wasserman of NBC, who spent two arduous months preparing an hour-long show about the politics of Vietnam at the time of the 1967 elections. He spoke to dozens of politicians and other people, both in Saigon and in the provinces, and the show was scheduled to be telecast in New York at 6 o'clock in the evening of what was election day in Vietnam. At the last moment this time was preempted by a golf match, and the excellent job Wasserman did was viewed by a small audience late that night.

There have been a few other good hour-long "specials" done by the networks, notably CBS's *The Mind of the Vietcong*, and for the past three years National Educational Television has conducted panel shows—discussions among correspondents—that have been informative and lively. In my opinion, most of the *Face the Nation* and *Meet the Press* interview shows that have dealt with Vietnam—and there have been many—have been cut and dried and fairly stilted, with little information coming out of them, though there have been exceptions. Some of the best TV work has been done by foreigners, notably by independent French and German producers.

Comparable to the TV specials have been the occasional "blockbusters"—stories of three or four columns—usually written by departing Saigon correspondents of major newspapers or the wire services. Among the best of these that I recall were the summaries and opinions of R. W. Apple, Jr., Peter Grose, and Gene Roberts of the New York *Times*, and Robert Kaiser of the Washington *Post*. Invariably, by the time a correspondent left Vietnam, he had become pessimistic, so most of these blockbusters have tended to be gloomy, with considerable justification. During their periods of assignment, the majority of correspondents have tended to be so busy competing for daily stories, or covering routine ones, that they seldom had time to sit back and do some quiet reflection. The result has shown in the generally gray copy that often appeared on page 1—how many men lost in how many battles, and who did what to whom.

There have been some notable exceptions to this kind of reporting. Two outstanding daily men were Ward Just of the Washington *Post* and William Tuohy of the Los Angeles *Times*, while Peter Arnett of Associated Press stood out among the wire service men. All three constantly worked hard to present a proper mixture of reporting and interpretation, and they did better than most in mixing military and political news. Perhaps because they wrote less often, some of the correspondents from other countries often did a more reflective and interpretive job. This has particularly been true of Mark Frankland of the *Observer* of London and Jean-Claude Pomonti of *Le Monde*. On the other hand, Robert Keatley and Peter Kann, both of the *Wall Street Journal*, have done similar fine work, and some excellent feature writing has been done by Bernard Weintraub and Gloria Emerson, both of the New York *Times*. Strangely enough, it has been only fairly recently that some of the most subtle and poignant reporting of this sort has begun to appear on a more regular basis. It has been as if, belatedly, we have realized what we have done not only *in* but *to* Vietnam and have looked in the mirror at our own faces as well as those of the Vietnamese.

I sincerely doubt that either the Vietnamese or the Americans will recover from the trauma of this long and misfought, misconstrued, and often misreported or unreported war—at least not for several generations. In having sought to distinguish between involvement and intervention, I continue to feel that, originally, we made a valid commitment politically in Southeast Asia and, specifically, in Vietnam. We should not, however, have overcommitted ourselves militarily once it became clear that our efforts to initiate reforms, as far back as the period after the Second World War when the French were still in control, were getting nowhere.

But as the years have passed what has dismayed me most, beyond the damage we have wrought, is that not only have we inhibited or even helped lose a revolution that might have been won—that is, a true nationalist revolution as against a Communist one—but that we have done and suffered more than that: we have confounded and divided ourselves, and we have done the same to the Vietnamese, perhaps more seriously because more permanently. To make it worse, we are now flagellating and *mea-culping* ourselves without really attempting to discover what actually happened, why and how things went so wrong. It may be too soon for that, but given all our other national and international problems, and our short memories, I fear that when we do find time—*if* we do—to think back to Vietnam, it may be too late to learn.

WHERE WASHINGTON REPORTING FAILED

(By Jules Witcover)

On March 10, 1964, Sen. Ernest Gruening, Democrat of Alaska, walked onto the floor of the Senate and delivered the first speech in that important forum advocating an American withdrawal from Vietnam. The next morning Gruening, a former newspaperman, picked up the New York *Times* and the Washington *Post*, looking for stories about his historic speech. He could not find them. He thumbed through the entire issue of the *Times* and then the *Post* and found not a single reference. Had he been able to repeat the exercise with most if not all other newspapers in the country that day, the search would have been just as futile.

This single incident tells much about the performance of the Washington press corps in covering the Vietnam war. It represents not simply the misreading of the significance of a single event; more critically, it pinpoints the breakdown of a cardinal principle of newsgathering, especially early in the war; pursuit of all points of view.

While the Washington press corps in those years diligently reported what the Government said about Vietnam, and questioned the inconsistencies as they arose, too few sought out opposing viewpoints and expertise until very late, when events and the prominence of the Vietnam dissent no longer could be ignored. Gruening and other early dissenters from official policy in and out of the Senate attest that they found very few attentive ears among Washington reporters in the early 1960s. Only in 1966, when the dissent surfaced in force within the Establishment with televised hearings of the prestigious Senate Foreign Relations Committee, did the voices of opposition really enter the mainstream of Washington reportage. Anti-war demonstrations had been covered, to be sure, but the policy arguments behind them had been given short-shrift by most.

In coverage of the war, the press corps' job narrowed down to three basic tasks—reporting what the Government said, finding out whether it was true, and assessing whether the policy enunciated worked. The group did a highly professional job on the first task. But it fell down on the second and third, and there is strong evidence the reason is that too many reporters sought the answers in all three categories from the same basic sources—the Government. The 1966 hearings, which brought the Johnson Administration into open defense of its Vietnam policy before a respectable forum, enabled the press to do a better job than before. But responsible dissent existed well before those hearings [see page 28]. One can only speculate how the course of the war might have been affected had more members of the Washington news community relied less on their government and more on its responsible critics in appraising the veracity and effectiveness of government policy?

Admittedly, these observations are made with benefit of hindsight. In any appraisal of how Washington's press corps has covered a war halfway around the globe, it must be acknowledged that newsmen in the capital have labored under severe handicaps. Not the least is their sheer distance from the war. For most, the textbook axiom of "go to the source" could not be applied, so it was extremely difficult to make an independent evaluation. In addition, Washington in the early 1960s was more concerned with Laos than with Vietnam.

According to Lloyd Norman of *Newsweek*, who has covered the Pentagon since 1946, efforts in those days to get information about Vietnam were turned aside with the observation that "the war is being fought out there" and that was where the news media would have to go to find out about it. It was not bad advice, then or later, and Norman and other Pentagon correspondents followed it as time, the pressures of other duties and the budgets and wisdom of home offices permitted. But on-the-scene coverage was a luxury that most Washington-based newsmen did not have. They had to take what they could get from their government and try to make sense out of it.

Referring inquisitive reporters to Saigon, of course, could not stand for long as a Pentagon policy, particularly as the war dragged on and grew larger. Nor was it, the Kennedy and Johnson Administrations found out, prudent to encouage probing. Reporters who went to Vietnam—such as Malcolm Browne of Associated Press, David Halberstam of the New York *Times*, and Charles Mohr of *Time*—sought out other points of view, checked them against their own observations, and began to write stories casting serious doubts on the effectiveness and wisdom of American policy. These stories in turn raised eyebrows within the Washington news community and spawned more probing questions at the Pentagon.

SKEPTICISM CAME SLOWLY AND DISBELIEF EVEN MORE SO

As early as 1962, regular briefings on Vietnam were given to Pentagon reporters. But they were extremely sterile, at first focusing largely on the counterinsurgency concept that flourished under President Kennedy and, increasingly under his Secretary of Defense, Robert S. McNamara, on the "quantification" of the war. Guerrilla warfare was new to the American military, to McNamara's Pentagon, to the news media, and to the American public. As pressures mounted to

report progress in a war in which the normal yardstick of land taken did not apply, new yardsticks had to be found. The result was a statistical avalanche from a constantly augmented Pentagon propaganda machine—body counts, weapons captured, kill ratios, defection rates. A whole new vocabulary was created and conveyed to the press to assess. Reporters in Vietnam could gauge the progress of the war with their eyes and ears; reporters in Washington could not, so they tried to cull meaning from the statistics and the new language.

Complicating the task was this overriding fact: the men in government who parceled out the data believed it was significant. Their own self-delusion, later approaching self-deception and then in some cases rank deception, led the purveyors of this data to press it with the zeal and conviction of the True Believer. And as the war became broader than simply a Pentagon affair, True Believers at the White House and the State Department joined in. "We were largely at the mercy of the Administration then," Peter Lisagor, Washington bureau chief of the Chicago *Daily News*, recalls. We had no touchstones on the war. And we were less skeptical on the war than we were on other things. There was a tendency to believe more because they were supposed to have the facts and you didn't, and we were more inclined to accepting an official's word on something as cosmic as a war. After all, we don't consider our government a foreign power just yet."

Beyond that was the fact that the Washington press corps, like the officialdom it reported on, was comprised largely of men and women in whose lives and political thinking the Cold War had been a reality. To many of them it was continuing, even if in a more relaxed, sophisticated mode. Even those occasional early-day Vietnam war critics like Bernard Fall, living in Washington, argued more with the strategy being used than the political objectives sought. Consequently, the focus remained largely on military aspects, to exclusion of the broader—and, ultimately, more critical—questions.

Norman recalls how he and other Pentagon reporters in the early Sixties went to Fort Bragg, N.C., to witness the training of the heralded Green Berets, reporting on the concept as a military technique but seldom questioning it in the broader political context. "It looked pretty good," Norman says. "Those little guys in black pajamas didn't look like much, and these big guys in Green Berets were going to help the Vietnamese lick them." As a Pentagon correspondent at the time, I remember going to Fort Bragg myself, walking through a mock "Vietcong Village," and suddenly being confronted by riflemen in black pajamas and conical straw hats who popped out of pine-covered hiding places in the North Carolina woods to "ambush" the visitor. Surely with training under such realistic conditions, the Green Berets would then be able to go to Vietnam and show the South Vietnamese how to win.

All this time, as the doubts of young American reporters in Vietnam were trickling home in their dispatches, older news hands at the Pentagon were likely to dismiss them as the product of the inexperienced. Pentagon officials constantly sniped at the Saigon press corps, accusing it of covering the war from the bar atop the Caravelle Hotel and of listening too much to dissident, self-seeking South Vietnamese politicians. Still, the reports from Saigon were having impact, to the point where Arthur Sylvester, then Assistant Secretary of Defense for Public Affairs, initiated "Operation Candor" in 1964–65. U.S.-based reporters were dispatched to Vietnam, at government expense, for two-week tours during which they could see for themselves what was going on. The Pentagon hoped they would counter in their reporting the "erroneous" accounts coming from Saigon regulars.

As is usually the case with such government-sponsored endeavors, the candor was more apparent than real. I went to South Vietnam under the program in March 1965, and on arrival found myself subjected to a stifling round of official briefings parroting the government verities of the moment. Great claims for pacification were made, and special side trips arranged to recently pacified villages and hamlets. On these carefully selected trips it was possible to find American military men who persuasively challenged the claims of progress, and trips of the visiting reporters' own choice yielded more grounds for doubt. But a few weeks were not enough for a really solid reading by a reporter who knew neither the language nor the politics of the country. As a result, much of what was written out of "Operation Candor" served the Government's intended purpose of providing a counter to the pessimism of the Saigon press corps. Beyond that, it returned to Washington scores of reporters who know knew enough about the Vietnam war to sound authoritative, but who in most cases weren't.

Still, even in a short tour in Vietnam the trained reporter could recognize elements of a very mixed and uncertain bag. In that sense "Operation Candor" boomeranged, for it nurtured a skepticism that, in the middle Sixties, was increasingly applied to official claims about the war. For one thing, the official deception that American military men in Vietnam were functioning merely as "advisers" in ground combat and as "instructors" in air missions—a deception already pierced by the Saigon press corps—was further unmasked. Also, the visiting newsmen got a crash education in the fine military art of semantic obfuscation. Lisagor recalls an officer's coming in from a mission in which his unit had been chewed up, and hearing an official spokesman in Saigon describe it to the visiting press as a "meeting engagement." To which the officer blurted: "Meeting engagement? We were ambushed." Says Lisagor: "A whole language was created to minimize that we were in a war, and that we didn't know how to fight it."

But it must be remembered that only a relatively few in the Washington press corps ever got to Vietnam, even for this brief, government-sponsored stint. And outside the Pentagon news corps, the Washington correspondent who went to Vietnam was rare indeed. Almost as rare, too, was the Washington reporter who really sought out alternative sources available to him—the obscure histories of Indochina that lent perspective and understanding; the less obscure writings of the French experience by Fall, Jean Lacouture, and others; the small and generally suspect peace movement.

One of the few non-Pentagon reporters who very early took on the Vietnam war as a beat was Richard Dudman, now Washington bureau chief of the St. Louis *Post-Dispatch*. His capture and detention in Cambodia last year occurred during his eighth reportorial tour in Southeast Asia since 1960, and in Washington he mined not only Pentagon sources but Vietnam experts at the State Department, the White House, on Capitol Hill, and in the academic and nongovernmental antiwar communities. The mix of viewpoints he thus culled produced both insight and skepticism and equipped him better than most to assess official claims. He recalls, for instance, when he was exploring claims of success for the Chieu Hoi or "open arms" program toward Vietcong defectors. When he asked an aide to Walt W. Rostow, President Johnson's chief national security adviser, what happened to the defectors after they were clothed and fed, the aide replied: "We don't know. We think some of them go back. They regard it as a V.C. R&R program."

But skepticism came slowly and disbelief even more so to the bulk of the Washington press corps. When the Government reported in August, 1964, that two American destroyers had been attacked in the Gulf of Tonkin, and President Johnson used the report to obtain a sweeping authorization to respond as he saw fit, there was no sustained effort by the daily press in Washington to ferret out its veracity [see page 21].

Similarly, the scope and intent of the major American buildup in Vietnam in the spring and summer of 1965 were inadequately probed and analyzed from Washington. Although the Pentagon reported the increases in troop commitments and Pentagon reporters dutifully chronicled them, President Johnson was able to gear up for a massive American takeover of the war without the American public's really grasping that harsh fact. The bombing against North Vietnam as a response to the Pleiku and Quinhon attacks of February, 1965, was presented at first as a simple tit-for-tat, then prolonged into a full-blown air offensive—always with the Administration denying there had been any "escalation." At first Marines were sent to Danang to protect Hawk missile sites, then more to protect the protecting Marines, and so on. Reporters in Washington asked the right questions, but by and large were worn down by the frustrations of coping with the constantly augmented information-propaganda bureaucracy, and were misled by explanations at the highest levels. Again a serious problem was that the ranking officialdom believed—or persuaded themselves they believed—what they told reporters.

YET WITH MANY THE HABIT OF ESTABLISHMENT REPORTING REMAINS

The President and others played the background game deftly in this regard; except in the earliest stages, and with a few exceptions, they were careful to avoid extravagant claims on the record. But in backgrounders they produced secret reports, charts, and the most elaborate rationalizations for optimism. In the spring of 1965, it now is clear, Mr. Johnson thought he could accomplish the buildup under the table, polish off the war without upsetting his ambitious domestic program or public opinion, and come out of the whole business as a mastermind. It was self-delusion, but it was policy, and an element in achieving its success was deception of the public and the news media. And partly because the bulk of the Washington press corps still was listening primarily to one source — the Government — the deception worked.

The policy, however, did not work, and increasingly both the media and the public at home realized that they had been had. For many Washington reporters, the unrelated Dominican Republic intervention in the spring of 1965 helped pierce the smog. So blatant and transparent were the manufactured justifications for dispatch of American troops to save the favored military government there that the skepticism and even cynicism thus nurtured spread to all aspects of Johnson policy. And as the credibility of the Government shrank, the voices of those who had been casting doubt on it grew in numbers and volume. The teach-ins of the spring of 1965 spotlighted many of these voices, and when the Administration sent spokesmen to do oratorical battle with some of them, many in the media began to plug into these alternative sources of expertise. Previously, the Administration's defense usually had been wrapped in the anonymity and ambiguity of the Washington backgrounder; now it was on the firing line, and the media were freed of the restrictions imposed in those earlier, cozy sessions.

At the same time, the American peace movement, locked into a circular dialogue with itself through the Fifties and early Sixties when its primary focus was nuclear disarmament, was developing a newer, more credible face. Almost imperceptibly, the war had changed it into a remarkably broad-based, outreaching protest of middle-class

Americans who wanted answers. As on the campus, the origins of the war were researched in great depth by the more serious antiwar groups such as SANE and Women's Strike for Peace. Although they propagandized, as did the Government, they also provided materials, ideas, and individuals from which the questing reporter could seek clues and answers to what was going on. Through these new sources or independently, some reporters like Joseph Kraft developed contacts—if they could go abroad—with North Vietnamese and National Liberation Front diplomats, and—if they could not—with dissident South Vietnamese who occasionally were brought to Washington. From them, reporters had the opportunity to sift fact from propaganda and gain new insights.

Most of Washington's press corps, however, continued to ignore these alternative sources of information. In the fall of 1965 a series of militant antiwar acts, including the burning of draft cards and lying down in front of troop trains on the West Coast, hardened public attitudes against the protest. Sanford Gottlieb, Washington political action director for SANE and one of the more moderate voices in the peace movement, recalls that when he held a press conference in November, 1965, to announce the first broad-based antiwar march on Washington, "the hostility was so thick you could cut it." Even when the November march took place peaceably—and conventionally dressed middle-class participants far outnumbered the crazies—that hostility continued among most of the Washington press. "Like most Americans," Gottlieb says, "they wanted to believe their country. They were skeptical in favor of the status quo." Only with the Senate Foreign Relations Committee hearings in 1966 did this media hostility begin to dissolve.

For all that, the Washington news community continued to see the protest in very narrow terms. "It was covered almost as a police problem by most people," Dudman says. Reporters focused on the numbers game of whether 50,000 or 100,000 attended a demonstration and on how many security forces were mustered to make how many arrests, often overlooking important voices and viewpoints the protest was bringing to the debate over U.S. military and political policy in Vietnam.

In early 1968 a series of military and political events occurred that probably did more than anything else to open up the Washington bureaucracy to the press corps. In the last days of January, 1968, the unexpectedly massive Tet Offensive shattered most remaining illusions in official Washington. To be sure, the President and others in his Administration sought to put the best face on things. But it was too late; the fallacies in Administration thinking about the war were open wounds. Voices of doubt and dissent—muted up to now if they had existed at all—began to be heard in inner councils of government. They culminated finally in the internal debate that led to President Johnson's decision against sending more troops to Vietnam, and in favor of limiting U.S. bombing and starting peace talks. The government that for so many years had spoken with one voice on the war now fragmented into several, and the press corps was able to record a number of them. The Washington *Post*, *Newsweek*, and particularly the New York *Times* reconstructed that debate in impressive enterprise journalism.

When a new Administration took power in 1969, the press corps, which during the campaign had not pressed Richard Nixon to say what he would do about the war, did not press him particularly hard to say what he was doing as President. When he finally did unfurl his Vietnamization plan, once again it was difficult for reporters based in Washington—though more skeptical about all aspects of the war—to assess its workability. As the President began to withdraw American troops, and U.S. casualties dropped, the press corps monitored the trend—and focused on other stories. A general assumption set in that the worst was over; Vietnam for many reporters in Washington had become a tiresome story. This attitude may account in some measure for what happened in the fall of 1969, when freelance reporter Seymour Hersh stole the most explosive story of the war—the detention of an American officer on charges of mass murder at Mylai—from under the noses of the Washington press corps. A brief wire account of Lt. William L. Calley's detention had been buried in major papers, and letters from a returned veteran about the incident went to key Capitol Hill offices. But until Hersh got wind of the story and developed it, Mylai was a tree felled in a deserted forest. Many reporters and their editors, reluctant to pursue the story, remained "skeptical in favor of the status quo."

In the year since the Mylai disclosures, Washington newsmen have delved into a number of events—the Cambodian invasion that threatened President Nixon's credibility and revived campus dissent; Vice President Agnew's broadsides against protesters and the Nixon-Agnew off-year election effort to purge Senate doves; the Sontay raid to rescue American prisoners of war; and the temporary resumption of bombing of the North. Severe doubts about the eventual success of "Vietnamization" also are being examined. Now, as six or eight years ago, it is difficult for a reporter half a world away from a war to cover it. But at least there are few illusions left, and reporters do use other touchstones evaluating for official claims.

Yet, with many, the ingrained habit of Establishment reporting remains. For three days in late November, forty American veterans of Vietnam met at a downtown Washington hotel and, in "hearings" to focus attention on the effect of Vietnam on the American conscience, told of atrocities they saw or took part in. None of the narratives approached the dimensions of Mylai, but they suggested a prevasive breakdown of accepted standards of civilized conduct. Whether or not the veterans' stories were true, there is little doubt that, had the same testimony been given on Capitol Hill before a bonafide committee of Congress, it would have received massive coverage. As it was, only a handful of reporters and a few TV crews covered the event the first day, and by the third day only three or four Washington correspondents were present. Like most things concerning Vietnam now, it was "old stuff," and it was off centerstage besides. Other things were happening—as they were a year ago when Mylai broke, and six years ago, when Senator Gruening made the speech that nobody printed.

TV AT THE TURNING POINT

(By Fred W. Friendly)

As a wise old physician, an eminent teacher of clinical surgery, awaited a desperate effort to repair his ruptured aorta, he whispered to me, "I just don't want them to save the organ and kill the man." The analogy is relevant to the Vietnam operation, particularly in the summers of 1964 and 1965 when, based on faulty X-rays and a naïve diagnosis, the United States attempted to save an organ—a government—by radical surgery which destroyed the patient. It is imprecise to say that the patient perished on the operating table, but the reality is that for all the transfusions and desperate transplants Vietnam as a sociological community never really regained consciousness. In South Vietnam, the trauma of war has so ruptured the human fabric that what is left may hardly be worth saving.

The failure to understand this tragic reality and the battery of brutal facts that exploded the State Department's simplistic theories about Vietnam cannot be blamed on the U.S. Government alone. The news media, and particularly broadcast journalism, which owned "first rights" on this violent little war, must share that responsibility. It was not our war to win or lose, but it was our war to understand and to explain. I refer specifically to 1964 and 1965 when, as an Undersecretary of State later testified, escalation at the time of the Tonkin Gulf resolution amounted to the functional equivalent of a declaration of war, and when Danang and Cam Ne signaled the intenisification and brutalization of the American effort. It was a time when the military's failure to understand the complexities of the Asian mainland and mind—"We don't know beans about what Hanoi is thinking," one Pentagon official said—caused an entire administration to flirt with deception. All of Walter Lippmann's Seven Deadly Sins of Public Opinion—hatred, intolerance, suspicion, bigotry, secrecy, fear, and lying—were marshalled to obscure a series of decisions which could be justified only by further drastic acts of war.

Those of us who were in key editorial posts at the time can blame it all on the President, or his advisers—Robert McNamara, Dean Rusk, McGeorge Bundy, Maxwell Taylor—but we cannot forever paint over the stain left by our own ineffectiveness. With few exceptions, "the world outside and the pictures in our heads," as far as Vietnam was concerned, were not appreciably different from those of the Administration. The broadcast journalist went into Vietnam the same way he went into World War II and Korea—"as a member of the team." (The extent of cooperation was such that the U.S. Navy's official film on Tonkin was narrated by NBC's Chet Huntley.) Because the Tonkin Gulf resolution was not by the letter of the law a declaration of war, and for other complicated reasons, we operated without censorship in Vietnam. It was a unique responsibility to avoid bringing aid and comfort to the enemy without doing commercials for the Pentagon. The delicate balance between those two objectives and the complications of the times in which we lived were conditions for which we were unprepared.

In 1965 Dan Schorr, returning from his highly successful assignment in Europe, was so impressed with CBS News' intensity of Vietnam coverage that he wryly accused me of attempting to make it television's war. I do think we succeeded in capturing the battles, the skirmishes, the human interest, and the inhuman strategies. But we never captured the whole war. Again I am describing 1964 and 1965, when the reporting in the field far outran the editing and much of the reporting at home. "The Living Room War," as Michael Arlen called it, transported millions of Americans to Pleiku, Quinhon and Cam Ne. As we watched, 2,500 years of historical humbug about the glory of battle was dissolved into a montage of miserable little firefights in which GI Joe was often cast in the role of the heavy. It was Morley Safer who first focused the TV eye so dramatically. For his work, the Johnson Administration not only tried to bring about Safer's recall but to my certain knowledge trafficked in phony charges about the Royal Canadian Mounted Police having questions about this Canadian national's loyalty.

With his colleagues, Peter Kalischer—"the brass wants us to get on the team, but my job is to find out what the score is"—and young Jack Laurence, Safer helped to invent a new kind of battle coverage that combined threads of Murrow's shortwave reports from the London Blitz with David Duncan's battle photos from Korea. The combat cameramen, many of whom were Asians, pioneered new ground, usually at the risk of their own lives. (Assistant Secretary of Defense Arthur Sylvester asked me by phone one night after viewing a damaging piece of film on the

Cronkite broadcast, "What do you mean by hiring Vietnamese nationals as cameramen?" Several weeks after I left CBS in 1966, I met Mr. Sylvester at a Gridiron Club dinner. His after-dinner greeting to me was, "Well, we got rid of you, now we have to get rid of Morley Safer." Sylvester's tour of duty ended long before Safer's, whose record in Vietnam endures.)

The Pentagon's and the President's admonitions that the news media were giving and the public was getting a distorted picture "because they couldn't know all the facts" had a hollow ring when nightly broadcasts seemed to indicate that the Commander in Chief and his generals, for all their orchestrated briefings and charts, themselves did not know what was happening in the elephant grass and rice paddies. What seemed to come across on the tube and between the lines of every newspaper report was the frightening reality that the hunted in this search-and-destroy scenario was a foe whom no one really hated. Pleiku was no Alamo, even if the President on a visit to Camranh Bay urged the troops to "nail the coonskin to the wall."

The Commander in Chief, watching those three Sony TV sets of his, would, I am told, swear at the sets, denounce the NBC or CBS report, order his staff to warn the network and then call the Pentagon to find out if it was true—about the Marines burning a village with cigaret lighters, or what the patrol said after that unsuccessful walk-in-the-sun mission. In the end, the film would be shipped to Washington and often back to Saigon, where it would be denounced all the way to the line outfit, where the commander would merely shake his head.

If the combat reporting was so effective in 1965, why all the second guessing at this late date? Although the performance naturally varies with the three networks, the record looks impressive on paper and in the film library. There were some excellent reports on refugees, on nationbuilding, on air evacuation, on Saigon's black market, on the Chinese colony of Cholon; and, always from Washington, those polarizing hawk and dove debates. Charles Collingwood, who commuted to Vietnam, teamed up with Les Midgely to do several penetrating documentaries; and Frank McGee and Walter Cronkite did some very tough news analyses in 1967. But that was already 1967 and we had more than 300,000 troops in Vietnam.

NOR CAN WE BLAME IT ALL ON PROFIT DEMANDS OF THE NETWORKS

There were really four Vietnam stories: the military, diplomatic, political, economic. We may have been providing most of the parts of that mosaic but in my view we lacked the will and imagination to relate them to one another. The three-minute snippets between the Marlboro man and the Dodge girl, together with an occasional documentary or debate, just didn't add up to interpretive journalism. The coefficient of loss between what the correspondent corps in Washington—Elie Abel, Marvin Kalb, Ed Morgan—knew and what those in Saigon—Peter Kalischer, Bernard Kalb, and Welles Hangen—could see was a lag of enormous proportions. It was not just a shortage of air time—although the continuous coverage that could be cleared for Space, Presidential junkets, and football, compared to air time for Vietnam, is a commentary of its own. Nor can we blame it all on the profit demands of the networks and the unwillingness of some local stations to carry serious Vietnam coverage. The equally disturbing problem was our inability to understand the complexities of the Vietnam puzzle and to assemble a comprehensive profile early enough to make a difference. The most succinct definition of news analysis I know comes from Alexander Kendrick, who calls it the "Yes, but . . ." school of journalism. To have used that formula in 1965 when President Johnson proclaimed, "I'm not going to be the President who saw Asia go the way China went," might have made a difference.

Various correspondents understood segments of it. A few editors, like Russ Bensley of the Cronkite News and Herb Mitgang, for three years CBS News' Executive Editor, had a solid overview of the war. But all this energy and talent produced only a fraction of the maximum effort required by this decisive moment in history. Perhaps what was needed was a primer on how to watch a war—for both journalists and viewers. If the military experts didn't understand that nasty little war where there were no fronts, no reliable body counts, and no aerial reconnaissance worthy of the name, how could working journalists get a fix on so fluid and inscrutable a situation?

Part of the answer lay in more editorial coordination, more imagination in stitching together what we did know, and more accurate identification of those clouded areas where we had no experience. Arthur Schlesinger wrote: "The United States salvation of Asia represents an extravagance in national policy. The fact is our government just doesn't know a lot of things it pretends to know." The same criticism was true of experts in the news media.

The mistakes we journalists made in 1964 and 1965 almost outran those of the statesmen. One useful example is the sad case of U Thant's abortive peace effort in the summer of 1965. The story begins with what was in many ways the most distinguished single piece of journalism done outside Vietnam in 1965 by a broadcast journalist—Eric Sevareid's essay about his last meeting with Adlai Stevenson in London just before the Ambassador's tragic death. Although Sevareid broadcast some of the insights from London in abbreviated form, the heart of the interview—evidence of the Stevenson desire to resign—burst with explosive force in *Look* Nov. 30.

It was a rough week for CBS News. Top management was upset because the White House was challenging the accuracy and delicacy of the Sevareid report—"He [Stevenson] simply had to get out of the UN job." My colleagues' and my own embarrassment was compounded by the fact that we had to quote *Look* to report what our own chief correspondent had written. Eric was surprised at the impact of the story. He pointed out that he had aired parts of it on CBS radio and/or TV that summer and wrote it for *Look* because an article provided more space and a more suitable forum for what was intended as a eulogy. David Schoenbrun, then of Metromedia Broadcasting buttressed the story by reporting a similar interview with Stevenson who expressed the same discouraged tone. But Adlai Stevenson III countered with an unmailed, unsigned letter that his late father had drafted, indicating to some of his Stateside friends that he had no intention of resigning. Elie Abel, then NBC bureau chief in London, had his private interview the day after Sevareid's meeting and came away with the impression that Stevenson was not going to resign. Abel is convinced, as I am, that the contradiction is probably more a reflection of the Hamlet-like approach to decision making that was the Stevenson style than a reflection on the accuracy of the journalism. What Abel and Sevareid each heard loud and clear was Ambassador Stevenson's disappointment over his mission and his ineffectiveness in the Johnson Administration during the Dominican intervention and in Vietnam. He was particularly depressed over his failure to get through to the White House the seriousness and promise of Secretary General U Thant's peace negotiations with the Hanoi government.

U Thant, then under growing pressure in the UN, was convinced he could bring Ho Chi Minh's representatives to the peace table in Rangoon, that a truce line could be drawn across not only Vietnam but adjacent Laos, and that the U.S. Government "could write the terms of the ceasefire offer exactly as they saw fit" and that he (U Thant) would announce it in exactly those words. Stevenson had told interviewers that Secretary of Defense McNamara was not interested and that he could not even get Secretary of State Rusk to respond.

Sevareid reported much of the U Thant peace effort on CBS radio without attribution to source. Several weeks later, the Paris edition of the *Herald Tribune* and other European newspapers reported the U Thant peace expedition, but the Government in Washington discounted the seriousness and even credibility of the overture. Stevenson did not.

The Sevareid-Stevenson episode taken alone is perhaps just a fascinating footnote to history. But viewed against the concurrent developments of that fateful summer, it could have meant far more than a footnote. So frustrated and disturbed was U Thant that in a news conference held in February, 1965, he tried to use Asian shorthand to telegraph a message to the American people: "I am sure the great American people, if only they know the true facts and the background to the developments in South Vietnam, will agree with me that further bloodshed is unnecessary. And also that the political and diplomatic method of discussions and negotiations alone can create conditions which will enable the United States to withdraw gracefully from that part of the world. As you know, in times of war and of hostilities the first casualty is truth."

Other events, more or less known by broadcast reporters and editors at the time, add substance to U Thant's sense of foreboding. The battle situation in Vietnam was deteriorating. Premier Khan's government was swiftly decaying. Corruption in Saigon and desertion from the Army were putting heavier demands on the 50,000 men on the ground there. Pleiku had been a disaster, but as one high government official put it, "If there hadn't been a Pleiku, it would have had to be invented." General Maxwell Taylor, commuting between Saigon and Washington, was telling the President that escalation by as much as 115,000 additional troops would be necessary to prevent a total rout. Within the Government there was disagreement on strategy between Rusk and his Undersecretary George Ball, and some between Taylor and McNamara. Although there were important backgrounders by the Administration about the desire to strengthen the role of the United Nations, the truth was that high officials of the Johnson Administration were constantly sabotaging the effectiveness of the world organization and even the credibility of its Asian Secretary General.

The fact is that on the night of the Sevareid-Stevenson interview, when U Thant was still desperately trying to get both sides to that Rangoon table, the White House was making the decision to send 115,000 troops to Vietnam. Soon afterward the decision was enlarged to bring U.S. troop strength in Vietnam to a total of 380,000 by 1966.

Recently I asked former White House press chief Bill Moyers, who in 1965 had the assignment of downgrading the Sevareid story, what he believed now about the reliability of the Stevenson message. Moyers said he believed Stevenson went to his grave convinced that Hanoi was prepared to negotiate on U Thant's terms. But Moyer also believed that Johnson was in July of 1965 unaware of such peace possibilities The State Department's role in this massive misunderstanding was largely unreported then, as it is now. What is clear is that our Ambassador to the United Nations had no direct access to the President of the United States and that Rusk and/or his bureaucracy applied a pocket veto to a peace plan whose validity they rejected.

"YES BUT" JOURNALISM MIGHT HAVE ENCOURAGED DEEPER DIGGING

U Thant's peace plan was not the only casualty that July. Interpretive journalism suffered a wound from which we are still bleeding. It is not just hindsight which enables us to see this now with 20/20 vision. Most of the information was known to a variety of able broadcasters, each capable of incisive interpretation of the patterns that the various parts reflected. Kalischer and Safer knew about the deterioration after Pleiku. Richard Hottelet at the UN was aware of the frigid attitudes between the Secretary General and the President. Marvin Kalb and John Scali were at the State Department every day and understood the hardening Rusk position. Sevareid, Abel, and Schoenbrun had been present when Stevenson bared his soul and frustrations. The tragedy was that what emerged on the home screen was at best a series of sharply edited, professionally honed episodes. As a news executive often accused of being more involved with production and content than with administration, I was certainly aware of each of these stories. Yet the failure to assemble all these elements into the kind of interpretive journalism that would have enabled the American people to understand the magnitude of the decision their leadership was about to make was a serious lapse.

For those not familiar with a broadcast news operation, let me state that there were editors. The Vietnam content of the evening and morning news is carefully structured by dedicated, serious newsmen. But too often the problem turns into a question of logistics. The foreign editor, although that is not his title, must be more concerned with the plane schedule from Saigon, the transfer time in Hong Kong or Tokyo, and the cost of the satellite than with the content of the story. Within each program the pressure is on getting the film in and out of the lab, evaluating it, reconciling it with the reporter's script—often recorded on the run in the field—and getting it down to time. Because broadcast correspondents must fight daily with the clock and because producers are traditionally averse to too many talking heads, we often produced one-dimensional stories which accentuated the urgent rather than the important.

The time, the skill, and—if you like—the sophistication to put it all together were, at least in 1964 and 1965, absent. Of course there were documentaries and specials; the titles and scope make an imposing list: Fred Freed's three-and-a-half-hour study of U.S. foreign policy and Ted Yates' *Secret War in Laos*, both of which NBC broadcast in 1965; CBS's *Vietnam Perspectives*, our half-hour interview with Senator Fulbright that so upset the White House; and of course the 1966 Foreign Relations Committee hearings, which NBC and CBS covered in considerable but not equal depth.

But the lost opportunity that must haunt print as well as broadcast journalists was the Tonkin Gulf incident in August of 1964. We in journalism have to share the guilt with the commanders of the *Maddox, Turner Joy*, and the Admiral who commanded the task force, with the officials who drafted the resolution, with the President who brought it to the Congress, and with the Senator from Arkansas who steered it through in record time. The fact that CBS News chose to do some five minutes of wrapup rather than the kind of comprehensive analysis our Washington bureau was capable of is something that will always haunt me. President Johnson went on the air at 11:37 and spoke for less than eight minutes. Our entire broadcast lasted eleven minutes, and I didn't even fight for more time.

The only phone call I got that night came from Ed Murrow, then desperately ill in Pawling but still caring enough to castigate me for our insufficient interpretation. Of course we had no way of knowing how dangerous a swamp that resolution and accompanying action would lead to. Certainly we had the warnings of Lippmann, and that painfully prophetic prediction of Wayne Morse:

"We're at war in violation of the Constitution of the U.S. Article I, Section 8 of the Constitution specifically provides that only Congress has the power to declare war. No President has the right to send American boys to their death on a battlefield in the absence of a declaration of war. But one thing I do know and that is we're going to be bogged down in Southeast Asia for years to come if we follow this course of action and we're going to kill thousands of American boys until, finally let me say, the American people are going to say what the French people finally said: they've had enough."

Senator Morse spoke those words on Aug. 2, even before the actual Tonkin Gulf resolution. The coverage in print and broadcast was that accorded a "reckless and querulous dissenter."

Morse and Gruening of Alaska were the only two Senators who voted against the resolution. Most newspapers and broadcast organizations supported it as an act of great restraint under provocation [see page 21]. We reported that Senator Goldwater, then running for President on a GOP ticket with a hawkish plank, saluted the Johnson action and its subsequent escalation. We never emphasized that in order to nullify one of Goldwater's chief campaign issues, Johnson had repudiated a promise as old as his Presidency, a promise "not to send American boys nine to ten thousand miles from home . . . [to be] tied down in a land war in Asia." Walter Lippmann's criticism of the quality of editing at this time, although directed at Washington's leading newspaper, was also an indictment of me and every other broadcast editor: "If I had been editor of the Washington *Post* when Johnson was planning to move to a full-scale war in Vietnam, I'd have raised a great stink and told the people what was happening."

Without raising that "great stink," which might have required broadcasters to cross that fine line from news analysis to editorializing, we certainly should have raised and explored in depth a series of obvious questions which might have illuminated those dark shoals and jagged reefs which came to be known as the credibility gulf:

1) How does a major power declare war? What was the legal difference between the Tonkin Gulf resolution and a declaration of war? Senator Fulbright and Undersecretary of State Katzenbach clashed over this in 1967, and even today the printed text reads like a confrontation in a Hochhuth drama. We could have brought about a debate on these questions when it mattered.

2) What were the 1954 Geneva Accords and how did we interpret them? How did we interpret the Manila agreement that was so often used as the basis for our intervention? What were the commitments President Eisenhower made? How could the Senate majority leader (LBJ) who helped persuade President Eisenhower not to involve the United States in the French Indochina war in 1954 reverse his field in 1964 in the name of a SEATO treaty?

3) What was the *Maddox* evidence? If the Tonkin Gulf situation was understandably confused during that frantic first week in August, 1964, what about some investigative reporting between Aug. 4 and the following July, when the major escalation decisions were made?

4) What was the cost of the war in 1964? What was it likely to cost after we first sent in ground troops to protect the air units and then when we sent more to fight a jungle war together with sufficient service troops to supply the combat units? Even in 1965 and 1966 war costs were approaching $2.5 billion a month, and Congressman Melvin Laird of Wisconsin was asking why there was such a gap between what the Pentagon said the war was costing and the facts.

5) What about the Vietnam extravagance when measured against the unfulfilled commitments to our urban obligations, when riots in Watts, Harlem, and Rochester were already sending out early-warning signals every bit as challenging as those from the *Maddox* and from the *Turner Joy*?

6) Why did the President tell journalists and Senators that he knew the war had to be won and could be won on the nonmilitary side when the plan to escalate had become a virtual certainty? Did the President purposefully avoid calling up the reserves and forego making obvious budgetary plans in order to obscure what was to be a maximum effort to teach Ho Chi Minh a lesson?

THE BEST REPORTED AND LEAST UNDERSTOOD WAR IN HISTORY

In a recent forum in Atlanta on credibility, Agnew, and the news media, I was asked the recurring question: Why do broadcasters feel they must do instant analysis after every Presidential speech? The answer was that it is seldom on an instant basis, that White House briefings and advance texts often give newsmen a lead time of two to five hours. I then went on to explain—as I have before—my own sense of guilt over CBS's failure in 1964 to provide serious news analysis after the Tonkin Gulf resolution. Another panelist, Sidney Gruson of the New York *Times*, gently chided me for my hair shirt, insisting that nothing CBS News could have done the night of Aug. 4 and in the days following could have changed history. Gruson may be right, but that does not excuse us for not trying. Perhaps if we had all done more to convince the President that his plans would be carefully scrutinized by a series of well informed broadcasts and searching analyses in the nation's press, there might have been a chance for some sober second thoughts. Perhaps the contagion of such "Yes, but . . ." interpretive journalism might have encouraged others to dig deeper. William Shirer at the time of Hitler, and Murrow and Elmer Davis during the McCarthy ordeal affected the entire level of reporting. Perhaps some of the self-deception might have been minimized. Perhaps some of the false assumptions from which our leadership suffered might have been challenged.

I have always believed that the news media's improved performance during the Dominican intervenion may have pervented that Caribbean caper from escalating. It may be an overstatement to say that the presence of news cameras at Mylai might have prevented that massacre. But I doubt it. Certainly more news analysis on the kind of war it was could have made a difference. The present criticism of broadcast journalism—Mr. Agnew notwithstanding—is that there is too little interpretation, not too much.

What of the future?

As the State Department has suffered from a lack of Asian scholars, so, too, American journalism suffers from a shortage of expertise on Southeast Asia. Broadcasting will need specialists in the field, whether it be on Asia, Hough, Wall Street, or for Santa Barbara oil slicks. Perhaps what is needed is the equivalent of the Election Unit and the Space task forces which have provided the networks with highly specialized teams for major developing stories. A new kind of editor will be required, one who perceives the national predicament early enough to turn on the kind of searching light that permits a choice of options while there is still time.

Broadcast newsrooms, like newspapers, suffer from lack of seasoned, dedicated men on the desk; there seems to be more reward in reporting or in being an anchorman. The notable exception is the documentary pro-

ducer, who is really an editor. But the future of the serious documentary is now in doubt except on public television, where there is at least air time.

Brilliant combat reporting has not been enough, or Vietnam would not continue to be the best reported and least understood war in history. Even today too many Americans remain oblivious to the confusions at the time of Tonkin Gulf. An extended documentary such as NBC's *Decision to Drop the Atomic Bomb* might be a relevant place to begin. A history of the Vietnam struggle may not be as glorious as Solomon's *Victory at Sea* or Wolff's *Air Power*, but the lessons to be learned might be as valuable as those of Pearl Harbor and Dresden. CBS News once did a documentary called *1944*. What about 1964 and 1965? What about a study of the effect of jungle bombing from Namdinh through Sontay in December of 1970? A dialogue between all three defense Secretaries—McNamara, Clifford, and Laird—on what the generals were always telling them was certain and what events have taught them was not might be a useful primer.

Finally, as we continue to challenge assumptions, let the news media face up to their own. There has been such obfuscation, distortion, and mishandling of interpretation concerning Vietnam—such a climate of distrust between the Government and the news media—that the end result may be a deadly sense of cynicism. Just as Munich and Czechoslovakia have become shorthand pejoratives for appeasement and apathy, Vietnam may create a new generation of knee-jerk isolationists unwilling to involve America in any cause, regardless of its merit. The tragedy of Vietnam would indeed be compounded if, like the characters in Plato's Cave, we saw only shadows and became the prisoners of the preconceived "pictures in our heads"—pictures placed there by journalistic failures we have only begun to see and remedy.

TONKIN: WHAT SHOULD HAVE BEEN ASKED

(By Don Stillman)

On the stormy night of Aug. 4, 1964, the U.S. Navy destroyers *Maddox* and *C. Turner Joy* were cruising the Gulf of Tonkin off North Vietnam when the *C. Turner Joy* reported radar detection of ships closing in fast for a possible attack, Sonarmen reported tracking torpedoes from the ships. Seaman Patrick Park, the main gun director of the *Maddox*, scanned his sensitive radar for signs of the enemy. But as the destroyers maneuvered wildly for three hours in heavy swells he detected nothing. Then suddenly he reported picking up a "damned big" target, and was ordered to fire. Park recalled later:

"Just before I pushed the trigger, I suddenly realized: that's the *Turner Joy*. This came right with the order to fire. I shouted back, "Where's the *Turner Joy*?" There was a lot of yelling "Goddamn" back and forth, with the bridge telling me to "fire before we lost contact. . . ." I finally told them, "I'm not opening fire until I know where the *Turner Joy* is. The bridge got on the phone and said, "Turn on your lights, *Turner Joy*." Sure enough, there she was, right in the cross-hairs. I had six five-inch guns right at the *Turner Joy*, 1,500 yards away. If I had fired, it would have blown it clean out of the water. In fact, I could have been shot for not squeezing the trigger. . . . People started asking, "What are we shooting at? What is going on?" We all began calming down. The whole thing seemed to end then."

But it didn't end there for Park, whose statements were reported by Joseph Goulden in his excellent book *Truth Is the First Casualty*, or for the rest of the world. Hours later, President Johnson ordered the first U.S. bombing raids against North Vietnam. Within the week, he had demanded and received a Congressional resolution that authorized him to "take all necessary steps" to "prevent further aggression" in Vietnam.

The massive American buildup in Vietnam dates from that crucial week in the Gulf of Tonkin, and in retrospect the events there proved to be a turning point in the war. At the time of the incidents, only 163 Americans had died in action in Vietnam, and the 16,000 American troops there ostensibly were serving as "advisers" rather than full combat soldiers. But within a year President Johnson began to use a Congressionally approved "Tonkin resolution" as a functional equivalent of a declaration of war in an escalation that ultimately brought more than half a million U.S. troops to Vietnam. More than 40,000 were killed.

What really happened that dark night is unclear; but persistent digging by Senator J. W. Fulbright and his Foreign Relations Committee staff, by then-Senator Wayne Morse, and by a handful of persistent reporters like Joseph Goulden has given us a view of at least part of the iceberg of deception that remained hidden for years.

Reporting of the first attack on the *Maddox* on Aug. 2 and the second alleged attack on both the *Maddox* and the *Turney Joy* on Aug. 4 was extremely difficult because the only real resources of information were Pentagon and Navy officials and the President himself. Slowly and painfully over four years, as the private doubts of Senators and reporters became public, the American people learned that in fact the *Maddox* was not on a "routine patrol in international waters," but was on an electronic espionage mission to gather intelligence information on North Vietnamese radar frequencies. As part of that mission, the *Maddox* would repeatedly simulate attacks by moving toward the shores of North Vietnam with its gun-control radar mechanisms turned on to stimulate enemy radar activity. In addition, years after the incident stories revealed that the territorial waters recognizde by North Vietnam (twelve miles) were repeatedly violated by the *Maddox*.

Two days before the first attack on the *Maddox*, the South Vietnamese for the first time conducted naval shelling of North Vietnam. Using U.S. "swift boats," they attacked the islands of Hon Me and Hon Ngu. The night following the raids, the *Maddox*, approaching from the same direction as the South Vietnamese, came within four nautical miles of Hon Me. The captain of the *Maddox* intercepted North Vietnamese messages reporting the possibility of "hostile action" because the enemy believed the *Maddox* to be connected with the South Vietnamese shelling of the islands. The *Maddox* cabled: CONTINUANCE OF PATROL PRESENTS AN UNACCEPTABLE RISK. That day it was attacked.

The *Maddox* was joined by the *Turner Joy* and, after again requesting termination of the mission because of the likelihood of attack, it reported two days later that the two ships had been ambushed by North Vietnamese PT boats. The black clouds and electrical storms during that night prevented any visual sightings of hostile craft, and contradictory sightings on radar and sonar added to the confusion. The commander in charge cabled:

"Entire action leaves many doubts except for apparent attempted ambush. Suggest thorough reconnaissance in daylight by aircraft."

After lengthy questioning of crew members on both ships, the doubts grew larger. The commander cabled:

"Review of action makes many reported contacts and torpedoes fired appear doubtful. . . . Freak weather effects and overeager sonarmen may have accounted for many reports. No actual visual sightings by *Maddox*. Suggest complete evaluation before any further action."

That evaluation did not occur, and hours later American bombers took off for North Vietnam.

Thus the espionage mission of the *Maddox*, its violation of territorial waters, its proximity and relationship to South Vietnamese shelling, and major questions about whether the second attack occurred all combine to give a much different picture of the incidents than the Administration fed the country through the news media. How well did the media handle reporting and interpretation of the Tonkin incidents?

Perhaps the worst excesses in reporting were committed by *Time* and *Life*. Both viewed the event as if the *Maine* itself had been sunk. The week after the encounter, *Life* carried an article headlined FROM THE FILES OF NAVY INTELLIGENCE that it said was "pieced together by *Life* correspondent Bill Wise with the help of U.S. Navy Intelligence and the Department of Defense." Wise was clearly fed only a small smattering of cables that contained none of the doubts about the second attack. He stated [Aug. 14, 1964]:

"Despite their losses, the [North Vietnamese] PTs continued to harass the two destroyers. A few of them amazed those aboard the *Maddox* by brazenly using searchlights to light up the destroyers—thus making ideal targets of themselves. They also peppered the ships with more 37 mm fire, keeping heads on U.S. craft low but causing no real damage."

Senator Wayne Morse, in a speech on the floor of the Senate Feb. 28, 1968, denounced the Pentagon's "selective leaking of confidential information" and *Life's* gullibility in accepting it. "I don't know who leaked, but I can guess why," he said. "The 'why' is that someone in the Pentagon decided that the American people should see some of the messages confirming that an unprovoked attack had occurred on innocent American vessels. . . . The *Life* magazine reporter was taken in. He was 'used.' The press should be warned."

The next issue of *Life* went even further in embellishing events. It carried a picture spread headlined HEROES OF THE GULF OF TONKIN that praised the pilots who had bombed North Vietnam. "Most of the young Navy pilots had never seen combat before, but they performed like veterans," *Life* said. The planes, with two exceptions, "got back safely and their pilots, the nation's newest battle veterans, would be remembered as the heroes of Tonkin Gulf."

This kind of irresponsible puffery was evident in *Time*, too. Despite thorough and restrained files from its Washington bureau, *Time* [Aug. 14, 1964] constructed its typical dramatic scenario of events which, though lively, was grossly inaccurate:

"The night glowed eerily with the nightmarish glare of air-dopped flares and boats' searchlights. For three and a half hours the small boats attacked in pass after pass. Ten enemy torpedoes sizzled through the water. Each time the skippers, tracking the fish by radar, maneuvered to evade them. Gunfire and gun smells and shouts stung the air. Two of the enemy boats went down. Then, at 1:30 a.m., the remaining PTs ended the fight, roared off through the black night to the north."

Joseph Goulden, one of the few writers to interview crew members, reports that when the *Maddox* and *Turner Joy* arrived at Subic Bay several weeks after the incidents, one crew member had occasion to read both the *Life* and *Time* accounts. He quotes the seaman as stating:

"I couldn't believe it, the way they blew that story out of proportion. It was like something out of *Male* magazine, the way they described that battle. All we needed were naked women running up and down the deck. We were disgusted, because it just wasn't true. It didn't happen that way."

Newsweek, which generally waved the flag far less than *Time* in its coverage of the Vietnam War, was just as overzealous in its dramatization of the second Tonkin incident [Aug. 17, 1964]:

"The U.S. ships blazed out salvo after salvo of shells. Torpedoes whipped by some only 100 feet from the destroyers' beams. A PT boat burst into flames and sank. More U.S. jets swooped in. . . . Another PT boat exploded and sank, and then the others scurried off into the darkness nursing their wounds. The battle was won. Now it was time for American might to strike back."

Even the usually staid New York *Times* magazine was caught up in the adventure of the moment. Its Aug. 16 picture spread on the Seventh Fleet, which had launched the planes that bombed the North, had the look of a war comic book. Headlined Policemen of the Pacific, it showed planes streaking through the sky, missiles being fired, and Marines landing on beaches. It carried captions such as, "A component of the Marines is always on sea duty, ready when the call comes."

The New York *Times* news sections handled the story with restraint and, after the Aug. 2 attack, even mentioned claims that U.S. destroyers like the *Maddox* "have sometimes collaborated with South Vietnamese hit-and-run raids on North Vietnamese cities." The Washington *Post*, like the *Times*, was thorough and incisive in its reporting. Murrey Marder's superb accounts even mentioned the South Vietnamese shelling on Hon Me and Hon Ngu as a possible cause for the then seemingly irrational attack on the *Maddox*.

Because transcripts of TV news shows from this period are not available it is difficult to evaluate broadcast media performance. But the accounts of TV coverage printed in government bulletins and elsewhere indicate that some perceptive reporting did occur. NBC carried an interview with Dean Rusk Aug. 5 in which Rusk was pressed on the question of whether the U.S. ships might have been operating in support of the South Vietnamese shelling units. But for the most part the broadcast media, while perhaps more responsible than some print outlets, fed viewers the same deceptive Administration leaks.

Editorial comment almost universally supported the President's response. The New York *Daily News* speculated that "it may be our heaven-sent good fortune to liquidate not only Ho Chi Minh but Mao Tse-tung's Red Mob at Peking as well, presumably with an important assist from Generalissimo Chiang Kai-shek and his Nationalist Chinese forces on Taiwan."

EDITORIALS ALMOST UNIVERSALLY SUPPORTED THE PRESIDENT

The Los Angeles *Times* praised U.S. actions as "fitting in selectivity, proper in application, and—given the clear, long-standing statement of U.S. intentions—inevitable in delivery." William Randolph Hearst, Jr., praised the bombing as a "fitting reply to one of the more outrageous—and implausible—aggressions committed by communism in many years." He went on to suggest that rather than limit the bombing it might be better to continue until the North Vietnamese surrendered.

The New York *Times* said: "The attack on one of our warships that at first seemed, and was hoped to be, an isolated incident is now seen in ominous perspective to have been the beginning of a mad adventure by the North Vietnamese Communists." But the *Times* did warn that "the sword, once drawn in anger, will tend to be unsheathed more easily in the future." When the Tonkin resolution went before Congress, the *Times* perceptively cautioned that "it is virtually a blank check."

The Washington *Post*'s editorial page saw the Tonkin resolution much differently. Earlier editorials mentioned "the atmosphere of ambiguity" that surrounded the first attack on the *Maddox*, but when the resolution was considered the *Post* said: "That unity [against Communist aggression] has been demonstrated despite the reckless and querulous dissent of Senator Morse. There is no substance in Senator Morse's charge that the resolution amounts to a 'predated declaration of war'. . . . This means of reasserting the national will, far short of a declaration of war, follows sound precedent. . . ."

One of the few newspapers to attack the President's account was the Charleston, W. Va., *Gazette*, which stated that the Tonkin attacks were probably caused by the South Vietnamese naval strikes and complained of the "air of unreality" about the incidents. But the overall failure of the press to raise questions about the incidents in the editorial columns, although in keeping with the mood of the country at the time, was part of the general breakdown of the media's responsibility to act as a check on the actions of the Government.

Foreign coverage of the incidents raised some of the significant points being ignored in this country. *Demokreten*, of Denmark, stated:

"To create a pretext for an attack on Poland, Hitler ordered the Germans to put on Polish uniforms and attack a German guard. What the Americans did in North Vietnam was not the same. But the story sounds doubtful. . . . Why was the vessel off North Vietnamese coasts? In any case its presence there could indeed be interpreted as provocative."

New Statesman of Britain also raised doubts:

"There is so little trust in official [U.S.] accounts about Vietnam that suspicion is surely understandable. . . . Is it not possible that the destroyers could not be distinguished from South Vietnamese craft that were engaged in another raiding mission?"

One American journalist who raised continuing doubts about the veracity of the Administration's accounts was I. F. Stone. In his small, outspoken sheet, Stone reported the South Vietnamese attacks on Hon Me and Hon Ngu. He was the only one to cover in detail the charges raised by Senator Morse about the incidents and the Tonkin resolution, and he even raised questions about whether the second attack even occurred. While *Time* and *Life* were adding readable embellishments to the nineteenth-century theme of "they've sunk one of our gunboats," I. F. Stone was asking the crucial questions.

One of the major shortcomings of columnists and opinion writers was their failure to ask the broad question: does the punishment fit the crime? The total damage in both attacks was one bullet hole in the *Maddox*. No U.S. ships were sunk, no American boys were killed or even wounded. In turn, we not only claimed to have sunk four North Vietnamese vessels but went on to the bombing of the North, sinking the major part of the North Vietnamese navy, and wiping out more than 10 per cent of its oil storage tanks.

The overwhelming response of the editorialists was that President Johnson should be commended for his restraint in limiting the bombing. Among Washington journalists only Stone opined that indeed the American response was "hardly punishment to fit the crime." His small-circulation sheet received little attention.

The record of the media improved measurably a public doubts about the Tonkin incidents began to grow. Senator Fulbright, who managed the Tonkin resolution through Congress for President Johnson, began to question the facts and, in May, 1966, wrote in *Look* that he had serious doubts about the Administration's account. But the media didn't follow this up very extensively. Despite the importance of the Tonkin incidents, they were content to pass over opportunities to interview crew members of the two ships—the only firsthand witnesses—some of whom had left the service or were otherwise accessible for interviews. The first real breakthrough came in July, 1967, when Associated Press sent a special assignment team headed by Harry Rosenthal and Tom Stewart to interview some three dozen crew members. Their superb 5,000-word account was the first real enterprise reporting on the Tonkin affair.

AP revealed for the first time that the *Maddox* was carrying intelligence equipment, and also cited for the first time that the *Maddox* had not fired any warning shots, as claimed by Secretary McNamara, but had shot to kill instead. The crew interviews indicated that there was a great confusion on board the two ships during the incident. At this point, however, there was little client interest in the story. Urban riots broke out the day it was to run. As a result, the AP report was not used by major metropolitan newspapers such as the Washington *Post*, Washington *Star*, New York *Times*, or others which might have given it the exposure it deserved. The story did appear in the *Arkansas Gazette*, however, where it was read by Fulbright, who by this time was devoting much of his attention to uncovering the true story of Tonkin.

The AP account was followed in April, 1968, by an article in *Esquire* by David Wise, who also interviewed the crews and cast further doubt on the Administration's account. These two reports and another AP account by Donald May were the only real enterprise stories that turned up new information. But John Finney, the able New York *Times* reporter, raised further questions in *New Republic* early in 1968, as did John Galloway in *Commonweal*. (Galloway has just done a splendid source book, *The Gulf of Tonkin Resolution*.)

By this time Fulbright and Morse were generating much breaking news as they prepared for the Foreign Relations Committee hearings held in February, 1968. But even during those hearings the press failed to distinguish itself. When Morse, through the *Congressional Record*, released important segments of a top-secret study done by the Foreign Relations staff, based on cable traffic and new data from the Defense Department, it took the Washington *Post* two days to recognize the significance of his statements.

The final credit for tying together the whole thread of deception surrounding the incidents must go to Joseph Goulden, whose book appeared in early fall of 1969. While covering the 1968 Tonkin hearings for the Philadelphia *Inquirer*, Goulden had filed a story on the controversial testimony of Secretary McNamara, who appeared to contradict some aspects of his 1964 testimony. The *Inquirer* rewrote the lead to make it read: "The United States did not provoke the 1964 Gulf of Tonkin incident, previously secret naval communications indicated Saturday."

Goulden left the *Inquirer*, sought out crewmen and others involved in the incident, and wrote his detailed and insightful account.

This, then, is the record on the Tonkin affair. Given its lessons, one may hope that the media will not fail so grandly if similar incidents occur. The reporting on the *Pueblo* and the *Liberty* give reason for hope. But the Fourth Estate must establish a far more independent and critical stance on government actions if hope is to become reality.

CAN THE MEDIA COVER GUERRILLA WARS?

(By James McCartney)

It was May 2, 1970, two days after President Nixon sent U.S. combat troops into Cambodia, and the United Press Internation-

al lead story from Saigon read: "Allied troops and tanks resumed their advance into neighboring Cambodia early today, one American tank column pressing to within 6,000 yards of an underground tunnel complex thought to be the site of the Communist military command headquarters for the war in Vietnam." There it was, war in all its drama: a tank column slashing toward an objective, the enemy headquarters about to fall. It was but the beginning of a month of sparkling wire service leads about the new war in Cambodia. But as it turned out, if one read the fine print in days to follow, the U.S. tank column was riding into monsoon mud and rain, and the Communist military command headquarters was evanescent and elusive, nowhere to be found.

For writers of leads and of headlines, for lovers of action, for makers of maps, for fans of World War II, it was a fine little war: flamboyant South Vietnamese racing down highway No. 1 toward Phnompenh; a new front, with a new arrow on the map every few days; an armed flotilla, guns blazing, steaming up the Mekong; helicopter assaults; artillery fire bases—the works. But if you read it now, you can't help wondering, what happened? For somehow, despite all the tank columns, the allied "thrusts," the "new assaults," the fire bases, when ground action by U.S. troops was finished two months later the Communists had gobbled up almost half of Cambodia. By October they controlled more than half of it.

With all that action, how did the Communists quietly take over so much terrain? What happened was what has almost always happened in Vietnam when U.S. power has been used in grand, military "sweeps." What happened was that guerrillas, in a guerrilla war, acted like guerrillas. They faded into the jungle or the countryside or villages. They fell back and spread out and disappeared, letting the U.S. and the South Vietnamese destroy thousands of acres of jungle and countryside and caches of supplies while they bided their time, as guerrillas will.

The casual reader of U.S. newspapers, the TV viewer, or the listener to radio bulletins would find that hard to discern, for it was not the war he had read or heard about or seen on the tube.

What is involved in Vietnam, as careful students of the war are aware, is a complex political struggle that will be won or lost on factors other than territorial thrusts. They are also aware that guerrilla tactics are far different from those of conventional war, and the effect is to be measured differently. By classic definition, guerrillas need only survive to "win." Yet graphic images of battle reminiscent of World War II persist in the U.S. media. The result is often wildly misleading.

Time after time there were reports of "battles" or "sieges" for cities in Cambodia. Then several days later a careful reader would learn that there had been no battles at all.

Raymond R. Coffey, the talented and perceptive correspondent for the Chicago *Daily News* in Cambodia, has reported several examples. He cited one in which Cambodian communiques told of a fierce, six-day battle for the town of Srang against a regiment of 1,200 North Vietnamese soldiers. "At the end of the battle," he wrote, "the Cambodians reentered the town against no opposition and explained lamely that the 1,200 enemy had somehow slipped away unharmed. The total reported killed-in-action casualties for the six-day fray were six Cambodians and fourteen North Vietnamese." Similarly, Coffey wrote, Cambodia at one time reported its troops were pitted against 3,000 to 4,000 enemy in trying vainly to retake the Kirron plateau. "According to U.S. intelligence sources," he said, "there never were more than 300 enemy [personnel] involved in the battle."

Laurence Stern, Saigon bureau chief for the Washington *Post* through the Cambodian invasion, says bluntly: "Many a battle was reported in Cambodia that didn't occur." Probably the most striking example was the colorfully reported "battle" for the town of Snoul, just a few days after the U.S. invasion. Both the military and the press gave Snoul a buildup. A U.S. tank commander was quoted widely as saying that his objective was "to take the town—without destroying it." The New York *Times* last May 5 reported that U.S. tanks were "fighting the biggest battle of the five-day campaign in Cambodia, against North Vietnamese troops in the streets of Snoul and in bunkers ringing the town." Two days later UPI dramatically reported, under a Snoul dateline: "American tanks today smashed through the smouldering ruins of this rubber plantation town leveled by massive air strikes."

Yet all that had happened, as later became clear, was that the U.S. military, with its massive firepower, had destroyed the town. It had shot up buildings with 90-millimeter guns and leveled others with jet bombers. It had used ample quantities of napalm. UPI reported that the guerillas had fled—in classic guerrilla style—after initial skirmishes on the edges of the town. "All that remained," said UPI, "were the bodies of at least seven persons, four of them civilians." (The UPI story written in the aftermath of Snoul was one of the finest pieces of reporting and writing to come out of Cambodia; the shame was that there wasn't more reporting and writing like it.)

Another example of World War II-style reporting occurred in the ostensible battle by the Communists to capture Phnompenh. Early last April, before the U.S. invasion, UPI reported a "four-pronged" drive on Phnompenh, suggesting implicitly that the capital was in danger of falling—as Paris had fallen to the Germans. In the weeks and months that followed, "drives" against Phnompenh regularly were depicted in the press.

State Department officials say Phnompenh had never been in danger of falling, nor even under serious attack. They believe the Communists have consistently practiced "harassment"—virtually classic guerrilla tactics in seeking to terrorize the city. They doubt that the Communists have ever wanted to capture and occupy Phnompenh, any more than they have ever wanted to take and occupy Vientiene, in neighboring Laos, or major cities in Vietnam. To occupy and hold cities would cost them too many troops. From the beginning they thought the stories were exaggerated.

Still another illustration of the hazards of conventional yardsticks in Cambodia concerns estimates of Communist troop strength. The tendency has been to view the war in terms of numbers of troops and how they balance, rather than as a guerrilla war, where numbers are less significant.

Throughout the Cambodian struggle "official" estimates of Communist strength, both in Saigon and Washington, have ranged from 40,000 to 60,000. This was a convenient range for the military because it helped to justify a combined South Vietnamese-U.S. force in Cambodia of about 80,000 men. Most of the press never got past this simplistic view, blandly accepting the official picture and blithely passing it along. The New York *Times* on May 1, for example, reported from Phnompenh that Cambodian troops had given "little indications of possessing the experience or materiel to withstand a sustained challenge by the up to 40,000 North Vietnamese and Vietcong in the country."

Ray Coffey investigated the question and reported discovering that the total number of North Vietnamese combat troops in the country never numbered more than 12,000. The rest—possibly about 20,000—were administrative, logistic, or rear-area service forces. Again, the temptation to think of the war in conventional tearms was almost irresistible.

If the President and the military elect to send columns of tanks into the jungle in the hope of finding a way out of our national agony, the reporter's job is to report it. But if the news media become so preoccupied with reporting the military effort that they virtually ignore the real war—the guerrilla war—then it is the reader who loses in understanding.

In the Cambodian fighting the most significant phrases were often buried in wire service dispatches—phrases that said "no resistance was encountered" or "no immediate contact with the enemy was reported." The challenge at times was to report that there were no battles and that the enemy was fading away. The challenge was to report what wasn't happening.

Many a reporter on the scene cut through the morass to report in some kind of perspective. Peter Arnett of AP managed to convey the futility of using sophisticated equipment against jungle and mud. UPI reporters wrote brilliantly on occasion of nonbattles, of the senseless destruction of towns "in order to save them." Robert Kaiser of the Washington *Post* proved adept at searching out the inconsistencies of the positions of U.S. policymakers. Henry Kamm of the New York *Times* was versatile and incisive. Others did as well. But these writers found themselves writing for a preconditioned audience, one conditioned by the highest level of government.

Government officials, from President Nixon down, apply the hard sell to certain concepts that fit snugly with official government policy. Possibly the best single illustration in connection with Cambodia is the sales effort that President Nixon and his national security adviser, Henry Kissinger, have undertaken on behalf of the South Vietnamese army. "Vietnamization"—turning over the war to the South Vietnamese so the U.S. can go home—is a keystone of Government policy. But in spite of official announcements and reports, U.S. officials have been highly skeptical of the fighting capabilities of the South Vietnamese. (Last February, Gen. Creighton Abrams, U.S. commander in Vietnam, said flatly that more than half of the South Vietnamese army was not capable of handling itself properly in battle situations.)

On April 30, when President Nixon announced the decision to send U.S. combat troops into Cambodia, top White House officials said quite candidly that South Vietnamese forces were assigned to the "Parrot's Beak" area because no resistance was expected there. U.S. forces were assigned to invade the "Fishhook" region to the north, where fighting was expected to be rough.

Thus it was candidly admitted, before the fact, that the South Vietnamese got a pat assignment. As it turned out, the advance guess was correct. They encountered virtually no resistance. Their principal accomplishment was to show that they were capable of operating relatively sophisticated U.S. trucks and armored vehicles without running into ditches. They managed to ride down roads, wave flags, and shoot up the countryside without being seriously challenged. The arrows on the maps showed success after success.

The press for the most part went along with the myth. A New York *Times* story said on April 30: "Thousands of South Vietnamese soldiers, with American advisers and support, swept westward through Cambodia today. . . ." On May 3 the *Times* said that the South Vietnamese Third Corps was "sweeping back in a semicircle toward the South Vietnamese border." On May 5 a story in the *Times* said that "a combined force of several thousand United States and South Vietnam-

ese troops began a sweep of the northeastern corner of Cambodia. . . ." The *Times* wasn't alone. This kind of description was widely employed. Thus President Nixon and Kissinger were able, after the fact, to cite the experience as dramatic evidence that the South Vietnamese army had proven itself and come of age.

If the President and the U.S. Government have difficulty grasping the nature of guerrilla war, it is no wonder that news media may have difficulty in presenting an intelligent picture. The difficulty of the task, however, is hardly an excuse for failure—particularly when failures extend over a period of years.

Reporting has only rarely gotten below the surface of superficial military activity and into the heart of modern guerrilla conflict. Rarely have reporters dug into the complex political makeup of South Vietnam and explained it in terms that readers and viewers could understand. Rarer still has been the occasion when the economics of the struggle in South Vietnam have been presented in graphic and understandable manners. Yet political and economic factors are probably more important in a guerrilla struggle than all that could be written about military maneuvers. The central questions are: How are the people of the country doing? Are they getting a fair shake? Do their political institutions work? Does their economy work? Are problems being solved?

What is required is a complete reexamination of the approach to coverage of guerrilla wars, and a complete reorientation of both editors and writers. Journalism must develop bonafide experts in both the politics and the economics of the underdeveloped world—experts who can write with authority and genuine background on the complex problems these areas face; experts who can explain how the people are doing.

Few American reporters in Vietnam today speak the language. Few have had any kind of special background and training in that extremely complex part of the world. Though "Vietnamization" is central to the Nixon Administration's program in Vietnam, the press corps has few students of internal Vietnamese politics who can report with confidence what is happening. Is President Thieu a "tinhorn dictator," as Sen. George McGovern once charged? Can the U.S. expect to develop any more satisfactory leadership in Vietnam? What alternatives are there, given the history and sociology of the country?

In Cambodia, U.S. reporters wrote much of Lt. Gen. Do Cao Tri, commander of South Vietnamese forces. He was colorfully described as a pistol-packing type, ready to fight, and he was frequently quoted. The news media did not do nearly so well in explaining Gen. Tri's private commercial interests, in lumber and in cinnamon, that have helped make him rich while men under his command were dying.

American journalism needs to know more about the nature of guerrilla warfare in the great struggle that spreads across the world. It needs men who are educated to get at underlying factors that make men act as they do in far-off countries. Guerrilla warfare is most probably the warfare of the future. We can expect to see a great deal of it in years ahead, not only in Southeast Asia and the Middle East but in Latin America and Africa—and in the U.S. itself. If America's news media cannot learn to understand it, to interpret it, to explain it to the public, then we are lost.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The PRESIDING OFFICER (Mr. BENTSEN). The Chair lays before the Senate the pending business, which will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion to proceed to the consideration of Senate Resolution 9.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. ERVIN. Mr. President, I will say to the Senator from New Jersey——

Mr. BYRD of West Virginia. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that I may be permitted to speak for a time not to exceed 40 minutes without it being charged as a speech on the pending question.

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

Mr. BYRD of Virginia. Mr. President, will the Chair state the pending question?

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9, a resolution to amend rule XXII of the standing rules of the Senate with respect to limitation of debate.

Mr. BYRD of Virginia. I thank the Chair.

Mr. President, the matter before the Senate at the present time is not a simple procedure or rule change, but rather a proposal far-reaching in scope. I propose today to cite some chronological history of the effort to limit debate in parliamentary bodies.

In 1604, a practice of limiting debate in some form was introduced in the British Parliament by Sir Henry Vane. It became known in parliamentary procedure as "the previous question," and is described in section 34 of Jefferson's Manual of Parliamentary Practice as follows:

When any question is before the House, any member may move a previous question whether that question (called the main question) shall now be put. If it pass in the affirmative, then the main question is to be put immediately, and no man may speak anything further to it, either to add or alter.

In 1778, Mr. President, the Journals of the Continental Congress also show that the previous question was used. Section 10 of the Rules of the Continental Congress reads:

When a question is before the House, no motion shall be received unless for an amendment, for the previous question, to postpone the consideration of the main question, or to commit it.

In the British Parliament and the Continental Congress, the previous question was used to avoid discussion of a delicate subject or one which might have injurious consequences.

Mr. President, the Senate of the United States is one of the few bodies in the world—perhaps the only body—that does not have a provision for the previous question. There are many good reasons, just reasons, why the Senate rules are as we find them today.

But, to go back again a few years, on July 12, 1841, Senator Henry Clay brought forth a proposal for the introduction of the previous question which he stated was made necessary by the abuse which the minority had made of the privilege of unlimited debate.

So it can be seen, going back well over a hundred years, that in the Senate of the United States there was a considerable difference of opinion as to just what the Senate rules should be.

In opposing Senator Clay's motion, Senator Calhoun said this:

There never had been a body in this or any other country in which for such a length of time so much dignity and decorum of debate had been maintained.

Senator Clay's proposition met with very considerable opposition, and it was abandoned, just as I hope the proposal to change the rules here in 1971 will be abandoned.

Mr. President, from that date until 1917, the Senate of the United States had unlimited debate, with no provision for a shutting off of debate, no cloture provision. In 1917, much of the world was at war. On March 4, 1917, President Wilson made a speech in which he referred to the armed-ship bill, which he emphasized was defeated by filibustering.

The President said, in part:

The Senate has no rules by which debate can be limited or brought to an end, any rules by which debating motions of any kind can be prevented. The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. The only remedy is that the rules of the Senate shall be altered that it can act.

The following day, March 5, 1917, the Senate was called into extraordinary

session by the President because of the failure of the armed-ship bill in the preceding 64th Congress.

On March 7, 1917, Senator Walsh of Montana introduced a cloture resolution, Senate Resolution 5, authorizing a committee to draft a substitute for rule XXII, limiting debate. Senator Martin of Virginia also introduced a resolution amending rule XXII, and this proposal was favorably reported by the Committee on Rules. The Martin resolution was debated at length and was adopted on March 8, 1917, by a vote of 76 yeas, 3 nays.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. BYRD of Virginia. I am glad to yield to the distinguished Senator from North Carolina, with the understanding that I will not lose my right to the floor and that my response will not be considered a second speech.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. ERVIN. Is it not true that at the time Woodrow Wilson made the complaint about the right to unlimited debate in the Senate, Woodrow Wilson was a much harassed and much troubled President of the United States?

Mr. BYRD of Virginia. The Senator from North Carolina is correct.

Mr. ERVIN. I should like to ask the Senator from Virginia if it is not correct that when Woodrow Wilson was a student, seeking the degree of doctor of philosophy, he chose constitutional government as the subject of a thesis which was later published as a book on that subject.

Mr. BYRD of Virginia. The Senator from Virginia will have to take the word of the Senator from North Carolina on that score.

Mr. ERVIN. Will the Senator from Virginia accept the assurance of the Senator from North Carolina that that is a fact?

Mr. BYRD of Virginia. The Senator from Virginia will accept any statement made on any subject by the distinguished senior Senator from North Carolina.

Mr. ERVIN. Will the Senator from Virginia accept the assurance of the Senator from North Carolina that he is very deeply complimented and deeply grateful for that remark?

Mr. BYRD of Virginia. I thank the Senator from North Carolina.

Mr. ERVIN. Will the Senator from Virginia accept the assurance of the Senator from North Carolina that when Woodrow Wilson was a student, seeking the degree of doctor of philosophy, and was not harassed and was able to consider this proposition in an objective and detached manner, he had this to say about the rules of the Senate:

> The Senate's opportunity for open and unrestricted discussion and its simple, comparatively unencumbered forms of procedure unquestionably enable it to fulfill with very considerable success its high functions as a chamber of revision.

Mr. BYRD of Virginia. Yes. The Senator from North Carolina makes a very important point, it seems to me. The Senator from North Carolina points out that it was only when Woodrow Wilson became President and found much of the world in turmoil and at war that he sought a change in the Senate rules. Up to that time, he recognized the validity of the Senate rules and recognized the basic purpose of those rules. It was only when he became a very harassed President that he made the recommendation I have just read, which he made on March 4, 1917.

Mr. ERVIN. I thank the Senator from Virginia for yielding.

Mr. BYRD of Virginia. I appreciate the comment of the Senator from North Carolina.

I wish to say, in regard to Woodrow Wilson, that he was a Virginian. He was born in the State which I have the high honor and great responsibility to represent. He was born in the city of Staunton. His birthplace is kept as a shrine in that historic town in the Shenandoah Valley. We in Virginia are very proud of Woodrow Wilson. We are proud of his connection with our State, proud of the record he made as Governor of New Jersey, and proud of the record he made as President of the United States.

Mr. ERVIN. Mr. President, will the Senator from Virginia yield for a question to the Senator from North Carolina and only on the same understanding which the Senator from Virginia stated just a moment ago?

Mr. BYRD of Virginia. I ask unanimous consent to be able to yield to the Senator from North Carolina under those conditions.

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

Mr. ERVIN. Does not the Senator from Virginia agree with the Senator from North Carolina that one of the things which contributed to Woodrow Wilson's greatness, in addition to his being born in the historic Old Dominion, arose out of the fact that he received part of his early education in a North Carolina institution of learning, Davidson College, which college today must have witnessed with pride the oath of office being administered to another one of its distinguished students, the distinguished junior Senator from Georgia (Mr. GAMBRELL)?

Mr. BYRD of Virginia. I would agree with the remarks just made by the Senator from North Carolina. I think they add to my knowledge because I had overlooked the fact that this great Virginian, Woodrow Wilson, had been educated in the great State which borders the Commonwealth of Virginia and which the distinguished Senator from North Carolina now so ably represents.

Mr. President, President Woodrow Wilson, in the midst of world turmoil, sought a change in the rules and the rules were changed, for the first time, to permit a vote as to whether debate should be closed.

Thus, ever since 1917, there has been a means by which, whenever a sufficient number of Senators so desired, they had the right to bring debate to a close.

In regard to the motion of March 5, 1917, as to the change in the rules, the rule change was presented to the Senate by one of my predecessors. He was at that time the majority leader of the Senate. I refer to the Honorable Thomas S. Martin of Virginia. He was elected to the Senate in 1894 and served continuously in this body until his death in 1919. Incidentally, he was succeeded a few months later by the late beloved Carter Glass, who had previously served in the House of Representatives and whom President Wilson named as his Secretary of the Treasury. Senator Glass, in turn, served in the Senate from the early 1920's until his death in 1946.

Senator Martin was an able and remarkable man. He was serving as majority leader in the Senate in 1917, and he served in that position throughout World War I.

I might say that when Senator Martin was elected to the Senate by the Legislature of the State of Virginia, his opponent was a former Governor of our State, the equally beloved general and former Governor, Fitzhugh Lee. Senator Martin's election to the Senate by the legislature over Governor Fitzhugh Lee was by a narrow margin. I do not remember the exact vote, but I think it was a margin of only two or one vote in the Virginia Legislature. It had rather severe political repercussions for many years following that date.

I cite Senator Martin's role in amending the Senate rules because I feel that there should be some means by which debate can be brought to a conclusion when a sufficient number of Senators deem that the subject matter is of sufficient importance so that debate should be shut off. So it seemed to me that the rule which the Senate adopted in 1917 was a fair one, one which simultaneously protected the rights of the majority and the rights of the minority. That rule, which required a vote of two-thirds of the elected Members of the Senate to vote affirmatively to shut off debate, remained in existence for a period of some 30 years or more; and then the rule was changed again, I believe it was in 1949, in which two-thirds of the Senators present and voting could shut off debate.

That is the situation in which the Senate finds itself today. That is the rule of the Senate today, that any time two-thirds of Senators present and voting—not a constitutional two-thirds, as it used to be—it has been liberalized now to where it takes only two-thirds of those present and voting to determine that debate should be cut off—and then they have the right to so move and, if they are successful, debate will be brought to a close. I feel that we should be very careful how we further liberalize that rule. I believe that perhaps, too frequently, the American people or their representatives become so impulsive that they want something done immediately regardless of the long-range effect that it might have on a constitutional body or the effect it might have on a minority.

It has been said that the tyranny of a majority is one of the worst tyrannies of all, and the purpose of the rules under which the Senate is now operating is to seek to protect the minorities against the excess zeal or the tyranny, whichever way one wants to express it, of the majority.

Mr. President, it has been argued that the Senate is not a continuing body, that it has no ties with the rules and traditions of its predecessors. I submit that this argument arises from a profound misreading of the nature of our Republican form of government and the intent of its founders.

Only a few days ago on this floor the distinguished junior Senator from Alabama (Mr. ALLEN) so clearly pointed out the illogic of the proposal that the rules of the Senate may be rewritten at each sitting of the Congress because the Senate is not a continuing body. As the Senator from Alabama noted, if this concept were true we would, even at this date, be possessed of no rules of procedure whatsoever.

I find this philosophy, this philosophy that whatever cause might be the popular one at the moment, justifies the rewriting of the entirety of our laws, to be a disturbing aspect of the present national scene. I find it doubly disturbing to see this philosophy become injected into the debates of the Senate, as to the Senate's own procedural rules.

Far too often in recent years, we have witnessed the total disregard by certain groups, of the entirety of our heritage, laws, and traditions. Many in this so-called "now" generation would compel us to reformulate the legal justification for the very existence of this Republic, with each passing "crisis" of the moment.

Consider for a moment what consequences would follow should each new generation of Americans raise the same objections against a Constitution signed by their forefathers nearly 200 years ago. It was not their contract. Why then should they be bound by it?

The answer is simple. No nation can endure without the commitment of all its citizens, present and future, to abide by the rules under which they live. The temporary majority of one generation, cannot be permitted to change the rules freely to suit their purposes of the moment. Nor can the minority of that generation be made to suffer their excesses.

Majorities change not only from generation to generation, but from issue to issue. If each coalition of the moment is given free rein to work its will, or undo the will of an earlier majority, the bonds of community which hold this Nation together will shortly fly apart.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BYRD of Virginia. Mr. President, at an earlier hour I sought and obtained unanimous consent to speak for 30 minutes without the remarks being charged as a speech on the pending question. I inquire how much time I have remaining.

The PRESIDING OFFICER. The Senator from Virginia sought and obtained consent to speak for not to exceed 40 minutes. Of that time, 13½ minutes remain.

Mr. BYRD of Virginia. Mr. President, at this time I wish to present for the consideration of the Senate the well-reasoned remarks of a distinguished Virginian who served as a Member of this body for many years. I refer to the Honorable A. Willis Robertson, who served as a Member of the Senate from 1946 through 1966. Former Senator Robertscn is now living in the city of Lexington, situated in Rockbridge County, Va. His former colleagues will be interested to know that former Senator Robertson is enjoying good health and is making a contribution to his fellow citizens in his home area.

Senator Robertson said in this Chamber in January 1959, when a similar proposal was before the Senate:

> In providing that two-thirds of the Senate always would hold over, and in providing that the President would send nominations to the Senate while it was in recess—not to a new Senate, but to the same, continuing Senate—the framers of the Constitution intended that the Senate should be a continuing body. That was so stated at that time in the Federalist papers by Madison, Hamilton and Jay.
>
> In two United States Supreme Court decisions which have dealt with the functioning Senate committees during a recess of the Senate—and of course the committees of the Senate would not be able to function and would not exist during a recess of the Senate if the Senate itself were not then continuing and alive—the Supreme Court has held that the Senate is a continuing body, and that its committees function while the Senate is in recess, although that does not apply to the House of Representatives.

I interpolate here to say that there is a great distinction between the two congressional bodies, the Senate and the House of Representatives. It was purposely made that way under our Constitution by those who wrote it in the Convention of 1787.

Mr. President, I continue to read from the remarks made by former Senator Robertson in 1959:

> I cannot emphasize too strongly the point, that if we take the position that the Senate has no rules when it meets for a new session, there will be an opening for any proposal of a temporary majority, whereas undoubtedly in our early history the new Union of sovereign States, with equal rights in this body, would not have come about unless there had been the great compromise.
>
> The keystone of that arch is the right to protect the sovereignty of our several states, and the assurance that the Senate, as a continuing body, would have rules definitely established for the protection of the minority. That theory is not inconsistent with the provision of the Constitution that the Senate can change its own rules whenever it wants to. There is no question about that. By precedent, by the clear meaning of the Constitution by two Supreme Court decisions, the Senate is a continuing body, and we should never change that fundamental principle of our unique form of government.

Mr. President, that is the end of the quotation from Senator Robertson in the Senate in 1959.

Let us pause to reflect for a moment upon the climate of this country at the time of the founding of the Republic in 1787.

Having suffered the ardor of a war for independence which lasted for 6 years, this Nation found itself a collection of States bound together in a loose confederation, which at any moment seemed capable of rendering itself asunder. Spurred on by the governmental crises of the era, the Founding Fathers of this Republic gathered in Philadelphia to draft a more perfect instrument of Government. The result of their labor, the Constitution of the United States, was a remarkable document, which, like no other the world has seen, has endured practically intact for nearly 200 years.

I might say, Mr. President, that most of those men who gathered in Philadelphia in 1787 had lived—and thank God none of us have—under a dictatorship and a tyranny of the British crown. What they were seeking to do in Philadelphia in 1787 was to forge an instrument, a constitution, which would guarantee to themselves and to those who came after them freedom and individual liberty. Those men were merchants, frontiersmen, lawyers, and representative citizens of the day who were seeking on the then relatively new continent, to bring forth an instrument guaranteeing freedom and liberty to the individual citizens.

This constitutional document was not hastily drawn; it was as many leading historians and political scientists have realized, a monument to the art of compromise. That farseeing body of men who met in convention so long ago, was in no way hampered by procedural devices which would have cut short their periods of deliberation and hours of argument.

Even in the face of the extreme crisis which faced the young country, these men proceeded patiently; cautiously, and deliberately to forge an instrument which was designed to protect the entirety of the populous. Their final product contained in it a unique system of checks and balances by which no sphere of the body politic might gain untrammeled superiority over another.

Mr. President, that is why the Senator from Virginia is very reluctant to see this constitutional document tampered with too much. It has stood the test of time for over 200 years. I submit that one of the great problems facing the United States and which has faced the United States in recent years is that Congress, meaning both the Senate and the House of Representatives, has passed too much legislation merely for the purpose of passing legislation rather than giving foremost attention to what I think is vitally important in legislation that is passed, and that is, Will it stand the test of time? We know the Constitution of the United States has stood the test of time. It is a document that should not be tampered with lightly and I submit that whenever an effort is made to tamper with it lightly those of us in positions of responsibility have an obligaton to speak out strongly and forthrighty.

In seeking a balanced system of checks and balances the Constitution provided that the House of Representatives was established to speak for the people as a whole, to speak for the right of the majority. I am the first to admit and state frankly that I feel the House of Representatives, situated at the other end of the Capitol, is, as it should be, more representative of all the people of our Nation than is the Senate.

Terms of 2 years were provided for Members of that body as compared to 6-year terms for Members of the Senate. The purpose of the 2-year term, of

course, was to keep Government close to the people, to require the Representatives of the people at the seat of Government to come back to the individual citizens of our Nation every 2 years and to submit themselves to the electorate as to whether they should or should not be returned to the Congress of the United States.

While the House was established to speak for the will of the people as a whole, and to speak for the rights of the majority, and recognizing the footing of this country rested upon far more than the whim of a simple majority at a given moment, the founders of our Constitution in the "great compromise" established a Senate which would be representative of the people as a whole, and of the States. So the role of the Senate is entirely different from the role of the House of Representatives.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, I personally favor some modification of the rules of the Senate. I have suggested changes which I thought were in order in years gone by, and I shall be suggesting more changes in the future. It seems to the Senator from Louisiana that we ought to be legislating to streamline and modernize our procedures in this Congress just as we vote to streamline, improve, and move into the 20th century with legislation in every other field that is before the Congress.

For example, it is my judgment that rule XXII very definitely should be changed. I, for example, would like to see rule XXII changed to meet the experience that we have had when we invoked it in the past, as it has been invoked a number of times while I have had the privilege of serving here during the last 22 years. When rule XXII has been invoked we have found it completely impractical to limit each Senator to 1 hour of debate without according the right of any other Senator to yield the 1 hour's time available to that Senator.

Let me just point out how completely impractical and how unfair that rule worked out when cloture was invoked with respect to the space satellite filibuster. On that occasion, there was on the desk of each Senator more than 100 amendments. The manager of the bill, the Senator from Rhode Island (Mr. PASTORE), had only 1 hour available to him, so he was not in position, as manager of the bill, to explain why these amendments should not be agreed to. He felt that the only recourse available to him was to move to table each amendment without debate, and the majority followed the manager of the bill in doing just that. So, there we were with many good amendments, well considered, some of which had every element of justice, honor, and conscience about them, and should have been agreed to. A Senator to this day will find great difficulty in determining why amendments which were presented with a prima facie case, which required rebuttal, were voted down without a hearing. As to some of those amendments, one, even this day, would find it difficult to produce an argument to dispute them. Yet the manager of the bill, because of the rules allowed him only 1 hour, relied upon the fact that this was the only route available to him, and, having 100 amendments to be considered, simply moved to table each amendment, without debate.

Talk about tyranny. I was on the opposition side on that occasion. That was a case where the liberals were talking against the bill and the conservatives were trying to pass it. Talk about an outrage and legislative lynching. A Senator who had an amendment which had much merit could not even argue it, and so it was laid on the table without debate. Inasmuch as the manager had only 1 hour, he could not respond to all of them, and he was compelled to move to lay them on the table without debate. So we had to engage in legislative lynching, so to speak, because of the requirements of that rule.

That rule, as a minimum, should be modified, in my judgment, so that other Senators representing the same side as the majority could yield the manager of the bill some time, in order that he might at least show the proponent of the amendment the courtesy of explaining why the amendment should not be agreed to. But I must say, Mr. President, having been through the cloture situation, when cloture is invoked in this body there is no logic, no reason, no sense, no judgment, no conscience—nothing but just the brute force and strength of the majority to trample down the minority at that point, and a hatred and contempt on the part of one group for the other. The majority, in those situations, tends to deal with the minority much like a victorious army being confronted with an underground rebellion by a conquered people; and those who are in the minority, having had the gag rule voted against them, are treated almost with contempt by those who are in the majority. I know that, Mr. President; I have been in those situations, as have other Members of this body, where one can present amendments with regard to which the manager of the bill cannot produce an argument, nor can his advisers produce an argument, except, "We have these people on the ground now, let us go ahead and do it our way."

That kind of legislation, Mr. President, is a disgrace to any legislative body. I have observed it; so have other Senators. They do not approve of doing business in this fashion, and I cannot blame them.

Why, then, would I oppose proceeding in the fashion that some would seek now to amend rule XXII? It does a disservice to the Senate of the United States. If we are to amend rule XXII, there are a lot of things about it that ought to be considered. They ought to be considered in a thoughtful way. Proposals for amendment should be offered, and they ought to have the recommendation of a thoughtful group that could study them thoroughly and report them out or turn them down.

Why would not the sponsors of this proposal have enough confidence in the Rules Committee to permit that committee to hold hearings, to consider both their amendments and the suggestions of other Senators, in order that the proposal before us could be a well considered proposal, and have the recommendations of those arguing for it, as well as the recommendations of a minority? Why not? If they have no confidence in the Committee on Rules and no respect for it, and do not feel that the committee is properly constituted to consider such a proposal, why do they not propose to us, as they have every right to do, that we appoint an ad hoc committee? If they would like to have a different balance on the committee, perhaps more liberals, perhaps more from the North or more from the East or West, why not suggest the procedure they would like to see the Senate pursue, and suggest that we have a special committee to consider this particular matter, separate and apart from all other matters?

That is not unprecedented. We have done that kind of thing before. We have appointed special committees to study a particular problem and make recommendations with regard to it. Why not?

Because, Mr. President, it would appear that the sponsors of this proposal are embedded in concrete. Having been so long wedded to an ancient legislative proposition, they cannot even open their minds to a new idea.

This procedure which is offered to us here had its genesis back in the days when some Senators felt that no change of the rules was possible if they were to proceed by the rules that were in effect and applied to the Senate at that time. In other words, the rules required that a two-thirds vote be mustered in order to shut off debate, and those who wanted to change the rules felt that they would have difficulty mustering a two-thirds vote.

There was a time when even debate on a motion to proceed to consider a proposal was not subject to a cloture motion, and they wanted to get around that. So, in those days, those Senators suggested that they could do violence to the rules, and they presented the argument that at the beginning of a session, the Senate had no rules and had no procedure; it was simply like a group of men who met on a street corner, with no prior association, and that it could go by the law of the jungle. Any group who found themselves on the top of the pile could proceed to impose their will on the minority.

Proceeding on that logic, a number of attempts were made to demonstrate that the civil rights laws could not be passed without a change in the rules, and the rules could not be changed if the Senate were regarded as a continuing body. So the attempt was made to demonstrate that there were no rules at the beginning of a session, even though the Senate has historically been recognized as a continuing body, and even though Senators

retained their seniority and their assignments on the basis that it was a continuing body. Even those Senators would argue that at the beginning of a session, we must do violence to our rules, we must proceed by mob rule to conduct more or less of a legislative lynching, and establish new rules insofar as limitation of debate was concerned.

So the whole proposal to proceed, without due consideration, in a disorderly fashion, and without procedural safeguards, was all bottomed on the theory that the rules themselves cannot be changed, and that you cannot pass civil rights laws without changing the rules.

Well, we found that both of those assumptions were completely incorrect. I came here in 1949. I know that since that time we have changed the rules a number of times. We changed them in 1949; we changed them again under the leadership of Lyndon Johnson; and we have changed them at other times.

When I first came here, for example, debate on a mere motion to proceed to consider a question in the morning hour, or concerning reading of the Journal, would not be subject to a cloture motion. That loophole was closed as a result of the debate over the rules in 1949, in which I participated.

Then there was a provision in the rules that required that to shut off debate, there must be a constitutional two-thirds present and voting to shut off the debate, so that, if we had 100 Members, we would have to have 67 votes to shut off debate. That was changed to require that it only be a two-thirds majority of those present and voting. If you had 90 Senators present, that would mean you would only have to have 60 or 61 votes to shut off debate, rather than 67.

The rules have been changed, and they undoubtedly will be changed again. But they ought to be changed, Mr. President, by orderly procedure. They should not be changed by a bum's rush, nor should they be changed by legislative lynching. That type of procedure, Mr. President, has met with the failure which it deserves down through the years. It has been repeatedly repudiated by the Senate, and it should be bypassed in this case.

We have the power to change the rules of the Senate whenever we want to, and whenever a majority of Senators have been sufficiently determined to take the time and seek an orderly way to change the rules, they have been notably successful in it. I will say that those efforts to change the rules by usurpation have failed, and indeed they should have.

George Washington, in his Farewell Address, eloquently set forth the fact that if one wishes to change the form of this Government, he should seek to do it by the measures prescribed for changes; he should not seek to do it by usurpation. I am happy to say that in this body, when we have agreed to a change in the rules, we have done it by the forms prescribed, as I believe we should do in this case, and not by usurpation.

There are those who contend that this should be done by a so-called majority vote, on the contention that we have no rules at all, at least not with regard to shutting off debate, when we first meet at the beginning of a new session.

Mr. President, the majority always has the power to run roughshod over the minority by use of usurpation, if it really is determined to do that.

There are a number of wrong ways in which this type thing can be done. One of them is the approach that has been attempted at the beginning of each session, to contend that the Senate has no rules until it adopts them. Another procedure that has been discussed, which I have mentioned on this floor on a number of occasions, is one which is analogous to that. This is the procedure used in the Supreme Court altogether too often, when Justices, having raised their hands to heaven and sworn to uphold the Constitution and the laws, proceed to strike down the Constitution by ruling that it does not mean what it says or that it means the opposite of what it says.

That type of procedure could be followed in this body. Any Vice President, or, in the absence of a Vice President, any President pro tempore, or, for that matter, any Presiding Officer, could insist on ruling that the rules do not mean what they say at all. An appeal, of course, would be taken from his ruling, and the motion could be made to table the appeal. Any mere majority vote would table the appeal, and any rule we would have would be about as meaningless as the Russian constitution against those roughshod tactics, if the Senate were inclined to take that approach. It has been my experience, I am happy to say, that the Senate does not buy that kind of tyranny very easily. It seldom happens in this body. I doubt that it will happen this time—I hope not.

Another procedure would be one which I have sometimes facetiously suggested when we were confronted with extended debate, that the Presiding Officer simply could bang his gavel and say, "The yeas and nays have been ordered, and the clerk will now proceed to call the roll," and refuse to recognize Senators who were standing, demanding recognition to speak at the time. That type of thing might require the help of a Sergeant at Arms or the District police force, to arrest some Senators and haul them out of the Chamber in order to force this matter through to a vote while their rights were being violated. But that is a procedure that could be used if the majority wanted to engage in such tactics, previously unknown in the Senate.

Those are approaches of legislation by usurpation that are available to a majority, if that majority really feels that the situation in this Republic has reached the point that we can no longer afford orderly, proper procedure, or that we must resort to the kind of tactics that have destroyed democratic government down through the years. I do not believe the Senate will do that.

It has somewhat amused me to see Senators standing here contending that their bill must be passed and that unless we destroy the rules of the Senate as they exist and unless we set a precedent of legislative violence, their bill will not become law.

I recall some years ago when Senators would argue that civil rights bills cannot be passed unless we do violence to the rules of the Senate, that civil rights bills cannot be passed by orderly procedure. Yet, Mr. President, in 1964 the Senate voted to pass a civil rights bill. It voted to invoke two-thirds majority cloture and to pass the Civil Rights Act of 1964. On that occasion, the Senate passed everything in the way of civil rights that a majority in this body could conceive or submit to a vote, sometimes to a point of ridiculousness.

Mr. SPARKMAN. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield.

Mr. SPARKMAN. The Senator has been reviewing the various actions taken relating to change in the rules, relating to cloture, relating to legislation going through. We often hear the complaint made that this cloture rule or, rather, the fact that it requires a two-thirds vote to invoke cloture, keeps out good legislation. I take it from the statements the Senator has just made that he refutes that claim.

Mr. LONG. Yes; I do.

Of course, the argument is made that a majority should be able to work its will. Those of us who have been around here for a while would like to ask this: "What majority are you speaking of, Senator? Are you talking about the majority that has not heard the argument, or are you talking about the majority that has listened to the debate? Of course, if you are talking about the majority that exists before an argument has been heard or before the debate has been heard by Senators, or before the country has had the opportunity to consider the argument against it, then it is of such things that tyranny is made. But if you are talking about a well informed majority, if you are talking about a majority that exists after a matter has been thoroughly discussed, thoroughly considered, and everyone has made up his mind about the matter, that is a different proposition. That is a horse of a different color. But how do you know which one you are talking about unless that debate has gone on for a considerable period of time?"

Is it not true that those who are in the starting majority, as they watch their votes drift away from them by the logic of the other fellow's debate, are going to use their best efforts to shut off the debate as soon as they can, and is that not the very reason why we want free debate in any legislative body, particularly this one?

Mr. SPARKMAN. Mr. President, will the Senator yield further?

Mr. LONG. Yes.

Mr. SPARKMAN. I think there is a great misunderstanding on the part of many people throughout the country with reference to cloture. Many people seem to think that the cloture rule established filibustering. As a matter of fact, it is just the opposite; is it not? The cloture rule was adopted in order to provide some way of cutting off extended debate.

Mr. LONG. The Senator is correct.

Mr. SPARKMAN. From the beginning of our Nation until about 1922, I believe, no way was provided for forcing the end to a debate.

Mr. LONG. The Senator is correct. Rule XXII was established in order to terminate debate. It was not a rule established to permit extended debate.

Mr. SPARKMAN. Not at all. Rule XXII, as it exists today, is not for the purpose of somebody filibustering, but it is a limitation on what was the rule for many, many years during the history of this Nation.

Even when the founders of our Government were writing the Constitution, and in the very early stage, Thomas Jefferson referred to the fact that there was freedom of debate, freedom of speech, in the Senate and that it should be that way, that this should be the deliberative body, and that a person should have the right to free and unlimited debate in the Senate.

Mr. LONG. The Senator is entirely correct. It was to protect the rights of minorities that the Senate was created in the first instance. The Senate having been created to protect those who might find themselves in a minority in the House of Representatives, should be the first to recognize the need for protecting the rights of minorities to be heard, to have their case considered, to have checks and balances. The very establishment of the Senate was a recognition of the fact that the majority is not always right and that the majority can be very oppressive upon the rights of people.

So it was agreed that there would have to be three tests for a bill to become law: First, it would have to meet the approval of a majority in the House of Representatives, constituted on the basis by population. Second, it would have to meet the approval of a majority of a body constituted to represent the States. Then, third, it would have to be signed into law by the President, who must be elected by the popular vote of the people, so that it has to meet three tests. There are many laws that could meet the test of one majority but could not meet the test of the other majority, or a single man, who must be elected by all of the people.

Mr. SPARKMAN. In the three points the Senator makes, any one of the three can be checked against the other two; is that not right?

Mr. LONG. The Senator is entirely correct. That is part of the general theory of the wise men who founded this Republic, that this was not to be a government of unlimited powers but of limited powers, that the powers asserted by the Central Government should be limited in a number of ways.

Mr. SPARKMAN. I thought the Senator was going to say it was not envisaged that the Senate should be a place through which things have to move hurriedly. That is the reason the Senate was created in the first place; was it not?

Mr. LONG. The Senator is exactly correct. I believe that the best illustration is to cite what happened during the Constitutional Convention when one of the founders poured some tea into a saucer to let it cool before he drank it. He was asked, as an illustration, was that not the function of the Senate, to help cool the hot liquid that comes from the House?

Mr. SPARKMAN. Yes. I believe that actually occurred between George Washington and Thomas Jefferson, although Thomas Jefferson was not at the Convention, of course. George Washington was the President of the Convention. As I recall the story, when Jefferson returned from France he was talking to Mr. Washington. Thomas Jefferson was a man who believed that there should be a parliamentary body, but represented only by those elected by the people. Undoubtedly, he considered the Senate, which, when founded, had its Members elected by the State legislatures and were more or less ambassadors from the States, as being kind of aristocracy.

But the story goes that Jefferson said to Mr. Washington, "Why in the world did you create a Senate?" Mr. Jefferson was standing there with the tea, and he was pouring some of it into his saucer, and George Washington replied, "Why are you pouring that into your saucer?" Mr. Jefferson replied, "To cool it off, of course." Said George Washington, "That is exactly the reason we have created a Senate, to cool things off when they come to us hurriedly from the other body."

Does the Senator not think that is still good philosophy?

Mr. LONG. It is very good philosophy. I think one illustration of that is what happened in the previous session of the Congress. In fact, one could cite many things which happened in the previous session of the Congress, one being the so-called family assistance plan of the President which was presented to Congress. When it came over to the Senate from the other body, many Senators seemed to like it, but as they studied it, they began to find fault with it. The administration saw its defects and admitted that it should be redrafted, which they proceeded to do some 12 different times, I believe, and still they could not solve some of the problems. I know that this Senator was criticized because, as chairman of the committee, he did not try to run roughshod over the minority, or over those who found there were problems which had to be resolved. The more the problems developed, the more we had arguments, and the more we wrestled with the problems the more we found out how difficult and complicated they were, so that the bill did not become law. But even in the Senate we found that we could not resolve those questions in the time remaining to us. The Senate, by an overwhelming vote, voted to leave the family assistance plan off the bill in order to give the Senate the opportunity to struggle with the problems again this year.

When one looks at the enormous complexity and the fantastic costs involved, as well as the enormous future costs, and also the implications of some of the mistakes that could have been made in the bill, I think any sensible person who has studied them in depth would agree that we are better off not adding to a program that has so many difficult points unresolved in it. The solutions proposed may create more problems than they solve and it was recognized that we would better approach the matter this year with the benefit of the experience we had and report a better bill.

There is no doubt in my mind that the House will send us a better bill than it sent us last year. There is no doubt in my mind that all the good we had managed to contrive in the Finance Committee will be preserved, and all the good provisions that the Senate agreed upon will become law this year. Some of the provisions that we took in haste which could rise up to plague us will be, at least, better perfected before they become law now; so that the message gets through to the public and Senators understand the problem better and we pass better laws. Sometimes one wonders whether all this speed to pass bills is justified, when we find we have bad bills which are difficult to change thereafter. Sometimes we are better off with greater, indepth study so that we understand them a lot better and are able to solve the problems.

The Senator knows that some of the problems that have come to us are insurmountable. By the efforts of Senators, by men of good will, resolving first one facet and then another, sometimes they work out to be good bills but only because those who presented the measures in the first instance did not have the power to lower their necks and charge on through, but had to consider the arguments put forward by others, listen to better answers, perhaps, and other suggestions, and even had to find ways to solve problems that they had found to be insurmountable in the first instance.

Mr. SPARKMAN. If the Senator will yield further, to comment on another point I just thought of—although I have thought of it many times before—in connection with the present discussion, the Senator knows there has been a kind of division or understanding as to what Senators believe regarding filibusters. They have the habit of using the term "filibustering" for any kind of extended debate and thorough discussion, but usually it has been understood that certain Senators are in favor of it and certain Senators are completely opposed to it.

Cannot the Senator recall a good number of occasions when those trying to change this rule, who have argued so strongly against filibustering, have themselves conducted long, drawnout filibusters, and actually have been able to kill bills toward the end of a session by their filibustering?

Mr. LONG. Mr. President, that is one of the amusing facts about this body. No one wants to change the rules to deny a Senator the right to be heard who agrees with what the Senator is saying.

Mr. SPARKMAN. Yes.

Mr. LONG. Even though they might feel that the point has been made very clear, they are perfectly willing to permit argument to be further expanded upon. They are perfectly content to hear a Senator agree with what they may be saying or are in favor of, even going a step beyond to amplify what has been said.

There would be no proposal now to strike at free debate in this body if those who are proposing it now were merely trying to persuade Senators who already agree with them.

Mr. SPARKMAN. The Senator is right. I have thought of that so many times.

By the way, the Senator's distinguished

father was a great speaker here on the Senate floor. I can remember being up in the gallery, as a young lawyer, when I saw the Senator's father speaking in this Chamber. He was a great speechmaker. In fact, in his day, I think he was recognized as the champion debater on the floor of the Senate.

Of course, the rules have been tightened up since his day. I am not including him in this, but the Senator, I am sure, will recall one Senator who, perhaps more than anyone else, inveighed against filibustering and was in favor of changing the rules, and who actually established for himself, a record for longtime speaking in a filibuster on the Senate floor. Does not the Senator remember that?

Mr. SPARKMAN. He is not here any longer.

Mr. LONG. The Senator is right. May I say that I think the then Senator from Oregon, Senator Morse, established a record. I recall the night very well.

Mr. SPARKMAN. The record never has been broken and probably never will be.

Mr. LONG. The Senator from Alabama suggests that our ex-colleague took the position—and I do not criticize him for it—that as long as the rules permitted free debate, he would take advantage of it, even though he had voted to change that rule.

The Senator will recall the occasion on which former Senator Morse broke the all-time record. It was a completely appropriate occasion for a man to assert his rights. The Senator will recall that former Senator Morse offered an amendment during the course of the atomic energy filibuster. Before he could even obtain permission to explain his amendment, the then majority leader, former Senator Knowland, asked how long the Senator would speak to explain his amendment.

Former Senator Morse explained that he did not intend to speak very long, but that he was not going to agree to any limitation of debate. He said that when he was satisfied he had explained his amendment, he would sit down but that he was not going to agree to any sort of gag rule.

When he insisted on explaining his amendment, he was asserting the kind of old-fashioned right which still exists in this body—thank the merciful Lord—to say, "I will be heard; I will not sit down until I have had my say." He said that he did not expect to take very long. Of course, for the former Senator from Oregon, that might be a somewhat longer time than by other Senator's standards.

The then Senator from California, former majority leader Knowland, then proceeded to say that if he could have no assurance that the Senator from Oregon would agree to limit himself to 10, 15, or 20 minutes, he would then move to table the amendment, which he did. The motion carried. The former Senator from Oregon was denied the right of so much as explaining the first sentence in his amendment.

The former Senator from Oregon then proceeded to claim the floor. He did have a right to speak on the bill itself which, of course, was not subject to a motion to table as long as one wished to debate the bill. The Senator from Oregon then proceeded to talk for 24 hours about the bill.

I recall it so well. I went home and had a good night's rest. I think the Senator from Oregon said that he was going to exercise his right of free debate and he urged those who were weary to go home because there would not be a vote any time soon.

I think that rather changed the mind of the then majority leader, former Senator Knowland, about trying to tell a Senator that he could not make a 20-minute speech and let his conscience be his guide about how long he would take to explain his amendment.

The then Senator from Oregon did on that occasion exercise his right. But it could not be done if we were to do what some want us to do, to strike out one part and then another part of the right of free debate.

If we were to do what some want us to do, our procedure would be similar to that in a State legislature where one acting in the position of leadership could stand up and move that the matter be brought to a vote.

Mr. SPARKMAN. That is the previous question.

Mr. LONG. The Senator is correct.

Mr. SPARKMAN. That situation prevails in the House, but not in the Senate. It was not intended to prevail in the Senate. However, we are moving more and more toward that point so far as the advocacies of those who would amend the rules are concerned.

Mr. LONG. Mr. President, I agree with the Senator. There is not any doubt in my mind that procedures that no one would even attempt in this body today will become the order of the day and the practice of the Senate if we permit ourselves to move to the point where a simple majority can shut off debate in this body whenever it wants to do so.

Mr. President, I would ask the question, has the Senate reached the point where free debate must be denied in order to meet the demands of this country? Is there any particular bill that anyone has in mind that must be passed which cannot muster the votes to shut off debate in the event a rather extended debate were engaged in by those who opposed the bill?

In the previous Congress, I recall a suggestion that we should pass, I believe, two constitutional amendments, neither of which became law. They failed in the Senate.

A two-thirds majority vote is required in order to pass a constitutional amendment. Assuming that there are enough votes for passage of a constitutional amendment, all that is required under the present rules is that the two-thirds majority favoring the constitutional amendment vote to shut off debate. No more than that is required. It is true that the two-thirds majority favoring the measure might not be willing to deny other Senators the right to be heard further. They might not want to deny a Senator the right to discuss his amendment. They might prefer that the freedom to debate the measure continue a while longer. But to suggest that those who are prepared to vote for a bill should change the rules merely because they cannot agree upon the point at which they want to shut off debate or to suggest that those who want to pass the bill should change the rules merely because they will not avail themselves of the right they have under the rules is ridiculous. Yet that is suggested by some.

Mr. President, when we look at the experience of the previous Congress, my offhand recollection is that the measures that failed to pass were constitutional amendments requiring a two-thirds vote. It would have required no more than the Senators who favored the measure—assuming they had the two-thirds vote to pass it—voting to shut off debate. If they had a two-thirds vote and that two-thirds voted to shut off debate, there would have been no problem.

It is a poor answer to say that we must change the rules of the Senate merely because those who seek to pass a constitutional amendment would not avail themselves of the right to bring it to a vote. In that instance it is not a failure of the rule. It is just the lack of sufficient zeal or the lack of a decision on the part of those who favor the measure to go ahead and avail themselves of their right in order to pass it.

It is true that some Senators who favor a measure might be among those who never vote for cloture in this body. It might be that they have a moral conviction against it. I do not know what a change in rules would do to change their moral convictions on freedom of debate. That is something between a Senator and his conscience. But I hardly think other Senators should be made to answer for another man's deep, inner convictions. That is something a man is entitled to possess as a condition to serving here.

I would like to remind the Senate of one situation as an example. A Senator proceeds to argue the rules should be changed to pass his proposal when it is unnecessary, and his proposal becomes law without changing the rules.

In 1965 the Senator from New York (Mr. JAVITS) was making the argument that in order to pass civil rights bills, even after we passed the omnibus civil rights law of 1964, we must change the rules of the Senate to permit majority cloture. I wish to read to the Senate what I said at that time:

> Mr. LONG of Louisiana. Mr. President, the Senator from New York made the statement that only once had a filibuster been broken by cloture. It would be well for the record to reflect that on two previous occasions, previous to the passage of the 1964 Civil Rights Act. Congress had passed voting rights legislation. It passed such legislation in 1957, and again in 1960. Then it passed the Civil Rights Act of 1964.
>
> On the two previous occasions, those of us who opposed the bill, were of the opinion—and that was one reason why the bills came to a vote—that in the event a motion for cloture were filed, and a filibuster were attempted on the bill, the Senate would vote for cloture, if not on the first vote, then certainly on the second vote.

I am of the opinion, without regard to whether or not I vote for it—and whether I vote for it would depend on what it looked like—that a bill that appears to be reasonably tailored to meet the problem that exists, using no more Federal interference than is necessary to meet the problem, will pass the Senate, and will pass the Senate under the existing rule, without the rule being changed.

For that reason, the Senator from Louisiana hopes that the Senate will schedule a voting rights bill when it is reported, and vote on the bill on its merits. If we did so, it might not be necessary to have to vote on a proposed change in rule XXII.

It should be remembered that rule XXII does more than protect those who are opposed to some civil rights measures. As the Senator knows, there was a measure before the Senate to prevent the reapportionment decision of the Supreme Court from going into effect, which perhaps could have been passed by a majority vote. It was defeated. So this proposal tends to work both ways.

I should like to see a rule acted on without reference to any particular bill, particularly if the bill itself can pass on its own merit without changing the rule.

I wished to make my position clear for the record, without necessarily taking issue with the Senator.

Mr. JAVITS. Mr. President, the Senator's position is critically important. It is most statesmanlike that he will do more than merely say it will happen, because I have heard him actually pledge himself to use his best efforts to see that it does, and that there will be action by voting on a rights bill.

Mr. LONG of Louisiana. I have not seen the President's message. I do not know what the President will say. I have not seen any particular bill. I am perfectly frank to admit that there are situations which exist in my own State in connection with which the local authorities will have to respect the right of Negro citizens to vote, or someone will have to do something about it. That will happen whether I vote for a bill or not.

Mr. President, I make that point because there was an effort in 1965 to limit free debate and to further restrict the right of Senators to stand here and speak their consciences and convictions because, it was said, we must pass a voting rights bill. Well, we passed the voting rights bill, and in that very year. We passed it with free debate and without changing the rules of the Senate to give any further advantage to the majority that wanted to pass that bill, just as we have passed other measures of that sort when those who contended free debate would prevent it from happening. They were proved wrong, and they have been proved wrong repeatedly. They cannot make their case now. About the best case they can make is that the Senate would be more efficient, get on with its business more rapidly, that it would not take as much time, or that they would not have to hear as many long-winded speeches if we had a rule which made it easy for those in the majority to shut off debate.

That may be true, but at the same time the liberties and freedoms we enjoy in this country would be a lot less secure. It would be just one more erosion of the right of the people to be represented, the right to be protected from a temporary majority, a fleeting majority, and the right to be protected against mischief, which would not be sustained by the mature judgment of time.

Mr. President, at the present time we find the suggestion being made that we could transact our business quicker, and adjourn sooner, if we did not hear the argument of other Senators to the extent we do. Yet it is our duty to hear those arguments and it is our duty to consider them. Although a Senator may come from a small State and speak for a small constituency even though those for whom he speaks may be unpopular with other people in the country, it is our duty to assure that all views be considered and that we take time to explain both sides of an argument so that both sides may be considered.

When this matter was debated in 1949, a point was reached at which a simple majority in this body could have taken advantage of the minority by ruling that the rules do not mean what they say. At that point those who took that position were sustained by the Presiding Officer, the then Vice President, Mr. Alben Barkley. An appeal was taken from the ruling of the Chair. Eloquent speeches were made at the time pointing out that although it might be bad politics to vote to overrule the Presiding Officer at the time, it might make it more difficult to pass civil rights legislation. The fact of the matter was that the Vice President was wrong, in that he was setting a precedent which could well lead the Senate to a situation where a majority could force a measure to a vote even though the previous precedents would not permit it.

When a motion was made to appeal the ruling of the Chair, by the vote of the Senate, the appeal was sustained. A number of very persuasive speeches with compelling logic were made that caused the Vice President, even though he was supported by all of the civil rights organizations and great organizations of the time, to be overruled.

It seemed to this Senator at that time, the statement by the then Senator from Oregon, Mr. Cordon, had a compelling logic that deserved a place in posterity.

I say that without making any invidious comparison to great and eloquent speeches made at the time by the then President pro tempore of the Senate, Arthur Vandenberg, who had made a contrary ruling the year before. I also say that without making any comparison with what I thought was one of the most eloquent speeches I ever heard in this body, delivered by the then senior Senator from Georgia, Mr. George. But the simple logic of the senior Senator from Oregon on that occasion was so compelling to this Senator that I think it deserves to be in the RECORD at this point. Here is what Mr. Cordon said:

> Mr. President, I have never been one who believes in reiteration. I shall limit myself to one or two points which I believe have not been covered. Beyond that, I associate myself with the statement made earlier this afternoon by the eminent senior Senator from Michigan. I find myself in as embarrassing a position as the Senator indicated his was. I am a believer in cloture. I have reached that conclusion after long study and deliberation. I believe cloture should go to any motion, measure, or business, to any question which might be before the Senate at the time a petition for that purpose is submitted. I believe the petition should be a preferred matter, to be filed even while a Member of this body is on his feet. But, Mr. President, it is my conviction that we can pay too much in other more precious things for some of the things we desire.
>
> Mr. President, as I view this matter, I am constrained to believe it has taken on a very great deal more importance, important as it is, than the subject matter warrants. I agree with the distinguished Senator from New York in his statement that this is a most important matter in the minds of millions of people. It has become important chiefly because it is misunderstood. The belief is abroad, based upon statements made and reiterated time after time and heard on the floor of this body, unless we correct the rule situation by the amendment we have to the present cloture rule, that in some moments of tragic and great public necessity in this country the Senate will find itself hog-tied and unable to act.
>
> Mr. President, as long as the United States Senate is constituted under the provisions of the basic structure of this country, just that long a majority of a quorum on this floor can do what it will. We speak of rights under the rules of this body. If by the term "right" we mean a legal right, such rights are nonexistent. The rules we have in the Senate are worth while only to the extent that we who are Members of this body are willing to abide by them, as long as we who are Members of this body are willing to give our consent to their operation, as long as we who are Members of this body believe that the business of this body and the welfare of the people of the United States will be better served while we have those rules or some other rules.
>
> But let us not delude ourselves, Mr. President, with any thought that we are hog-tied, handcuffed, futile in this body, if a time comes that we must do this or that. On that day, this body will act, and it will act within its constitutional power, because this body is the sole judge of its rule. The rules it has today exist by sufferance, by consent of a majority, even the rule of cloture, which require two-thirds vote. That rule, or the rule requiring two-thirds vote for suspension of rules, can all go down and be overthrown on any day the Senate feels that the overriding welfare of the people here requires it.

It may come as a surprise to some Senators to hear this thought expressed, but that is exactly what I said earlier at any time a majority in this body believes the situation is such that we can no longer afford the luxury of free debate, that we can no longer afford the luxury of orderly procedure, that we must resolve ourselves into a legislative lynching party in order for the majority to work its will, and that if the majority feels the means justifies the end to that degree, then, of course, the Senate can indeed resort to the procedure whereby the Presiding Officer can say the rules do not mean what they say. The Presiding Officer can refuse to recognize a Senator who stands on his feet demanding to be heard, or the Chair can rule a Senator out of order and order him to take his seat, and rule that every other Senator is out of order and order them to take their seats, and gag all others who wish to speak, and then proceed to put the matter to a vote.

Those kinds of legislative acts of usurpation and those kinds of oppressive procedures can be used if the situation justifies it. But should not tactics of that kind demand circumstances where the end justified those means, and not strip away the rights which exist in the Senate to protect the liberties of 200 million people merely because a Senator does not

want to stay in his seat and hear the argument of another man, or merely because he finds it too burdensome to attend the sessions of the Senate and be available for a vote, even though he is permitted to go home and not even hear the speech?

So the convenience of Senators, the move for efficiency at the expense of liberty, can be a very bad mistake. Nevertheless, it is available to the Senate any time someone wants to engage in that tactic. So let us not delude ourselves that these things cannot be done. They can be done. They have been attempted right here in this body.

Why have they not succeeded? They have not succeeded because there has never been a time when a majority of Senators would agree with the argument that the time had come when we must resort to tactics of that sort to achieve their will.

Pray that the time will never come when we have to agree to engage in that kind of scurrilous conduct in order for the majority to prevail in this body.

Now let me read further the words which so impressed me when I heard them in this body. I am quoting Senator Cordon again:

So let us consider the rules for what they are. They represent the consensus of the Members of this body now and in the past that orderly operation in this body requires some ground rules. And we have, as a result of experience through the years, made, amended, modified, and added to, a set of ground rules. By sufferance of a majority of the quorums that appear here, we have restrained ourselves within them. Let it not be understood that I for a moment feel that we should not do that. On the contrary, I feel that the judgment of those who are in this body today, and of those who have been in this body since the inception of the Republic, has all gone to the proposition that the welfare of the country demands that we have orderly procedures.

I make only the point that there is no power under the shining sun that can tell a majority of a quorum of this Senate what it can or cannot do in the matter of rules at any given moment while the Senate is in session. The only place in which that power resides is in the body of the people and then only by amendment to the Constitution itself.

So, Mr. President, let us have done with the thought that the country itself may be imperiled because we do not have the power to act. We can act at any time, on any question, when we feel that it is necessary. Our observance of the rule of restraint in this body has been outstanding, but just as outstanding has been the willingness of this body, by unanimous consent, time after time, in every session, to set the rules aside entirely and act as one.

Mr. President, at that time the argument was that to pass civil rights bills, we must do violence to our procedure, we must do violence to our rules, we must do violence to the rules of fair play; that the Senate is powerless to act in order to pass a civil rights measure, or a number of civil rights bills proposed at that time.

What is the argument now? No one is proposing any civil rights measure which could not be passed under the existing rules. What bill do they want to pass, that requires us to do violence to our procedure? What bill do they want to pass, that requires that we change the rules in a disorderly fashion? What is their excuse now?

It is only, I take it, for the convenience of Senators, that they just do not care to be bothered with hearing an argument with which they do not agree.

I must say, Mr. President, as one who has served in this body for 22 years, that Senators who have been here less time than that ought to adjust themselves to that painful requirement of being a U.S. Senator. If you are going to serve in this body, you are going to find it necessary, over a period of time, to hear arguments with which you do not agree. If you do not want to hear it, you can, of course, vacate the Chamber. However, the argument will be made whether you want to hear it or not. That was one of the things for which this body was established; and if you do not believe in it, you ought to find something else to do, because free debate is that for which the Senate exists.

I continue to read the statement of Senator Cordon:

If I may say that a careful consideration of the picture indicates that the Republic itself is not in danger as of the moment, then perhaps I can turn for another moment to the matter immediately at hand.

We are here concerned with a rule which had been adopted pursuant to other rules which were then in existence, by which we agreed to restrain our constitutional power for our good and for the good of the people. A question has arisen as to what the rule means. Again, Mr. President, let me say that although we have agreed among ourselves to follow a certain procedure to change the ground-rules we have adopted, we are not bound to do it, as witness the fact that at this moment we are here considering the question of whether we shall short-cut our rules. We can do it. It rests in the conscience and sound judgment of every Member of the Senate as to whether it is the better thing to do. There is no question about the power that rests here to do it.

Mr. President, as to the rule in question, I simply want to present one proposition, only one. There has been a very great deal of research done over the years, and most intensely within the past 2 weeks, to determine, so far as possible, what was intended to be done when the present cloture rule was adopted in 1917.

I want to associate myself with the remarks made by the Senator from Missouri, with reference to the definitions given of the word "measure." I think they should appear in the RECORD as broad as they appeared in the dictionaries. That has been done. The ruling was announced from the Chair that the words "pending measure" were not limited to bills or resolutions—in other words, actions of a substantive character—but that, necessarily, if there was no such measure before the Senate, then a motion to bring up such substantive business became itself a pending measure.

I say, in all frankness, Mr. President, that long ago, weeks ago, in my consideration of this question, I gave very deep and careful consideration to the point as to whether that should be the declaration from the Chair, because it appealed to me as answering one of the basic and fundamental rules of statutory construction, namely, that we must always presume that the legislative body did not intend a vain thing. But, Mr. President, when I had finished my investigation and again turned to the letter of the rule itself, to the plain words of the rule, I had to confess that the record carried evidence to the contrary. I then had to face this proposition as one who believes in law, one who believes there can be no order in this world without law, one who believes that there can be no law unless there is precedent, that there can be no law unless a man today can determine his actions tomorrow by what happened yesterday, because I believe in that with every atom of my being. I had to say to myself, when I considered this matter, I cannot today legislate for the Members of this body who sat here in 1917, no matter what I may conjecture they intended to do. Unless I can find that they did it, I cannot today, ex post facto, do it for them. Therefore I had to turn my attention to the rule, and I now call the attention of the Senate to the rule.

The Senator made this further point, which I should like to add to my quotation from his speech:

One thing more. If I left the matter there I would feel I was a defeatist. What shall we do, faced with a situation with which we are faced, not these questions in the background of so-called civil rights, but just this one question of a resolution to amend the cloture rule? Are we stymied? Reserving the basic power that we have in the Constitution to act directly, are we not obligated, first, because we believe in law, because law is of the very meat and bone of our being, to try in good faith, with all the endurance we have, to bring this matter to a vote, after allowing those who object to speak until they can speak no longer? Let us try that once. I, for one, am prepared to do it, and I wish to quote now the words of my illustrious predecessor in the Senate, the revered late Senator Charles L. McNary:

"So far as I am concerned, I am willing to stay here from dawn till evening star, and evening star to dawn, till the job is done."

Let us try that, and then, Mr. President, if we find that after the most courageous attempt that can be made we cannot win, I for one, I say in all frankness, will turn then and see whether or not events justify my using that other reserved constitutional right which rests in this body. But I believe we can win.

Mr. President, perhaps I of all the Members of this body have used up less CONGRESSIONAL RECORD space than any other Senator. Perhaps I am not qualified to make this observation, but I cannot help believing that it takes more effort to stand on one's feet hour by hour and make a speech than it does to sit in one's chair and listen, or walk out in the cloakroom and forget it. If it be a matching of endurance, who has the laboring oar?

Before we admit defeat, let us carry the battle as far as it can be carried.

Now, Mr. President, the compelling logic of that speech by Senator Guy Cordon was that the Senate can, by usurpation or violence, overwhelm and destroy the rights of a minority any time it wants to do so, but that the Senate should not engage in that kind of tactics unless it has tried and exhausted the avenue of orderly procedure and the proper approach to permit those who disagree to be heard fully.

Again let me say that I am very much in favor of improving our procedures. I am in favor of improving them in an orderly fashion. I am not in favor of improving them in a disorderly fashion, because the time has not come when we would be justified in engaging in disorderly tactics of usurpation in order to modify or change the rules of the Senate.

Let me just point out one simple thing available to all Senators with regard to the problem of limitation of debate. The overwhelming majority of Senators in this body will vote against shutting off debate merely because they are opposed to a measure. In other words, if we have

before us a welfare bill and if the sponsors of the bill submit a cloture motion to try to shut off debate in order to get on with the business, the probability is that every Member of this body who is against that bill will vote against the cloture motion.

I do not agree with that approach. I, for one, think that if the matter has been dragging on for a long period of time and the arguments have pretty well been exhausted, and if I were opposed to the bill but really did not feel it would do great violence to the country for the bill to become law, I would vote to impose cloture on the matter.

In other words, it seems to me that these matters should be relative. In a situation of that sort, I would seek to persuade my fellow Senators who were opposed to the measure to stop talking or to abbreviate their remarks. I would say: "Don't talk so long. We have done the best we can. Our arguments are well understood. We have achieved everything that can be done by debating this matter. Let it come to a vote, and let us get on with the next thing. It is not going to destroy the Nation. Let us vote and get on with something in which we can prevail."

That is the argument I have made to Senators before, and I would make it again if I felt that nothing was to be achieved by further dragging out the debate.

I am constrained to believe that we should establish more of a tradition that even though a Senator is opposed to a measure, if nothing constructive is to be gained or if the demerits of the bill do not really justify a determined, all-out effort to defeat it, then one should permit it to be voted through by majority vote. That is how it usually is, with the exception of those incidences when someone makes up his mind to make an all-out fight against a proposal. Tradition here is that those opposed to the bill will vote against a motion to shut off debate.

In my judgment, it should be the other way around. I think that those who are opposed to a bill, but feel that the bill is not going to do irreparable damage to our Republic, should vote to shut off the debate and let the matter come to a vote. Yet tradition today is against shutting off debate if one is against the bill. We should change that tradition in the other direction. One should vote to shut off debate even though he thinks that it is a bad bill but one which will not do irreparable harm to our Republic. That would be an improvement on our procedures. I would favor it and I intend to conduct myself in that fashion. But I certainly would not want to destroy, or in any way deny or abridge the right of Senators to do what I have seen done in this body under free debate.

I must say, Mr. President, that although I advised against the nomination of Justice Fortas, the present occupant of the Chair, the Senator from Michigan (Mr. GRIFFIN), felt more strongly about the matter than I did and was determined in his efforts to defeat the nomination. He was joined by others who shared his concern, and they waged a determined fight, with the result that the nomination of Justice Fortas to be Chief Justice was not confirmed.

There is no doubt in my mind that if the junior Senator from Michigan (Mr. GRIFFIN), and others who fought as he did, had not been determined in their views, and had they not availed themselves of the rights that existed under the rules, Justice Fortas today would be the Chief Justice of the United States, and I do not think the country would be any better off for it. I think that Justice Burger is an admirable Chief Justice. I think that if the other side had prevailed in that instance, they would have lived to regret it. I believe the Senate was saved from a mistake by the debate that existed under the rules at that time. That was a case in which a determined majority prevailed in good conscience.

I recall we had a prolonged debate over the issue of atomic energy. Those who were fighting against that bill found a number of things about it that tended to create monopoly, and tended, in their language, to give away, into private hands, the enormous resources that this Government had achieved by more than $10 billion of research.

Those engaged in that debate were small in number in the beginning. As they debated the matter, their numbers grew. I did not participate in that filibuster, but I must say that I was one of those who observed the compelling logic of their case. As time went forward, it became apparent that the debate could not be brought to a close unless some compromise was made or unless cloture was invoked. An effort was made to invoke cloture, but it failed. Efforts were made to shut off debate by motions to table amendments and prevent them from coming to a vote without debate. All those efforts failed. In the end, those who were seeking to pass the measure were forced to compromise with those who were the minority.

Go back and review that debate. That has been properly described as a filbuster. The compromises that were extracted from the minority were in the national interest. They protected the public's right to its billions of dollars of investments in research and development. This country is a better country because that fight was made—and those who made the fight were justified in making it. They did not win all their points, but they won enough of them to justify making that fight. I salute them for making that valiant and determined effort, because they did it in the national interest.

On other occasions, we have seen issues of similar importance come before this body, in which a minority prevailed and in which they gained converts and gained votes as they went along.

Reference has been made to the ill-considered action in the House of Representatives when the President, in the incipience of a railroad strike, urged that Congress pass laws to draft working people into the Army and subject them to involuntary servitude in order to operate the railroads. The bill immediately passed the House by an overwhelming vote. One of the reasons why we have across the street today a monument to the late Robert Taft, and one of the reasons Robert Taft's portrait hangs in the Senate Reception Room as one of the five great Senators of all time, is that he had the courage to take to his feet and espouse an unpopular cause. He had the courage to insist that the matter be analyzed and debated long enough so that passions could subside and the Senate could vote with careful consideration having been given to a measure, rather than to vote in an atmosphere of hysteria.

How did it work out?

It worked out that the bill did not pass, and subsequently the Senate passed a more carefully considered measure, which is still controversial, known as the Taft-Hartley law. But while it still is the most unpopular piece of legislation to organized labor that one could name, it was, nevertheless, a much more statesmanlike answer to the problem. The statesmanship of its principal sponsor had much to do with the fact that Senator Taft is remembered as one of the most effective and one of the most fair-minded Members of this body—one of those who provided great leadership in resolving the Nation's problems according to his convictions.

While one might argue and take issue with some provisions of that measure, no one can argue that Senator Taft was not a man of great courage to risk being misunderstood by taking his case to the Senate floor and debating the issue long enough so that the public could be returned to its senses and decline to pass a bad measure which should not become law.

The freedoms and rights of American citizens are not come by lightly. This Nation has made great sacrifices. The blood of its patriots was spilled many times. Its treasure was poured forth and great discipline was imposed upon the people to have the freedoms that exist in this great land of ours. These freedoms came dearly. We have paid too great a price to preserve them, to sacrifice them lightly. Much as the pundits may find cause to disagree, and much as the cynical may desire to sneer, the right of men to stand on this floor, unpopular though their cause may be, and insist on being heard, their right to carry on debate and carry on the fight day after day against overwhelming odds, picking up one convert here and another there, seeking by first one means and then another to get their message across to the people even when an unfriendly press would decline to print a word of their speeches, has, down through the years, played a major part in the freedoms, rights, and privileges that have been preserved to the American people. That should be continued.

No case has been made, nor will a case ever be made that the mere convenience of Senators demands and requires that we should forgo the right of free debate and pass on to the majority the right to shut off any speech with which the majority does not agree, or to a series of speeches with which the majority does not agree, because the majority has made up its mind about the matter and desires to hear no more.

We should tread lightly upon the rights of the minority, Mr. President, and I would pray that this would continue to be the judgment of this body.

Now, Mr. President, one likes to speak of the rights of the majority.

It is well to ask, what majority does one have in mind, Mr. President. Does one have in mind a majority of those on one side of an issue when the subject is first mentioned? Do you have in mind a majority of those who have not heard the debate? Do you have in mind a majority of those who have committed themselves before they ever heard the debate and feel compelled to vote for a measure, even though they are now convinced that they are wrong? Or are we speaking of a numerical majority in this body, although a majority of the people in the country do not agree with them?

Are we speaking of a majority so alined because they wish to support their President even though they have doubts about his wisdom?

Are we speaking of a majority existing for the moment because some are in fear of their personal fate if they do what their conscience tells them is right?

Just what kind of majority are we speaking of, because there are all kinds of majorities.

There is one majority of those who are misinformed.

There is one majority, of another kind, those not informed at all.

There is one majority of those who are half informed. There are other majorities who are for the measure who are fully, thoroughly, and adequately informed but want to hear no more about the matter.

Even more than that, who is to judge whether those people have been fully informed?

These things are relative. The Senate was never intended to be a mere instrument of the majority. It was intended to be a restraint upon the majority. We need have no rules, if all we are trying to do here is to accommodate a majority. A majority needs no rules. Just read Jefferson's Manual, the opening paragraphs set forth that very fact, which is obvious to anyone who has served in the Senate over a period of time.

Rules are made to protect the minority, not the majority. The majority can do whatever it pleases without rules. Rules are made to preserve some rights to the minority. In the Senate, in many instances, the rule of free debate is to preserve for the minority the opportunity to test the conscience, to test the will, to test the determination, and to test the logic of those who find themselves in a majority at the commencement of a debate.

Sometimes that majority can be changed. Oftentimes, it is. Sometimes it cannot be changed. When that majority cannot be changed, then the time comes when those waging the debate have to reach the decision, of whether or not there is anything to be served by debating the matter further. Having asked themselves the question, there will undoubtedly be some who will contend it might be proper to debate awhile longer, but when the minority has been persuaded and it cannot prevail, it is only on rare occasions that the minority decides the issues at stake are so great that they must persevere awhile longer and still seek to prevent the majority, which exists at that moment, from working its will.

It takes courage to make that decision, Mr. President. When the press is in support of the majority, as is usually the case, it takes more than courage, it takes the hide of a rhinoceros to take the criticism which is hurled at those who speak on behalf of what appears to be a lost cause, or an unpopular cause, which as often as not is done without the overwhelming support of the press, television, and the other news media.

To what extent would their right to speak be respected? There is this much to be said for it. As often as not, history has judged them right. Many times, men of that kind have been judged as the great men of their time.

Look at the men whose pictures appear in the Senate reception room. They were judged by a very able panel of Senators that was headed by the then Senator John Kennedy and others. They were selected as the five great Senators of all times.

We see among them the picture of old Bob LaFollette, Sr. They called him old Fighting Bob. What a man. He was a man who was not afraid to be in the minority. He was not afraid to defend his convictions with his fists, if need be. He was a man who would stand up against Satan and all his demons or God and all his angels if he thought it was right and necessary.

He was a man accustomed to being in the minority, and a man who had a deep and great conviction that the little man of this country should be treated rightly and fairly.

What fantastic and great speeches he made in this Senate. Where are those who opposed that man? Where are their pictures? Are they alongside of old Fighting Bob? Not on your tintype, no siree. Those men have long been gone and forgotten. But Fighting Bob is there because he had the courage to stand alone in this body and speak for 18½ solid hours for the rights of the underprivileged.

There is his picture in the Hall of Fame. He was judged by his colleagues as the greatest of them all. Fighting Bob fought for the minority cause. He fought for what was right, bless him. History judged him in that fashion, and it should.

What would Senators do if they wanted to change the rule and deny a man the right to stand and speak for a cause that is unpopular?

What would they do about old Bob LaFollette's picture out in the reception room? Would they like to take his statute in the Hall of Fame and melt it down and use it for currency? What would they do about him? He proved beyond the shadow of a doubt to the average man that he was right, so much so that if he had had television or even radio available to him in those days, he would have been President.

What would they do about old Fighting Bob? Lesser men would change the rules so that a Bob LaFollette of today would be required to take his seat and shut up while the majority voted its will.

History might note that the man was right, but it would not note that he stood here and fought as long as his constitution would hold him erect to insist that Senators were making a mistake in passing laws that had no business being on the statute books.

He was not only fighting for what he thought was right, but was also inspiring other men at other times to do the same.

Mr. President, I recall as a boy that I sat in the Senate family gallery and heard my father speak all night long. That was before they air conditioned the Senate Chamber. That was a hot July night. The Supreme Court of the United States had declared the National Recovery Act, the old NRA, unconstitutional.

The people of this Nation were disgusted with the NRA. They were sick of the Blue Eagle. They wanted to hear no more about a code proclaiming how businessmen were supposed to conduct themselves. They were disgusted. The NRA was a failure. The people wanted to be done with it.

The then President of the United States was still a very popular President, the late Franklin Roosevelt. He was determined to save some part of a very bad piece of legislation. He sent down a so-called streamlined NRA.

I recall that my father, the then Senator from Louisiana, stood on the floor at the very desk on which I am leaning at this moment and held the floor for about 15½ hours continuously to explain to the Senate of the United States that that measure should be junked and thrown out and forgotten about.

That was the minority position. That man was supported by only two or three Senators, but he was speaking for what the majority of the people in this country believed. He was speaking for a popular cause and over a period of time the President of the United States, the great Franklin Delano Roosevelt, saw fit to modify his policies, not toward a reactionary proposition that was going to try to bring recovery to this country by repealing the antitrust laws, making money hard to get, crucifying the veterans by repealing what little veterans' benefits they had, and instituting further economies and putting people out of work. He was moving in the other direction, toward social security, unemployment insurance, public welfare, agricultural assistance, and those measures for which the so-called New Deal is now famous.

I recall at that particular time many people said that it was the speeches made by that man on the floor of the Senate and across the land which had a great deal to do with the decision of President Roosevelt to change his direction.

Former President Lyndon Johnson, during a speech in New Orleans, said that when he was a boy keeping a door in the House of Representatives, he would make it a point to come and hear those speeches of my father's because they carried a message to him and were mean-

ingful to the people of Texas and the people of Louisiana and, indeed, to anyone who heard them.

Those rights of a Senator to stand here and attempt to persuade the majority long after the majority is tired of hearing the speeches have been used for the good of this country by statesmen down through the years.

They should not be denied by usurpation. If one wishes to modify or to change them, he ought to do it in the manner provided under the rules. He ought to do it legally. He ought to do it in an orderly fashion. He ought to do it after proper consideration, and he should not do it by usurpation. He should not do it by going along with a popular misconception.

He ought to first seek to understand why we have free debate, free speech, why we permit people to say things with which we do not agree. He ought to understand why we let them say them at all.

He ought to apprise himself of what it has meant to freedom and to the crucial decisions that have been made in this Republic.

If that is done, Mr. President, I do not think we would see one trying to destroy the rights of free debate in this body by suggesting an irregular procedure as has been, is being, and will be attempted here in this body. Oh, no, Mr. President, there is no need, no requirement, nor even a justification of the procedure that some would propose to shut off debate and deny the right of Senators to speak on behalf of their amendments, deny adequate time to consider the various proposals, deny the mature consideration that goes with it by any of the able Senators versed in the subject studying the proposition and studying the various suggestions and incorporating the best and rejecting the worst of those proposals.

There is no justification for denying those procedures. The change is urged by those who contend that the end justifies the means; those who urge that free debate must be dispensed with or seriously curtailed. The justification offered is that the Senate could take a longer recess, that the Senate could adjourn for a longer period of time, that Senators need not be bothered being called while on vacation to be asked how they would vote on this matter or that matter. It is put forth as a matter of convenience to Senators. They do not care to be bothered for a moment discussing something with which they disagree. That is the only justification that can be offered today for a completely irregular procedure.

Mr. President, I would hope that the Senate has not reached the point where Senators are unwilling to give a year's work for a year's pay. If need be I would like to see us conclude our work in 6 or 7 months, but I would rather take a year to conclude our work than to see free debate dispensed with in this body because free debate might be the instrument which would some day preserve this Nation. Indeed, I am sure it will be.

The line between freedom and tyranny is so narrow that not too many mistakes must be made to lose the freedom of a nation. As greatly as freedom is threatened today both from within and without, as seriously as it has been threatened in the past, and will be facing in the future, it could be that only one mistake would cost this Nation this freedom. Then, why should we dispense with the right of one to do what is expected of him in this body? Why should we deny a Senator the right to speak for as long as he thinks necessary to explain his point of view, while reserving to the majority, if they can muster a two-thirds vote, the right to make him stop talking. There is not any one man who can delay the Senate indefinitely. One man can delay the Senate for only a matter of days, no matter how deeply he feels about a subject, for it takes other Senators working with him, who share his views that the fate of the Republic is involved. Without that, no one can wage a successful filibuster, and even if he were to do so, that does not prove that at a subsequent date a measure will become law if it is a good measure, and if it is not a good measure it should never become law.

So what harm occurs that affects the national interest by Senators delaying for a year or perhaps 2 years the enactment of a measure which they, in good conscience, believe to be something that could destroy the future of the Republic. I know of nothing of that sort, and until an emergency of that sort has been demonstrated, I would urge that the Senate should not rush to make that mistake.

I say that we have no emergencies that would justify dispensing with orderly procedures in this body. The nearest thing we have to such a requirement would be the effort of those who want to pass a constitutional amendment, although they cannot persuade their own supporters to vote to shut off debate. Those who have the power to shut off debate, if they wish to assert it, do not think the situation has developed to the point that they would be justified in asserting that power, and so because they will not assert their rights, some of their numbers think the rules should be changed and insist on closing off debate.

There are given picayunish reasons, reasons of expediency, reasons of misunderstanding, and reasons of convenience. They would dispense with and dispose of the most indispensable element of free government, free speech, orderly procedure, and due consideration. The Senate should not make that mistake.

If we are to legislate a change of the rules to in any way modify rule XXII, it should be through orderly procedures. It should be in such a fashion that consideration would be given to every suggestion of every Senator: the suggestion of a 60-percent rule instead of a 67-percent rule, the suggestion of a modified way of applying rule XXII so that a Senator could yield some part of his time that he did not need to a Senator who desperately required that time to explain his amendment or debate in opposition to the amendment of another Senator; and the suggestion we should have the time to thoroughly analyze the workings of a rule under one set of circumstances where perhaps a two-thirds vote would be required, but a different ratio would be required under a different set of circumstances. All of these things are matters that should be thoroughly considered. In the absence of consideration of that sort, this rule change should be referred to committee.

Mr. President, we have not found that debate under the rules as they exist in this body has kept the Senate from passing bills. Down through the years we have found that the Senate passes about as many bills, and in most instances more bills than the House of Representatives. The Senate might be required to stay in session longer but Senators need not needlessly concern themselves with the fact that the Senate might stay in session long hours. Senators are not required to be in the Chamber at all times when the Senate is in session. Only those who are speaking need be here plus the presiding officer and someone to represent the minority. Other Senators can read the Senator's speech in the RECORD the following day if they are disposed to do so. If they do not agree with a Senator or if they do not wish to read his remarks, they are not even required to do that.

But the right of those who wish to be heard to explain their position, to seek to convert others to it, is an essential element of legislation and without that essential part of the exercise of this legislative function this body might well fail to serve its purpose in the longer period.

For those reasons I would suggest that this matter should be referred to the Committee on Rules and Administration; or, if the Senate is not satisfied with that, refer the matter to a special committee organized for the purpose of considering it, and that it should be reported to the Senate along with whatever changes that committee would recommend. Then, and then only should we proceed to consider the modifications that would be necessary.

It would be my hope that when the recommendations were reported, they would include more rule changes than we see here. I would hope that some of those I have suggested would be a part of the rule changes. But very definitely would I hope that when the committee had reported and the Senate had acted, it would have preserved the one thing that distinguishes the Senate from any other legislative body on this earth, to my knowledge, and that is the freedom that has existed in this body since its inception—that those who find themselves in the minority should be able to stand here and discuss their opposition to a measure long enough to make the majority take pause; long enough to have some chance to convey their meaning and their thoughts to the people of this country who should be concerned about it; long enough to make those who have closed minds on the subject at least consider for a moment the arguments of the others; long enough perhaps to change the minds of some who have unwisely committed themselves to a bad proposition; long enough to seek to persuade them that they should obtain release from an unwise commitment; long enough to prevail if the national interest requires it.

That has always been a function of the Senate. May it ever be so.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE SENATE'S RESPONSIBILITY: FULL AND FREE DEBATE

Mr. JORDAN of North Carolina. Mr. President, over the years the Senate has given much study to Senate rule XXII as a procedure for limiting debate. As chairman of the Committee on Rules and Administration, I have paid particular attention to the historical background of the provision, and to the changes that have been effected in it over the years. The question of the present rule XXII has been a recurring issue before the Senate since 1917. While numerous hearings have been held, perhaps the most extensive study was carried out in 1957 by a special subcommittee of the Rules Committee, producing a transcript of more than 350 pages. Other reports have been produced since then.

The history of attempts to limit debate prior to 1917 should also be of importance to us.

The first Senate in 1789 adopted 19 rules, of which seven relate to debate and colloquy. These are as follows:

2. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the Journals or public papers are reading, or when any Member is speaking in any debate.

If we were to enforce that rule now, Mr. President, the procedures of the Senate would have to be changed very drastically, would they not?

3. Every Member, when he speaks, shall address the Chair, standing in his place, and when he has finished shall sit down.

These are rules adopted in 1789. They sound a little bit strange to us today, but nevertheless they were adopted by the Senate at that time.

4. No Member shall speak more than twice in any one debate on the same day, without leave of the Senate.

6. No motion shall be debated until the same shall be seconded.

8. When a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit, or to adjourn.

9. The previous question being moved and seconded, the question from the Chair shall be: "Shall the main question be now put?" And if the nays prevail, the main question shall not then be put.

11. When the yeas and nays shall be called for by one-fifth of the Members present, each Member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question.

Of those seven rules, only one, No. 9, concerning the previous question, could possibly have related to limiting debate. And the use of that rule bears some scrutiny, in that numerous authorities have concluded that its use was to postpone or avoid a decision and not to limit debate on an issue. Our late loved President pro tempore, Richard B. Russell, in July of 1962 called to the attention of the Senate a dissertation on the so-called previous question rule as employed by the Senate in its early days. The writer was Dr. Joseph Cooper, a professor of political science in the department of government at Harvard. Dr. Cooper concluded, after tracing the history of this rule in great detail:

The fact that a previous question mechanism existed and was used in the early Senate furnishes no precedent for the imposition of majority cloture in the Senate today . . . the previous question was not understood functionally as a cloture mechanism . . . it was not in practice used as a cloture mechanism. Indeed, it is even improbable that the Senate could have used the previous question for cloture, given the obstacles which existed and the lack of any evidence to show that these obstacles could in fact be overcome.

At any rate, the argument is moot since the rule was abandoned altogether when the Senate rules were modified in 1806. The rule had been used only three times in the 17 years from 1789 to 1806.

With the single exception of prohibiting debate on an amendment at the third reading of a bill, a rule adopted in 1807, there was no further limitation on debate in the Senate until 1846, when the unanimous-consent agreement was used to fix a date for a vote on the Oregon bill. It is still in use today, of course.

However, there were several attempts in the interim. In July of 1841 Henry Clay brought out a measure to limit debate, but this was abandoned due to considerable opposition.

Again in July of 1850, just a little more than 9 years after Clay attempted to persuade the Senate to adopt a measure to limit debate, Senator Douglas tried the same move. His resolution was debated and laid on the table after considerable opposition was encountered.

Numerous other proposals to limit debate were introduced between 1850 and the Civil War. None were adopted until January of 1862, when, in the course of the war, the Senate determined to limit debate on subjects related thereto.

Mr. President, rather than recount here the development of attempts to limit debate in the Senate between 1862 and the present, I encourage my colleagues to read that history as prepared in July of 1970 by the Legislative Reference Service, now the Congressional Research Service, in the booklet "Limitation of Debate in the Congress of the United States." I commend it to my colleagues attention. I do not believe a perceptive and objective review of that history will reveal that the mood of the Senate over any sustained period of time has ever been in the direction of limiting debate unless substantially more than a simple majority of Members present so desired.

Cloture as we know it today, of course, was adopted in the Senate in 1917. After continuing careful study over several years, I have concluded that the purposes of that provision are at the very core of the Senate's responsibilities. To continue to weaken the right and responsibility of free and full debate by further watering down rule XXII would, in my judgment, be inappropriate.

It was determined years ago by the Founding Fathers that the several States should be equally represented in the Upper Chamber. Thus, Rhode Island, though small in size and population, shares in the Senate an equal voice with California, now the most populous State in the Union. This arrangement of checks and balances is designed to protect basic rights of the sovereign States. Rule XXII is an important building block in that arrangement. To dilute it further would not only destroy the right and responsibility of full and free debate, it would at the same time weaken the voices of small States.

While majority rule is inherent in our system, we have always felt it important to protect basic minority rights. This is true in the Senate, and that is another reason for rule XXII. As the senior Senator from Georgia has pointed out, it is precisely because we realize that democracy's excesses can be as damaging as those of totalitarianism that we subscribe to a republican form of government.

That government, with its carefully designed system of checks and balances, protects against both extremes. Free debate in the Senate is an implied, if not actual contribution to that design.

If that basic minority right is lost in the Senate through further weakening of rule XXII, then we may find minorities affiliating with a multiplicity of splinter parties. That event, in my judgment, Mr. President, would be of no small detriment to our system.

The facts are that rule XXII works as it stands now. There have been 49 attempts to invoke cloture since 1917, on legislation covering a variety of subjects. In every one of these areas with the exception of two—the reapportion amendment and the right-to-work question—the Senate has in fact passed positive legislation.

While rule XXII may have slowed the legislative process, it has not prevented the enactment of measures which meet the test of full and careful examination. I think the safeguards provided by this rule in its present form have improved legislation subsequently enacted and have prevented passage of hastily drawn and ill-conceived proposals.

Mr. President, I am not among those who believe that history provides the only guide for today's actions and tomorrow's plans. But neither am I among those who think history can be ignored. I do not believe I am so steeped in tradition and in my generation's way of doing things that I am opposed to all change. But neither will I support change for change's sake or because the clamor of the moment calls for it. I do not hold most rules or systems sacred. But I will not abandon a system which has worked and is working for another, the drawbacks of which are far greater.

There is little doubt, Mr. President, that there have been occasions when rule XXII has been misused, just as most of the rights and freedoms guaranteed by our Constitution have been misused on occasion by the few. But the occasions of misuse of rule XXII are few. And who among us would abandon our freedoms? That is why I did not support the D.C.

crime bill—because it contains provisions which, in my judgment, violate basic rights of our citizens.

Free and full debate in the Senate is no less a basic responsibility which we owe the American people. We should not abandon it because some of those who may be in the majority today encourage us to do so.

Like the weather, the majorities are fickle. They change. And rule XXII is a stable and solid protector of the rights of every Senator and every viewpoint.

The same Senate which today is being criticized by some for sluggishness and inaction has been periodically chastised, and by many of the same critics, for rashly passing over important measures without proper debate and consideration.

Moreover, many of my colleagues who today are opposing rule XXII have themselves employed it in behalf of their points of view, and in some instances very recently. I did not hear them clamor for its reform on those occasions. Nor did I criticize them for exercising their rights under rule XXII.

Mr. President, if I am to be criticized, I had rather it be for thinking through a matter carefully and fully than for glossing over and hastily passing unwise and untimely legislation. Rule XXII serves the purpose of protecting that right of full and thorough consideration.

I urge my colleagues not to succumb to the loud and popular call of the moment. Something far more basic than the editorial support of today's press is at stake. If in a hasty and transient moment we give up this basic freedom and responsibility, we may in years to come rue the loss of the rights and freedoms provided all minorities by those very minorities whose courage and wisdom founded this republic at the beginning.

1868—In 1868 a rule was adopted providing that:

> Motions to take up or to proceed to the consideration of any question shall be determined without debate, upon the merits of the question proposed to be considered.

The object of the this rule, according to Senator Edmunds, was to prevent a practice which had grown up in the Senate, "when a question was pending, and a Senator wished to deliver a speech on some other question, to move to postpone the pending order to deliver their speech on the other question." According to Mr. Turnbull the object of the rule was to prevent the consumption of time in debate over business to be taken up. The rule was interpreted as preventing debate on the merits of a question when a proposal to postpone it was made.

1869—A resolution pertaining to the adoption of the "previous question" was introduced in 1869, and three other resolutions limiting debate in some form were introduced in the first half of 1870.

1870—Senate, on appeal, sustained decision of Chair that a Senator may read in debate a paper that is irrelevant to the subject matter under consideration—July 14, 1870.

1870—On December 6, 1870, in the third session of the Forty-first Congress, Senator Anthony, of Rhode Island, introduced the following resolution:

> On Monday next, at one o'clock, the Senate will proceed to the consideration of the Calendar and bills that are not objected to shall be taken up in their order; and each Senator shall be entitled to speak once and for five minutes only, on each question; and this order shall be enforced daily at one o'clock 'till the end of the calendar is reached, unless upon motion, the Senate should at any time otherwise order.

On the following day, December 7, 1870, the resolution was adopted. This so-called Anthony rule for the expedition of business was the most important limitation of debate yet adopted by the Senate. The rule was interpreted as placing no restraints upon the minority, however, inasmuch as a single objection could prevent its application to the subject under consideration. (Now rule VIII, 1.)

1871—On February 22, 1871, another important motion was adopted which had been introduced by Senator Pomeroy and which allowed amendments to appropriation bills to be laid on the table without prejudice to the bill.

1872—Since a precedent established in 1872, the practice has been that a Senator cannot be taken from the floor for irrelevancy in debate.

1872—On April 9, 1872, a resolution was introduced, "that during the remainder of the session it should be in order, in the consideration of appropriation bills, to move to confine debate by any Senator, on the pending motion to five minutes." On April 29, 1872, this resolution was finally adopted, 33 yeas to 13 nays. The necessity for some limitation of debate to expedite action on these annual supply measures caused the adoption of similar resolutions at most of the succeeding sessions of Congress.

1873—In March 1873, Senator Wright submitted a resolution reading in part that debate shall be confined to and be relevant to the subject matter before the Senate—etc., and that the previous question may be demanded by a majority vote or in some modified form. On a vote in the Senate to consider this resolution the nays were 30 and the yeas 25.

1879—Chair counted a quorum to determined whether enough Senators were present to do business.

1880—From 1873 to 1880 nine other resolutions were introduced confining and limiting debate in some form. On February 3, 1880, in the second session of the 46th Congress, the famous Anthony rule which was first adopted on December 7, 1870, was made a standing rule of the Senate as rule VIII. In explaining the rule, Senator Anthony said:

> That rule applies only to the unobjected cases on the Calendar, so as to relieve the Calendar from the unobjected cases. There are a great many bills that no Senator objects to, but they are kept back in their order by disputed cases. If we once relieve the Calendar of unobjected cases, we can go thru with it in order without any limitation of debate. That is the purpose of the proposed rule. It has been applied in several sessions and has been found to work well with the general approbation of the Senate.

1881—On February 16, 1881, a resolution to amend the Anthony rule was introduced. This proposed to require the objection of at least five Senators to pass over a bill on the Calendar. The resolution was objected to as a form of "previous question," and defeated. Senator Edmunds in opposing the resolution said:

> I would rather that not a single bill shall pass between now and the 4th day of March than to introduce into this body (which is the only one where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise) a provision which does in effect operate to carry a bill either to defeat or success with only a five or fifteen minutes' debate and one or two Senators on a side speaking. I think it is of greater importance to the public interest, in the long run and in the short run, that every bill on your Calendar should fail than that any Senator should be cut off from the right of expressing his opinion and the grounds of it upon every measure that is to be voted upon here * * *.

1881—Senate agreed for remainder of session to limit debate to 15 minutes on a motion to consider a bill or resolution, no Senator to speak more than once or for longer than 5 minutes (February 12, 1881).

1882—On February 27, 1882, the Anthony rule was amended by the Senate, so that if the majority decided to take up a bill on the Calendar after objection was made the ordinary rules of debate without limitation would apply. The Anthony rule could only work when there was no objection whatever to any bill under consideration. When the regular morning hour was not found sufficient for the consideration of all unobjected cases on the Calendar, special times were often set aside for the consideration of the Calendar under the Anthony rule.

1882—On March 15, 1882, a rule was considered whereby "a vote to lay on the table a proposed amendment shall not carry with it the pending measure." In reference to this rule Senator Hoar (Massachusetts, R.), said:

> Under the present rule it is in the power of a single member of the Senate to compel practically the Senate to discuss any question whether it wants to or not and whether it be germane to the pending measure or not * * *. The proposed amendment to the rules simply permits, after the mover of the amendment, who of course has the privilege, in the first place, has made his speech, a majority of the Senate if it sees fit to dissever that amendment from the pending measure and to require it to be brought up separately at some other time or not at all.

This proposed rule is now rule XVII, of the present Standing Rules of the Senate.

1883—On December 10, 1883, Senator Frye, of Maine, Chairman of the Committee on Rules, reported a general revision of the Senate rules. This revision included a provision for the "previous question." Amendments in the Senate struck this provision out.

1884—On January 11, 1884, the present Senate Rules were revised and adopted.

On March 19, 1884, two resolutions introduced by Senator Harris were considered and agreed to by the Senate as follows:

> (1) That the eighth rule of the Senate be amended by adding thereto: All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.

(2) That the tenth rule of the Senate be amended by adding thereto: All motions to change such order or to proceed to the consideration of other business shall be decided without debate.

From this time until 1890 there were 15 different resolutions introduced to amend the Senate rules as to limitations of debate, all of which failed of adoption.

1884—Senate agreed (March 17) to amend rule VII by adding thereto the following words:

The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

1886—Senate agreed to strike out the words "without debate," from that part of rule XIII which provided that "every motion to reconsider shall be decided by a majority vote." (June 21, 1886).

1890—Hoar, Blair, Edmunds, and Quay submitted various resolutions for limiting debate in various ways (August 1890).

1890—On December 29, 1890, Senator Aldrich introduced a cloture resolution in connection with Lodge's "force bill," which was being filibustered against. The resolution read, in part, as follows:

When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made * * *.

There were five test votes on the cloture proposal which "commanded various majorities, but in the end it could not be carried in the Senate because of a filibuster against it which merged into a filibuster on the 'force bill.'"

1893—Platt, Hoar, Hill, and Gallinger introduced resolutions for cloture by majority action during a filibuster against repeal of the Silver Purchase Law, which evoked extended discussion.

1893—Sherman (Ohio) urged a study of Senate rules with a view to their revision and the careful limitation of debate.

1897—Chair ruled on March 3, 1897, that quorum calls could not be ordered unless business had intervened.

1902—Senate agreed (April 8) to amend rule XIX by inserting at the beginning of clause 2 thereof the following:

No Senator in debate shall directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

No Senator in debate shall refer offensively to any State of the Union.

1908—Three important interpretations of the rules were adopted in the course of the filibuster against the Aldrich-Vreeland currency bill: (1) the Chair might count a quorum, if one were physically present, even on a vote, whether or not Senators answered to their names; (2) mere debate would not be considered business, and therefore more than debate must take place between quorum calls; (3) Senators could by enforcement of the rules be restrained from speaking on the same subject more than twice in the same day.

1911—April 6, 1911, Senator Root, of New York, submitted a resolution requesting the Committee on Rules to suggest an amendment to the Senate Rules whereby the Senate could obtain more effective control over its procedure. No action was taken on the resolution.

1914—Smith (Georgia) proposed a rule of relevancy.

1914—Senate decreed, September 17, that Senators could not yield for any purpose, even for a question, without unanimous consent; but reversed itself on this ruling the next day, September 18.

1915—February 8, 1915, Senator Reed, of Missouri, introduced a resolution to amend rule XXII whereby debate on the Ship Purchase Bill, "S. 6845 shall cease, and the Senate shall proceed to vote thereon." The resolution did not pass in this session.

1916—From December 1915, to September 8, 1916, the first or "long" session of the 64th Congress, there were five resolutions introduced to amend rule XXII. The resolutions acted upon were S. Res. 131 and S. Res. 149. On May 16, 1916, the Committee on Rules reported out favorably S. Res. 195 as a substitute for S. Res. 131 and S. Res. 149, which had been referred to it, and submitted a report (No. 447). The resolution, providing for two-thirds' cloture by those voting, was debated but did not come to a vote.

In the years 1916 and 1920—Democratic national platforms for both years included a statement that—

We favor such alteration of the rules of procedure of the Senate of the United States as will permit the prompt transaction of the Nation's legislative business.

In 1917—March 4, 1917, President Wilson made a speech in which he referred to the armed ship bill, defeated by filibustering. The President said in part:

The Senate has no rules by which debate can be limited or brought to an end, no rules by which debating motions of any kind can be prevented. * * * The Senate of the U.S. is the only legislative body in the world which cannot act when its majority is ready for action. * * * The only remedy is that the rules of the Senate shall be altered so that it can act. * * *

In 1917—On March 5, 1917, the Senate was called in extraordinary session by the President because of the failure of the armed ship bill in the 64th Congress.

On March 7, 1917, Senator Walsh of Montana introduced a cloture resolution (S. Res. 5) authorizing a committee to draft a substitute for rule XXII, limiting debate. Senator Martin also introduced a resolution amending rule XXII—similar to Senate Resolution 195, favorably reported by the Committee on Rules in the 64th Congress. The Martin resolution was debated at length and adopted March 8, 1917, 76 yeas, 3 nays. It provided for cloture on a "pending measure" if two-thirds of those present and voting so voted.

In 1918—On May 4, 1918, Senator Underwood introduced a resolution (S. Res. 235) further amending rule XXII, reestablishing the use of the "previous question," and limiting debate during the war period.

On May 31, 1918, the Committee on Rules favorably reported out Senate Resolution 235 with a report (No. 472).

June 3, 1918, the Senate debated the resolution and Senator Borah offered an amendment.

June 11, 1918, the Senate further debated the resolution and a unanimous-consent agreement was reached to vote on the measure.

June 12, 1918, the resolution was further amended, by Senator Cummins.

June 13, 1918, the Senate rejected the resolution, nays, 41; and yeas, 34.

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

Mr. JORDAN of North Carolina. I yield.

Mr. LONG. Might I ask the able chairman of the Senate Committee on Rules and Administration whether there has been a suggestion made that the Rules Committee, for any reason, is not properly qualified to consider a proposed change in the Senate rules?

Mr. JORDAN of North Carolina. No, there has not been.

Mr. LONG. Has the Senator heard in the course of this debate a suggestion that perhaps some other committee than the Committee on Rules and Administration ought to be asked to study the proposed change in the rules and make recommendations on it prior to Senate consideration?

Mr. JORDAN of North Carolina. There has been no question or suggestion made to that effect that I have heard here, and I think I would have heard it, being chairman of the Committee on Rules and Administration, had such a suggestion been made.

Mr. LONG. The reason why I ask the question is that I have the utmost regard for the distinguished Senator from North Carolina, chairman of the Committee on Rules and Administration. I have appeared before his committee with regard to problems that concerned the Finance Committee. He has always been most fair. His committee, so far as I know, has given every consideration to our views. From time to time I have urged the Senator and his committee to consider modifications of the Senate rules and suggestions that the Senator from Louisiana might generate that were designed to facilitate procedures. I have no complaint to make. The committee has not always agreed with me. I do not know of anyone who always agrees with the Senator from Louisiana. I would not consider it a failure of the committee to consider what I had to offer. I have had an opportunity to offer suggestions or amendments here on the floor.

Has anyone contended that there is any reason why we should bypass the orderedly procedure of calling upon those who are assigned the duty of conducting hearings and considering and making recommendations with regard to changes in our procedures and not perform that duty which the Senate has entrusted to them?

Mr. JORDAN of North Carolina. I am glad the Senator asked that question,

because it seems to me that the members of the Committee on Rules and Administration—and, as the Senator knows, there are nine members of the committee, five Democrats and four Republicans, and they are all responsible men, men with much seniority—always are willing to consider any proposals that are referred to it and to hold hearings and to do everything that is necessary to try to arrive at a good answer. I cannot see any good reason in the world why this matter should not be referred to the Committee on Rules and Administration and let it hold hearings. As the Senator well knows, when we hold hearings, any responsible witness is permitted to attend, both pro and con. After all the evidence has been taken, the committee tries to arrive at the right answer.

Mr. LONG. Mr. President, if the Senator will yield further, I notice that in addition to the distinguished chairman of the committee there are on that committee the Honorable HOWARD CANNON, of Nevada; CLAIBORNE PELL, of Rhode Island; ROBERT BYRD, of West Virgina as well as JAMES B. ALLEN, of Alabama. I digress to say that Senator BYRD of West Virginia has indicated that he has an open mind on the matter of the change of the rules, rule XXII in particular; that he would like to see something worked out that could meet with the approval of the Senate. Then there are on the committee Senators WINSTON PROUTY, JOHN SHERMAN COOPER, HUGH SCOTT, ROBERT GRIFFIN. There are only two Senators on that committee, the distinguished chairman, the Senator from North Carolina (Mr. JORDAN), and the junior member, the Senator from Alabama (Mr. ALLEN), who are guilty, if that be a sin, of representing States of the Deep South. There are nine other members who hail from other parts of the country and perhaps could be expected to take a more liberal view with regard to modifications of rule XXII.

Does the Senator have any procedure on the Committee on Rules and Administration whereby he would or could deny these other Senators the right to report a proposed change of the rule if they thought it was desirable?

Mr. JORDAN of North Carolina. I would not have any right. But even if I did, I certainly would not resort to that at all, because I try very hard to respect the wishes of a majority of our committee.

The Senator read out the composition of the committee, I remind him that Senator SCOTT, for example, is the minority leader of the Senate, with many years of seniority. Senator GRIFFIN is the whip on the Republican side. He is from Michigan, and one certainly could not say he has a great love for anything below the Mason and Dixon line. He does not have anything against them, I am sure of that, but he would not be biased in their favor.

Senator CURTIS, who just left the Chamber, the ranking minority member of the committee, is a Senator of great seniority. He has been a most valuable member for years, and is always willing to take up anything which might be referred to the committee which would be for the good of the Senate, regardless of what it is.

Senator COOK of Kentucky is a very able Senator. One just cannot imagine that caliber of people being unwilling to take up and consider any matter, rule XXII or anything else that was referred to them.

Mr. LONG. I am constrained to note that on that small committee of nine members, of the three elected by our conference, representing the whole leadership position, we have one from the Democratic side, and there are two, both the leader and the whip, from the Republican side.

It seems to me that if the leadership from the two sides of the aisle think that the proposed change in rule XXII should be acted upon, we have all the representation that any partisan leadership on either side could add to provide leadership, suggestions, and inspiration to get on with the business and seek to bring about a proposed change of the rules in an orderly fashion. There are fair-minded men on that committee who could be expected to move the proposal ahead. Can the Senator explain to me what reason, if any, there is for those who would seek to bypass the Rules Committee to try to bring about that result?

Mr. JORDAN of North Carolina. I am glad the Senator has asked that question, because, as he well knows, every time we have gone into a new Congress, we start off by bypassing the Rules Committee, and it is sought to change the rules of the Senate without going through the Rules Committee or anything else. What Senators are virtually saying is that we do not have any rules, we had just as well start off with no rules at all, which, of course, I cannot agree to.

Mr. LONG. If the Senator will be so kind as to yield further, I ask the Senator if it is not true that we have changed the rules a number of times. We changed the rules when I first came here, in 1949, to say that cloture could be applied to anything. When I first came here we could not apply cloture to a procedural motion; only to a motion itself, once it had been before the Senate. So, even with a two-thirds vote, you could not shut off debate. But we changed that so that with a two-thirds motion you could shut off debate on anything.

Then we made it even easier to shut off debate by saying there need not be a constitutional majority of two-thirds of the Members of the Senate, but only two-thirds of those present and voting.

Then we passed the Pastore rule, to say that debate had to be germane to the issue for a certain number of hours after the measure was laid before the Senate, so as to assure that during the time when there was the fullest attendance of Senators discussing the issue, Senators would be held strictly to the measure they were discussing.

Those changes of the rules were made through the orderly procedure prescribed by the rules. The matter was studied in the committee. I am proud to say that I was once on the Senator's committee, and I found great satisfaction in serving there. I regret that I had to move off that committee to serve on a different legislative committee. But it was a matter of great satisfaction to me that I had a chance to serve this body on the Rules Committee, and I was proud of the Senators with whom I served there—some of the ablest Members of this body.

The rules were amended again and again, under the leadership of the Senator from North Carolina.

That procedure, the orderly procedure, the right procedure, the proper procedure, has been successful on three occasions with regard to changing the rules of debate in the Senate. This business of trying to start out by contending that we have no rules, and that you cannot trust the committees, and all that, what success have they had with that sort of outrage? They have never succeeded with anything of the sort. All they have done is waste a lot of time.

Talking about wasting time, it is this thing of trying to take away the rights of others, to run roughshod over someone else, to give someone the bum's rush, or engage in legislative lynching—that is where they have had their big flop; they have not achieved anything.

Can the Senator tell me what they have achieved by saying that the committees cannot be trusted, or the procedures cannot be trusted. Must we do violence to that, and change the ordinary procedures which custom and fairness would dictate? Where have they got with all that mischief?

Mr. JORDAN of North Carolina. I cannot see that they have succeeded in anything whatsoever, because, as the Senator has pointed out, these three changes have been made in orderly fashion. As to the Pastore germaneness amendment, there has never been any question in the mind of any fairminded Senator but that we ought to stick to the subject matter of debate. As far as I know, we have, and if Senators do not, the Chair can call them down and they must get down to the subject, and debate the bill that is before the Senate at the time.

Going back to the composition of the Rules Committee, the Senator will remember, a few years ago, the late Senator Dirksen was a member of that committee, and Senator Hayden was a member of that committee since I have been chairman of it, as was Senator MANSFIELD.

So we have had, I would say, the ablest of able Senators on that committee, and all of them as fairminded as anyone could be, to take up anything that was legitimate, and give it a fair hearing.

Mr. LONG. Ever since this roughhouse approach was devised—some call it the brainchild of Walter Reuther, to run the Senate the way he ran the United Automobile Workers—that is, the idea of saying that the rules do not mean what they say, has not accomplished anything, it has not changed anything, it has been ignominiously defeated in all cases.

Mr. JORDAN of North Carolina. I agree with the Senator. I ask the Senator, does he not agree that the very thing we are doing right now is wasting the time of the Senate? The matter

should have been referred in an orderly manner to the Committee on Rules and Administration. There it would have been considered and debated, hearings would have been held, and, at the proper time—an early time—those who proposed and opposed it could have been there, and the Senate could have proceeded with its orderly business.

Mr. LONG. I ask the Senator if it is not true that if they had used the procedure prescribed by the rules, the ordinary procedure, we would have had people well qualified by experience and training, and well versed in Senate procedure—there is not a single freshman member on that committee—men aware of what it is all about, in a position to study that proposition and recommend action to the Senate. Instead, we are confronted with this situation that we will be required to stand out here on the Senate floor and try to educate the freshman Members as to what it is all about, and what has gone on in the Senate for the last 100 years.

Mr. JORDAN of North Carolina. Yes. And the Senator will further agree with me, I am sure, that if the Rules Committee should report out a bill, the Senate has still got to act on it, and if they want to defeat it, they can, by a majority vote.

Is that not correct? If, after they hold hearings, they report out a bill to the Senate for action, then the Senate can decide on what they want to do with it.

Mr. LONG. Yes.

Mr. JORDAN of North Carolina. So it cannot be bottled up—well, maybe a few days or something like that, but there has never been any intention, certainly, on my part, or on the part of any member of the Senate Rules Committee, to try to hold up anything.

Mr. LONG. All I wanted to suggest to the Senator, and I would ask if this is not correct, is that those who have pursued orderly procedure by asking the Rules Committee to state their proposal, awaiting a report of the committee and seeking consideration of the measure here in the Senate, or else seeking an amendment to the Reorganization Act and voting a proposal to the Senate floor after proper consideration, have been eminently successful. We have passed reorganization bills. We have offered any Senator a chance to offer an amendment. I have offered mine. I cannot recall that I had much success, but I had the privilege of offering them; and some of them, I am happy to say, have been considerably successful. I think I was one of the principal sponsors of the proposal that a committee ought to be able to meet while the Senate is in session, without requiring unanimous consent, that it should not be a debatable motion. That is now in the Senate procedures.

So, is it not correct that those of us who have followed orderly procedure have been very successful about modifying and changing Senate procedures and rules, while those who have engaged in roughhouse tactics have been ignominiously defeated repeatedly, as they should have been?

Mr. JORDAN of North Carolina. Am I correct in my understanding that the committee studied the reorganization of the Senate several times, not just once? Senator Monroney held hearings on it for weeks. We passed it in the Senate. It failed in the House. In the last session, we passed a reorganization bill which everyone here voted on. We took part of it; part of it we did not take. But there was nothing in the reorganization bill that suggested that rule XXII ought to be done away with and that we ought to adopt new rules at the beginning of a session. Am I correct in that?

Mr. LONG. Mr. President, I ask unanimous consent that I may answer the question.

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

Mr. LONG. Yes, that is my understanding.

So here we have rules that have been changed repeatedly. I neglected to mention one of the changes of the rules advocated by the former Senator from Pennsylvania, Mr. Clark. He wanted to change the rule that provided that any Senator could put another Senator in his seat if he did not agree with what the Senator was saying and felt that that Senator had referred in a disparaging manner to some other Senator or to a State. That was another rule that was rather controversial—the fact that a Senator could be put in his seat, without having had a right to submit the question for decision of the Senate. That also was involved in rule XXII, as I recall. So that is another change that has occurred, but in an orderly fashion.

I ask the Senator this question: How long is it going to take some of those in this body to discover that they do not get very far with disorder, that the orderly way to go, the proper way, the legal way, the way provided by the rules, is the way to bring about results?

Mr. JORDAN of North Carolina. I thoroughly agree with the Senator that that is the only proper way to do it, and that is the only way to have order and to have a continuing body.

For example, take a big corporation which may merge with another company. They do not change the rules and say, "We are going to adopt new rules. We have been making automobiles, and now we are going to make plows." They continue in an orderly fashion; and if the rules need to be changed, the board of directors changes them when they need to be changed. But they do not throw everything out the window on the opening day.

Mr. LONG. I thank the distinguished Senator.

I can see no reason why we must be confronted with this sort of legislative bum's rush every time a new Congress meets. If there is anything new to suggest that we should engage in that kind of activity, I am not aware of it, and I am pleased to note that the able and distinguished chairman of the Rules Committee sees no reason for it, either.

Mr. JORDAN of North Carolina. I see no reason for it. I want the Senator and all other Members of the Senate to feel free at any time to submit anything they wish to refer to the committee, and I assure them that they will receive fair and prompt hearings.

Mr. LONG. In support of what the Senator has said, the Senator has never denied me an opportunity to submit suggestions. Although I cannot report 100 percent success, I can report that the committee has not denied consideration to any suggestion I have made, and I do not know of any Senator who can make the statement that he has sought to have his proposals considered by the committee, which is so ably chaired by the Senator from North Carolina, without that committee according him the consideration that his proposal deserved.

Mr. JORDAN of North Carolina. I appreciate the confidence that the Senator has expressed in the Rules Committee. I hope to retain that confidence among all the Members of the Senate, and I think we do.

Mr. President, I yield the floor.

NOTICE OF HEARING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to submit, on behalf of the Senator from Mississippi (Mr. EASTLAND), a notice of a public hearing that has been scheduled by the Judiciary Committee for Tuesday, February 9, at 10:30 a.m., in room 2228, on the following nomination:

Robert V. Denney, of Nebraska, to be U.S. district judge, district of Nebraska.

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

ASSIGNMENT OF SENATOR GAMBRELL TO THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES AND THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD of West Virginia. Mr. President, I send to the desk a resolution and ask that it be stated.

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

The legislative clerk read as follows:

Resolved, That Mr. Gambrell of Georgia be, and he is hereby, assigned to service on the Committee on Aeronautical and Space Sciences and the Committee on Banking, Housing and Urban Affairs, to fill vacancies on those committees.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that rule XIV be waived and that the Senate proceed to the immediate consideration of the resolution.

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

There being no objection, the resolution (S. Res. 39) was considered and agreed to.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the able Senator from Wisconsin (Mr. PROXMIRE), for which an order has already been granted, there be a period for the transaction of routine morning busi-

ness, with statements therein limited to 3 minutes, and that the period for the transaction of routine morning business not exceed 45 minutes.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, under the orders previously entered, the program for tomorrow is as follows:

The Senate will soon recess until 11:15 a.m. tomorrow.

Upon the approval of the Journal, if there is no objection, and laying before the Senate of the pending business and following the recognition of the majority leader and the minority leader, under the order entered on January 29, the able Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 45 minutes, for the purpose of making a statement and conducting a colloquy.

Following the statement by Mr. PROXMIRE, there will be a period for the transaction of routine morning business, with statements therein limited to 3 minutes, and the period will be limited to not to exceed 45 minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—it is my understanding that Senator PROXMIRE intends to engage in a colloquy with other Senators. Is that correct?

Mr. BYRD of West Virginia. That is correct.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the information of the Senate, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9, a resolution to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

RECESS TO 11:15 A.M. TOMORROW

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 recess until 11:15 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock p.m.) the Senate recessed until tomorrow, Wednesday, February 3, 1971, at 11:15 a.m.

NOMINATIONS

Executive nominations received by the Senate February 2 (legislative day of January 26), 1971:

UPPER GREAT LAKES REGIONAL COMMISSION

Thomas F. Schweigert, of Michigan, to be Federal Cochairman of the Upper Great Lakes Regional Commission, vice Alfred E. France, resigned.

DEPARTMENT OF JUSTICE

John K. Grisso, of South Carolina, to be U.S. attorney for the District of South Carolina for the term of 4 years vice Joseph O. Rogers, Jr., resigning.

HOUSE OF REPRESENTATIVES—*Tuesday, February 2, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let the peace of God rule in your hearts.—Colossians 3: 15.

God of the morning and the evening, make us conscious of Thy presence as we live through the hours of this day. Strengthened with might by Thy spirit in the inner man may we be sustained by "a faith that shines more brightly and clear, when tempests rage without: That when in danger knows no fear, in darkness feels no doubt."

Into Thy keeping we commit ourselves, our loved ones, and our country, praying that through these troubled times we may live courageously and confidently, always working for the day when peace will come, justice will be done, and men will learn to live together freely and faithfully.

"God of justice, save the people
From the clash of race and creed,
From the strife of class and faction:
Make our Nation free indeed.
Keep her faith in simple manhood
Strong as when her life began,
Till it find its full fruition
In the brotherhood of man."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Geisler, one of his secretaries.

RESIGNATION FROM A COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

FEBRUARY 2, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: I herewith submit my resignation from the Committee on Ways and Means.

Sincerely yours,

HALE BOGGS.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

INCREASE IN SOCIAL SECURITY

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, today, in glaring disregard of the administration's own commitment to an expansionary policy, it is shocking to learn that the administration is recommending a paltry 6-percent increase in social security benefits retroactive to January 1, 1971. The proposal would limit the retirement income test to $2,000 and would limit the increase in minimum benefits to the 6-percent across-the-board increase.

The administration contends that the cost of living has increased only 5.5 percent since the last benefit increase took effect. The Government's estimate of the cost-of-living increase in 1970 is almost 100 percent out of line for the elderly poor. The Consumer Price Index is calculated on the living expenses of a young family unit of four in good health. In the case of social security beneficiaries who live in family units of one or two in poor health, the cost of housing, health services, drugs, food, and transportation have risen over 15 percent in the last year. On the basis of these real increases in living costs, a 6-percent increase in social security benefits is unrealistic and a cruel blow to the elderly.

APOLLO 14 DOING WELL

(Mr. MILLER of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I am very glad to be able to inform the House that everything is going well with Apollo 14. I had a telephone call from Mr. George Low, Administrator of NASA this morning from Houston, and he tells me that everything is underway, and he is quite satisfied with it.

I know the Members are all glad to hear this.

FASCELL URGES EARLY ACTION ON SOCIAL SECURITY INCREASE

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, there are today more than 26 million Americans awaiting action by the Congress on social security legislation. The dramatic increase in the cost of living has exceeded their ability to make ends meet, and they are once again caught in the lair of fixed income at a time of rapidly inflating prices.

There can be no piece of legislation for this 92d Congress more important than the early passage of a social security bill with a substantial increase in benefits retroactive to January 1 of this year.

Combating inflation and stabilizing the