and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. WILEY when he introduced the above bill, which appear under a separate heading.)

By Mr. SMATHERS:

S. 2755. A bill to repeal the tax on transportation of persons; to the Committee on Finance.

By Mr. KERR:

S. 2756. A bill to amend title 38, United States Code, to provide increases in rates of disability compensation, and for other purposes; and

S. 2757. A bill to amend the Tariff Act of 1930 to provide for the free entry of records and diagrams of engineering and exploration data not imported for sale or general distribution; to the Committee on Finance.

By Mr. LONG of Hawaii:

S. 2758. A bill for the relief of Mesepa (Naesepa) and Tuileau, both of Aloau Village, American Samoa; to the Committee on the Judiciary.

By Mr. JOHNSTON (for himself and Mr. HUMPHREY):

S. 2759. A bill to provide for further research relating to new and improved uses for farm and forest products and for development of new crops, and for other purposes; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. JOHNSTON when he introduced the above bill, which appear under a separate heading.)

By Mr. PROXMIRE:

S. 2760. A bill for the relief of Yuk-Kan Cheuk; to the Committee on the Judiciary.

By Mr. ERVIN:

S. 2761. A bill for the relief of Lily Jinghua Pan; to the Committee on the Judiciary.

By Mr. DIRKSEN:

S.J. Res. 149. Joint resolution authorizing the President of the United States to designate the week of May 6, 1962, as "International Castings Week"; to the Committee on the Judiciary.

(See the remarks of Mr. DIRKSEN when he introduced the above joint resolution, which appear under a separate heading.)

S 2754 Intl

NATIONAL PATENT POLICY IN GOVERNMENT CONTRACTS

Mr. WILEY. Mr. President, by request, I introduce, for appropriate reference, a bill to establish a uniform national policy concerning rights to inventions under contracts with the U.S. Government.

This bill constitutes the redrafting of S. 2601, which I introduced during the last session of Congress.

There is much concern in industry circles, in Government offices and all over the country with regard to the title to patents resulting from Government contracts. The question is a very important one. If the taxpayers are paying for research—from which patents result—should they be entitled to keep the patents? On the other hand, if the industry contributes much of its know-how to the development of these patents, should they be entitled to compensation for their efforts? And finally, how do we make certain that patents developed in the course of Government-sponsored contracts reach the American public? Is industry likely to develop products to which they do not have patents and where anybody could compete with them? Which answer would better serve the public interest?

The Patents Subcommittee has before it several bills designed to deal with the patents problem. I believe that the bill introduced by me today will begin calling attention to the need to reevaluate and to balance the interests of both industry and the public.

This bill was prepared originally by a committee of the Milwaukee Patent Law Association. It is the belief of those responsible for the drafting of this bill that this bill will answer the need for clarification of patent rights arising out of Government-sponsored research. Several other bills are already pending before the Senate Patents Subcommittee, they all represent different points of view in connection with this important issue, and I hope this bill will help focus attention on other important aspects of this legislation.

I request unanimous consent to have the bill and the accompanying analysis of its provisions printed at this point in the RECORD.

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

The bill (S. 2754) to establish a uniform national policy concerning rights to inventions under contracts with the U.S. Government, and for other purposes, introduced by Mr. WILEY, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

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 "National Invention Act".

SEC. 2. Congress recognizes—

(a) that the United States patent system was established to encourage inventions and discoveries and the disclosure and commercial use thereof; and

(b) that the general welfare and the promotion of science and the useful arts are better served by taking advantage of the incentives provided by the patent system:

(1) to encourage industry's participation in Government sponsored research and development; and

(2) to achieve greater commercial exploitation of Government owned inventions and discoveries.

SEC. 3. The Patent Act of 1952 is hereby amended by adding to title 35 of the United States Code, chapter 27, the following:

"§ 268. Licenses to the Government

"(a) The property rights to be secured by the Government through any agency thereof with respect to inventions made in the performance of Government contracts (excluding agreements between the Government and its individual employees and consultants) shall, except as provided in section 269 hereof, be a nonexclusive license to practice such inventions. Such contracts shall not require that title to said inventions shall vest in the Government. No such license to the Government shall convey any right to the Government to provide services or supplies to the general public in competition with the contractor or its licensees.

"(b) Unless separately negotiated no license shall be acquired by the Government with respect to the contractor's inventions which are at private expense—

"(1) designed, engineered, tested, or used; and

"(2) patented or made the subject of a pending application for United States Letters Patent.

"§ 269. Title in the Government

"The Government may, notwithstanding section 269(a), contract for title to inventions made in the performance of a Government research and development contract in which:

"(a) the contract is for the development of a new field of technology as to which there is at the time of the contract no significant, non-Government experience to build upon; or

"(b) the contractor is to function primarily as an administrative agent of the Government; or

"(c) the contract is for the development of a product in a form suitable for commercial use and the availability of said products for public use does not depend upon patent incentives.

"§ 270. Sale of Inventions by the Government

"(a) The Government may sell outright to the highest bidder Government-owned inventions including any acquired under section 269 hereof. When the Government proposes to sell any such invention, public notice identifying the invention for sale and specifying the terms of sale shall be given in the Federal Register and in the Official Gazette of the United States Patent Office at least ninety days prior to the date set for the opening of bids. An opportunity shall be given to any interested person, firm, or corporation, to submit a bid, such bid to be sealed.

"(b) Any such sale shall be subject to the right of the Government at all times to make use of the invention for governmental purposes only.

"(c) All proceeds from the sale of such inventions shall be paid into the United States Treasury for the general use of the United States.

"(d) Any unpatented invention which the Government proposes to sell as provided in section 270(a) hereof and which is not sold within twelve months from the date of the first public notice of the proposed sale, shall then be dedicated to the public and notice to that effect shall be published in the Federal Register and in the Official Gazette of the United States Patent Office, such notice to be published for four consecutive weeks. Any patent(s) issued for a Government-owned invention that has been dedicated as provided by this subsection (d) shall be deemed to have been dedicated to the public on the date the patent issued.

"(e) Any patent(s) covering a Government-owned invention (whether the patent(s) was secured before or after the invention became the property of the Government) and which is not sold as provided by section 270(a) thereof within twelve months from the effective date of the patent(s) issued for a Government-owned invention or from the date the Government acquired title to the patent(s) for an invention that was patented when the invention became the property of the Government, shall then be dedicated to the public as provided by section 270(d) hereof.

"(f) Any patent(s) covering inventions which are owned by the Government on the date this Act becomes effective and which are not sold as provided by section 270(a) hereof within twelve months after said date, shall then be dedicated to the public as provided by section 270(d) hereof.

"(g) Any person who desires a license under an invention and/or patent(s) purchased from the Government may file a petition for such a license in a United States district court and the court may declare the invention and/or patent(s) to be affected with the public interest and grant the petitioner a nonexclusive license on royalty terms and

Md., transmitting, pursuant to law, a report of that Board, for the year 1961 (with an accompanying report); to the Committee on Armed Services.

FEDERAL-AID AIRPORT PROGRAM AND PROGRAM FOR ESTABLISHMENT OF AIR NAVIGATION FACILITIES

A letter from the Administrator, Federal Aviation Agency, Washington, D.C., transmitting, for the information of the Senate, copies of the fiscal year 1962 Federal-aid airport program, and the program for the establishment of air navigation facilities (with accompanying documents); to the Committee on Commerce.

STATEMENT OF RECEIPTS AND EXPENDITURES OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

A letter from the vice president, the Chesapeake & Potomac Telephone Co., Washington, D.C., transmitting, pursuant to law, a statement of receipts and expenditures of that company, for the year 1961 (with an accompanying report); to the Committee on the District of Columbia.

AMENDMENT OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, RELATING TO TITLE III

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949, to make title III thereof directly applicable to procurement of property and nonpersonal services by executive agencies, and for other purposes (with an accompanying paper); to the Committee on Government Operations.

AUDIT REPORT ON ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

A letter from the Comptroller General of the United States transmitting, pursuant o law, a report on the audit of the St. Lawrence Seaway Development Corporation, for the period July 1, 1959, through December 31, 1960 (with an accompanying report); to the Committee on Government Operations.

AUDIT REPORT ON FEDERAL NATIONAL MORTGAGE ASSOCIATION

A letter from the Comptroller General of the United States transmitting, pursuant to law, an audit report on the Federal National Mortgage Association, Housing and Home Finance Agency, fiscal year 1961 (with an accompanying report); to the Committee on Government Operations.

REPORT ON REVIEW OF UTILIZATION OF CERTAIN AIRCRAFT ENGINES AS A SOURCE FOR SPARE PARTS

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on the review of the utilization of excess R3350-26WA aircraft engines as a source for spare parts by the Department of the Navy, dated January 1962 (with an accompanying report); to the Committee on Government Operations.

REPORT ON PROCEEDINGS OF ANNUAL MEETING OF JUDICIAL CONFERENCE OF THE UNITED STATES

A letter from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, a report of the proceedings of the annual meeting of the Judicial Conference of the United States, held at Washington, D.C., September 20–21, 1961 (with an accompanying report); to the Committee on the Judiciary.

FINANCIAL REPORT ON THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION

A letter from the secretary, the Foundation of the Federal Bar Association, Washington, D.C., transmitting, pursuant to law, a report on the audit of the financial transactions of that association, for the fiscal year ended September 30, 1961 (with an accompanying report); to the Committee on the Judiciary.

REPORT ON STATUS OF PUBLIC BUILDINGS

A letter from the Acting Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report on the status of construction, alteration, or acquisition of public buildings, dated December 31, 1961 (with an accompanying report); to the Committee on Public Works.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Acting Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report of the Archivist of the United States on a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. JOHNSTON and Mr. CARLSON members of the committee on the part of the Senate.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the Federal Communications Commission, expressing the respect and sorrow of the Commissioners on the untimely death of the late Senator Andrew F. Schoeppel; ordered to lie on the table.

CONCURRENT RESOLUTION OF SOUTH CAROLINA GENERAL ASSEMBLY

Mr. THURMOND. Mr. President, on behalf of my colleague, the senior Senator from South Carolina [Mr. JOHNSTON] and myself, I present a concurrent resolution of the General Assembly of South Carolina memorializing the Congress of the United States to enact as promptly as possible S. 1795 or H.R. 6789, or similar legislation, authorizing Duke Power Co. to construct a dam across the Savannah River, and ask that it be printed in the RECORD and appropriately referred.

There being no objection, the concurrent resolution was referred to the Committee on Public Works, as follows:

CONCURRENT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT AS PROMPTLY AS POSSIBLE S. 1795 OR H.R. 6789, OR SIMILAR LEGISLATION AUTHORIZING DUKE POWER CO. TO CONSTRUCT A DAM ACROSS THE SAVANNAH RIVER

Whereas Duke Power Co. has announced plans for constructing a giant 2-million-kilowatt steam-electric generating plant on the Savannah River in Anderson County, S.C.; and

Whereas, in order to form a pool for condenser cooling water for this plant, it is necessary for Duke Power Co. to construct a dam across the Savannah River; and

Whereas, before this dam can be constructed, congressional approval is required, and bills for such approval, designated S. 1795 and H.R. 6789, were introduced on May 3, 1961, and are now pending in both bodies of the Congress; and

Whereas the proposed Duke Power Co. 2-million-kilowatt generaitng plant would be a great asset to the economy of South Carolina and the surrounding area in that it will not only involve construction costs of approximately $280 million and will create needed jobs during both construction and operation, but will annually add to the economy an estimated 10 billion kilowatt-hours' production, 3½-million-ton coal consumption at a cost of $26 million, $2½ million payroll, $7,450,000 State and local taxes, and $9,200,000 Federal income taxes; and

Whereas the General Assembly of South Carolina, in furtherance of its belief in the importance of this proposed project to the State of South Carolina, desires to urge the Congress promptly to enact the necessary enabling legislation authorizing the construction of this dam: Now, therefore, be it

Resolved by the house of representatives (the senate concurring), That the Congress of the United States is hereby memorialized to enact, as promptly as possible, S. 1795 or H.R. 6789, now pending before the Congress, or similar legislation authorizing Duke Power Co. to construct across the Savannah River a dam necessary for its proposed steam plant; and be it further

Resolved, That a copy of this resolution be forwarded to the following officers and Members of the Senate and House of Representatives of the Congress: the Vice President of the United States and President of the Senate, the Speaker of the House of Representatives, the chairmen of the Committees on Public Works of the Senate and the House of Representatives, each Senator from South Carolina, and each Member of the House of Representatives from South Carolina.

Attest: I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the South Carolina House of Representatives and concurred in by the Senate.

INEZ WATSON,
Clerk of the House.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. BURDICK, from the Committee on Labor and Public Welfare, without amendment:

S. Res. 273. Resolution to provide additional funds for the Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare; referred to the Committee on Rules and Administration.

BILLS AND 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. DOUGLAS:

S. 2751. A bill for the relief of Susan Gudera, Heinz Hugo Gudera, and Catherine Gudera; to the Committee on the Judiciary.

By Mr. BYRD of West Virginia (for himself and Mr. RANDOLPH):

S. 2752. A bill to authorize the Secretary of Commerce, acting through the Coast and Geodetic Survey, to assist the States of Maryland, Pennsylvania, and West Virginia to reestablish their common boundaries, and for other purposes; to the Committee on the Judiciary.

By Mr. FONG:

S. 2753. A bill for the relief of Duk Man Lee and Mal Soon Lee; to the Committee on the Judiciary.

By Mr. WILEY (by request):

S. 2754. A bill to establish a uniform national policy concerning rights to inventions under contracts with the U.S. Government;

conditions deemed reasonable by the court, if the court finds as a matter of fact that the following conditions precedent exist—

"(1) the owner of such invention has not diligently acted to commercially exploit the invention; and

"(2) that a license to the petitioner will result in such exploitation; and

"(3) the said petitioner cannot otherwise obtain a license from said owner on reasonable royalty terms for such exploitation; and

"(4) the Government policy of achieving commercial exploitation of such inventions will not be accomplished unless said petitioner is granted the license."

SEC. 4. (a) The Space Act of 1958 is hereby amended by repealing section 305.

(b) The Atomic Energy Act of 1954 is hereby amended by repealing section 152.

(c) All sections of Acts in conflict with this Act are hereby repealed.

The analysis presented by Mr. WILEY is as follows:

ANALYSIS OF BILL TO ESTABLISH A UNIFORM NATIONAL POLICY CONCERNING RIGHTS TO INVENTIONS UNDER CONTRACTS WITH THE U.S. GOVERNMENT

The accompanying bill constitutes a rewriting of S. 2601 having its principle purpose to eliminate the section 270 providing for "Licenses by the Government" of Government-owned patents and to substitute therefor a new section 270 providing for "Sale of inventions by the Government."

The present bill provides in section 270 for the sale of all Government-owned patents to the highest bidder at terms set by the Government, and subject at all times to the reservation of a right in the Government to make use of the invention for governmental purposes. All bids are to be sealed and submitted upon appropriate notice in the Federal Register and the Official Gazette of the U.S. Patent Office.

All proceeds from the sale of patents are to be paid directly into the Treasury for general use and not earmarked for credit to the agency from which the sale arises.

Sections 270 (d) (e) and (f) provide in general that all Government-owned inventions and patents are to be dedicated to the public if they are not sold within a given specified time. This recognizes the fact that the Government should not at the same time create a monopoly and enforce it against the public. Consequently, if the Government is to retain title to it the patent in effect becomes a nullity and should be dedicated.

Section 270(g) spells out conditions under which any member of the public may obtain a license from one who has purchased a patent from the Government, thus making sure that any commercially valuable invention thus sold by the Government will be put to use and not suppressed.

The new bill on a whole satisfies the needs of the Government and the public with less of an administrative problem and without the danger of any Government agency being put in the position of creating a monopoly and then negotiating a return for it.

The system of selling property by means of sealed bids is well known to the Government and is employed every day by various Government agencies. It is eminently fair and should produce the best price to the Government without the dangers of negotiation.

The bill has the added advantage that those inventions that may have commercial value will receive the normal patent incentives toward initiating commercial use of them thus permitting our patent system to continue to work for the benefit of the public in those fields of research in which the Government is itself interested.

The bill has the same objectives as those given for S. 2601 and has been drafted to overcome certain objections raised by industry and attorneys to the idea that the Government should ever create a monopoly and then negotiate with members of the public to grant licenses for a price. This puts Government research directly in competition with private industrial research and also encourages possible disregard of the principles of patentability of invention in the granting of patents for which the Government may receive a negotiated royalty income. Furthermore, under S. 2601 the administrative problems of negotiating royalty producing licenses were not taken care of.

A minor change is a restatement of section 269(c) to more clearly specify the principle intended to apply in cases where the Government may desire to take title.

Mr. JOHNSTON. Mr. President, I introduce, for appropriate reference, a bill providing for increased uses of agricultural products and for creation of new industrial uses of agricultural products and to promote new crops.

For several years the Congress has received bills attempting to implement the findings and the purposes of the study by the President's bipartisan Commission on Increased Industrial Use of Agricultural Products.

In 1958 several Senators, including myself, introduced proposed legislation on this subject. The Senate Agriculture and Forestry Committee took the various bills introduced and combined the better qualities of each into a committee bill. This committee bill passed the Senate practically without dissent. The House failed to act.

Again in the 86th Congress I introduced this bill and I was supported by several Senators. The Senate Agriculture and Forestry Committee reported the bill unanimously, and in 1960 the Senate passed the bill with only one or two dissenters despite opposition from former Secretary of Agriculture Benson.

In the House of Representatives Mr. Benson was more successful, and the House substituted its version for the Senate bill. I realize there must be compromise in legislation, but in this situation there was no compromise. Therefore, we did not meet in agreement in conference and the proposed legislation died with the end of Congress.

Last year I introduced S. 173 for myself and several other Senators providing basically for the same legislation we had passed in the Senate in the 86th Congress. This bill is now pending in one of the Senate agriculture and forestry subcommittees and we have taken no action upon it. Since introducing S. 173, I have been in conference with several interested groups, individuals and the Department of Agriculture. On the basis of these conferences I have drafted a new bill covering the same subject, which I have sent to the desk for introduction. The name of the Senator from Minnesota [Mr. HUMPHREY] also appears on the bill.

This bill incorporates most of the declarations and findings contained in S. 173 and S. 174 which were introduced in the first session of this Congress last year. This matter of agricultural research with particular emphasis on finding new industrial uses of agricultural products is tremendously important. I would like to reassure Members of Congress and other citizens interested in agricultural research that this legislation carries no purpose or intent of diminishing the importance of the other agricultural research programs already in progress. Certainly, we do not wish to undertake this program if it would cause any reduction in research programs now underway, particularly those eradicating plant disease and insects.

All real friends of the farmer are going to concentrate on ways of helping him, rather than on dissipating their energies on details of how we help him. Aid for agriculture is the main point; if we enjoy the luxury of differing as to method we must not hinder progress toward assisting our national agricultural industry. I am sure that all of us are in agreement on this basic idea: our Nation's farmers are the backbone of the national economy; and in helping them, we help ourselves. I may feel that my ways of rendering assistance are better than the next fellow's; but this is not going to deter me one whit from giving my wholehearted support to a compromise program that carries with it the hope of bettering agriculture.

Research is the key that unlocks many doors. When we view the surpluses of agricultural products, we realize the urgent need for wider and more intensive research for new uses for those products and for new products that will yield paying crops.

Research is a multiplier that increases multiple uses on basic products. I never cease to wonder at the work of George Washington Carver, whose genius was able to develop more than 100 byproducts from the humble peanut. Who knows what untapped secrets nature has stored up in other everyday products?

Yes, research is a creative force, generating progress, sparking productivity, promoting comfort, adding to total living. Research creates wealth through inventiveness, and ministers to man's welfare.

Behind any successful manufacturing company we find a substantial research program. The more successful the company, the more funds are being poured back into the business, through the medium of research. Fiscal analysts tell us one of the best ways to determine the future prospects of any given company is to read its financial statement and learn what part of its earnings is being plowed back in the form of research. Companies that fail to provide adequate research programs soon wind up "in the ditch." The leading corporations are strong on research.

Mr. President, we must do for research in agriculture what industry does for its research. We cannot, in national self-interest, afford to do less. Every dollar invested in agricultural research will come back manyfold, and the beneficial effects will pour into all segments of the economy.

Judging by commercial standards, the ratio of expenditures for research to the total dollar value of the Nation's agricultural products is relatively small. More, much more, needs to be done.

The bill I am introducing contains certain authority that is not now avail-

able to the Department of Agriculture, but which I believe is necessary if agricultural research is to produce the expected results. This includes authority for research grants, student fellowships, scholarships, and similar aids to strengthen graduate training.

There is widespread recognition that a prosperous agricultural industry is one of the basic necessities of a strong America. Farmers are one of the most important consumer groups in America. For our Nation to be prosperous, the farmer has to be in a position to buy the products of industry. It is true that the number of farmers in America has decreased in recent years, but statistics show that purchases by farmers for production and consumption have increased.

The President's bipartisan commission on increased industrial use of agricultural products stresses the economic importance of the farmer in the following words:

> Two-fifths of the Nation's total economic activity arises from agriculture and related business functions.

Mr. President, the broad objectives of the measure we are now considering were outlined in the report of the aforementioned commission. After a thorough study and survey of the agricultural industry, the commission made major recommendations looking toward comprehensive research to bring about the greatest possible industrial uses of agricultural products.

In its report, the commission said:

> In the past 25 years agriculture often has been researched right out of its natural domain. Industry will continue to explore the unknown in search for new products and new uses for old products. Nothing is plainer in the economic pattern of today than that agriculture must compete in areas of basic and applied scientific research. Agriculture should be enabled to compete as an equal, in the contest for consumer acceptance. It is now losing by default.

The Commission was created in accordance with section 209 of Public Law 540, 84th Congress. It filed an interim report on April 17, 1956, and its final report on June 15, 1957.

Altogether, the Commission made eight pertinent recommendations, and also obtained suggestions through correspondence with experiment station directors and more than 350 industrial executives. The work of the Commission was well planned and comprehensive.

In its report, the Commission stated it found it—necessary to obtain quickly:

1. An adequate assessment of the current state of industrial utilization research.
2. A sound appraisal of its possibilities.
3. Adequate understanding of the obstacles to further development.

To this end, the Commission set up task groups or special committees in the following areas:

Corn wet-milling, cotton, crop residues, industrial alcohol from grain, industrial uses for grain other than alcohol, dairy products, forage crops, forest products, fruits and vegetables, hides, skins, and animal byproducts, new and special crops, oilseeds and animal fats, poultry products, rice, sugar, tobacco, white potato products, wool, and mohair.

Not the least important of the Commission's conclusions of its studies was the last, which reads:

> The dynamic forces which created American industrial development must be motivated in the farm economy.

Mr. President, it is noteworthy that the Commission's first recommendation called for a substantial increase in research funds, and did so in the following language:

> The Commission proposes at its first and most necessary recommendation that the funds for industrial uses research be increased to not less than three times the amounts ($16,145,000) currently available; and that additional sums be provided, as herein suggested, for new crop research, trial commercialization, development, and incentives.

Immediately following this, the Commission recommended that the facilities of the Department of Agriculture be fully utilized in furthering the research program, as well as land-grant colleges, experiment stations, universities and colleges, private research organizations, and foreign institutions. There followed a recommendation for research grants and fellowships, scholarships, and similar aids that, while furthering research projects, would also increase the supply of trained scientists.

Special emphasis was put by the Commission on the new crop projects with the purpose of creating durable, additional markets, and for rapid disposal, through industrial channels of accumulated surpluses.

The Commission found that the current industrial outlets for the products of the total farm acreage, estimated to be less than 7 percent, are udeniably small.

One of the most encouraging leads to be developed by the Commission was the prospect of a major crop for the South—bamboo. This product has shown great potential in the paper field, as well as in furniture and plastics. I am pleased to report that preliminary experimentation and work with this crop have already been started in South Carolina and Georgia by private firms, and through the Clemson College Edisto experiment station, near Blackville, S.C.

A whole regional economy can be uplifted and transformed through the development of some such good, new pay crop. We all know what has been accomplished with the soybean—the commercial markets it commands, the jobs it has created, the payrolls it accounts for. Who knows how many such undiscovered commercial products await in the darkness that can be pierced only by the searchlight of research. Is it any wonder that we approach this research program with enthusiasm and great expectations—holding as it does, vast vistas of opportunities?

In my opinion, no proposed legislation that has come before the Senate in recent years is more important from the farmers' standpoint.

We must enact this bill in order to step up our research. The Congress has appropriated billions of dollars for foreign aid; much of it has gone for research in foreign countries. It is inconceivable to me that this opportunity to help our own people and our own economy would not be availed of.

I hope this agriculture research bill will pass Congress this session. There is tremendous need for agriculture research. Such research can help our farmers and industries find new sources of income and production.

Mr. President, I ask that the bill lie on the desk for 1 week, in order that Senators who may wish to consponsor it with me may have an opportunity to do so. I have received several requests regarding cosponsorship.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred, and, without objection, the bill will lie on the desk, as requested by the Senator from South Carolina.

The bill (S. 2759) to provide for further research relating to new and improved uses for farm and forest products and for development of new crops, and for other purposes, introduced my Mr. JOHNSTON (for himself and Mr. HUMPHREY), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that an explanation of the bill be printed at this point in my remarks.

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

EXPLANATION OF BILL PROVIDING FOR RESEARCH ON INDUSTRIAL USE OF AGRICULTURAL PRODUCTS

Section 1 incorporates most of the declarations and findings contained in S. 174, introduced in the 87th Congress, 1st session.

Section 2 authorized the Secretary of Agriculture, independently or in cooperation with public and private organizations and individuals, to conduct research to expand markets and uses for farm products and to develop new crops.

Section 3 provides authority, which the Department does not now have or the use of which is restricted, to make grants to research institutions and individuals, provide graduate fellowships, to enter into contracts or cooperative arrangements, and to grant exclusive licenses, subject to the limitations prescribed in the bill.

Section 4 authorizes establishment of not to exceed 100 positions for scientific or professional personnel, at rates not in excess of those established for Public Law 313 positions.

Section 5 comprehensively defines "agricultural products" and "farm and forest products" as used in the bill, to be the same as in the Agricultural Marketing Act of 1946 (7 U.S.C. 1626).

Section 6 provides an appropriation authorization and for the use of foreign currencies available to the Secretary under Public Law 480.

Section 7 specifically states that the authorities contained in the bill are in addition to other authorities.

DESIGNATION OF WEEK OF MAY 6, 1962, AS "INTERNATIONAL CASTINGS WEEK"

Mr. DIRKSEN. Mr. President, I introduce, for appropriate reference, a joint

a return flight, Boston to Washington. I might add that no prior notification was given on that occasion either.

My bill will not only provide a deterrent against poor planning of the use of equipment and facilities by the airlines, but should make for higher standards of responsibility to the American public by these airlines. While the country awaits this higher standard, the air passenger should not be the defenseless victim of the present "no go" policies of the airline management.

THE UNIQUE CONTRIBUTION OF THE PATENT SYSTEM TO AMERICAN CIVILIZATION

The SPEAKER. Under the previous order of the House the gentleman from Indiana [Mr. ROUDEBUSH] is recognized for 15 minutes.

Mr. ROUDEBUSH. Mr. Speaker, it has been my privilege as a member of the Committee on Science and Astronautics to have witnessed some of the important developments of American research.

The American Colonies established their own patent system long before the advent of the American Revolution. It appears that the first patent issued in America was granted in 1646 by the Commonwealth of Massachusetts to Joseph Jenks for improved sawmills and scythes. In 1652, a patent was granted in Virginia to George Fletcher for a process of distilling and brewing with wooden vessels. This would appear to be one of the earliest chemical process patents.

Probably the origin of the constitutional provision with respect to patents stems from South Carolina which afforded general protection to inventions by an act for the encouragement of the arts and sciencies. The language therein contained a provision that inventors of useful machines should have the exclusive privilege of making and vending their devices for 14 years.

The American patent system was developed in parallel to that of Great Britain, whose Parliament in 1654 enacted legislation endowing inventors with the sole right to their inventions for a period of 14 years. Its fruitfulness had been demonstrated by the work of Newcomen and Watt in the perfection of the steam engine which played a major role in establishing Great Britain's industrial supremacy.

It is extremely doubtful whether our present programs in many fields of science and technology would have been possible if our forefathers had not provided for the establishment of a patent system in the Constitution itself.

As we look back on the formative years of the American Republic, each of us must be impressed by the fact that the American colonists, far removed from the cultural centers of Europe, were dedicated to the ideals of liberty and personal freedom. What is perhaps even more remarkable is that most of their leaders were very young—many of them in their early twenties.

The Constitution of the United States came into effect with its ratification by North Carolina on November 21, 1789. Article I, section 8, provides that the Congress shall have the power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

The first patent law was enacted during the First Congress and was approved by President George Washington on April 10, 1790. The original law provided as a primary condition of a patent grant that the applicant should have invented or discovered a useful art, manufacture, engine, machine or device, or any improvement therein, not before known or used." The law also required that the inventor submit a detailed specification of his invention. This condition was imposed "to the end that the public may have the full benefit thereof after the expiration of the patent term."

Another provision of the law was that the invention should be deemed by the administrators of the law sufficiently useful and important." The administrators were the Secretaries of State and of War and the Attorney General. Although the Secretary of State, Thomas Jefferson, was concerned with the complex problems of establishing the foreign relations of our new Republic, he nevertheless personally devoted a considerable portion of his time to the detailed work of examining patent applications.

Thomas Jefferson was himself a distinguished inventor. He detested monopoly grants of a perpetual nature that tended to vest rights and privileges in a few of our citizens at the expense of all others. However, he was a firm supporter of the patent system because it granted to authors and inventors the exclusive rights to their own efforts for only a limited period. He supported the patent system because it provided an incentive for discoveries which would later become a part of the public domain.

Mr. Speaker, a statement by a former Commissioner of Patents, Conway P. Coe, is relevant, and I include it in my remarks at this point:

> Americans generally detest monopoly in the true sense of the term because it makes possible the ruthless exercise of power. Indeed, the American Revolution was precipitated by popular resentment of the monopoly on tea held by the East Indian Co. It would therefore have been exceedingly strange if, only a few years later, the delegates sent to the Constitutional Convention by Massachusetts and the other Colonies should have been willing to sanction an equivalent form of monopoly under the new government they were creating. In the 16th and 17th centuries a king or queen of England could reward a favorite by granting him a monopoly on salt or some other necessity of life. This beneficiary of royal favor was not, of course, the discoverer of salt. That came ready made from the hand of the Creator eons before the advent of man. What the darling of His or Her Majesty received was the power to compel others to use salt solely of his supplying and only on terms of his dictation.
>
> But a patent is no such monopoly. It is a reward for the invention or discovery of something new, something before unknown, something added to the sum total of human knowledge, utility, well-being, and which the inventor or discoverer, despising the lure of money or fame, might have withheld from his fellow men. By the monopoly that goes with a patent, then, the Government recompenses and, for a limited time, protects the inventor or discoverer who gives to the world the use and benefit of his invention or discovery. This is a kind and a degree of mutuality that negatives monopoly in the old or the current concept. Monopoly in the latter sense of the term gave to an individual or a group complete dominion of something already existent. A patent awards monopoly to the producer of something original, something superadded to the common store. So it is that two things bearing the same name need not be of the same nature.

The Congress in 1935 created a Sesquicentennial Commission to commemorate the 150th anniversary of the formation, ratification, and establishment of the Constitution. A former distinguished Member of this body, the Honorable Sol Bloom, a Representative from the State of New York, was appointed Director General. The Commission prepared an authoritative review of the history of the formation of our Federal Union. In referring to the powers granted to the Congress by the Constitution, it states that, and I quote:

> Under its power to confer upon authors and inventors "the exclusive Right to their respective Writings and Discoveries" Congress has powerfully stimulated the inventive faculties of the American people.

It is significant that America's leaders have attributed so much of our present industrial strength to the American patent system, which in many ways is unique among the industrial nations of the world. Mr. Speaker, I shall quote statements by American Presidents of both political parties whose judgment has been vindicated by the achievements of our people.

Most of my colleagues on the other side of the aisle subscribe to the political doctrines of Thomas Jefferson. He said:

> The issue of patents for new discoveries has given a spring to invention beyond my conception.

The first Republican President, Abraham Lincoln, said:

> The patent system added the fuel of interest to the fire of genius.

More recently, a Democratic President whose memory is greatly revered, Franklin Delano Roosevelt, said:

> The American patent system has promoted countless applications of the arts and sciences to the needs and well-being of our people.

The most recent Republican President, Dwight D. Eisenhower, said:

> Soundly based on the principle of protecting and rewarding inventors, this system has for years encouraged the imaginative to dream and to experiment—in garages and sheds, in great universities and corporate laboratories. From such explorations on the frontiers of knowledge has welled a flood of innovations and discoveries which have created new industries and reactivated old, giving more and more Americans better jobs and adding greatly to the prosperity and well-being of all.

Mr. Speaker, while the Congress was in adjournment, the Nation celebrated American Patent System Week, which started October 15, 1961. President Ken-

If the Salazar Government is in truth a dictatorship, it is not a heavy-handed one.

GOOD GOVERNMENT NOTED

A Portuguese official quoted to me the following from an editorial in the January 2, 1962, London Daily Telegraph and Morning Post, not notably a pro-Salazar newspaper: "Between 1910, when the monarchy fell, and 1926, when Dr. Salazar first took office as minister of finance, Portugal knew 8 presidents, the most promising of whom was assassinated, and 44 ministries. Economically, the country had been, if possible, in an even worse position than it was politically ever since the civil wars of the early 19th century.

"No one will pretend that the present regime in Portugal is in any British sense democratic. It has, however, produced good government and economic stability. * * * Dr. Salazar has sought nothing for himself personally. He is alleged, by such foreign critics as oppose his government on principle, to have treated his political enemies with harsh injustice. It is safer to suggest that the Portuguese dictatorship has a better record in the matter of political imprisonment than any parallel regime, whether of the right or of the left, in the modern world."

DETERMINATION VOICED

The Salazer government is determined to retain Angola and Mozambique to the end of time, in the words of a Government minister, "even if it means suicide."

Any other course, it believes, will result in a Communist takeover, placing mid-Europe in the grip of a Red pincers—with Russia and East Germany on the east and a Communist-dominated Iberian Peninsula on the west.

Should this happen, the Azores bases will be lost to the United States without a negotiation.

Why, then Portugal asks, through its ministers, does the United States pursue a policy that weakens the strongest anti-Communist nations in Europe—Portugal and Spain.

Why does the Kennedy administration put the interests of African tribesmen above the interests of America's old ally, Portugal?

Why did it permit Nehru to seize Portugal's ancient Province, Goa, 463 years a member of the Portuguese union, without an effective protest?

Why has it driven Lisbon to the point that Portugal now refuses to shed the blood of one Portuguese soldier if Russia forces NATO into a war over Berlin?

These are the questions the Salazar government asked me.

[From the Standard-Times, Jan. 25, 1962]

PRESIDENT IS HOPEFUL ON AZORES BASES

(By Donald R. Larrabee)

WASHINGTON, January 25.—President Kennedy has voiced strong hope that the Portuguese Government will continue to allow the United States to use its huge air base on the strategically located Azores Islands when the current lease agreement expires at the end of this year. Importance of the base to this country and the North Atlantic Treaty Organization was underscored by the President at his news conference yesterday in response to a question by the Washington Bureau of the New Bedford (Mass.) Standard-Times.

The question was prompted by remarks made by high Portuguese officials to the editor of the Standard-Times, Charles J. Lewin.

During a recent visit to Lisbon, Lewin said in an exclusive story distributed nationally on Tuesday by the Associated Press and United Press International, these officials told him the United States will have hard going when negotiations get under way soon for renewal of the lease. They said relations had been dangerously strained by U.S. votes in the United Nations condemning Portugal's policies toward its oversea territories.

In the light of these reports, the President was asked if he expects the Government to have any difficulty negotiating renewal of the Azores lease. In reply, the Chief Executive left no doubt that the middle-Atlantic base is vital to the security of the free world.

"I think the Azores base is very important to us and to NATO and the negotiations will take place this year. We're hopeful that they will continue to permit us to use this base upon which 75 to 80 percent of our military air traffic to Europe depends. So that in these rather critical times, that base is extremely important to us.

"I am hopeful," the President added, "that it will be possible for us to reach an agreement with the Portuguese for our continued use of it, but that's a matter to be negotiated between the countries."

The United States has been using the Azores base since World War II and has had a firm leasing arrangement since 1951. This was renewed in 1957 for a period ending in December 1962.

State Department officials said no date has been fixed for negotiations.

In recent months, the United States has been voting in the United Nations for resolutions calling on Portugal to adopt changes in policy and practices toward its oversea territories.

At the moment the U.N. has before it an Afro-Asian resolution calling on Portugal to recognize the right of the people of Angola to self-determination. In his published account, Editor Lewin said a Portuguese official told him Angola was to Portugal what Pearl Harbor was to the United States—it had united the people of Portugal behind the government of Premier Salazar. He reported that Portuguese officials said the Government was determined to hold Angola, on the west coast of Africa, and Mozambique, on the east coast, to the end of time, even if it meant suicide.

THE QUESTION AND THE ANSWER

Question. Mr. President, assuming the American airbases in the Portuguese Azores are vital to our security, could you explain to us whether you expect the Government will have any difficulty negotiating leases—renewed leases—on those bases this year, especially in light of reports from Lisbon of our strained relations with Portugal?

Answer. I think the Azores base is very important to us and to NATO and the negotiations will take place this year. We're hopeful that they will continue to permit us to use this base upon which 75 to 80 percent of our military air traffic to Europe depends. So that, in these rather critical times in Europe, that base is extremely important to us.

I'm hopeful that it will be possible for us to reach an agreement with the Portuguese for continued use of it, but that's a matter which will be negotiated between the countries.

ASSESSMENTS FOR UNWARRANTED FLIGHT CANCELLATIONS

(Mr. MACDONALD asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MACDONALD. Mr. Speaker, I should like to call your attention, and the attention of my colleagues in the House, to a bill which I introduced today, permitting passengers to collect an assessment from airline companies in case of unwarranted flight cancellations and undue delay to airlines. This bill requires the Civil Aeronautics Board to issue regulations by which the aggrieved traveler collects an assessment of $5 or 50 percent of the fare, whichever is more, whenever a domestic flight is canceled or unduly delayed due to reasons other than the weather or inability to meet Federal safety standards. I have introduced this bill to counterbalance a recent Civil Aeronautics Board ruling—Order No. E–17914—which permits the airlines to assess "no show" passengers in a similar ratio as my "no go" bill would assess the airlines.

If passengers are required to pay assessments to the airlines for not meeting their flight reservation commitments, it is only fairplay that the airlines pay an assessment to the passenger when they fail to live up to their part of the ticket agreement. Almost everyone who has traveled by air has been adversely affected as a direct result of the poor ontime performance of air carriers. This legislation is designed to protect the traveling public against these unnecessary cancellations and delays which often result in their discomfort and expense.

The ontime record of our major airlines in 1960 was so poor that one had less than a 60–40 chance that his flight would leave either on time or within 15 minutes of schedule. I am sure that the American traveling public would rather forgo the so-called benefits in travel frills or faster speed records in return for greater certainty as to ontime performance.

Most of the cancellations and long delays are due to factors which are under the direct control of the airlines and which could be corrected by proper planning. A substantial amount of this poor ontime performance may be ascribed to carelessness and laxity; lack of adequate standby facilities, the overtaxing of airplane equipment, the overscheduling of certain aircraft, and the poor routing of traffic at peak hours. The condition can be—and should be—remedied. Delays will continue to occur when airport and airplane capabilities are exceeded.

The issue of demanding better ontime performance should not be confused with a CAB ruling requiring airlines to submit monthly arrival performance reports. This ruling—part 234 of the Economic Regulations—Flight Schedules of Certified Carriers, Realistic Scheduling Required—was made in an effort to deter erroneous scheduling tactics and misleading public releases of time performances. These statistics do not provide any direct information on the problems of ontime scheduling; these reports do not include cancellations of flights but merely detail "block to block" time. Under the present laws there are very few reliable statistics relating to overall ontime performance. These statistics should be required to be submitted to the CAB.

I am sure that the traveling public could document the significant amount of cancellations and delays. Last week a flight from Washington to Boston, for which I had purchased a ticket, was canceled with no prior notification by the airline. To prove that this was no fluke, a different airline did the same thing on

nedy in proclaiming this fitting commemoration of the American patent system said:

Whereas in the year 1961 there will be granted the 3 millionth patent since enactment of the Patent Act; and

Whereas the grant of a patent is a traditional incentive for the promotion of the useful arts and thereby contributes notably to the well-being of people everywhere; and

Whereas encouragement of invention is essential to the continued economic and technological development of this Nation.

Now, therefore, I, John F. Kennedy, President of the United States of America, do hereby designate the week of October 15, 1961, as the American Patent System Week; and I invite the people during that week to commemorate the American patent system which, by affording protection and encouragement to inventors as envisaged and authorized by the Constitution, contributes so greatly to the encouragement of inventive genius.

President Kennedy's statement represented the sense of the Congress and particularly of our own Committee on the Judiciary.

Last August 8, the distinguished chairman of that committee, the gentleman from New York [Mr. CELLER], submitted House Report No. 871 which authorized the celebration of the American patent system. This report included the following pertinent statements, and I quote:

July 4, 1961, marked the 125th anniversary of the Patent Act of 1836, which created the present examination system for granting patents and which established the U.S. Patent Office as a separate and distinct bureau with a Commissioner of Patents as its head. It is expected that the 3 millionth patent under this act will be granted in September 1961.

The patent grant has been a traditional incentive for the promotion of the useful arts thereby benefiting the welfare of the people of the United States and the world. This function of the patent grant has assumed added significance in view of the present day necessity of maintaining the technological lead and increasing the rate of economic growth of this Nation.

Mr. Speaker, the American patent system has provided the inspiration for other countries to establish their own procedures to encourage scientists, inventors, and others who possess creative talents. Switzerland is one country whose citizens have contributed to scientific progress. It has served as a citadel of freedom in every recent world conflict. The record shows that its patent system was first established in 1888. The legislation was inspired by a visit to this country by a Swiss shoe manufacturer who was also a commissioner to the Philadelphia Centennial Exhibition in 1886. He was so impressed with the American patent system that on returning home, he told his countrymen, "We must introduce the patent system. America has shown us how. May our sister Republic serve as our model in this." It is also of some interest that one of the first examiners in the Swiss patent office was Albert Einstein.

In 1900, a Japanese commissioner visited this country and upon his return he reported, "We have looked about us to see what nations are the greatest, so that we can be like them." We said, "What is it that makes the United States such a great nation?" and we investigated and found that it was patents, and we will have patents.

Although most Americans associate Mark Twain, with his literary accomplishments, it should be noted that he, too, was an inventor and had applied for and received three patents. I am sure that many of my colleagues have read his work entitled "A Connecticut Yankee in King Arthur's Court." May I remind you that his character, "Sir Boss" who had supplanted Merlin the Magician, remarked that "a country without a patent office and good patent laws is just a crab and cannot travel anyway but sideways and backways."

Mr. Speaker, our country must always travel forward, and all the evidence I have seen supports the continuation of sound patent policies. The contribution of our patent system to America's acknowledged leadership as an industrial nation is of such importance that I intend from time to time to discuss with my colleagues on the floor of the House other aspects of this important constitutional provision. I believe it has played a vital role both in times of peace and times of war in advancing the welfare of the American people.

WRECKAGE OF THE ESCAPE CLAUSE

The SPEAKER. Under the previous order of the House, the gentleman from West Virginia [Mr. BAILEY] is recognized for 20 minutes.

(Mr. BAILEY asked and was given permission to revise and extend his remarks.)

Mr. BAILEY. Mr. Speaker, as we approach the trade agreements legislation in the present session, great interest will center in the escape clause and its administration.

This clause, as Members will recall, was adopted as an amendment to the Trade Agreements Act in 1951. I had the honor of presenting the amendment to this body. It was adopted by a one-sided vote.

I am sorry to say that the administration of the escape clause under past administrations has been not only extremely disappointing but has provided us with a measure of the attitude of the executive branch, or more specifically, the State Department, toward congressional action. The law has been all but nullified in the process of administration. Tariff Commission has been reluctant to hold hearings for proof of injury arising from increased import competition attributable to tariff cuts, and the White House, in turn, has rejected well over half, in fact, two-thirds of Tariff Commission recommendations, when the Commission did find serious injury to exist.

Altogether the chances of an industry to obtain relief under the clause are overwhelmingly in the negative, that is, about 10 to 1. A congressional law that gets only 10 percent effectiveness in its administration is very close to being a dead letter.

Yet Congress has on several occasions amended the escape clause to assure better administration. This effort has been without results. The cases brought by industry have continued to get the same negative treatment. The word of Congress has failed to impress either the Commission majority or the State Department.

When these results are read in the light of the constitutional authority of Congress to regulate our foreign commerce and to make the tariff, they take on aspects of veritable contempt of Congress by the executive branch.

Now some people talk of eliminating the escape clause altogether. This would represent an ignominious retreat. The exact opposite is needed. I am pleased to note that the President has recommended the retention of the escape clause. We need an escape clause that will do what the clause was intended to do in the first place, namely, provide a remedy against overzealous and foolhardy tariff-cutting by the bureaucrats. I intend to urge the Ways and Means Committee to retain the escape clause idea in any new legislation written in the field of international trade.

Mr. Speaker, an enlightening article on this subject has come to my hands and I hope that all Members will read it. It was prepared by Mr. O. R. Strackbein, who has had close contact with the escape clause since its enactment. As chairman of the Nation-Wide Committee on Import-Export Policy, Mr. Strackbein has been able to observe the administration of the clause at first hand.

Under leave to extend my remarks in the RECORD, I offer the article above referred to:

THE ESCAPE CLAUSE: WHAT IS WRONG WITH IT? WHAT SHOULD BE DONE ABOUT IT?

(By O. R. Strackbein, chairman, the Nationwide Committee on Import-Export Policy)

The escape clause of the Trade Agreements Act suffers from two ruinous defects that have prevented it from accomplishing its purpose.

The principal cause of the breakdown of the clause is centered in the White House. The President's unlimited discretion in overriding Tariff Commission recommendations has resulted in a turndown of two Commission recommendations out of every three.

The second source of the breakdown is to be found in the Tariff Commission itself. About 60 percent of the cases that have been processed by the Commission have resulted in a negative finding.

Between these two millstones, the interest of domestic producers, including industry, agriculture, and labor, have been ground to pieces. The composite result has been a rejection of nearly 90 percent of the cases.

Of 130 cases since 1948 the Tariff Commission has recommended relief in only 40 cases. The White House rejected 23 and acted favorably on only 13. Four cases are still at the White House awaiting a decision.

The failure of the Tariff Commission is also found in the broad discretion that the law bestows on it. This play of discretion has permitted the personal political philosophy, sympathies or aversions of Commission members to play too great a role in their interpretation of the criteria of injury.

Since members of the Commission are appointed by the President, subject to Senate confirmation, this latitude of Commission discretion permits an unjustified degree of Presidential influence in a field that belongs

exclusively to Congress under the Constitution. Each of two Commissioners reaching conclusions on the same set of facts may come to an opposite decision, simply because of their personal views and sympathies. Since Presidential appointments are not made in a vacuum, the background, international political outlook and other evidence of alinement of prospective appointees may be examined before a nomination is made.

If the President is so minded he may pack the Commission with members who will be amenable to his views and predilections rather than independent judges. If then the Commissioners have a wide latitude of discretion, the interest of the executive rather than that of Congress will prevail.

As a result of these two wide latitudes of discretion through which escape clause cases must pass, the administration of the clause has produced effects that are wholly at odds with Presidential and other high executive assurances to Congress and to the public with respect to its purpose and the results that might be expected of it.

These assurances were given on every occasion when the Trade Agreements Act was up for renewal by Congress and it may be assumed that these promises helped materially in obtaining congressional approval of the trade agreements program from time to time.

Now, after 10 years of the statutory escape clause, it must be clear that there is no effective intent in the executive branch to honor these solemn assurances and promises, and that they were monitored and issued by the State Department not with the idea that they would be kept but as a means of obtaining further congressional approval of the program.

The core of the contention that the President should continue to exercise the power of veto over Tariff Commission recommendations, as extended to him by Congress, is to be found in the observation that he has more to think about than the Commission. The statute lays down the criteria by which the Commission is to be guided, and this is as it should be. Constitutional authority cannot be delegated properly without the establishment of clear guidelines. To issue a blank check would represent a clear violation of the Constitution.

Yet it is argued that when a recommendation from the Tariff Commission reaches the President he may bring to bear considerations that are entirely extraneous to the statute, such as the effect of a proposed tariff increase upon foreign relations. In effect, this represents an amendment of the law by the President.

Since it is only because of the statute that the President is invited to participate in administration of the escape clause, the invitation cannot properly be construed as vesting the President with additional power not expressed in the law.

How may the President then properly enlarge the statute once a Tariff Commission recommendation reaches him by reading into it what it does not contain?

The statute provides a remedy against serious injury or a threat thereof if certain criteria of injury are fulfilled, and these criteria are confined to tests of injury.

Now it is said that the President is not bound by such a narrow field of considerations. Apparently he may reach out in the air and amend the statute.

This represents strange legal philosophy, indeed. Apparently there is no limit to the grounds on which the President might upset the Commission's recommendation. He might use any pretext that might come to his mind.

The fact is that under this bizarre interpretation the power of Congress to regulate foreign commerce and to establish and modify import duties, collapses the second that a Tariff Commission recommendation is sent on its way to the White House. That is precisely the interpretation under which the escape clause has been administered.

This procedure helps explain the debacle of the escape clause and the deep cynicism its administration has engendered. A wholly ugly disrespect of rights and of constitutional probity is involved.

It is now clearly established that the executive branch has gravely abused its power, wrecked the law, and broken faith with the Congress during this 11-year period. The escape clause has not remotely done what various Secretaries of State, Under Secretaries, and Assistant Secretaries, have solemnly assured Congress in hearing after hearing, that it would do. The law has been extended under false pretenses under reliance on these assurances.

The State Department has been so hungry for power and so engrossed in serving the wishes of other countries that it has evidently not paused or bothered to read the escape clause in its proper context; or, having read it, the Department has treated the congressional intent and the Department's own words before congressional committees with disdain and contempt.

There can be no other explanation of the sharp and shocking discrepancy between the fair words spoken by Secretaries of State and their assistants before the House Ways and Means Committee and the Senate Finance Committee, on the one hand, and the record of the Department under the escape clause and its insistence upon the President's wide latitude in upsetting the Tariff Commission, on the other. The two cannot be reconciled.

It is obvious that the State Department seeks to use the regulation of foreign trade as an instrument of diplomacy and has seized the Trade Agreements Act and its escape clause in particular as a means of doing so.

The denial of a remedy under the escape clause to domestic industry and its workers when serious injury from imports is incurred or threatened is a position that neither the State Department nor the President can justify.

Every member of the General Agreement on Tariffs and Trade (GATT) is aware that we, no less than all its other members, reserve the right whenever we enter into a trade agreement to restore the duty to its unreduced level if the lowered rate causes serious injury to a domestic industry. GATT itself has an escape clause.

Therefore nothing more should be involved than a finding of fact by a duly constituted public agency, proceeding under lawful processes. If the degree of injury called for in the escape clause is then found to exist, the remedy should follow as a matter of course.

Any aggrieved import interest, or foreign exporter, may have recourse to the Customs Court. He may allege improper procedure by the Tariff Commission, failure of the Commission to obtain all the facts or that the facts do not support the Commission's conclusion, etc. He may have his day in court.

Certainly the State Department is not justified in saying that if we raise the duty or impose an import quota as a remedy under these circumstances that any member of GATT has a right to resent our action or to invoke retaliatory measures.

We go beyond these processes of law in actual practice: we compensate the countries that ship to us the particular item on which we have raised the duty by reducing the duty on other items that we import from them in roughly equal volume. We thus make good any damage that might have resulted from the duty increase imposed under the escape clause.

The incontrovertible conclusion from these observations is that what really actuates the Department of State is a deeply imbedded philosophy of free trade; and that in throwing its weight against tariff increases whenever these are recommended by the Tariff Commission, it substitutes its trade philosophy for the law; and does so in complete disregard of the solemn assurances given to the Congress and to the country by the various heads of the State Department itself over a period of years under various administrations. It cannot sustain the claim that it must oppose tariff increases under the escape clause either to satisfy other members of GATT or to overcome any question about the sincerity of the liberal trade policy of this country.

These pleas are devoid of the least merit and represent no more than an effort to conceal the real motives, which arise from the personal trade philosophies of the officials concerned and from their conviction that the State Department rather than Congress should regulate the foreign commerce of this country.

The result of this disingenuous position or duplicity of the Department of State by which it has turned one face to congressional committees and to the public while in the conduct of its business it has worn an entirely different face, has been the betrayal of the escape clause. Implicit in this is hostility toward domestic industry.

It is this latter face that would indict any American industry as inefficient if it cannot compete with imports. This is also the face that would confer upon imports the right of eminent domain in this country and saddling our Government with the burden of rehabilitating industries that might be driven to the wall by imports, even though the competitive advantage of the latter were derived from nothing more virtuous than the payment of the low wages in other countries.

It may be considered a settled fact that so long as the President continues to have the authority to override the Tariff Commission's recommendations under the escape clause, the remedy for the errors of the tariff-cutters will continue to be a false bait as it has been these past 10 years. A remedy that is only 10 percent effective is no remedy worthy of the name. If an antibiotic remedy for a disease were no more effective it would go off the shelves as an outright failure.

The escape clause today is a monument to duplicity, cynicism, and a Machiavellian attitude toward governmental probity and integrity. The effect produced by prolonging its life on the same plane would be evil and most deplorable. In point of sound policy the clause should be retained but amended to wash out of it the objectionable elements.

The executive branch has been entrusted with this congressional function for a decade. The record has been one of shameful betrayal of a delegated power, and the delegation should be withdrawn.

Considering the nature of the escape clause, which is a multilateral reservation, with its invocation contingent on a factual development, there was no reason for involvement of the Chief Executive in its administration in the first place. Now it is clear that it was an unfortunate mistake.

As for the Tariff Commission's impartiality it is more than a coincidence that the majority has found against a remedy more often than not; and such findings have been in conformity with the climate of opinion in the White House.

The sharing of congressional authority with the Executive in such a manner that the Executive influence soon predominates represented a resignation or abdication of its constitutional power by Congress. The influence of the appointive power as represented by the President's appointment of Tariff Commissioners can best be counterbalanced by restricting the latitude of the Commission's interpretative powers. This means that the criteria of injury in the escape clause must be made more precise. The presence of certain factual conditions must be given controlling weight in the findings.