

that this pledge will have a desirable effect upon the electorate in West Germany and will give to Adenauer's candidacy a genuine lift and lift. Undoubtedly President Eisenhower promised Chancellor Adenauer a declaration of this sort when the Chancellor recently visited the White House.

It is interesting to note that in the past, particularly under Chancellor Bismarck, the German political and military strategists claimed that the cornerstone of Germany's foreign policy should be "a reinsurance treaty" with Russia. Now the political strategists of West Germany under Chancellor Adenauer believe that the linchpin of the Federal Republic's strength is "a reinsurance treaty" with NATO and the Western allies. I believe by the end of the year the Federal Republic will have become the most important continental member of NATO. West Germany is bound to dominate the "Little Europe" of the Coal and Steel Community, Euratom, and the Euromarket. West Germany will be able to exert a great influence on United States policy. If developed and used properly, Germany's great miracle of recovery, with a remarkable Adenauer victory, could be used by the United States and the Western allies to deal with and cut down the truculence of Russia.

Mr. Khrushchev, wise and foxy, knows of the strength in Adenauer and timed his recent visit to East Germany in an all-out effort to defeat Adenauer in the forthcoming German elections. It is part of the Soviet campaign to wreck the North Atlantic Alliance. Fortunately, his loudly hailed demonstrations of so-called indestructible Soviet and East German friendship were deemed a flop. Surrounded by steel-helmeted members of the East German Red Army—creation of the Soviets—Khrushchev denounced both Chancellor Adenauer and the United States for rearming West Germany. The language of his attack against us was most vitriolic. He sounded off in a way to help, indirectly, the opponents of Adenauer, namely, those led by Ollenhauer. That visit of

Khrushchev to East Berlin and East Germany is clearest justification of our more than friendly attitude toward Adenauer and our rooting for him for reelection.

It may be that this kind of intervention in the politics of another country is very new to us. We get a little embarrassed when we are reminded of it. But we are now a world power and it is essential for us to express keen interest in certain elections. Frankly, we have been known to favor Latin American claimants for offices for many years. Such intervention, therefore, is not entirely unprecedented. Frankly, it would be insane not to offset and counterbalance the effects of Khrushchev's visit to East Berlin.

The Adenauer story is like a romance. It is the country hicktown boy who made good. He first saw Paris and Rome and Washington when he was 75 years old. For 70 years his was the life of mediocrity in and around Cologne. He was its town councilor. He arose to lord mayor and remained such 16 years. The Nazis deposed him. He remained in the political background during the Hitler regime, was twice arrested by his hoodlums and twice set free.

In 1945 American occupation forces rediscovered him and again set him up as lord mayor of Cologne.

He became chairman of the biggest branch of the Christian Democratic Union and in September 1949 he formed the first government with a majority of two votes in the Bundestag. He has been Chancellor ever since.

His has been a consistent policy of reconciliation with the West.

As was stated by Terence Prittee recently:

He preserved in the face of the occupiers of his country a dignity that was virtually unique, thus marking himself out as the best man to deal with them on behalf of his fellow Germans. In them he inspired confidence alike by his refusal to complain about material discomforts and by his steely insistence on getting on with the tasks of political organization. Work and responsibility were making him into a younger, healthier man.

He was given a unique chance by the cold war. This put him on the path which the Western Powers were bound to tread—

that of consolidating a Western Germany of 50 million people politically, economically, and spiritually and incorporating it in a Western defense system and in a Europe in process of unification. The milestones along this path have been the Petersberg agreement (for converting the Allied Military Government into a High Commission which administered under the terms of the Occupation Statute), the entry of West Germany into the Coal and Steel Community and the Council of Europe, the Bonn and Paris agreements which conferred sovereignty and the right to rearm, and German entry into NATO and WEU.

An exasperated comment of a political opponent of Chancellor Adenauer as "Der Alte's" seeming indestructibility was, "at his age men never die."

Now at 81 he campaigns like one at 41. He dominates the present campaign with his amazing personality, whistlestopping with a 30-man party in a special campaign train—not unlike the Eisenhower or Stevenson technique—the candidate Adenauer warned that his rivals would weaken ties with the United States and the West so that we Germans would cease to exist as a free people.

Also I have naught but praise for the efforts afoot to reestablish diplomatic relations between West Germany and Israel. I understand that the Chancellor is sympathetic to this idea and desires to further relations of peace and accord with Israel.

The Premier of Israel David Ben-Gurion is desirous of such a proposal being fulfilled. He recently said in the Israel Parliament that the Germany of today is not the same country as that of the Nazi regime. He pointed out that despite the skeptics, Bonn had scrupulously observed its reparations agreements both with respect to Israel and to the Jews in general. Germany is fulfilling an important role in a united Europe, he pointed out, and Israel must look forward to establishing relations with that entire region, particularly since the Jewish state is planning to embark on gigantic projects which are well beyond the strength of Israel and world Jewry alone.

Indeed we do well to support "Der Alte."

## SENATE

THURSDAY, AUGUST 29, 1957

[Continuation of Senate proceedings of Wednesday, August 28, 1957, from 2 a. m. Thursday, August 29]

Mr. THURMOND. Mr. President, I now wish to take up Chief Justice Taft's opinion on jury trials in contempt cases. Considerable has been said about what Chief Justice Taft said concerning contempt and jury trials. Chief Justice Taft was at one time President of the United States, and he was Chief Justice of the United States. He was a great man and a great American. His opinions are highly revered, but some of his opinions have been quoted out of context or when not applicable. I wish to take up at this time his opinions on jury trials in contempt cases.

On June 5, 1957, at his White House press conference, President Eisenhower in answer to a question asked by the National Negro Press Association as to how he stood on the jury-trial amendment to the so-called civil-rights bill quoted President Taft as being opposed to a jury trial in contempt cases. President Eisenhower stated that Mr. Taft made this statement when he was President in 1908 and there is no evidence that he ever changed his mind.

In the first place the statement was not made by Mr. Taft while President. The statement was made by Mr. Taft in a political speech at Cincinnati, Ohio, on Tuesday, July 28, 1908, in acceptance of the Republican nomination for President. Mr. Taft at the time was Secretary of War. He did not become President until March 4, 1909.

In this political speech Mr. Taft also said a trial by jury in contempt cases

was never known in the history of the jurisprudence of England, or America, except in the constitution of Oklahoma. See Presidential Addresses and Papers, William H. Taft, 1910 ed., page 26.

Also in this speech Mr. Taft said the popular impression that a judge, in punishing for contempt of his own order, may be affected by a personal feeling was unfounded.

Did Mr. Taft change his mind when he became Chief Justice? He most assuredly did. He not only changed his mind on the subject of whether jury trials were had at common law in contempt cases but also changed his mind about judges having personal vindictiveness in contempt orders.

While Chief Justice of the Supreme Court Mr. Taft delivered the opinion in *Ex parte Grossman* ((1924) 267 U. S. 87) and cited eight cases at common law to show that in England a jury trial was had

in contempt cases. This decision was rendered by him in upholding a pardon granted by President Hoover to a man imprisoned by a United States district judge in Illinois for contempt in a summary proceeding. Chief Justice Taft declared at page 118 of volume 267, United States Reports:

The King of England before our Revolution, in the exercise of his prerogative, had always exercised the power to pardon contempts of court, just as he did ordinary crimes and misdemeanors and as he has done to the present day. In the mind of a common-law lawyer of the 18th century the word pardon included within its scope the ending by the King's grace of the punishment of such derelictions, whether it was imposed by the court without a jury or upon indictment, for both forms of trial for contempts were had. *Thomas of Chatham v. Benet of Stamford* ((1313), 24 Selden Society, 185); *Fulwood v. Fulwood* ((1585), Toot-hill, 46); *Rez v. Buckenham* ((1665), 1 Deble 751, 707, 852); *Anonymous* (1674), Cases in Chancery (238); *King and Codrington v. Rodmap* ((1630), Cr. Car. 198); *Bartram v. Dannett* ((1676), Finch, 253); *Phipps v. Earl of Anelsea* ((1721), 1 Peere Williams, 696).

In all probability Mr. Taft was induced to recognize the fact that jury trials were customarily had at common law in contempts as a result of research conducted by the distinguished historian of English law Mr. W. S. Holdsworth. The efforts of this great historian were first made public in 1909 after Mr. Taft had made his earlier statement.

Mr. Holdsworth declared that the only cases in which contempts were punished summarily was where the contemnor confessed his guilt. If he did not confess the accused was tried by the ordinary course of law which meant trial by jury. To quote Mr. Holdsworth:

A History of English Law, volume III, pages 392-393. \* \* \* But all through the medieval period, and long afterwards, the courts, though they might attack persons who were guilty of contempts of court, could not punish them summarily. Unless they confessed their guilt, they must be regularly indicted and convicted. Mr. Fox has given a list of 40 cases of various contempts—in suits to the judges, an assault on the attorney general, beating jurors, striking a witness, trampling on a writ of prohibition—in all of which the offender was tried by the ordinary course of law. That this was the correct course to pursue was stated by Anderson, C. J., in 1599.

In another opinion while Chief Justice Mr. Taft changed his mind about the immunity of Federal judges from vindictiveness in issuing contempt orders.

On November 19, 1923, in a concurring opinion in *Craig v. Hecht* (263 U. S. 255 at p. 279), the Chief Justice said:

The delicacy there is in the judge's deciding whether an attack upon his own judicial action is mere criticism or real obstruction, and the possibility that impulse may incline his view to personal vindication, are manifest. But the law gives the person convicted of contempt in such a case the right to have the whole question on facts and law reviewed by three judges of the circuit court of appeals who have had no part in the proceedings, and if not successful in that court, to apply to this Court for an opportunity for a similar review here.

Mr. President, on June 10, 1957, the Supreme Court delivered an opinion in the case of Reid against Covert. Since

this opinion deals with the question "the right of trial by jury," I think it is advisable for the Senate to consider this decision of the Supreme Court. I shall read a number of pages from the opinion and a concurring opinion by Justice Frankfurter.

Some of the material in this opinion necessarily discusses the background of the cases. However, I believe it appropriate to read this material because it is necessary to a full understanding of this decision which upheld the constitutional right of trial by jury which H. R. 6127 would deny under certain conditions. I read from the opinion of the Court:

SUPREME COURT OF THE UNITED STATES, NOS. 701 AND 713, OCTOBER TERM, 1955—CURTIS REID, SUPERINTENDENT OF THE DISTRICT OF COLUMBIA JAIL, APPELLANT, v. CLARICE B. COVERT; NINA KINSELLA, WARDEN OF THE FEDERAL REFORMATORY FOR WOMEN, ALDERSON, WEST VIRGINIA, PETITIONER, v. WALTER KRUEGER, ON REHEARING, JUNE 10, 1957

Mr. Justice Black announced the judgment of the Court and delivered an opinion, in which the Chief Justice, Mr. Justice Douglas, and Mr. Justice Brennan join.

These cases raise basic constitutional issues of the utmost concern. They call into question the role of the military under our system of government. They involve the power of Congress to expose civilians to trial by military tribunals, under military regulations and procedures, for offenses against the United States thereby depriving them of trial in civilian courts, under civilian laws and procedures and with all the safeguards of the Bill of Rights. These cases are particularly significant because for the first time since the adoption of the Constitution wives of soldiers have been denied trial by jury in a court of law and forced to trial before courts-martial.

In No. 701 Mrs. Clarice Covert killed her husband, a sergeant in the United States Air Force, at an airbase in England. Mrs. Covert, who was not a member of the armed services, was residing on the base with her husband at the time. She was tried by a court-martial for murder under Article 118 of the Uniform Code of Military Justice (UCMJ). The trial was on charges preferred by Air Force personnel and the court-martial was composed of Air Force officers. The court-martial asserted jurisdiction over Mrs. Covert under Article 2 (11) of the UCMJ, which provides:

"The following persons are subject to this code:

"(11) Subject to the provisions of any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, all persons serving with, employed by, or accompanying the Armed Forces without the continental limits of the United States."

Counsel for Mrs. Covert contended that she was insane at the time she killed her husband, but the military tribunal found her guilty of murder and sentenced her to life imprisonment. The judgment was affirmed by the Air Force Board of Reviews (16 CMR 465) but was reversed by the Court of Military Appeals (6 USCMA 48), because of prejudicial errors concerning the defense of insanity. While Mrs. Covert was being held in this country pending a proposed retrial by court-martial in the District of Columbia, her counsel petitioned the district court for a writ of habeas corpus to set her free on the ground that the Constitution forbade her trial by military authorities. Construing this court's decision in *United States ex rel. Toth v. Quarles* (350 U. S. 11), as holding that "a civilian is entitled to a civilian trial" the district court held that Mrs. Covert could not be tried by court-martial and ordered her released from cus-

tody. The Government appealed directly to this court under, title 28, United States Code, section 1252. See Three Hundred and Fiftieth United States Reports, page 985.

In No. 713 Mrs. Dorothy Smith killed her husband, an Army officer, at a post in Japan where she was living with him. She was tried for murder by a court-martial and despite considerable evidence that she was insane was found guilty and sentenced to life imprisonment. The judgment was approved by the Army Board of Review (10 CMR 350, 13 CMR 307), and the Court of Military Appeals (5 USCMA 314). Mrs. Smith was then confined in a Federal penitentiary in West Virginia. Her father, respondent here, filed a petition for habeas corpus in a district court for West Virginia. The petition charged that the court-martial was without jurisdiction because article 2 (11) of the UCMJ was unconstitutional insofar as it authorized the trial of civilian dependents accompanying servicemen overseas. The district court refused to issue the writ (137 F. Supp. 806), and while an appeal was pending in the Court of Appeals for the Fourth Circuit we granted certiorari at the request of the Government (350 U. S. 986).

The two cases were consolidated and argued last term and a majority of the Court, with 3 Justices dissenting and 1 reserving opinion, held that military trial of Mrs. Smith and Mrs. Covert for their alleged offenses was constitutional. Three hundred and fifty-first United States Reports, page 470, 487. The majority held that the provisions of article III and the fifth and sixth amendments which require that crimes be tried by a jury after indictment by a grand jury did not protect an American citizen when he was tried by the American Government in foreign lands for offenses committed there and that Congress could provide for the trial of such offenses in any manner it saw fit so long as the procedures established were reasonable and consonant with due process. The opinion then went on to express the view that military trials, as now practiced, were not unreasonable or arbitrary when applied to dependents accompanying members of the Armed Forces overseas. In reaching their conclusion the majority found it unnecessary to consider the power of Congress "To make rules for the Government and regulation of the land and naval forces" under article I of the Constitution.

Subsequently, the Court granted a petition for rehearing. Three Hundred and Fifty-second United States Reports, page 901. Now, after further argument and consideration, we conclude that the previous decisions cannot be permitted to stand. We hold that Mrs. Smith and Mrs. Covert could not constitutionally be tried by military authorities.

I

At the beginning we reject the idea that when the United States acts against citizens abroad it can do so free of the Bill of Rights. The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution. When the Government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land. This is not a novel concept. To the contrary, it is as old as government. It was recognized long before Paul successfully invoked his right as a Roman citizen to be tried in strict accordance with Roman law. And many centuries later an English historian wrote:

"In a settled colony the inhabitants have all the rights of Englishmen. They take with them, in the first place, that which no Englishman can by expatriation put off, namely, allegiance to the Crown, the duty of



obedience to the lawful commands of the Sovereign, and obedience to the laws which Parliament may think proper to make with reference to such a colony. But, on the other hand, they take with them all the rights and liberties of British subjects; all the rights and liberties as against the prerogative of the Crown, which they would enjoy in this country."

The rights and liberties which citizens of our country enjoy are not protected by custom and tradition alone, they have been jealously preserved from the encroachments of Government by express provisions of our written Constitution.

Among those provisions, article III, section 2, and the fifth and sixth amendments are directly relevant to these cases. Article III, section 2, lays down the rule that—

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

The fifth amendment declares:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

And the sixth amendment provides:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The language of article III, section 2, manifests that constitutional protections for the individual were designed to restrict the United States Government when it acts outside of this country, as well as here at home. After declaring that all criminal trials must be by jury, the section states that when a crime is "not committed within any State, the trial shall be at such place or places as the Congress may by law have directed." If this language is permitted to have its obvious meaning, section 2 is applicable to criminal trials outside of the States as a group without regard to where the offense is committed or the trial held. From the very first Congress, Federal statutes have implemented the provisions of section 2 by providing for trial of murder and other crimes committed outside the jurisdiction of any State "in the district where the offender is apprehended, or into which he may first be brought." The fifth and sixth amendments, like article III, section 2, are also all inclusive with their sweeping references to "no person" and to "all criminal prosecutions."

This Court and other Federal courts have held or asserted that various constitutional limitations apply to the Government when it acts outside the continental United States. While it has been suggested that only those constitutional rights which are "fundamental" protect Americans abroad, we can find no warrant, in logic or otherwise, for picking and choosing among the remarkable collection of "Thou shalt nots" which were explicitly fastened on all departments and agencies of the Federal Government by the Constitution and its amendments. Moreover, in view of our heritage and the history of the adoption of the Constitution and the Bill of Rights, it seems peculiarly anomalous to say that trial before a civilian judge and by an independent jury picked from the common citizenry are not fundamental rights. As Blackstone wrote in his Commentaries:

"The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law. And if it has so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal

cases. \* \* \* [I]t is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals."

Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has served and remains one of our most vital barriers to governmental arbitrariness. These elemental procedural safeguards were embedded in our Constitution to secure their inviolateness and sanctity against the passing demands of expediency or convenience.

The keystone of supporting authorities mustered by the Court's opinion last June to justify its holding that article III, section 2, and the fifth and sixth amendments did not apply abroad was *In re Ross* (140 U. S. 453). The Ross case is one of those cases that cannot be understood except in its peculiar setting; even then, it seems highly unlikely that a similar result would be reached today. Ross was serving as a seaman on an American ship in Japanese waters. He killed a ship's officer, was seized and tried before a consular court in Japan. At that time, statutes authorized American consuls to try American citizens charged with committing crimes in Japan and certain other non-Christian countries. These statutes provided that the laws of the United States were to govern the trial except:

"Where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies."

The consular power approved in the Ross case was about as extreme and absolute as that of the potentates of the non-Christian countries to which the statutes applied. Under these statutes consuls could and did make the criminal laws, initiate charges, arrest alleged offenders, try them, and after conviction take away their liberty or their life—sometimes at the American consulate. Such a blending of executive, legislative, and judicial powers in one person or even in one branch of the Government is ordinarily regarded as the very acme of absolutism. Nevertheless, the Court sustained Ross' conviction by the consul. It stated that constitutional protections applied "only to citizens and others within the United States, or who are brought there for trial for alleged offenses committed elsewhere, and not to residents or temporary sojourners abroad." Despite the fact that it upheld Ross' conviction under United States laws passed pursuant to asserted constitutional authority, the Court went on to make a sweeping declaration that "[t]he Constitution can have no operation in another country."

The Ross approach that the Constitution has no applicability abroad has long since been directly repudiated by numerous cases. That approach is obviously erroneous if the United States Government, which has no power except that granted by the Constitution, can and does try citizens for crimes committed abroad. Thus the Ross case rested, at least in substantial part, on a fundamental misconception and the most that can be said in support of the result reached there is that the consular court jurisdiction had a long history antedating the adoption of the Constitution. The Congress has recently buried the consular system of trying Americans. We are not willing to jeopardize the lives and liberties of Ameri-

cans by disinterring it. At best, the Ross case should be left as a relic from a different era.

The Court's opinion last term also relied on the Insular Cases to support its conclusion that article III and the fifth and sixth amendments were not applicable to the trial of Mrs. Smith and Mrs. Covert. We believe that reliance was misplaced.

The Insular Cases can be distinguished from the present cases in that they involved the power of Congress to provide rules and regulations to govern temporarily territories with wholly dissimilar traditions and institutions whereas here the basis for governmental power is American citizenship. None of these cases had anything to do with military trials and they cannot properly be used as vehicles to support an extension of military jurisdiction to civilians. Moreover, it is our judgment that neither the cases nor their reasoning should be given any further expansion. The concept that the Bill of Rights and other constitutional protections against arbitrary government are inoperative when they become inconvenient or when expediency dictates otherwise is a very dangerous doctrine and if allowed to flourish would destroy the benefit of a written Constitution and undermine the basis of our Government. If our foreign commitments become of such nature that the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes. But we have no authority, or inclination, to read exceptions into it which are not there.

## II

At the time of Mrs. Covert's alleged offense, an executive agreement was in effect between the United States and Great Britain which permitted United States military courts to exercise exclusive jurisdiction over offenses committed in Great Britain by American servicemen or their dependents. For its part, the United States agreed that these military courts would be willing and able to try and to punish all offenses against the laws of Great Britain by such persons. In all material respects, the same situation existed in Japan when Mrs. Smith killed her husband. Even though a court-martial does not give an accused trial by jury and other Bill of Rights' protections, the Government contends that section 2 (11) of the UCMJ, insofar as it authorizes the military trial of dependents accompanying the Armed Forces in Great Britain and Japan, can be sustained as legislation which is necessary and proper to carry out the United States obligations under the international agreements made with those countries. The obvious and decisive answer to this, of course, is that no agreement with a foreign nation can confer power on the Congress, or on any other branch of Government, which is free from the restraints of the Constitution.

Article VI, the supremacy clause of the Constitution, declares:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land."

There is nothing in this language which intimates that treaties and laws enacted pursuant to them do not have to comply with the provisions of the Constitution. Nor is there anything in the debates which accompanied the drafting and ratification of the Constitution which even suggests such a result. These debates as well as the history that surrounds the adoption of the treaty provision in article VI make it clear that the reason treaties were not limited to those made in pursuance of the Constitution was so that agreements made by the United States under the Articles of Confederation, including the important peace treaties which

concluded the Revolutionary War, would remain in effect. It would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the Bill of Rights—let alone alien to our entire constitutional history and tradition—to construe article VI as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions. In effect, such construction would permit amendment of that document in a manner not sanctioned by article V. The prohibitions of the Constitution were designed to apply to all branches of the National Government and they cannot be nullified by the executive or by the executive and the Senate combined.

There is nothing new or unique about what we say here. This court has regularly and uniformly recognized the supremacy of the Constitution over a treaty. For example, in *Geofroy v. Riggs* (133 U. S. 258, 267), it declared:

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent."

This Court has also repeatedly taken the position that an act of Congress, which must comply with the Constitution, is on a full parity with a treaty, and that when a statute which is subsequent in time is inconsistent with a treaty, the statute to the extent of conflict renders the treaty null. It would be completely anomalous to say that a treaty need not comply with the Constitution when such an agreement can be overridden by a statute that must conform to that instrument.

There is nothing in *Missouri v. Holland* (252 U. S. 416), which is contrary to the position taken here. There the Court carefully noted that the treaty involved was not inconsistent with any specific provision of the Constitution. The Court was concerned with the 10th amendment which reserves to the States or the people all power not delegated to the National Government. To the extent that the United States can validly make treaties, the people and the States have delegated their power to the National Government and the 10th amendment is no barrier.

In summary, we conclude that the Constitution in its entirety applied to the trials of Mrs. Smith and Mrs. Covert. Since their court-martial did not meet the requirements of article III, section 2, or the fifth and sixth amendments we are compelled to determine if there is anything within the Constitution which authorizes the military trial of dependents accompanying the Armed Forces overseas.

### III

Article I, section 8, clause 14, empowers Congress "To make rules for the government and regulation of the land and naval forces." It has been held that this creates an exception to the normal method of trial in civilian courts as provided by the Constitution and permits Congress to authorize military trial of members of the armed services without all the safeguards given an accused by article III and the Bill of Rights. But if the language of clause 14 is given its natural meaning, the power granted does not extend to civilians—even though they may be dependents living with servicemen on a military base. The term "land and naval forces" refers to persons who are members of the armed services and not to their civilian wives, children, and other dependents. It seems inconceivable that Mrs. Covert or Mrs. Smith could

have been tried by military authorities as members of the land and naval forces had they been living on a military post in this country. Yet this constitutional term surely has the same meaning everywhere. The wives of servicemen are no more members of the land and naval forces when living at a military post in England or Japan than when living at a base in this country or in Hawaii or Alaska.

The Government argues that the necessary and proper clause, when taken in conjunction with clause 14, allows Congress to authorize the trial of Mrs. Smith and Mrs. Covert by military tribunals and under military law. The Government claims that the two clauses together constitute a broad grant of power without limitation authorizing Congress to subject all persons, civilians and soldiers alike, to military trial if necessary and proper to govern and regulate the land and naval forces. It was on a similar theory that Congress once went to the extreme of subjecting persons who made contracts with the military to court-martial jurisdiction with respect to frauds related to such contracts. In the only judicial test a Circuit Court held that the legislation was patently unconstitutional. *Ex parte Henderson* (11 Fed. Cas. 1067, No. 6349).

It is true that the Constitution expressly grants Congress power to make all rules necessary and proper to govern and regulate those persons who are serving in the land and naval forces. But the necessary and proper clause cannot operate to extend military jurisdiction to any group of persons beyond that class described in clause 14—"the land and naval forces." Under the grand design of the Constitution civilian courts are the normal repositories of power to try persons charged with crimes against the United States. And to protect persons brought before these courts, article III and the fifth, sixth, and eighth amendments establish the right to trial by jury, by indictment by a grand jury, and a number of other specific safeguards. By way of contrast the jurisdiction of military tribunals is a very limited and extraordinary jurisdiction derived from the cryptic language in article I, section 8, and, at most, was intended to be only a narrow exception to the normal and preferred method of trial in courts of law. Every extension of military jurisdiction is an encroachment on the jurisdiction of the civil courts, and, more important, acts as a deprivation of the right to jury trial and of other treasured constitutional protections. Having run up against the steadfast bulwark of the Bill of Rights, the necessary and proper clause cannot extend the scope of clause 14.

Nothing said here contravenes the rule laid down in *McCulloch v. Maryland* (4 Wheat. 316, at 421), that:

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

In *McCulloch* this Court was confronted with the problem of determining the scope of the necessary and proper clause in a situation where no specific restraints on governmental power stood in the way. Here the problem is different. Not only does clause 14, by its terms, limit military jurisdiction to members of the land and naval forces, but article III, section 2 and the fifth and sixth amendments require that certain express safeguards, which were designed to protect persons from oppressive governmental practices, shall be given in criminal prosecutions—safeguards which cannot be given in a military trial. In the light of these as well as other constitutional provisions, and the historical background in which they were formed, military trial of civilians is

inconsistent with both the letter and spirit of the Constitution.

Further light is reflected on the scope of clause 14 by the fifth amendment. That amendment which was adopted shortly after the Constitution reads:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

Since the exception in this amendment for cases arising in the land or naval forces was undoubtedly designed to correlate with the power granted Congress to provide for the government and regulation of the armed services, it is a persuasive and reliable indication that the authority conferred by clause 14 does not encompass persons who cannot fairly be said to be in the military service.

Even if it were possible, we need not attempt here to precisely define the boundary between civilians and members of the land and naval forces. We recognize that there might be circumstances where a person could be in the armed services for purposes of clause 14 even though he had not formally been inducted into the military or did not wear a uniform. But the wives, children, and other dependents of servicemen cannot be placed in that category, even though they may be accompanying a serviceman abroad at Government expense and receiving other benefits from the Government. We have no difficulty in saying that such persons do not lose their civilian status and their right to a civilian trial because the Government helps them live as members of a soldier's family.

The tradition of keeping the military subordinate to civilian authority may not be so strong in the minds of this generation as it was in the minds of those who wrote the Constitution. The idea that the relatives of soldiers could be denied a jury trial in a court of law and instead be tried by courts-martial under the guise of regulating the Armed Forces would have seemed incredible to those men, in whose lifetime the right of the military to try soldiers for any offenses in time of peace had only been grudgingly conceded. The founders envisioned the Army as a necessary institution, but one dangerous to liberty if not confined within its essential bounds. Their fears were rooted in history. They knew that ancient republics had been overthrown by their military leaders. They were familiar with the history of 17th century England, where Charles I tried to govern through the army and without Parliament. During this attempt, contrary to the common law, he used courts-martial to try soldiers for certain nonmilitary offenses. This court-martialing of soldiers in peacetime evoked strong protests from Parliament. The reign of Charles I was followed by the rigorous military rule of Oliver Cromwell. Later, James II used the army in his fight against Parliament and the people. He promulgated articles of war (strangely enough relied on in the Government's brief) authorizing the trial of soldiers for nonmilitary crimes by courts-martial. This action hastened the revolution that brought William and Mary to the throne upon their agreement to abide by a bill of rights which, among other things, protected the right of trial by jury. It was against this general background that two of the greatest English jurists, Lord Chief Justice Hale and Sir William Blackstone—men who exerted considerable influence on the founders—expressed sharp hostility to any expansion of the jurisdiction of military courts. For instance, Blackstone went so far as to assert:

"For martial law, which is built upon no settled principles, but is entirely arbitrary in its decisions, is, as Sir Matthew Hale observes, in truth and reality no law, but something indulged rather than allowed as



a law. The necessity of order and discipline in an army is the only thing which can give it countenance; and therefore it ought not to be permitted in time of peace, when the king's courts are open for all persons to receive justice according to the laws of the land."

The generation that adopted the Constitution did not distrust the military because of past history alone. Within their own lives they had seen royal governors sometimes resort to military rule. British troops were quartered in Boston at various times from 1768 until the outbreak of the Revolutionary War to support unpopular royal governors and to intimidate the local populace. The trial of soldiers by courts-martial and the interference of the military with the civil courts aroused great anxiety and antagonism not only in Massachusetts but throughout the colonies. For example, Samuel Adams in 1768 wrote:

"[I]s it not enough for us to have seen soldiers and mariners forejudged of life, and executed within the body of the county by martial law? Are citizens to be called upon, threatened, ill-used at the will of the soldiery, and put under arrest, by pretext of the law military, in breach of the fundamental rights of subjects, and contrary to the law and franchise of the land? \* \* \* Will the spirits of people as yet unsubdued by tyranny, unawed by the menaces of arbitrary power, submit to be governed by military force? No! Let us rouse our attention to the common law—which is our birthright, our great security against all kinds of insult and oppression."

Colonials had also seen the right to trial by jury subverted by acts of Parliament which authorized courts of admiralty to try alleged violations of the unpopular Molasses and Navigation Acts. This gave the admiralty courts jurisdiction over offenses historically triable only by a jury in a court of law and aroused great resentment throughout the colonies. As early as 1765 delegates from nine colonies meeting in New York asserted in a declaration of rights that trial by jury was the inherent and invaluable right of every citizen in the colonies.

With this background it is not surprising that the Declaration of Independence protested that George III had affected to render the military independent of and superior to the civil power and that Americans had been deprived in many cases of the benefits of trial by jury. And those who adopted the Constitution embodied their profound fear and distrust of military power, as well as their determination to protect trial by jury, in the Constitution and its amendments. Perhaps they were aware that memories fade and hoped that in this way they could keep the people of this Nation from having to fight again and again the same old battles for individual freedom.

In the light of this history, it seems clear that the founders had no intention to permit the trial of civilians in military courts, where they would be denied jury trials and other constitutional protections, merely by giving Congress the power to make rules which were necessary and proper for the regulation of the land and naval forces. Such a latitudinarian interpretation of these clauses would be at war with the well-established purpose of the founders to keep the military strictly within its proper sphere, subordinate to civil authority. The Constitution does not say that Congress can regulate the land and naval forces and all other persons whose regulation might have some relationship to maintenance of the land and naval forces. There is no indication that the founders contemplated setting up a rival system of military courts to compete with civilian courts for jurisdiction over civilians who might have some contact or relationship with the Armed Forces. Courts-martial were

not to have concurrent jurisdiction with courts of law over nonmilitary America.

On several occasions this Court has been faced with an attempted expansion of the jurisdiction of military courts. *Ex parte Milligan* (4 Wall. 2), one of the great landmarks in this Court's history, held that military authorities were without power to try civilians not in the military or naval service by declaring martial law in an area where the civil administration was not deposed and the courts were not closed. In a stirring passage the Court proclaimed:

"Another guaranty of freedom was broken when *Milligan* was denied a trial by jury. The great minds of the country have differed on the correct interpretation to be given to various provisions of the Federal Constitution; and judicial decision has been often invoked to settle their true meaning; but until recently no one ever doubted that the right of trial by jury was fortified in the organic law against the power of attack. It is now assailed; but if ideas can be expressed in words, and language has any meaning, this right—one of the most valuable in a free country—is preserved to every one accused of crime who is not attached to the Army, or Navy, or militia in actual service."

In *Duncan v. Kahanamoku* (327 U. S. 304), the Court reaffirmed the principles enunciated in *Ex parte Milligan* and reaffirmed the tradition of military subordination to civil authorities and institutions. It refused to sanction the military trial of civilians in Hawaii during wartime despite Government claims that the needs of defense made martial law imperative.

Just last term, this Court held in *United States ex rel. Toth v. Quarles* (350 U. S. 11), that military courts could not constitutionally try a discharged serviceman for an offense which he had allegedly committed while in the Armed Forces. It was decided (1) that since Toth was a civilian he could not be tried by military court-martial, and (2) that since he was charged with murder, a crime in the constitutional sense, he was entitled to indictment by a grand jury, jury trial, and the other protections contained in article III, section 2 and the fifth, sixth, and eighth amendments. The Court pointed out that trial by civilian courts was the rule for persons who were not members of the Armed Forces.

There are no supportable grounds upon which to distinguish the Toth case from the present cases. Toth, Mrs. Covert, and Mrs. Smith were all civilians. All three were American citizens. All three were tried for murder. All three alleged crimes were committed in a foreign country. The only differences were: (1) Toth was an exserviceman while they were wives of soldiers; (2) Toth was arrested in the United States while they were seized in foreign countries. If anything, Toth had closer connection with the military than the two women for his crime was committed while he was actually serving in the Air Force. Mrs. Covert and Mrs. Smith had never been members of the Army, had never been employed by the Army, had never served in the Army in any capacity. The Government appropriately argued in Toth that the constitutional basis for court-martialing him was clearer than for court-martialing wives who are accompanying their husbands abroad. Certainly Toth's conduct as a soldier bears a closer relation to the maintenance of order and discipline in the Armed Forces than the conduct of these wives. The fact that Toth was arrested here while the wives were arrested in foreign countries is material only if constitutional safeguards do not shield a citizen abroad when the Government exercises its power over him. As we have said before, such a view of the Constitution is erroneous. The mere fact that these women had gone over-

seas with their husbands should not reduce the protection the Constitution gives them.

The *Milligan*, *Duncan*, and *Toth* cases recognized and manifested the deeply rooted and ancient opposition in this country to the extension of military control over civilians. In each instance an effort to expand the jurisdiction of military courts to civilians was repulsed.

There have been a number of decisions in the lower Federal courts which have upheld military trial of civilians performing services for the Armed Forces in the field during time of war. To the extent that these cases can be justified, insofar as they involved trial of persons who were not members of the Armed Forces, they must rest on the Government's war powers. In the face of an actively hostile enemy, military commanders necessarily have broad power over persons on the battlefield. From a time prior to the adoption of the Constitution the extraordinary circumstances present in an area of actual fighting have been considered sufficient to permit punishment of some civilians in that area by military courts under military rules. But neither Japan nor Great Britain could properly be said to be an area where active hostilities were underway at the time Mrs. Smith and Mrs. Covert committed their offenses or at the time they were tried.

The Government urges that the concept in the field should be broadened to reach dependents accompanying the military forces overseas under the conditions of world tension which exist at the present time. It points out how the war powers include authority to prepare defenses and to establish our military forces in defensive posture about the world. While we recognize that the war powers of the Congress and the Executive are broad, we reject the Government's argument that present threats to peace permit military trial of civilians accompanying the Armed Forces overseas in an area where no actual hostilities are underway. The exigencies which have required military rule on the battlefield are not present in areas where no conflict exists. Military trial of civilians in the field is an extraordinary jurisdiction, and it should not be expanded at the expense of the Bill of Rights. We agree with Colonel Winthrop, an expert on military jurisdiction, who declared: "A statute cannot be framed by which a civilian can lawfully be made amenable to the military jurisdiction in time of peace."

As this Court stated in *United States ex rel. Toth v. Quarles* (350 U. S. 11), the business of soldiers is to fight and prepare to fight wars, not to try civilians for their alleged crimes. Traditionally, military justice has been a rough form of justice emphasizing summary procedures, speedy convictions, and stern penalties with a view to maintaining obedience and fighting fitness in the ranks. Because of its very nature and purpose the military must place great emphasis on discipline and efficiency. Correspondingly, there has always been less emphasis in the military on protecting the rights of the individual than in civilian society and in civilian courts.

Courts-martial are typically ad hoc bodies appointed by a military officer from among his subordinates. They have always been subject to varying degrees of command influence. In essence, these tribunals are simply executive tribunals whose personnel are in the executive chain of command. Frequently, the members of the court-martial must look to the appointing officer for promotions, advantageous assignments, and efficiency ratings—in short, for their future progress in the service. Conceding to military personnel that high degree of honesty and sense of justice which nearly all of them undoubtedly have, the members of a court-martial, in the nature of things, do not and cannot have the independence of jurors

drawn from the general public or of civilian judges.

We recognize that a number of improvements have been made in military justice recently by engrafting more and more of the methods of civilian courts on courts-martial. In large part these ameliorations stem from the reaction of civilians, who were inducted during the two World Wars, to their experience with military justice. Notwithstanding the recent reforms, military trial does not give an accused the same protection which exists in the civil courts. Looming far above all other deficiencies of the military trial, of course, are the absence of trial by jury before an independent judge after an indictment by a grand jury. Moreover, the reforms are merely statutory; Congress—and perhaps the President—can reinstate former practices, subject to any limitations imposed by the Constitution, whenever it desires. As yet it has not been clearly settled to what extent the Bill of Rights and other protective parts of the Constitution apply to military trials.

It must be emphasized that every person who comes within the jurisdiction of courts-martial is subject to military law—law that is substantially different from the law which governs civilian society. Military law is, in many respects, harsh law which is frequently cast in very sweeping and vague terms. It emphasizes the iron hand of discipline more than it does the even scales of justice. Moreover, it has not yet been definitely established to what extent the President, as Commander in Chief of the Armed Forces, or his delegates, can promulgate, supplement, or change substantive military law as well as the procedures of military courts in time of peace, or in time of war. In any event, Congress has given the President broad discretion to provide the rules governing military trials. For example, in these very cases a technical manual issued under the President's name with regard to the defense of insanity in military trials was of critical importance in the convictions of Mrs. Covert and Mrs. Smith. If the President can provide rules of substantive law as well as procedure, then he and his military subordinates exercise legislative, executive, and judicial powers with respect to those subject to military trials. Such blending of functions in one branch of the Government is the objectionable thing which the draftsmen of the Constitution endeavored to prevent by providing for the separation of governmental powers.

In summary, "it still remains true that military tribunals have not been and probably never can be constituted in such way that they can have the same kind of qualifications that the Constitution has deemed essential to fair trials of civilians in Federal courts." In part this is attributable to the inherent differences in values and attitudes that separate the Military Establishment from civilian society. In the military, by necessity, emphasis must be placed on the security and order of the group rather than on the value and integrity of the individual.

It is urged that the expansion of military jurisdiction over civilians claimed here is only slight, and that the practical necessity for it is very great. The attitude appears to be that a slight encroachment on the Bill of Rights and other safeguards in the Constitution need cause little concern. But to hold that these wives could be tried by the military would be a tempting precedent. Slight encroachments create new boundaries from which legions of power can seek new territory to capture. "It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitu-

tional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." Moreover we cannot consider this encroachment a slight one. Throughout history many transgressions by the military have been called slight and have been justified as reasonable in light of the uniqueness of the times. We cannot close our eyes to the fact that today the peoples of many nations are ruled by the military.

We should not break faith with this Nation's tradition of keeping military power subservient to civilian authority, a tradition which we believe is firmly embodied in the Constitution. The country has remained true to that faith for almost 170 years. Perhaps no group in the Nation has been truer than military men themselves. Unlike the soldiers of many other nations, they have been content to perform their military duties in defense of the Nation in every period of need and to perform those duties well without attempting to usurp power which is not theirs under our system of constitutional government.

Ours is a Government of divided authority on the assumption that in division there is not only strength but freedom from tyranny. And under our Constitution courts of law alone are given power to try civilians for their offenses against the United States. The philosophy expressed by Lord Coke, speaking long ago from a wealth of experience, is still timely:

"God send me never to live under the law of convenience or discretion. Shall the soldier and justice sit on one bench, the trumpet will not let the cryer speak in Westminster Hall."

In No. 701, *Reid v. Covert*, the judgment of the district court directing that Mrs. Covert be released from custody is affirmed.

In No. 713, *Kinsella v. Krueger*, the judgment of the district court is reversed and the case is remanded with instructions to order Mrs. Smith released from custody. Reversed and remanded.

Mr. Justice Whitaker took no part in the consideration or decision of these cases.

SUPREME COURT OF THE UNITED STATES, NOS. 701 AND 713, OCTOBER TERM, 1955—CURTIS REID, SUPERINTENDENT OF THE DISTRICT OF COLUMBIA JAIL, APPELLANT, v. CLARICE B. COVERT; NINA KINSELLA, WARDEN OF THE FEDERAL REFORMATORY FOR WOMEN, ALDERSON, WEST VIRGINIA, PETITIONER, v. WALTER KRUEGER, ON REHEARING JUNE 10, 1957

Mr. Justice Frankfurter, concurring in the result.

These cases involve the constitutional power of Congress to provide for trial of civilian dependents accompanying members of the Armed Forces abroad by court-martial in capital cases. The normal method of trial of Federal offenses under the Constitution is in a civilian tribunal. Trial of offenses by way of court-martial, with all the characteristics of its procedure so different from the forms and safeguards of procedure in the conventional courts, is an exercise of exceptional jurisdiction, arising from the power granted to Congress in article I, section 8, clause 14, of the Constitution of the United States "To make rules for the Government and regulation of the land and naval forces." *Dynes v. Hoover*, (20 How. 65); see *Toth v. Quarles* (350 U. S. 11); Winthrop, *Military Law and Precedents* (2d ed. 1896), 52. Article 2 (11) of the Uniform Code of Military Justice, 64th United States Statutes at Large, pages 107, 109, title 50, United States Code, section 532, and its predecessors were

passed as an exercise of that power, and the agreements with England and Japan recognized that the jurisdiction to be exercised under those agreements was based on the relation of the persons involved to the military forces. See the agreement with Great Britain (57 Stat. 1193, E. A. S. No. 355) and the United States of America (Visiting Forces) Act (1942, 5 and 6 Geo. 6, ch. 31); and the 1952 administrative agreement with Japan (3 U. S. Treaties and Other International Agreements 3341, T. I. A. S. No. 2492).

Trial by court-martial is constitutionally permissible only for persons who can, on a fair appraisal, be regarded as falling within the authority given to Congress under article I to regulate the "land and naval forces," and who therefore are not protected by specific provisions of article III and the fifth and sixth amendments. It is, of course, true that, at least regarding the right to a grand-jury indictment, the fifth amendment is not unmindful of the demands of military discipline. Within the scope of appropriate construction, the phrase "except in cases arising in the land and naval forces" has been assumed also to modify the guarantees of speedy and public trial by jury. And so, the problem before us is not to be answered by recourse to the literal words of this exception. The cases cannot be decided simply by saying that since these women were not in uniform, they were not "in the land and naval forces." The Court's function in constitutional adjudications is not exhausted by a literal reading of words. It may be tiresome, but it is nonetheless vital, to keep our judicial minds fixed on the injunction that "It is a Constitution we are expounding." *M'Culloch v. Maryland* (4 Wheat. 316, 407). Although Winthrop in his treatise states that the Constitution "clearly distinguishes the military from the civil class as separate communities" and "recognizes no third class which is part civil and part military—military for a particular purpose or in a particular situation, and civil for all other purposes and in all other situations. \* \* \* Winthrop, *Military Law and Precedents* (2d edition 1896), 145, this Court, applying appropriate methods of constitutional interpretation, has long held, and in a variety of situations, that in the exercise of a power specifically granted to it, Congress may sweep in what may be necessary to make effective the explicitly worded power. See *Jacob Ruppert v. Caffey* (251 U. S. 264) especially 289 and following; *Purity Extract Co. v. Lynch* (226 U. S. 192, 201); *Railroad Commission v. Chicago, Burlington & Quincy R. Co.* (257 U. S. 563, 588). This is the significance of the necessary and proper clause, which is not to be considered so much a separate clause in article I, section 8, as an integral part of each of the preceding 17 clauses. Only thus may be avoided a strangling literalness in construing a document that is not an enumeration of static rules but the living framework of Government designed for an undefined future. *M'Culloch v. Maryland* (4 Wheat. 316); *Hurtado v. California* (110 U. S. 516, 530-531).

Everything that may be deemed, as the exercise of an allowable judgment by Congress, to fall fairly within the conception conveyed by the power given to Congress "to make rules for the government and regulation of the land and naval forces" is constitutionally within that legislative grant and not subject to revision by the independent judgment of the Court. To be sure, every event or transaction that bears some relation to "the land and naval forces" does not ipso facto come within the tolerant conception of that legislative grant. The issue in these cases involves regard for considerations not dissimilar to those involved in a determination under the due process clause. Obviously, the practical situations



before us bear some relation to the military. Yet the question for this Court is not merely whether the relation of these women to the "land and naval forces" is sufficiently close to preclude the necessity of finding that Congress has been arbitrary in its selection of a particular method of trial. For although we must look to article I, section 8, clause 14, as the immediate justifying power, it is not the only clause of the Constitution to be taken into account. The Constitution is an organic scheme of government to be dealt with as an entirety. A particular provision cannot be disavowed from the rest of the Constitution. Our conclusion in these cases therefore must take due account of article III and the fifth and sixth amendments. We must weigh all the factors involved in these cases in order to decide whether these women dependents are so closely related to what Congress may allowably deem essential for the effective "government and regulations of the land and naval forces" that they may be subjected to court-martial jurisdiction in these capital cases, when the consequence is loss of the protections afforded by article III and the fifth and sixth amendments.

We are not concerned here even with the possibility of some alternative nonmilitary type of trial that does not contain all the safeguards of article III and the fifth and sixth amendments. We must judge only what has been enacted and what is at issue. It is the power actually asserted by Congress under article I, section 8, clause 14, that must now be adjudged in the light of article III and the fifth and sixth amendments. In making this adjudication, I must emphasize that it is only the trial of civilian dependents in a capital case in time of peace that is in question. The Court has not before it, and therefore I need not intimate any opinion on, situations involving civilians, in the sense of persons not having a military status, other than dependents. Nor do we have before us a case involving a noncapital crime. This narrow delineation of the issue is merely to respect the important restrictions binding on the Court when passing on the constitutionality of an act of Congress. "In the exercise of that jurisdiction, it is bound by two rules, to which it has rigidly adhered, one, never to anticipate a question of constitutional law in advance of the necessity of deciding it; the other never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied. These rules are safe guides to sound judgment. It is the dictate of wisdom to follow them closely and carefully." *Steamship Co. v. Emigration Commissioners* (113 U. S. 33, 39).

We are also not concerned here with the substantive aspects of the grant of power to Congress to make rules for the Government and regulation of the land and naval forces. What conduct should be punished and what constitutes a capital case are matters for Congressional discretion, always subject, of course, to any specific restrictions of the Constitution. These cases involve the validity of procedural conditions for determining the commission of a crime in fact punishable by death. The taking of life is irrevocable. It is in capital cases especially that the balance of conflicting interests must be weighted most heavily in favor of the procedural safeguards of the Bill of Rights. Thus, in *Powell v. Alabama* (287 U. S. 45, 71), the fact "above all that they stood in deadly peril of their lives" led the Court to conclude that the defendants had been denied due process by the failure to allow them reasonable time to seek counsel and the failure to appoint counsel. I repeat, I do not mean to imply that the considerations that are controlling in capital cases involving civilian dependents are constitutionally irrelevant in capital cases involving civilians other than dependents or in noncapital cases involving depend-

ents or other civilians. I do say that we are dealing here only with capital cases and civilian dependents.

The Government asserts that civilian dependents are an integral part of our Armed Forces overseas and that there is substantial military necessity for subjecting them to court-martial jurisdiction. The Government points out that civilian dependents go abroad under military auspices, live with military personnel in a military community, enjoy the privileges of military facilities, and that their conduct inevitably tends to influence military discipline.

The prosecution by court-martial for capital crimes committed by civilian dependents of members of the Armed Forces abroad is hardly to be deemed, under modern conditions, obviously appropriate to the effective exercise of the power to make rules for the Government and regulation of the land and naval forces when it is a question of deciding what power is granted under article I and, therefore, what restriction is made on article III and the fifth and sixth amendments. I do not think that the proximity, physical and social, of these women to the land and naval forces is, with due regard to all that has been put before us, so clearly demanded by the effective Government and regulation of those forces as reasonably to demonstrate a justification for court-martial jurisdiction over capital offenses.

The Government speaks of the "great potential impact on military discipline" of these accompanying civilian dependents. This cannot be denied, nor should its implications be minimized. But the notion that discipline over military personnel is to be furthered by subjecting their civilian dependents to the threat of capital punishment imposed by court-martial is too hostile to the reasons that underlie the procedural safeguards of the Bill of Rights for those safeguards to be displaced. It is true that military discipline might be affected seriously if civilian dependents could commit murders and other capital crimes with impunity. No one, however, challenges the availability to Congress of a power to provide for trial and punishment of these dependents for such crimes. The method of trial alone is in issue. The Government suggests that if trial in an article III court subject to the restrictions of the fifth and sixth amendments is the only alternative, such a trial could not be held abroad practically, and it would often be equally impracticable to transport all the witnesses back to the United States for trial. But although there is no need to pass on that issue in this case, trial in the United States is obviously not the only practical alternative and other alternatives may raise different constitutional questions. The Government's own figures for the Army show that the total number of civilians (all civilians serving with, employed by, or accompanying the Armed Forces overseas and not merely civilian dependents) for whom general courts-martial for alleged murder were deemed advisable was only 13 in the 7 fiscal years, 1950-56. It is impossible to ascertain from the figures supplied to us exactly how many persons were tried for other capital offenses, but the figures indicate that there could not have been many. There is nothing to indicate that the figures for the other services are more substantial. It thus appears to be a manageable problem within the procedural restrictions found necessary by this opinion.

A further argument is made that a decision adverse to the Government would mean that only a foreign trial could be had. Even assuming that the NATO Status of Forces Agreement, (4 U. S. Treaties and Other International Agreements 1792, T. I. A. S. No. 2846) covering countries where a large part of our Armed Forces are stationed, gives jurisdiction to the United States only through its

military authorities, this court cannot speculate that any given nation would be unwilling to grant or continue such extraterritorial jurisdiction over civilian dependents in capital cases if they were to be tried by some other manner than court-martial. And even if such were the case, these civilian dependents would then merely be in the same position as are so many Federal employees and their dependents and other United States citizens who are subject to the laws of foreign nations when residing there. See also the NATO Status of Forces Agreement, supra, article VII, sections 2, 3.

The Government makes the final argument that these civilian dependents are part of the United States military contingent abroad in the eyes of the foreign nations concerned and that their conduct may have a profound effect on our relations with these countries, with a consequent effect on the Military Establishment there. But the argument that military courts-martial in capital cases are necessitated by this factor assumes either that a military court-martial constitutes a stronger deterrent to this sort of conduct or that in the absence of such a trial no punishment would be meted out and our foreign policy thereby injured. The reasons why these considerations carry no conviction have already been indicated.

I therefore conclude that in capital cases the exercise of court-martial jurisdiction over civilian dependents in time of peace cannot be justified by article I, considered in connection with the specific protections of article III and the fifth and sixth amendments.

Since the conclusion thus reached differs from what the Court decided last term, a decent respect for the judicial process calls for reexamination of the two grounds that then prevailed. The court sustained its action on the authority of the cases dealing with the power of Congress to make all needful rules and regulations for the territories, reinforced by *In re Ross* (140 U. S. 453), in which this Court, in 1891, sustained the criminal jurisdiction of a consular court in Japan. These authorities grew out of, and related to, specific situations very different from those now here. They do not control or even embarrass the problem before us.

Legal doctrines are not self-generated abstract categories. They do not fall from the sky; nor are they pulled out of it. They have a specific judicial origin and etiology. They derive meaning and content from the circumstances that gave rise to them and from the purposes they were designed to serve. To these they are bound as is a live tree to its roots. Doctrines like those expressed by the *Ross* case and the series of cases beginning with *American Insurance Co. v. Canter* (1 Pet. 511), must be placed in their historical setting. They cannot be wrenched from it and mechanically transplanted into an alien, unrelated context without suffering mutilation or distortion. "If a precedent involving a black horse is applied to a case involving a white horse, we are not excited. If it were an elephant or an animal *ferae naturae* or a chorse in action, then we would venture into thought. The difference might make a difference. We really are concerned about precedents chiefly when their facts differ somewhat from the facts in the case at bar. Then there is a gulf or hiatus that has to be bridged by a concern for principle and a concern for practical results and practical wisdom." Thomas Reed Powell, *Vagaries and Varieties in Constitutional Interpretation* 36. This attitude toward precedent underlies the whole system of our case law. It was thus summarized by Mr. Justice Brandeis: "It is a peculiar virtue of our system of law that the process of inclusion and exclusion, so often employed in developing a rule, is not allowed to end with its enunciation and that an expression in an opinion yields later to the impact of facts unforeseen." *Jaybird Mining Co. v. Weir* (271

U. S. 609, 619 (dissenting)). Especially is this attitude to be observed in constitutional controversies.

The Territorial cases relied on by the Court last term held that certain specific constitutional restrictions on the Government did not automatically apply in the acquired Territories of Florida, Hawaii, the Philippines, or Puerto Rico. In these cases, the Court drew its decisions from the power of Congress to "make all needful rules and regulations respecting the Territory \* \* \* belonging to the United States," for which provision is made in article IV, section 3. The United States from time to time acquired lands in which many of our laws and customs found an uncongenial soil because they ill accorded with the history and habits of their people. Mindful of all relevant provisions of the Constitution and not allowing one to frustrate another—which is the guiding thought of this opinion—the Court found it necessary to read article IV, section 3 together with the fifth and sixth amendments and article III in the light of those circumstances. The question arose most frequently with respect to the establishment of trial by jury in possessions in which such a system was wholly without antecedents. The Court consistently held with respect to such Territory that Congressional power under article IV, section 3 was not restricted by the requirement of article III, section 2, clause 3, and the sixth amendment of providing trial by jury.

"If the right to trial by jury were a fundamental right which goes wherever the jurisdiction of the United States extends, or if Congress, in framing laws for outlying territory belonging to the United States, was obliged to establish that system by affirmative legislation, it would follow that, no matter what the needs or capacities of the people, trial by jury, and in no other way, must be forthwith established, although the result may be to work injustice and provoke disturbance rather than to aid the orderly administration of justice. If the United States, impelled by its duty or advantage, shall acquire territory peopled by savages, and of which it may dispose or not hold for ultimate admission to statehood, if this doctrine is sound, it must establish there the trial by jury. To state such a proposition demonstrates the impossibility of carrying it into practice. Again, if the United States shall acquire by treaty the cession of territory having an established system of jurisprudence, where jury trials are unknown, but a method of fair and orderly trial prevails under an acceptable and long-established code, the preference of the people must be disregarded, their established customs ignored and they themselves coerced to accept, in advance of incorporation into the United States a system of trial unknown to them and unsuited to their needs. We do not think it was intended, in giving power to Congress to make regulations for the territories, to hamper its exercise with this condition." *Dorr v. United States* (195 U. S. 138, 148.)

The fundamental right test is the one which the Court has consistently enunciated in the long series of cases—e. g., *American Ins. Co. v. Canter* (1 Pet. 511); *De Lima v. Bidwell* (182 U. S. 1); *Downes v. Bidwell* (182 U. S. 244); *Dorr v. United States* (195 U. S. 138); *Balzac v. Porto Rico* (258 U. S. 298)—dealing with claims of constitutional restrictions on the power of Congress to make all needful rules and regulations for governing the unincorporated territories. The process of decision appropriate to the problem led to a detailed examination of the relation of the specific territory to the United States. This examination, in its similarity to analysis in terms of due process, is essentially the same as that to be made in the present cases in weighing Congressional power to make rules for the government and regulation of

the land and naval forces against the safeguards of article III and the fifth and sixth amendments.

The results in the cases that arose by reason of the acquisition of exotic territory do not control the present cases for the territorial cases rest specifically on article IV, section 3, which is a grant of power to Congress to deal with territory and other Government property. Of course the power sought to be exercised in Great Britain and Japan does not relate to territory. The Court's opinions in the territorial cases did not lay down a broad principle that the protective provisions of the Constitution do not apply outside the continental limits of the United States. This Court considered the particular situation in each newly acquired territory to determine whether the grant to Congress of power to govern territory was restricted by a specific provision of the Constitution. The territorial cases, in the emphasis put by them on the necessity for considering the specific circumstances of each particular case, are thus relevant in that they provide an illustrative method for harmonizing constitutional provisions which appear, separately considered, to be conflicting.

The Court last term relied on a second source of authority, the consular court case, *In re Ross* (140 U. S. 453). Pursuant to a treaty with Japan, Ross, a British subject but a member of the crew of a United States ship, was tried and convicted in a consular court in Yokohama for murder of a fellow seaman while the ship was in Yokohama Harbor. His application for a writ of habeas corpus to a United States circuit court was denied, 44 F. 185, and on appeal here, the judgment was affirmed. This Court set forth the ground of the circuit court, "the long and uniform acquiescence by the executive, administrative and legislative departments of the Government in the validity of the legislation," 140th United States Reports, at page 461, and then stated:

"The circuit court might have found an additional ground for not calling in question the legislation of Congress, in the uniform practice of civilized governments for centuries to provide consular tribunals in other than Christian countries \* \* \* for the trial of their own subjects or citizens for offenses committed in those countries, as well as for the settlement of civil disputes between them; and in the uniform recognition, down to the time of the formation of our Government, of the fact that the establishment of such tribunals was among the most important subjects for treaty stipulations. \* \* \*

"The treaty-making power vested in our Government extends to all proper subjects of negotiation with foreign governments. It can, equally with any of the former or present governments of Europe, make treaties providing for the exercise of judicial authority in other countries by its officers appointed to reside therein.

"We do not understand that any question is made by counsel as to its power in this respect. His objection is to the legislation by which such treaties are carried out \* \* \*.

"By the Constitution a government is ordained and established 'for the United States of America,' and not for countries outside of their limits. The guarantees it affords against accusation of capital or infamous crimes, except by indictment or presentment by a grand jury, and for an impartial trial by a jury when thus accused, apply only to citizens and others within the United States, or who are brought there for trial for alleged offenses committed elsewhere, and not to residents or temporary sojourners abroad. \* \* \* The Constitution can have no operation in another country. When, therefore, the representatives or officers of our Government are permitted to exercise authority of any kind in another country, it must be on such conditions as

the two countries may agree, the laws of neither one being obligatory upon the other. The deck of a private American vessel, it is true, is considered for many purposes constructively as territory of the United States, yet persons on board of such vessels, whether officers, sailors, or passengers, cannot invoke the protection of the provisions referred to until brought within the actual territorial boundaries of the United States." (140 U. S., at 462-464.)

One observation should be made at the outset about the grounds for decision in *Ross*. Insofar as the opinion expressed a view that the Constitution is not operative outside the United States—and apparently Mr. Justice Field meant by "United States" all lands over which the United States flag flew, see John W. Burgess, *How May the United States Govern Its Extra-Continental Territory?* (14 Pol. Sci. Q. 1 (1899))—it expressed a notion that has long since evaporated. Governmental action abroad is performed under both the authority and the restrictions of the Constitution—for example, proceedings before American military tribunals, whether in Great Britain or in the United States, are subject to the applicable restrictions of the Constitution. See opinions in *Burns v. Wilson* (346 U. S. 137).

The significance of the *Ross* case and its relevance to the present cases cannot be assessed unless due regard is accorded the historical context in which that case was decided. *Ross* is not rooted in any abstract principle or comprehensive theory touching constitutional power or its restrictions. It was decided with reference to a very particular, practical problem with a long history. To be mindful of this does not attribute to Mr. Justice Field's opinion some unavowed historical assumption. On behalf of the whole court, he spelled out the considerations that controlled it:

"The practice of European governments to send officers to reside in foreign countries, authorized to exercise a limited jurisdiction over vessels and seamen of their country, to watch the interests of their countrymen and to assist in adjusting their disputes and protecting their commerce, goes back to a very early period, even preceding what are termed the Middle Ages. \* \* \* In other than Christian countries they were, by treaty stipulations, usually clothed with authority to hear complaints against their countrymen and to sit in judgment upon them when charged with public offenses. After the rise of Islamism, and the spread of its followers over eastern Asia and other countries bordering on the Mediterranean, the exercise of this judicial authority became a matter of great concern. The intense hostility of the people of Moslem faith to all other sects, and particularly to Christians, affected all their intercourse, and all proceedings had in their tribunals. Even the rules of evidence adopted by them placed those of different faith on unequal grounds in any controversy with them. For this cause, and by reason of the barbarous and cruel punishments inflicted in those countries, and the frequent use of torture to enforce confession from parties accused, it was a matter of deep interest to Christian governments to withdraw the trial of their subjects, when charged with the commission of a public offence, from the arbitrary and despotic action of the local officials. Treaties conferring such jurisdiction upon these consuls were essential to the peaceful residence of Christians within those countries and the successful prosecution of commerce with their people." One Hundred and Fortieth United States Reports, at page 463.

"It is true that the occasion for consular tribunals in Japan may hereafter be less than at present, as every year that country progresses in civilization and in the assimilation



lation of its system of judicial procedure to that of Christian countries, as well as in the improvement of its penal statutes; but the system of consular tribunals \* \* \* is of the highest importance, and their establishment in other than Christian countries, where our people may desire to go in pursuance of commerce, will often be essential for the protection of their persons and property" (id., at 480).

It is important to have a lively sense of this background before attempting to draw on the Ross case. Historians have traced grants of extraterritorial rights as far back as the permission given by Egypt in the 12th or 13th century B. C. to the merchants of Tyre to establish factories on the Nile and to live under their own law and practice their own religion. Numerous other instances of persons living under their own law in foreign lands existed in the later pre-Christian era and during the Roman Empire and the so-called Dark and Middle Ages—Greeks in Egypt, all sorts of foreigners in Rome, inhabitants of Christian cities and states in the Byzantine Empire, the Latin kingdoms of the Levant, and other Christian cities and states, Mohammedans in the Byzantine Empire and China, and many others lived in foreign lands under their own law. While the origins of this extraterritorial jurisdiction may have differed in each country, the notion that law was for the benefit of the citizens of a country and its advantages not for foreigners appears to have been an important factor. Thus, there existed a long-established custom of extraterritorial jurisdiction at the beginning of the 15th century when the complete conquest of the Byzantine Empire by the Turks and the establishment of the Ottoman Empire substantially altered political relations between Christian Europe and the Near East. But commercial relations continued, and in 1535 Francis I of France negotiated a treaty with Suleiman I of Turkey that provided for numerous extraterritorial rights, including criminal and civil jurisdiction over all disputes among French subjects. (1 Ernest Charrière, *Negotiations de la France dans le Levant* 283.) Other nations and eventually the United States in 1830 (8 Stat. 408), later negotiated similar treaties with the Turks. (For a more complete history of the development of extraterritorial rights and consular jurisdiction, see 1 Calvo, *Le Droit International Théorique et Pratique* (5th ed., Rousseau, 1896), 2-18, 2 id., 9-12; Hinkley, *American Consular Jurisdiction in the Orient*, 1-9; 1 Miltitz, *Manuel des Consuls passim*; Ravnald, *The Origin of the Capitulations and of the Consular Jurisdiction*, S. Doc. No. 34, 67th Cong., 1st sess., 5-45, 56-96; Shih Shun Liu, *Extraterritoriality*, 23-66; Twiss, *The Law of Nations* (1894 ed.), 443-457.)

The emergence of the nation-state in Europe and the growth of the doctrine of absolute territorial sovereignty changed the nature of extraterritorial rights. No longer were strangers to be denied the advantages of local law. Indeed, territorial sovereignty meant the exercise of sovereignty over all residents within the borders of the state, and the system of extraterritorial consular jurisdiction tended to die out among Christian nations in the 18th and 19th centuries. But a new justification was found for the continuation of that jurisdiction in those countries whose systems of justice were considered inferior, and it was this strong feeling with respect to Moslem and Far Eastern countries that was reflected, as we have seen, in the Ross opinion.

Until 1842, China had asserted control over all foreigners within its territory (Shih Shun Liu, op. cit. supra, 76-89) but, as a result of the Opium War, Great Britain negotiated a treaty with China whereby she obtained consular offices in five open ports and was granted extraterritorial rights over

her citizens. On July 3, 1844, Caleb Cushing negotiated a similar treaty on behalf of the United States (8 Stat. 592). In a letter to Secretary of State Calhoun, he explained: "I entered China with the formed general conviction that the United States ought not to concede to any foreign state, under any circumstances, jurisdiction over the life and liberty of a citizen of the United States, unless that foreign state be of our own family of nations—in a word a Christian state." Quoted in 7 Op. Atty. Gen. 495, 496-497. Later treaties continued the extraterritorial rights of the United States, and the treaty of 1903 contained the following article demonstrating the purpose of those rights:

"The Government of China having expressed a strong desire to reform its judicial system and to bring it into accord with that of western nations, the United States agrees to give every assistance to such reform and will also be prepared to relinquish extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration, and other considerations warrant it in doing so" (33 Stat. 2208, 2215).

The first treaty with Japan was negotiated by Commodore Perry in 1854 (11 Stat. 597). It opened two ports, but did not provide for any exercise of judicial powers by United States officials. Under the treaty of 1857 (11 Stat. 723), such power was given, and later treaties, which opened up further Japanese cities for trade and residence by United States citizens, retained these rights. The treaty of 1894, effective on July 17, 1899, however, ended these extraterritorial rights and Japan, even though a non-Christian nation, came to occupy the same status as Christian nations (29 Stat. 848). The exercise of criminal jurisdiction by consuls over United States citizens was also provided for, at one time or another, in treaties with Borneo (10 Stat. 909, 910); Siam (11 Stat. 683, 684); Madagascar (15 Stat. 491, 492); Samoan Islands (20 Stat. 704); Korea (23 Stat. 720, 721); Tonga Islands (25 Stat. 1440, 1442) and, by virtue of most-favored-nation clauses, in treaties with Tripoli (8 Stat. 154); Persia (11 Stat. 709); the Congo (27 Stat. 926); and Ethiopia (33 Stat. 2254). The exercise of criminal jurisdiction was also provided for in a treaty with Morocco (8 Stat. 100), by virtue of a most-favored-nation clause and by virtue of a clause granting jurisdiction if "any citizens of the United States \* \* \* shall have any disputes with each other." The word "disputes" has been interpreted by the International Court of Justice to comprehend criminal as well as civil disputes. *France v. United States* (I. C. J. Rept. 1952, p. 176, 188-189.) The treaties with Algiers (8 Stat. 133, 224, 244); Tunis (8 Stat. 157); and Muscat (8 Stat. 458) contained similar disputes clauses.

The judicial power exercised by consuls was defined by statute and was sweeping:

"Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall

have the force of law, supply such defects and deficiencies." (Rev. Stat. sec. 4086.)

The consuls, then, exercised not only executive and judicial power, but legislative power as well.

The number of people subject to the jurisdiction of these courts during their most active periods appears to have been fairly small. In the *Chronicle & Directory for China, Japan, and the Philippines*, for the year 1870, there is a listing of the total number of foreign, not just United States, residents in these three places. The list is 81 pages long, with a total of some 4,500 persons (pp. 54-134). This same publication gives the following information about Japan. "The number of foreigners settled in Japan is as yet very small. At the end of the year 1862, the foreign community at Kanagawa, the principal of the three ports of Japan open to aliens, consisted of \* \* \* 38 Americans \* \* \* and in the latter part of 1864 the permanent foreign residents at Kanagawa had increased to 300, not counting soldiers, of which number \* \* \* about 80 [were] Americans. \* \* \* At Nagasaki, the second port of Japan thrown open to foreign trade by the Government, the number of alien settlers was as follows on the 1st of January 1866: \* \* \* American citizens, 32. \* \* \* A third port opened to European and American traders, that of Hakodadi, in the north of Japan, was deserted, after a lengthened trial, by nearly all the foreign merchants settled there \* \* ." (Appendix, p. 353.) The *Statesman's Yearbook of 1890* shows: China at the end of 1888: 1,020 Americans (p. 411); Japan in 1887, 711 Americans (p. 709); Morocco, 1889 estimate: "The number of Christians is very small, not exceeding 1,500" (p. 739). The *Statesman's Yearbook of 1901* shows: China at the end of 1899: 2,335 Americans (p. 484); Japan, December 31, 1898, just before the termination of our extraterritorial rights: 1,165 Americans (p. 809); Morocco: "The number of Christians does not exceed 6,000; the Christian population of Tangier alone probably amounts to 5,000" (p. 851). These figures of course do not include those civilians temporarily in the country coming within consular jurisdiction.

The consular court jurisdiction, then, was exercised in countries whose legal systems at the time were considered so inferior that justice could not be obtained in them by our citizens. The existence of these courts was based on long-established custom and they were justified as the best possible means for securing justice for the few Americans present in those countries. The Ross case, therefore, arose out of, and rests on, very special, confined circumstances, and cannot be applied automatically to the present situation, involving hundreds of thousands of American citizens in countries with civilized systems of justice. If Congress had established consular courts or some other nonmilitary procedure for trial that did not contain all the protections afforded by article III and the fifth and sixth amendments for the trial of civilian dependents of military personnel abroad, we would be forced to a detailed analysis of the situation of the civilian dependent population abroad in deciding whether the Ross case should be extended to cover such a case. It is not necessary to do this in the present cases in view of our decision that the form of trial here provided cannot constitutionally be justified.

The Government, apparently recognizing the constitutional basis for the decision in Ross, has, on rehearing, sought to show that civilians in general and civilian dependents in particular have been subject to military order and discipline ever since the colonial period. The materials it has submitted seem too episodic, too meager, to form a solid basis in history, preceding and contemporaneous with the framing of the

Constitution, for constitutional adjudication. What has been urged on us falls far too short of proving a well-established practice—to be deemed to be infused into the Constitution—of court-martial jurisdiction, certainly not in capital cases, over such civilians in time of peace.

Mr. President, the decision which I have read in the *RECORD* is in the case of Curtis Reid, Superintendent of the District of Columbia Jail, Appellant, against Clarice B. Covert, and Nina Kinsella, Warden of the Federal Reformatory for Women, Alderson, W. Va., petitioner, against Walter Krueger. The opinion, which was written by Mr. Justice Black, was concurred in by the Chief Justice, Mr. Justice Douglas, and Mr. Justice Brennan. It pointed out clearly that even though the court-martial so provided, the jury trial could not be denied to civilians accompanying the Armed Forces. It is very clear on that point.

There was a concurring opinion, which I have just included in the *RECORD*, by Justice Frankfurter, which upholds that contention.

There is no question that under the United States Constitution citizens are entitled to a trial by jury. It cannot be left to the discretion of a Federal judge to say whether he is going to grant a trial by jury. It cannot be left to the Congress to say that if the punishment is only a \$300 fine or 45 days imprisonment we will let the judge try the case, but if it is above that the defendant can get a jury trial. That simply does not make sense. It violates the Constitution and is in derogation of the administration of justice in this country. As someone has said, it is a split-level statute.

Mr. President, on May 9, 1957, before the mountain and plain regional meeting of the American Bar Association in Denver, Colo., Associate Justice William J. Brennan, Jr., of the Supreme Court, made an address on our judicial systems. In this address he discussed the advantages of our traditional jury-trial system. Because of the clear, straightforward nature of this address, I want to quote the following statement made by Justice Brennan. This is what he said:

We hear much, for example, of the proposal that we turn all automobile-accident litigation over to an administrative agency. The idea is that, because automobile litigation accounts for a major part of court business, the simple solution is to dispose of the problem by throwing it out the window. What an abject abdication of our profession's responsibility to provide judicial justice for our citizens. But, at best, there is utterly no hope for that idea, at least not in our lifetimes, when the job of judicial reform must be done. It will be a long day before our society will pay the price of damages for every automobile injury or death without regard to the fault of the person injured or killed. There is no true analogy between compensation for the injured workman who helps produce goods or services for profit, where the cost is passed on to the consumer in the price of the goods or services, and compensation to the automobile victim, where the cost would have to be borne by all of us.

Another nostrum is that, because jury trials take more time than trials before a judge without a jury, the easy answer to calendar congestion is to get rid of jury trials in automobile accident cases. Actual studies are being made to prove that the average

jury trial in a negligence case takes more time than a nonjury trial of a negligence case. I question the need for a study to prove something that every judge and lawyer knows. Of course jury trials usually take more time than nonjury trials. But those who propose this suggest also that fairer justice will result if a judge, unprejudiced for one side or the other—they really mean that juries are prejudiced in favor of plaintiffs—disposes of them. I doubt that that proposition can withstand analysis. As a trial judge I was always interested in how often the jury brought in the same verdict on liability that I would have reached. And that seems to be the experience of trial judges generally. A recent survey proved that in upwards of 85 percent of the cases the trial judge reported that the jury reached the result on liability that he would have reached. Moreover, the idea that juries go haywire in fixing damages where plaintiffs prevail should be looked at a little more closely. I think at least that judge-decided verdicts under the Federal Tort Claims Act (no jury trial is had under that act) do not persuade the Department of Justice that juries are any less conscientious in fixing damages. I know that at times juries do go overboard. But I can count on the fingers of one hand the instances in my time as a trial judge when I felt it necessary to set aside verdicts because they had done so. My experience left me with the definite impression that jurors almost always do try to fix damages within allowable limits.

I think, at all events, this proposal to abolish jury trials in automobile accident cases also faces an almost insurmountable hurdle. The success of our British brothers in abolishing jury trials should not mislead us. American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it. Perhaps the emotion generated by proposals to modify or deny the right has its roots in the Jacksonian era of distrust of the legal profession and the insistence upon the people's control of the administration of justice. Perhaps it is a survival of the same thing which gave us the elective system of judges in most States and in some, as in my own, New Jersey, actual lay participation on the bench. One has only to remember that it is still true in many States that so highly is the jury function prized, that judges are forbidden to comment on the evidence and even to instruct the jury except as the parties request instructions. The jury is a symbol to Americans that they are bosses of their government. They pay the price, and willingly, of the imperfections, inefficiencies and, if you please, greater expense of jury trials because they put such store upon the jury system as a guaranty of the preservation of their liberties. The road of him who would take away jury trial in automobile accident cases is a long and rocky one.

I submit that it is a sorry response to the litigant who suffers from long delay in having his accident suit tried that we can offer no relief beyond "let's throw accident litigation out of the courts," or "let's deny the victim the right of a jury trial." Our profession must stand up and reject those nostrums. We know now that there are judicial structures and techniques of judicial administration which not only can cope with problems of calendar control but to far more significant purposes can also measurably assist in our ceaseless striving to give better justice. Our need is to get up our courage to fight for these things and to do battle with the powerfully entrenched opponents of any reform who too often take their position out of self-interest without sufficient consideration of what is best in the people's interest. It doubtless is true that achievement of a modernized, efficient

judicial structure requires far-reaching legislative and constitutional changes in most jurisdictions. But, far better to do the arduous labor of getting that essential job done than to promote equally drastic changes which are nothing more than a humiliating confession of defeat.

Let us not forget that the integrity and efficiency of the judicial process is the first essential in a democratic society. The confidence of the people in the administration of justice is a prime requisite for free representative government. The public entrusts the legal profession with the sacred mission of dealing with the vital affairs that affect the whole pattern of human relations and certainly has a stake entitling it to demand not only that judges dispense justice impartially and fairly but also that judicial business shall be handled and disposed of by a modernized process which assures a minimum of friction and waste, for such a process also plays a large role in the achievement of impartial and fair justice for all litigants. There is actually no difference between the business of judicial administration and the business of running an industrial or commercial enterprise in the sense that the efficient and businesslike conduct of each means better service for the public. An inefficient and wasteful judicial administration actually can and often does result in a denial of justice, however earnestly an honest and upright judge may strive to prevent that lamentable result.

I think it is not difficult to account for today's heightened interest on the part of the general public throughout our Nation and, indeed, the Free World in the improvement of the process for administering justice. That growing interest is in large measure a product of the tumultuous times in which we live. For these are not only times which have produced a monstrous threat to all freedom, but, by the very reason of that threat, are times which have induced in free peoples everywhere an ever intensifying critical self-examination of the institutions upon which their freedoms depend—an insistence upon exposure of the imperfections of those institutions, a peremptory demand upon those who are entrusted with those institutions to improve and strengthen them the more surely to withstand the onslaught bent upon their destruction. It is but natural then that the judicial process should come under examination, for never was it more true than today that "Justice, sirs, is the chiefest interest of man on earth."

Mr. President, I submit, just as Justice Brennan has quoted here, which never was more true than today:

Justice, sirs, is the chiefest interest of man on earth.

I contend that since our forefathers placed in the Constitution and in the Bill of Rights provisions which are so plain it seems no one could misinterpret them, providing for trial by jury in criminal cases, there can be no question that jury trials are not only desirable but are demanded under the Constitution. There should be no doubt in the mind of anyone, if he studies the Constitution, that the so-called compromise which tends to compromise the Constitution of the United States is not a just, is not a fair, is not a wise, and is not a constitutional provision, and that this bill should be killed.

Mr. President, one of the most interesting books ever written on the American system of Government was by Alexis de Tocqueville, a young Frenchman who wrote a book entitled "Democracy in America" after visiting this country during the 1830's. One of the chapters of



his book was entitled "Trial by Jury in the United States Considered as a Political Institution."

I shall read excerpts from this chapter because it provides an excellent insight into the prestige attained by the system of jury trial from the observation of an unbiased observer.

[From de Tocqueville's *Democracy in America*, written after visiting America in the 1830's]

TRIAL BY JURY IN THE UNITED STATES CONSIDERED AS A POLITICAL INSTITUTION

Trial by jury, which is one of the forms of the sovereignty of the people, ought to be compared with the other laws which establish that sovereignty: Composition of the jury in the United States; effect of trial by jury upon the national character; it educates the people; how it tends to establish the influence of the magistrates and to extend the legal spirit among the people.

Since my subject has led me to speak of the administration of justice in the United States, I will not pass over it without referring to the institution of the jury. Trial by jury may be considered in two separate points of view: as a judicial, and as a political institution. \* \* \*

My present purpose is to consider the jury as a political institution; any other course would divert me from my subject. Of trial by jury considered as a judicial institution I shall here say but little. When the English adopted trial by jury, they were a semi-barbarous people; they have since become one of the most enlightened nations of the earth, and their attachment to this institution seems to have increased with their increasing cultivation. They have emigrated and colonized every part of the habitable globe; some have formed colonies, others independent states; the mother country has maintained its monarchical constitution; many of its offspring have founded powerful republics; but everywhere they have boasted of the privilege of trial by jury. They have established it, or hastened to reestablish it, in all their settlements. A judicial institution which thus obtains the suffrages of a great people for so long a series of ages, which is zealously reproduced at every stage of civilization, in all the climates of the earth, and under every form of human government, cannot be contrary to the spirit of justice.

But to leave this part of the subject. It would be a very narrow view to look upon the jury as a mere judicial institution; for however great its influence may be upon the decisions of the courts, it is still greater on the destinies of society at large. The jury is, above all, a political institution, and it must be regarded in this light in order to be duly appreciated.

By the jury I mean a certain number of citizens chosen by lot and invested with a temporary right of judging. Trial by jury, as applied to the repression of crime, appears to me an eminently republican element in the government, for the following reasons.

The institution of the jury may be aristocratic or democratic, according to the class from which the jurors are taken; but it always preserves its republican character, in that it places the real direction of society in the hands of the governed, or of a portion of the governed, and not in that of the government. Force is never more than a transient element of success, and after force comes the notion of right. A government able to reach its enemies only upon a field of battle would soon be destroyed. The true sanction of political laws is to be found in penal legislation; and if that sanction is wanting, the law will sooner or later lose its cogency. He who punishes the criminal is therefore the real master of society. Now, the institution of the jury raises the people

itself, or at least a class of citizens, to the bench of judges. The institution of the jury consequently invests the people, or that class of citizens, with the direction of society.

In England the jury is selected from the aristocratic portion of the nation; the aristocracy makes the laws, applies the laws, and punishes infractions of the laws; everything is established upon a consistent footing, and England may with truth be said to constitute an aristocratic republic. In the United States the same system is applied to the whole people. Every American citizen is both an eligible and a legally qualified voter. The jury system as it is understood in America appears to me to be as direct and as extreme a consequence of the sovereignty of the people as universal suffrage. They are two instruments of equal power, which contribute to the supremacy of the majority. All the sovereigns who have chosen to govern by their own authority, and to direct society instead of obeying its directions, have destroyed or enfeebled the institution of the jury. The Tudor monarchs sent to prison jurors who refused to convict, and Napoleon caused them to be selected by his agents.

However clear most of these truths may seem to be, they do not command universal assent; and in France, at least, trial by jury is still but imperfectly understood. If the question arises as to the proper qualification of jurors, it is confined to a discussion of the intelligence and knowledge of the citizens who may be returned, as if the jury was merely a judicial institution. This appears to me the least important part of the subject. The jury is preeminently a political institution; it should be regarded as one form of the sovereignty of the people; when that sovereignty is repudiated, it must be rejected, or it must be adapted to the laws by which that sovereignty is established. The jury is that portion of the nation to which the execution of the laws is entrusted, as the legislature is that part of the nation which makes the laws; and in order that society may be governed in a fixed and uniform manner, the list of citizens qualified to serve on juries must increase and diminish with the list of electors. This I hold to be the point of view most worthy of the attention of the legislator; all that remains is merely accessory.

I am so entirely convinced that the jury is preeminently a political institution that I still consider it in this light when it is applied in civil causes. Laws are always unstable unless they are founded upon the customs of a nation; customs are the only durable and resisting power in a people. When the jury is reserved for criminal offenses, the people witness only its occasional action in particular cases; they become accustomed to do without it in the ordinary course of life, and it is considered as an instrument, but not as the only instrument, of obtaining justice.

When, on the contrary, the jury acts also on civil causes, its application is constantly visible; it affects all the interests of the community; everyone cooperates in its work; it thus penetrates into all the usages of life, it fashions the human mind to its peculiar forms, and is gradually associated with the idea of justice itself.

The institution of the jury, if confined to criminal causes, is always in danger; but when once it is introduced into civil proceedings, it defies the aggressions of time and man. If it had been as easy to remove the jury from the customs as from the laws of England, it would have perished under the Tudors, and the civil jury did in reality at that period save the liberties of England. In whatever manner the jury be applied, it cannot fail to exercise a powerful influence upon the national character; but this influence is prodigiously increased when it is introduced into civil causes. The jury,

and more especially the civil jury, serves to communicate the spirit of the judges to the minds of all the citizens; and this spirit, with the habits which attend it, is the soundest preparation for free institutions. It imbues all classes with a respect for the thing judged and with the notion of right. If these two elements be removed, the love of independence becomes a mere destructive passion. It teaches men to practice equity; every man learns to judge his neighbor as he would himself be judged. And this is especially true of the jury in civil causes; for while the number of persons who have reason to apprehend a criminal prosecution is small, everyone is liable to have a lawsuit. The jury teaches every man not to recoil before the responsibility of his own actions and impresses him with that manly confidence without which no political virtue can exist. It invests each citizen with a kind of magistracy; it makes them all feel the duties which they are bound to discharge toward society and the part which they take in its government. By obliging men to turn their attention to other affairs than their own, it rubs off that private selfishness which is the rust of society.

The jury contributes powerfully to form the judgment and to increase the natural intelligence of a people; and this, in my opinion, is its greatest advantage. It may be regarded as a gratuitous public school, ever open, in which every juror learns his rights, enters into daily communication with the most learned and enlightened members of the upper classes, and becomes practically acquainted with the laws, which are brought within the reach of his capacity by the efforts of the bar, the advice of the judge, and even the passions of the parties. I think that the practical intelligence and political good sense of the Americans are mainly attributable to the long use that they have made of the jury in civil causes.

I do not know whether the jury is useful to those who have lawsuits, but I am certain it is highly beneficial to those who judge them; and I look upon it as one of the most efficacious means for the education of the people which society can employ.

What I have said applies to all nations, but the remark I am about to make is peculiar to the Americans and to democratic communities. I have already observed that in democracies the members of the legal profession and the judicial magistrates constitute the only aristocratic body which can moderate the movements of the people. This aristocracy is invested with no physical power; it exercises its conservative influence upon the minds of men; and the most abundant source of its authority is the institution of the civil jury. In criminal causes, when society is contending against a single man, the jury is apt to look upon the judge as the passive instrument of social power and to mistrust his advice. Moreover, criminal causes turn entirely upon simple facts, which commonsense can readily appreciate; upon this ground the judge and the jury are equal. Such is not the case, however, in civil causes; then the judge appears as a disinterested arbiter between the conflicting passions of the parties. The jurors look up to him with confidence and listen to him with respect, for in this instance, his intellect entirely governs theirs. It is the judge who sums up the various arguments which have wearied their memory, and who guides them through the devious course of the proceedings; he points their attention to the exact question of fact that they are called upon to decide and tells them how to answer the question of law. His influence over them is almost unlimited.

If I am called upon to explain why I am but little moved by the arguments derived from the ignorance of jurors in civil causes, I reply that in these proceedings, whenever

the question to be solved is not a mere question of fact, the jury has only the semblance of a judicial body. The jury only sanctions the decision of the judge; they sanction this decision by the authority of society which they represent, and he by that of reason and of law.

The jury, then, which seems to restrict the rights of the judiciary does in reality consolidate its power; and in no country are the judges so powerful as where the people share their privileges. It is especially by means of the jury in civil causes that the American magistrates imbue even the lower classes of society with the spirit of their profession. Thus the jury, which is the most energetic means of making the people rule, is also the most efficacious means of teaching it how to rule well.

Mr. President, De Tocqueville contributed a great deal to literature and to society. He was a Frenchman who came to our country and studied our form of government. He was so impressed that he wrote the chapter on trial by jury, in which he emphasized the fact that the jury is the heart of the administration of justice in a democracy.

On Friday, July 5, 1957, there was printed in the State, a newspaper published in Columbia, S. C., an article quoting the then president of the American Bar Association, Mr. David F. Maxwell, on the subject of jury trials.

I believe Mr. Maxwell is a member of the Philadelphia bar, of which our distinguished Presiding Officer [Mr. CLARK] is also a member. I am sure that the Presiding Officer, as well as the Senate, will be interested in what Mr. Maxwell had to say on the subject of jury trials, and that the views expressed by him will be of interest to everyone who believes in constitutional government. I read as follows:

The president of the American Bar Association today answered charges that trial by jury is an outmoded, time-consuming process which can be replaced by more efficient legal procedure.

David F. Maxwell, of Philadelphia, who heads the lawyers organization, said instead that jury trials are the ultimate protection against invasion of personal freedom.

He spoke at the diamond jubilee celebration of the State Bar of Texas.

"Too many persons today are prone to view trial by jury solely as a factfinding device, and hence expendable, if as good or better a method can be devised," he said.

These critics are influenced, Maxwell said, by the late Supreme Court Justice Oliver Wendell Holmes who wrote that an experienced judge should be able to represent the commonsense of the community far better than the average jury.

The Pennsylvania attorney said, "Such a contention presupposes the ability of the trial judge to discard foibles and prejudices built up within himself through his personal experience and background," adding that a group of average citizens can mete out more even justice than can the most competent and experienced judge.

"So let us in this country take warning," he said. "The jury alone is able to function as the thin wedge of reserved power that separates our system of law from the monolithic, totalitarian despotism behind the Iron and Bamboo Curtains."

Mr. President, an editorial appeared in the Greenville (S. C.) News of June 6, 1957. It is entitled "Jury Trial Is at

Heart of Rights Issue" and has this to say on the jury-trial issue:

The day after it was reported from Washington that the administration would protest the southern claim that the so-called civil-rights bill would deny the right to trial by jury, the Judiciary Committee of the United States Senate approved an amendment intended to guarantee that right to persons who might come under an injunction authorized in the proposed law.

In his several appearances before the Senate and House committees studying the various proposals, Attorney General Brownell tried to claim that a trial by jury would not be denied. He had rough going, and at times was downright evasive, when Senator SAM J. ERVIN, of North Carolina, began to cross-examine him on his statements.

Senator ERVIN, an eminent lawyer and a former member of his State's supreme court, is of the opinion that trial by jury not only would not be guaranteed under the bills as submitted, but could be denied. Certainly, it would be possible for the courts to deny a jury hearing and a judge, if he chose, could sit in judgment on the testimony as well as the law.

Speaking for the administration, Attorney General Brownell is taking his case to the House of Representatives, but the action of the Senate committee on Monday indicates that even a number of northern Democrats and Republicans have been convinced of the facts.

The jury trial issue came up in this way: Among the bills included in the civil rights packages (various versions of which have been offered by the administration and by individuals and groups of Democratic and Republican Members of Congress) is one which would set up a special civil rights division of the Department of Justice.

It would be manned by a number of assistants to the Attorney General and would have the authority to initiate civil suits against persons accused of violating the civil rights of others or whom it might have reason to believe were about to violate such rights.

(At present, it is a criminal offense to violate the civil rights of another. But a person accused of violating such laws has the right to be arraigned before a grand jury and to be tried by a petit jury.)

The administration proposal—and members of both parties have supported this or made similar proposals of their own—is to transfer civil rights cases from the criminal to the civil side of the Federal courts. The Government itself would bring such suits, with or without the request of the allegedly injured persons.

The Government could ask for and obtain an injunction forbidding anyone to do certain things, such as to refuse a voting certificate to a certain person or to oppose an integration order issued against a certain school. Such action on the part of the defendant might be a violation of an injunction or it might be a violation of a criminal law on civil rights.

But in such cases, the Government would bring the individual before the judge on a charge of contempt. And the judge could convict and sentence the individual without a trial by jury.

That is what prompted the southern amendment to the bill aimed at assuring a jury trial. And that is the principle Mr. Brownell is assailing in his statements to Congress.

He does not deny that trial by jury would be denied the defendants. He merely says the amendment would make the bill ineffective and would weaken the power of the Federal courts to enforce their orders. He says this power to punish for contempt has long been available to the Government in other Federal cases.

That much is true. When the Government brings a civil suit and obtains an injunction,

contempt can be adjudged and punished without a jury. But these are cases entirely different from those Mr. Brownell proposes to bring in the name of civil rights.

In this instance, Mr. Brownell is trying to do in a roundabout way what the Constitution forbids him to do directly; that is, try and convict a person for an alleged crime without a jury.

Mr. President, here is an editorial from the Charleston (S. C.) News and Courier of April 17, 1957. It is entitled "Senator O'MAHONEY Understands Threat to Liberty in Civil-Rights Bill" and has this to say:

Speaking at the annual banquet of the Hibernian Society in Charleston, March 18, 1947, Senator JOSEPH C. O'MAHONEY, of Wyoming, stressed the fact that the United States has repudiated the doctrine of arbitrary power.

This week, 10 years after he made this statement, Senator O'MAHONEY gave evidence that he believes what he said. The Democratic Senator lined up with southern critics of the so-called civil-rights bill. He said he was in favor of a civil-rights bill but one that is conceived in justice and freedom rather than in any thought of punishment.

Senator O'MAHONEY told reporters that the proposed Presidential Civil Rights Commission to investigate complaints of civil-rights violations could easily do more harm than good. And with respect to another part of the bill vigorously opposed by southern Senators, he said, "I don't think we should be afraid of a jury trial in matters of this kind." In announcing his stand on the legislation, he said that the South has made many striking advances in racial relations, while such relations in some other parts of the country have worsened.

Senator O'MAHONEY's stand on the civil-rights bill is of major significance. His statement shows that the South is gaining ground in its battle to convince other regions that the force bills are a threat to the liberties of all Americans.

Senator O'MAHONEY is not a western conservative like, say, Senator BARRY GOLDWATER, Republican, of Arizona, who might be expected to line up with southern conservatives. The Senator from Wyoming is a western liberal and an oldtime supporter of the New Deal. Hence his acceptance of some of the southern constitutional arguments is all the more meaningful.

If Senator O'MAHONEY is convinced that the right to jury trial and other parts of our heritage are being threatened by the civil-rights bill, the likelihood of convincing other northern and western Senators is considerable.

In order to overcome the propaganda barriers of the NAACP and convince these Senators, the South must continue to argue its case—and on the highest level. Senator SAM ERVIN of North Carolina has done especially fine work this session in accomplishing just that.

The other task facing southerners is that of insisting on respect for law and order throughout our region. The enemies of the South must not have any excuse for urging Federal intervention. Hoodlumism must be put down. The ignorant elements who join the Ku Klux Klan must be made to realize they are under the eyes of local and State police. Responsible men must stay active in movements such as the citizens council, and prevent infiltration by troublemakers or hotheads.

If the South can speak with dignity in Washington and act with honesty and good sense at home, there will be more Senator O'Mahoneys who will realize southerners are fighting the good fight for American liberties.



Mr. President, here is another article from the Charleston (S. C.) News and Courier. It is entitled "Trial by Jury Right of All Americans" and it appears in the June 5, 1957, issue of the News and Courier, and has this to say:

A guaranty of trial by jury, squeezed into a civil-rights law by vote of a Senate subcommittee, has been hailed as a southern victory.

This victory—though it is little more than solace in a string of defeats—in fact belongs to the American Republic. Southerners are not alone in danger. If the Federal Government can deprive southerners of the right of trial by jury, on the ground that they are unfair to Negroes, it can do the same to citizens of other regions on equally flimsy grounds.

Thanks to the NAACP and its political allies, defense of Negroes' civil rights is popular today. Even at the sacrifice of rights of all citizens, restrictive laws have won serious support. The News and Courier finds biting irony in the need for Congress to guarantee the right of trial by jury. Americans have been brought up in the belief that the United States Constitution meant what it said in guaranteeing them this right.

Nowadays, the ruling clique no longer trusts ordinary people to govern themselves. Juries, they fear, will bring in unjust verdicts. The bosses prefer to entrust such delicate matters as civil rights to hand-picked Federal judges, who are screened by the Department of Justice and appointed by the President. With both national parties committed to the NAACP program, no lawyer who takes a strong stand against that program stands much chance of appointment. As older judges die or retire, Attorney General Brownell will make sure, insofar as he is able, that replacements have a "liberal" view of race.

With administration of election laws removed from the hands of elected State officials and placed under Federal appointees, government is being removed ever further from the people. The jury system, safeguard of Anglo-Saxon liberty, may yet be a victim of alien notions now gathering power in our Republic.

Mr. President, I have an article from the May 10, 1957, issue of the Charleston, (S. C.) News and Courier. It is entitled "The Civil-Rights Fight and Trial-by-Jury Issue" and was written by the distinguished southern newspaperman, Dr. John Temple Graves. Here is what it has to say on the jury-trial issue:

"Backward, turn backward,  
O Time in thy flight \* \* \*

Time accommodates.

Its comment on jury trials last week overlooked the Federal march of time.

Admitting that the trial-by-jury issue has come to dominate the civil-rights fight, the magazine pontificated that "the contempt citation is the judiciary's historic enforcement tool." It avowed that "jury trials in contempt cases have absolutely no basis in equity or constitutional law and precious little legislative sanction."

The trick in this extraordinary statement is in Time's small print at the bottom of the page. It explains there that "with a single exception (the Norris-La Guardia Act covering labor disputes) trial by jury has never been required in contempt cases to which the United States Government was a party." With the United States Government proposing now to be a party to just about everything in heaven, earth, and the waters beneath—a new situation exists.

The Constitution loves the principle of trial by jury and says so over and over again. That great basic principle, rather than any

technicality, is what is involved for the South.

Call it contempt or something else, let the Government be a party or not a party, what concerns us and what concerned the makers of the Constitution is that citizens in handcuffs shall not be adjudged by those who put the handcuffs on them, that the right of an accused to be properly tried in the Anglo-Saxon ideal shall not be abridged in the name of contempt or participation of the Government.

The Constitution speaks for this principle in article 3. The fifth amendment speaks for it, and the sixth, and the seventh.

Nothing in the whole instrument is more emphatic.

Mr. President, I have an editorial from the April 8, 1957, issue of South, the news magazine of Dixie. It is entitled "Force Bill 'Liberals' Would Kill Jury Trial." Here is what it has to say:

It is incredible that those who like to boast that they are liberals and protectors of individual rights are crying the loudest for the currently misnamed civil-rights legislation which would deny alleged violators the right to trial by jury. The politically inspired anti-South force bill package has induced such a state of hypnosis in the self-styled liberals that they want to replace constitutional guaranties of civil liberties with their own false notions of civil rights.

If the question of race were not at issue, the very people who are pressing for passage of this abominable travesty on constitutional principle would be the first to denounce it for discarding the sacred right of trial by jury. At the outset the legislation violates the rights spelled out in article III, section 3, and by the seventh amendment, one of the historic ten making up the Bill of Rights. It would empower the United States Attorney General to seek injunctions against persons suspected of being about to violate the so-called civil-rights measure. Then a Federal judge, acting also as prosecutor and jury, would decree a whole community or State in contempt. An individual cited for contempt would be tried without a jury by the judge who cited him.

The proponents of this evil proposal know exactly what they are doing. By design they are taking away the right of jury trial. In fact, they are bold to say that if they did not set aside the right of trial by jury, they could not get convictions in the South. To allow jury trials, they say, would be to gut the bill. Attorney General Brownell is horror struck at the thought that the no-jury-trial provision be stricken. President Eisenhower, who violates a campaign pledge made at Miami by pushing this legislation, says he would have to get Brownell's opinion as to whether to sign or veto a civil-rights bill containing the assurance of jury trial in contempt cases. The civil strife proponents protest that this guaranty—in the Constitution which Eisenhower, Brownell, and all Congressmen are sworn to uphold—would cripple the bill. Has the President so soon forgotten that he said at Miami, 2 weeks before the election, that civil-rights problems should be handled to the greatest extent on a local and State basis?

Surely our liberals know that Hitler, Mussolini, and all tyrants from the time of King John (until forced to sign the Magna Carta) opposed jury trials because they would cripple their programs.

Mr. President, I have an article from the April 14, 1957, issue of the Greenville, S. C., News. It is entitled "Jackie Robinson on Meet the Press: Negro Athlete Favors Jury Trials" and has this to say:

Jackie Robinson, Negro baseball star, when asked if he favored jury trials for civil-

rights defendants, said Sunday night he would personally prefer a jury trial.

The National Association for the Advancement of Colored People strongly opposes a jury trial guaranty in criminal injunction cases arising under the bill.

Robinson is leading the NAACP's freedom-fund campaign for a million dollars to attain first-class citizenship for all members.

The former Brooklyn Dodger told an NBC Meet the Press television panel that he did not know what the million dollars would be spent for—possibly for lawsuits against school segregation.

He said he favored the civil-rights bill but knows very little about it.

Frank Van Der Linden, this newspaper's Washington correspondent, asked the questions about the civil-rights bill.

This is a man, Mr. President, who favors the civil-rights bill, but even he says he favors a trial by jury.

That is what the House did on this so-called compromise. In effect, they have nullified the right of trial by jury. There are very, very few instances in which a judge, when he finds a man guilty of contempt, would give a sentence of more than 45 days in prison or a fine of more than \$300. That simply means the practical effect is that the jury trial has been completely nullified.

As I have said earlier, and as I will say later in my address, the right of jury trial is something the Constitution grants to the citizens of the United States. The Congress does not have the authority to take the jury trial away from the people of America.

Mr. President, I have an excerpt from an editorial from the August 26, 1957, issue of the Columbia (S. C.) Record. It is entitled "Jury-Trial Compromise No Compromise," and this is what it has to say:

The "compromise" on the jury-trial amendment to the civil-rights bill, worked out between the House and Senate leaders of both parties, is anything but a genuine compromise. It is a nullification of the jury-trial principle, for which the southern Democrats fought so valiantly in the Senate.

The amendment written into the bill by the Senate provided that in all cases of criminal contempt defendants should be entitled to jury trials, guaranteed by the Constitution to all persons accused of crime. This applied not only to criminal contempt charges growing out of voting-right cases, but also to other criminal contempt proceedings as well.

The so-called compromise allows jury trials only in voting-rights cases and then only after a defendant has been tried and convicted without a jury trial and sentenced to more than 45 days' imprisonment and a \$300 fine. In such a case the defendant could ask for a jury trial and the case would then be tried de novo before a jury. But no jury, of course, could try such a case de novo in fact. Every juror would know that the defendant had been found guilty by a judge and given more than a minimum sentence. This is a condition precedent to a jury trial in these voting-right cases. And no jury trial under such circumstances is anything approaching the right of trial by jury guaranteed by the Constitution.

Mr. President, I have an editorial from the August 25, 1957, issue of the Charleston (S. C.) News and Courier. It is entitled "Jury Trial 'Compromise' Is False Bait in Wicked Trap for Liberty," and here is what it has to say:

A proposed compromise now pending in Congress is as wicked and immoral, in our

opinion, as total denial of trial by jury under Federal election laws.

Reports from Washington indicate a likelihood that the civil rights force bill may be rammed through Congress with this compromise to grease the way. Perhaps the northern scrambles for Negro votes and their "liberal" southern allies have the power in Congress to enact this hateful law. They should not get even silent support from anyone who loves the American Republic.

The compromise is really no compromise at all. It would grant the opportunity to seek a new trial before a jury by a defendant in an election case who had received a sentence greater than a \$1,000 fine or 45 days in jail.

The amount there, incidentally, Mr. President, should be corrected. Instead of a \$1,000 fine, it should be a \$300 fine.

But the size of a fine and the duration of imprisonment are not the key issue in this legislation. Penalties may be amended once the principle is set up. Besides, imprisoning State election officials even for a short time could rig the outcome of voting.

The key issue here is whether the liberty of a citizen, and the constitutional rights of the States to conduct free elections, should be sacrificed for the sake of current political advantage of national parties and politicians.

As I have said before, Mr. President—to digress there—the only purpose of this so-called right-to-vote bill is to advance the cause of the national political parties with the minorities and to advance the cause of certain politicians. If it were not for the purpose of both parties playing to the minorities and advancing the cause of certain politicians to high offices, I do not believe this bill would ever have been introduced. It is a disgrace to the United States even to have the Congress consider such an abominable and obnoxious bill.

Behind this force bill lies a game of power politics. Both national parties are struggling to control the votes of herded Negroes in big northern cities and their liberal allies. These bloc voters are believed to hold the balance of political power in the United States.

Buried beneath the nauseating political greed that has produced this force bill are principles once dear to Americans. The bill has many of the earmarks of totalitarian government that the Constitution was built to prevent.

Among these earmarks are Federal control of elections, seizing the power of the ballot box from the people most likely to be affected; substitution of judges for juries in enforcement of the law; and secrecy in working up prosecutions.

The bill would set up a powerful commission on the phony pretense of guarding voting rights of minority groups. This Commission's actions would be shielded from public view. Persons are forbidden under penalties to make known what it is doing. The Star Chamber—a tyrannous device once used by English Kings—thus would be imposed for the first time on the United States.

Southerners may be overwhelmed by superior force, but they should go down fighting every step of the way.

In honorable defeat they may sound an alarm to fellow Americans not yet awake to dangers to the Republic. Passage of the civil-rights force bill would be a defeat for all citizens of whatever race or region, for it would help to set the stage for dictatorship and oppression. The compromise on which passage now seems to hinge is only a deceptive detail in a dirty business.

Mr. President, I have here an excellent editorial from the Washington Evening Star of July 12, 1957. It is an editorial

full of quotes, but the editor made his point well in this editorial without even having to insert his own comments. Here is what the editorial says:

BROWNELL V. NORRIS

Attorney General Brownell (in a letter explaining the civil-rights bill):

"Enactment of legislation providing for jury trial in contempt cases arising out of governmental litigation would undermine the authority of the Federal courts by seriously weakening their power to enforce their lawful orders. The effect of adopting current proposals for jury trial would be to weaken and undermine the authority of the Federal courts by making their every order, even when issued after due hearing and affirmed on appeal, reviewable by a local jury. \* \* \*

"Furthermore the proposed amendment to existing procedures that is being advocated under the innocuous slogan of jury trial would permit practical nullification of the effectiveness of the proposed civil-rights legislation. The enforcement of any court order may require prompt and vigorous action if it is to be effective. Prompt action will often be vital in civil-rights cases, especially election cases, where the registration period or the election may pass while enforcement is delayed. The injection of a jury trial between an order of a court enjoining discrimination against Negroes in an election, and the enforcement of that order would provide numerous opportunities for delay beyond the time when the order could have practical effect."

The late Senator George W. Norris (insisting on the right of trial by jury, by Congressional enactment, in every case of indirect contempt):

"I agree that any man charged with contempt in any court of the United States \* \* \* in any case, no matter what it is, ought to have a jury trial."

I wish to repeat that statement. He said:

I agree that any many charged with contempt in any court of the United States \* \* \* in any case, no matter what it is, ought to have a jury trial.

Under the proposed compromise amendment which came from the House, the people will not get a jury trial. In 99 percent of the cases the judge will sentence people without a jury trial. It is said, "Well, they are able to get a jury trial if the fine is more than \$300 or if the imprisonment is for more than 45 days."

That is not the point. The point is that in 99 percent of the cases the compromise would deny to the citizens a jury trial, which is guaranteed to them by the Constitution. Congress should not be a party to violating the Constitution of the United States by passing the compromise amendment.

I continue to read from the editorial:

"It is no answer to say that there will sometimes be juries which will not convict. That is a charge which can be made against our jury system. Every man who has tried lawsuits before juries, every man who has ever presided in court and heard jury trials, knows that juries make mistakes, as all other human beings do, and they sometimes render verdicts which seem almost obnoxious. But it is the best system I know of. I would not have it abolished; and when I see how juries will really do justice when a biased and prejudiced judge is trying to lead them astray I am confirmed in my opinion that, after all, our jury system is one which the American people, who believe in liberty and justice, will not dare to surrender. I

like to have trial by jury preserved in all kinds of cases where there is a dispute of facts."

Mr. President, I have before me an editorial from the Greenville (S. C.) News of March 29, 1957, entitled "How Secure Is Right of Jury Trial?"

It reads:

HOW SECURE IS RIGHT OF JURY TRIAL?

Rather smugly, perhaps, we Americans have taken for granted our right to a trial before a jury when we stand accused of violating the law.

So fixed in our system of jurisprudence and our common concepts of justice is the jury trial that few of us ever have stopped to consider the difference between having our guilt or innocence determined by a group of ordinary citizens and having a judge, a creature of the Government, mete out justice singlehandedly, as he alone sees it.

Article III, section 2 of the United States Constitution, says that "the trial of all crimes, except in cases of impeachment, shall be by jury."

The sixth amendment, article VI of the Bill of Rights, spells out further the right to the accused in criminal proceedings "to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed. \* \* \*

It goes on to guarantee the accused the right to be informed specifically of the charges against him, to confront the witnesses against him, to subpoena witnesses in his favor, and to be represented by counsel.

The seventh amendment, article VII of the Bill of Rights, provides that in suits at common law the right of trial by jury shall be preserved.

One would think that, with all these references in the Constitution, the right to a jury trial would be secure. But liberal elements, including our own Department of Justice, advocating passage of proposed civil-rights legislation are teaching us that this basic right is not so secure as we might have thought.

For the bills now before the Congress would, in fact, deny persons accused of violating the civil rights of others the right of a trial by a jury of citizens of their State and district. And the NAACP and Attorney General Brownell are insisting on this provision of the bill. Attempts of southern Senators and Congressmen to write into it a guaranty of that right have thus far been beaten down.

If the bill is enacted, the Government would be empowered to bring civil, rather than criminal charges, against an individual accused of violating someone else's rights. He would be prosecuted by a Government attorney before a Federal judge, who might be sent in from outside his State, who would pass on the facts as well as the law and would pass sentence.

The accused would be just as apt to go to jail on the civil charge as he would if he were charged with a criminal offense in which the jury trial would be guaranteed. Indeed, the chances of his going to jail might be even greater.

But that is only part of it.

The bill would create a new division in the Justice Department with an unlimited number of lawyers employed to investigate and bring civil-rights suits. This division could bring suit in behalf of a named plaintiff, even though that individual had never raised a complaint. If the individual did complain, the Government would bear the whole cost of prosecuting his case.

The defendant, on the other hand, would find himself faced with the necessity of hiring a lawyer and, perhaps, of going through a long series of court proceedings that could very well break him financially.

This could become vicious persecution instead of reasonable prosecution.



This threat of persecution is no less real in another phase of the proposed civil-rights legislation relating to the creation of a commission empowered to investigate alleged incidents of discrimination, economic boycotts, and the like.

If this plan became a reality, a citizen accused of discriminating against a member of a minority, or of applying economic pressure against him, could be ordered to report to a place in Washington at a given time and be subjected to an investigation. His need for counsel and, hence, the expense of defending himself, could be just as great as it would be if he were accused of some crime.

All of this is being proposed in the name of civil rights by persons calling themselves liberals.

How can we create rights by destroying rights? And how liberal is it?

Mr. President, I wish to repeat a paragraph in the editorial which I believe is most important. It should appeal to every lawyer, and, in fact, to every citizen. It reads:

The bill would create a new division in the Justice Department with an unlimited number of lawyers employed to investigate and bring civil-rights suits. This division could bring suit in behalf of a named plaintiff, even though that individual had never raised a complaint.

Mr. President, I believe we are setting a very dangerous precedent when the Government can bring suits of the kind provided in the civil-rights bill, even if an individual does not complain. The Government can file a suit in behalf of an individual, even if the individual has not complained, and it can bring a suit for an individual who has complained. In either case, the Government can substitute its name in behalf of the defendant in bringing the case.

Furthermore, the Government would bear the cost of prosecuting the case. The poor defendant must pay his own expense. If an individual wishes to bring a case in court, why should he not pay his own expense? Why should the Federal Government bear the expense of a person whose statement may be true or which may not be true? I can foresee untold litigation. I can see all kinds of fabrications being made in order to have cases brought. It is a dangerous bill, Mr. President. It is far more dangerous than I believe the average man on the street has been able to understand. The average man in the street does not realize what is in the bill. I cannot imagine why Members of Congress would even consider passing such a bill. Again I say that it would not even have been introduced, in my opinion, or given any consideration at all, if it were not purely a political bill.

Mr. President, I have an editorial published in the Greenville (S. C.) News of February 26, 1957, entitled "Civil-Rights Bills Threaten Liberty."

#### CIVIL RIGHTS BILLS THREATEN LIBERTY

(EDITOR'S NOTE.—The following editorial is taken from a statement prepared by the editor of the News at the request of the Governor of South Carolina. The statement is to be offered to the subcommittee of the House Judiciary Committee this afternoon by representatives of this State who are appearing in opposition to the civil-rights bills.)

The civil-rights bills of 1957, like those proposed during the last 20 years and more

by individuals of both parties and by administrations of both parties, are anachronistic.

An anachronism is something that is misplaced in time. In this instance, it is a throwback to a more primitive age which is, at best, a misfit and, at worst, a destructive force in the age in which it occurs.

And when intelligent and otherwise dedicated men ignore more pressing and more serious problems and pass up greater opportunities for service to deliberately create such an anachronism, the result is bound to be tragic.

Even if we could assume, which we cannot, that the broad and untested powers these proposed laws would confer on an already oversized and unwieldy Federal bureaucracy would always be wisely and fairly administered, the need for them, if it ever existed, has long since passed.

The purposes now claimed for them have been better served by processes springing from the people themselves than ever they can be by pressure and threat of punishment imposed upon the people by an omnipotent and omnipresent "Big Brother" sort of government.

Furthermore, the instruments now proposed to protect liberty and to uplift men are such as to be capable of being used to destroy liberty and to oppress men.

To appreciate the origin of the civil-rights bills and the natural resistance to them in many parts of the country, especially the South, one must consider them in their proper perspective with past history and present trends.

To put it bluntly, this legislation grows out of a latter day extension of the overzealous efforts of the abolitionists, who profited and were exalted during the era preceding the War Between the States. It is being pushed in the same sort of spirit that motivated the vengeant and vindictive planners and executors of the reconstruction.

Not even during the tragic and oppressive reconstruction did a Congress, which was dominated by radicals and in which the conquered South had few friends and spokesmen, see fit to enact such laws as now proposed.

There was military occupation and corrupt government imposed from Washington, but there was no permanent board of inquisitors that could be turned into an agency of harassment and intimidation. There was injustice, but there was no permanent overturning of the processes of the courts.

Purged by bloodshed of the sin of slavery, which was not his alone, nor his country's alone, the southern white resisted the reconstruction. He resisted it because he feared, with justification, that it was intended to take from him in order to give to the Negro. He resists court-decreed integration and the civil-rights proposals for the same reason—again with justification for his fears.

#### NEGRO IS MISLED

The Negro was misled in those days, and he is being misled now.

The end of the abominable institution of slavery was inevitable, and it could have been accomplished without fratricide and without threatening the Union and creating abiding bitterness. At its end, the Negro was led to believe he could switch from the status of slave to that of master. In some instances, for a time, he did. In others, he was promised "40 acres and a mule," but more often than not he didn't know what to do with the 40 acres and he never got the mule.

The Negro again is being falsely led to believe that integration will solve all of his remaining problems and that all he needs to realize the millennium is a few more court decrees and Federal laws. He has been led to believe that political largesse will bring to him those things that he can

best realize by earning and exercising the rights and privileges already available to him.

Until fairly recent decades, southern whites and Negroes engaged in a pathetic sort of competition for the lesser degree of poverty, but they have made progress together and they have achieved a mutual understanding. Education and a rising prosperity were easing the old bitterness and misunderstanding and improving relations between the races at a rate that has been positively amazing.

The tragedy of this era is that, since 1954, with the Supreme Court decision in the school cases, and especially since the renewal of agitation of civil-rights legislation with almost virulent vigor, this progress has been slowed down. And the Negro stands to lose the most. The bitterness and the old suspicions are being revived.

A few years ago in a prosperous South Carolina industrial city, a joint committee of white and Negro citizens conducted a survey of the needs of the Negro community, ranging from health and housing to transportation and recreation. Much progress came of it.

Also, a few years ago, with the help of the newspapers and interested white citizens, certain racial barriers in the public hospital were broken down and qualified Negro doctors were granted staff privileges for the first time on full equality with their white colleagues.

Along about the same time, the newspapers and interested white citizens campaigned for better housing for Negroes. City substandard housing laws were strengthened and better enforcement machinery established. The improvement in rental property has been marked.

Also, it was urged that property be made available to Negroes of means who wanted to build better homes away from congested areas in which Negroes tend to congregate. Subsequently, a fairly exclusive Negro residential section, near white neighborhoods, was started. There were no objections.

#### PROGRESS IS SLOWED

This sort of things would be more difficult now, if not impossible, in no small part because the Negro is reluctant to cooperate. Both he and his white friends are subject to pressure and unpleasantness from radical elements among their respective races. The Negro apparently has been led to believe the moon may be within his grasp; and lawless and more extreme whites have been aroused.

In many cities in the South, the newspapers have sought for years to treat the Negro with the dignity any citizen deserves in their handling of the news. Special sections devoted to news of the Negro community, often prepared by Negro reporters, were started. Until recently, there was no protest. Now there are murmurs, direct protests, and anonymous letters.

None of this has to do with integration. Neither race is ready for integration, and may never be. But if they become so it will be on the only basis of successful close human association—natural affinity, mutual appreciation, and individual choice. Neither court decrees nor laws can create these conditions.

In his speech on conciliation with the American Colonies in 1775, Edmund Burke said, "I do not know the method of drawing up an indictment against a whole people."

With the help of the proposed legislation, and the injunctive process, the Federal courts may one day find such a method, but the result will be the destruction, not the preservation of civil rights.

Burke also said in his *Thoughts on the Cause of the Present Discontent* in 1770 that, "When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle."

This cause is not the South's alone. The extension of the judicial process into areas it was not intended to reach and stretching it for purposes it is incapable of serving; the striking down of the police power of the States in field after field; the unprecedented use of the injunctive power without jury trial to punish for contempt persons not before the court; all of these, as able judges and lawyers are solemnly warning, threaten the future security of all Americans.

The granting of the powers the Justice Department is now asking can only hasten this process. Even the layman can see that. The proposed commission, with power to investigate and harass at its own will could, in the wrong hands, become an instrument of coercion and intimidation.

Like other Americans, no southerner of good conscience condones the denial of rights, either by violation of the law or by threat or violence. But the atmosphere created by agitation is not only inciting lawless elements to violence, but is making such incidents even harder to deal with.

Of laws we have aplenty. The Federal Government has ample power to deal with the violations the Attorney General alleges but doesn't specify. The States have laws against violence, and many of them, like South Carolina, have laws making violation of any citizen's rights a crime.

They should be left free to enforce them.

Mr. President, I have an editorial from the Orangeburg (S. C.) Times and Democrat of June 5, 1957. It is entitled "On Jury Trials." This is what it has to say on this subject:

The committee in the Senate which has been considering the civil-rights bill has added an amendment to the bill which would allow persons accused of contempt to be given jury trials. Many Senators who were and are in favor of the civil-rights bill are supporting this amendment.

We do not see how Congress can go wrong in providing jury trials for persons accused of contempt. While we do not wish to join in a wholesale assault on the judiciary of this Nation, it is nevertheless true that the judiciary—like the other branches of the Government—must have its limitations.

No one branch of our Government functions perfectly, nor is it made up of perfect citizens. The judicial branch has assumed increasing power in recent years and it would be wise to safeguard the right of persons to a trial by jury because of what might follow if this right is denied citizens. It may be that only one issue is involved at present, but the future might well turn up an undesirable situation in which the principle wherein judges who find American citizens guilty of contempt, exercise such unlimited powers concerning various issues and freedom that any bill limiting the right of jury trial would be a tragedy and result in injustice to many Americans.

We do not believe that any one section of the country has a monopoly on all the good people in the United States. We believe that trial by jury is the best possible system establishing guilt and that the people themselves, who make up our juries, will come nearer seeing that justice is done than any group, acting individually, no matter how talented the various individuals may be.

Mr. President, I have an editorial from the Columbia (S. C.) State of June 5, 1957. It is entitled "A Wise Provision," and here is what it has to say on the question of jury trials:

Administration forces fell before six Democrats and a Republican on the Senate Judiciary Committee who insisted upon including in the so-called civil-rights bill a proviso guaranteeing trial by jury to persons accused in court in civil-rights cases. In supporting the amendment as a poor sub-

stitute for killing the bill, Senator EASTLAND explained that the section would give civil-rights defendants the same right now enjoyed by trade unionists in labor injunction cases.

The development does not, however, meet with the approval of Attorney General Brownell, who has been playing out of position before now in lobbying for controversial and doubtful legislation, arraying section against section and class against class. He complains the proviso would permit practical nullification of proposed civil-rights legislation. In the words of Orphan Annie, "Would that be bad?"

One wonders just what the advocates of such legislation are after. Could they be seeking to destroy the Constitution?

Everything considered, the section guaranteeing jury trials to defendants in civil-rights cases follows the orderly procedure defined by the Founding Fathers as to the rights and dignity of the individual. Trial by jury is one of the cardinal triumphs of our Constitution as inherited from Magna Carta. There is no reason why any exception should be made to gratify the unilateral zeal of special interests of self-appointed reregulators.

Mr. President, I have an editorial from the Nashville (Tenn.) Banner, of July 10, 1957. Here is what it has to say:

#### A PRINCIPLE OF RIGHTS: SOUTH MAKING ITS POINT

More Senators, it appears, are seeing the validity of the South's insistence on trial by jury as a fixed point of law and due process—bone of contention with the civil-rights brigade. They are seeing, surely, what logic underscores: that if this principle falls under the impact of biased thinking against the South, it falls for all. It is not, therefore, a regional issue, but national. The southern protest is not addressed to a narrow, selfish view, but to a view exactly as broad as the Constitution—and as far reaching.

Senator O'MAHONEY, of Wyoming, has paid tribute to the fairness of southern colleagues—having spoken out prior to this showdown for the stated right of due process; and recognizing the progress already made, and voluntarily, on race relations. As a further point of edification, the fact of voting rights enjoyed and practiced in the South should be laid before him.

Who, influenced by propaganda to the contrary, has bothered to examine the record in State after State? By what process of competent investigation have these civil-rights firebrands arrived at a conclusion of wholesale indictment?

Voting is a privilege, as well as a duty, of citizenship, asserted and protected by law. With that principle there can be no quarrel. The issue is invasion by Federal authority, and methods of enforcement begetting strife by the measures of force contemplated in this iniquitous legislation.

There are States, outside the South, where people of voting age are denied the right to vote—Indians, for example. Negro citizens do vote, under the same rules of eligibility applied in the case of white citizens; and if any Senator doubts that, he should come this way and watch.

In Tennessee, and other Southern States, he would find Negroes holding public office. In Nashville they elect their own representatives to city council; they have membership on the school board. They staff their schools. They are employed on the police department and the fire department.

Facts, it appears, are coming out in the Senate and registering—and they are facts answering organized diatribe; substantiating both the concept of justice and of constitutional law.

The South does not stand at the bar of public opinion convicted—just accused. It is not on the defensive. It is defending a

basic right of responsible treatment, and the place of that defense is the floor of the Senate.

As manifested by the implied readiness of opponents to concede the trial-by-jury point, its stand to date is influencing that decision. It cannot compromise any principle to the detriment of established, constitutional rights, much less yield to the whip of caprice.

A column written by Dr. John Temple Graves, one of the outstanding men in the South and in the Nation, printed in the Charleston, S. C., News and Courier of July 8, 1957, is entitled "South's Most Civil Right Is Right To Be Let Alone," reads as follows:

"The right to be let alone."

That is our most civil liberty.

Remember it and be of good cheer as Senators from the South fight against the so-called civil-liberty bill.

Civil liberty is indivisible.

It is the whole Constitution, the whole ideal. When you sacrifice one part for another you decrease and endanger the total. When the right to jury trial is impeached to save the right to vote there is net loss, and the same loss runs the whole constitutional gamut.

Basically, all American rights are civil rights. State rights are civil. The rights of Congress against the Supreme Court are civil, and of the executive against each, and vice versa.

And when the Federal Government (or the State) invades areas never intended or authorized there is violation of the most civil right of all—the right to be let alone.

If the Founding Fathers made a mistake, if they failed to look ahead enough, if they should have anticipated a future so social and interrelated that nothing short of a totalitarian central government and law would serve, we should face it and get a new Constitution. Certainly we should not undertake to cover the situation by ignoring the Constitution in one place and insisting on it in another, sacrificing one civil right to make another safe.

Most of us believe no mistake was made, that liberty and justice can still be had in the great terms of the Constitution.

If the President could just be reached on this jury-trial issue in the civil-force bill, many of us who go on liking him believe he would see the South's case as the Nation's. The Baltimore Sun nails it thus: "The injunction contemplated would forbid actions already forbidden under Federal criminal laws. This being so, the injunction procedure is obviously a judicial shortcut, and one which would deprive those cited for contempt of a right which would be guaranteed them under the Federal Constitution (if they) were indicted for the same offense. It is proposed to assure one right—the right to vote—by ignoring another right—the right to a jury trial."

As pointed out here many times, jury trials should be stretched just as far as contempt is stretched, you would think. The civil-rights bill would stretch contempt into areas that ordinarily involve jury trial. It should not be permitted to deny jury trial, therefore, on the plea that contempt cases don't allow for them.

Mr. President, I have an editorial from the Charleston (S. C.) News and Courier of July 4, 1957, entitled "Unless Citizens Fight Against Tyranny Independence Will Perish in the United States of America":

The 181st anniversary of the signing of the Declaration of Independence in 1776 today finds independence at low ebb in these United States.

There is a real question as to whether Americans of this day are capable of keep-



ing whatever measure of independence is left to them, let alone restoring lost liberties.

The original Independence Day was celebrated a long time ago.

The national memory of what it means is dim. There is a certain amount of speechifying by political leaders. And the White House will hand reporters a mimeographed Fourth of July statement, written by one of the President's ghostwriters.

But the deep meaning of the day will not be especially clear to millions of Americans who are looking forward to a long weekend at the beach or other pleasure resorts.

There is no reason why the Fourth of July should be a long-faced affair. Nor is there any reason why it should be just another holiday—another day for family picnics, parties, and romping in the surf.

Except for a few lines of it embodied in newspaper stories, no one will read the Declaration of Independence. And yet our ancestors read it with the greatest care, for it touched their lives.

It is an angry document, full of resentment toward a government that was steadily pushing Americans into a corner. Finally, in the Declaration, the people said they had enough.

Throughout June 1957 the American people were being pushed into a corner, precisely as the people of the province of South Carolina and 12 other colonies were being pushed in the broiling summer of 1776. No one attacked Sullivan's Island last month, except possibly mosquitoes. But liberties of South Carolinians and their fellow citizens in 47 States were under attack.

Who knows it? Who cares? Today Fort Moultrie, which should be a national shrine, is padlocked and the grounds overgrown with grass. Today, grass is growing over American liberties.

Americans cared in 1776. Of George III, the signers said: "The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world."

And so they submitted the facts. They said that King George "has combined with others to subject us to a jurisdiction foreign to our Constitution and unacknowledged by our laws; giving his assent to their acts of pretended legislation; for depriving us in many cases of the benefits of trial by jury; for taking away our charters, abolishing our most valuable laws and altering fundamentally the forms of our governments; for suspending our legislatures and declaring themselves invested with power to legislate for us in all cases whatsoever."

Does this have a familiar ring?

Is not the Congress, on recommendation of the President, preparing a civil-rights bill that would deny trial by jury to some Americans? Isn't the Supreme Court striking down State laws, abolishing important laws of Congress and altering fundamental forms of our State and Federal governments? Isn't the Supreme Court legislating school laws for the South?

The answer to all these questions is "Yes."

The Declaration of Independence says that it is the duty of a free people, when a design to reduce them to despotism has been perceived, to provide new guards for their future security.

That is what Americans living in 1957 must do. There is no need for flag-waving demonstrations—nothing of that sort. All that is needed is for millions of Americans to halt one moment, in the midst of holiday pleasure, to resolve that they will support their elected representatives in setting up new guards against tyranny.

Unless there is such a resolve, there won't be much independence to celebrate in the years ahead.

Mr. President, I have an editorial from the July 9, 1957, Charleston (S. C.)

News and Courier entitled "People Should Accept No Compromise on States Control of Elections":

Talk about compromise on civil rights force bills before Congress is in the news from Washington. What goes on behind the scenes the public seldom knows at the time, and doesn't always find out later. We speak with no knowledge other than what we read in press dispatches.

The comment of Senator MUNDT, Republican, of South Dakota, who has predicted a compromise in time to let the Senate adjourn by mid-August, is especially interesting. He said the compromise would be one "for which the South can't vote, but one with which the South can live." The terms of the compromise would be to guarantee the right of Negro and other minority groups to vote without harassment.

Qualified Negroes, like qualified white people, already have a right to vote. Race agitators from time to time dig up cases of alleged intimidation of Negro voters in the South. No doubt there are voting irregularities in the South, as in other regions of the country. In the areas that the News and Courier knows about, Negroes register and vote without hindrance. If there is widespread violation of anybody's civil rights we are not aware of it. The big question is not so much whether and where violations may occur, but who has authority to enforce guaranties of the rights.

Heretofore in our country the States have set up and supervised elections within their borders. We strongly believe that the future of the American Republic depends on saving a balance of power between State and Federal authorities. Control of the ballot and voting procedures is essential to that balance.

The force bill now before Congress, generally known as the civil-rights bill, would set up new Federal machinery, armed with power to imprison without trial by jury, to manage racial aspects of elections. It would be a short step to amend this law to put other, perhaps all, election machinery into Federal hands. Thus some of the safeguards—precious few of them remaining—would disappear.

Compromise on the force bill is a compromise with freedom. Today the Southern States may seem to be the target. But the danger exists for all 48 States.

Perhaps the danger cannot be avoided in the present mood of our Government. Senator MUNDT, in the past a staunch supporter of States rights, has forecast a compromise "with which the South can live," even though it cannot vote for the compromise.

The South could not live with Reconstruction after the Civil War. Some of the proposals today seem designed to revive the spirit of Reconstruction. The News and Courier does not believe the South can live with that spirit now any better than it could live with it 80 years ago.

For that reason we reject any compromise with basic rights and basic freedom.

If the South loses to superior power, either in the form of votes in Congress or any other form of force, let it not be said that the South gave its consent. Someday, if it is not then too late, the rest of the country may come to its senses. The South may be able to hasten that day by resisting wreckers of the Republic. If the people of the United States realized what was being done to their country, they would not offer up the South as a sacrifice, nor compromise with liberty.

The South might be able to live with compromise, but not at the same time with pride and self-respect.

Mr. President, there have been a number of occasions on which I have spoken before the subcommittees of the Committees on the Judiciary of the House

and Senate, and on the floor of the Senate, in opposition to the provisions of H. R. 6127 and the other so-called civil-rights bills which were introduced both in the House and in the Senate. The first of these statements was made before the Committee on the Judiciary of the House of Representatives on February 26. Because a good portion of the statement was made with reference to certain so-called civil-rights bills then being considered, but which are not now before the Senate, I have edited out portions of the statement. I now read my statement as edited.

I am here today to oppose the so-called civil-rights bills.

Tyranny by any other name is just as bad.

In other countries tyranny has taken the forms of fascism, communism, and absolute monarchy. I do not want to see it foisted on the American people under the alias of "civil rights."

Real civil rights and so-called civil rights should not be confused. Everybody favors human rights. But it is a fraud on the American people to pretend that human rights can long endure without constitutional restraint on the power of government.

The actual power of the Federal Government should not be confused with power longed for by those who would destroy the States as sovereign governments.

#### USURPATION BY JUDICIARY

There have been a number of instances of attempted and real usurpation of power by the Federal Government, which these pending bills would attempt to legalize, expand, and extend.

The most notorious illustration of this type of usurpation is the May 17, 1954, school segregation decision by the United States Supreme Court. Since that time there have been several other decisions by the Court which I think have weakened people all over the country who previously paid little attention, or cared little, what the result might be in the school segregation cases.

There are two recent cases. One arose in Pennsylvania and one in New York. The Pennsylvania case is *Pennsylvania v. Steve Nelson*, decided April 2, 1956, dealing with the right of the State to take action against a Communist. The Supreme Court of the United States ruled that because there was a Federal sedition law, the State of Pennsylvania had no authority in that field. The laws of 42 States were invalidated by the decision. Even the protest of the Department of Justice that the laws of the States did not interfere with enforcement of the Federal law did not stop the Court.

The author of the Federal law, the Honorable HOWARD SMITH, of Virginia, has stated there was no intent embodied in the Federal act to prohibit the States from legislating against sedition.

The second case to which I refer arose when the city of New York dismissed from employment a teacher who had refused to disclose whether he was a Communist when questioned by duly constituted authority. Here again the United States Supreme Court ruled against the power and authority of the local government contained in the charter of the city of New York.

#### USURPATION BY EXECUTIVE

Now let me refer briefly to some attempts at usurpation of the rights of the States by the executive branch of the Federal Government. Administrators in some Federal departments and agencies have issued directives having the effect of laws which have never been enacted by the Congress.

A specific illustration is that of the Civil Aeronautics Administration issuing a directive last year to withhold Federal funds from

facilities in the construction of airports where segregation of the races is practiced.

There is absolutely no basis in law for this administrative action, but by use of a directive or an edict the administrator effected a result just as though a law had been enacted.

Other attempts at Federal interference from the executive branch with the rights of the individual citizen is demonstrated by the Contracts Compliance Commission. This Commission has dictated that contractors working on Federal projects must employ persons of both the white and Negro races, whether the contractors wish to do so or not. The strength of the Commission lies in the power to withhold contracts, or threatening to do so, if a contractor fails to carry out the dictates of the Commission.

#### ATTEMPTED USURPATION BY CONGRESS

I can think of no better illustration of attempted usurpation of the rights of the States by the legislative branch of the Federal Government than what is going on here now. I believe that the Congress, by attempting to enact these so-called civil-rights bills, is invading the rights of the States.

#### NO DOUBT AS TO CONSTITUTION

Wherever a person lives in this country, whatever political faith he holds, whatever he believes in connection with any matter of interest, he has one firm basis for knowing his rights. Those rights are enumerated in the Constitution of the United States. I believe in that document. I believe that it means exactly what it says, no more and no less.

If American citizens cannot believe in the Constitution, and know that it means exactly what it says, no more and no less, then there is no assurance that our representative form of government will continue in this country.

I believe that people all over the country are beginning to realize that steps should be taken to preserve the constitutional guaranties which are being infringed upon in many ways.

I believe we should also take steps to regain for the States some of the powers previously lost in unwarranted assaults on the States by the Federal Government.

#### STATE OFFICIALS UNDERSTANDING

The administration of laws relating to civil rights is being carried out much more intelligently at the local levels of government than they could ever possibly be administered by edicts handed down from Washington. State officials and county officials know the people and know the problems of those people. Most officials of the Federal Government in Washington know much less about local problems than do the public officials in the States and in the counties.

If these so-called civil-rights bills should be approved, then we must anticipate that the Federal Government, having usurped the authority of local government, will try to send Federal detectives snooping throughout the land. Federal police could be sent into the home of any citizen charged with violating the civil-rights laws.

If there are constitutional proposals here which any of the States wish to enact, I have no objection to that. Every State has the right to enact any constitutional law which has not been specifically delegated to the Federal Government in the Constitution.

On the other hand, I am firmly opposed to the enactment by Congress of laws in fields where the Congress has no authority, or in fields where there is no necessity for action by the Congress.

From my observations, I have gained the strong feeling that most of the States are performing their police duties well. I believe that the individual States are looking after their own problems in the field of civil rights better than any enactment of this Congress could provide for, and better than any com-

mission appointed by the Chief Executive could look after them.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a question, with the understanding that he will not lose his right to the floor, and the understanding that it will not be considered a second speech or jeopardize the Senator's right to the floor?

Mr. THURMOND. If unanimous consent is granted, under the conditions which the distinguished Senator has outlined, I will be pleased to yield.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California? The Chair hears none, and it is so ordered.

Mr. KNOWLAND. Mr. President, I shall preface my question by this brief statement of fact, namely, since the House has adopted a sine die adjournment resolution, and there is no fixed period for adjournment, and the Senate can, and in my judgment will, continue in session as long as it is necessary to complete its business, I put these questions in all seriousness to the distinguished Senator from South Carolina:

First. What is the Senator's purpose by his interesting but prolonged remarks? Is it a matter of education of the Senate or of the country?

Second. Is it to establish a record of discussion on the floor of the Senate?

Third. Is it merely to delay a vote on the civil rights bill, which is the pending business?

Fourth. Is it to prevent a final vote on H. R. 6127, the so-called civil rights bill?

Fifth. Is it to make friends and to influence other Senators in the southern position?

Sixth. Is it to emphasize to the Senate the need for a change, beginning in January, of rule XXII?

There may be other reasons, but I should be very much interested—and I believe the Senate would be interested also—if the Senator from South Carolina would agree to indicate the purpose of his prolonged address.

Mr. THURMOND. I would merely say that my purpose in making the extended address is for educational purposes—to educate the Senate and the people of the country. There is no question in my mind that the so-called civil-rights bill violates the Constitution of the United States. I do not believe the Senator was in the Chamber when I spoke earlier and cited a decision pointing out that criminal contempt has been held to be a crime and that under the Constitution of the United States it is provided that a man charged with crime shall get a jury trial.

The so-called compromise bill provides that if a person is sentenced by a judge by being fined more than \$300 or imprisoned for more than 45 days, he will get a jury trial. The Constitution does not say that. The Constitution provides that if he is charged with a crime, he shall get a jury trial.

I believe in the Constitution. I believe that the Constitution is clear. I hope the Senator will take the time one of these days—probably he will not have an opportunity soon—to read the address I have made in which I have gone

into these matters and have tried to delineate them and point them out for the benefit of the American people, as well as for the benefit of the Senate.

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

Mr. THURMOND. I am confident that the pending bill is a dangerous bill in a number of ways. I have pointed out that it is necessary that every State in the Nation have laws to protect the right to vote. The Senator's own State of California has such laws. I started with the State of Alabama and read the laws for every State. Those laws were confirmed to be accurate by the Library of Congress. I read the State laws beginning with Alabama and ending with Wyoming. Every State in the Nation has laws to protect the right to vote.

I say there is no need for the pending bill. This is a matter that comes under the Constitution, and it should be left to the States. It is a State matter. It is not a Federal matter.

Furthermore, the Federal Government has invaded the field. It has already invaded the field. I believe it made a mistake when it did so.

I should like to invite the attention of the Senator—again I do not believe he was in the Chamber when I referred to it previously—section 594 of chapter 29 of title 18 of the United States Code. That section provides:

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

Mr. KNOWLAND. Mr. President, will the Senator yield again under the same conditions?

Mr. THURMOND. That is the Federal law today. If anyone is being denied his right to vote today he has recourse to that statute. If anyone is being denied the right to vote and complains about it, the Justice Department fails to do its duty if it fails to prosecute under that section of the Federal statute. Either that condition exists or there are no just complaints. The Committee on the Judiciary held hearings for months on the question, and it did not have before it one valid complaint. It had some fictitious complaints from a parish in Mississippi. It turned out that they asked a witness to return the next day, but he did not return, and it proved that the whole testimony was a fabrication, according to the chairman of the committee.

Therefore, there are State laws which protect the right to vote, and there is a Federal law which protects the right to vote. Under that act, if a man is tried, he would have a right to trial by jury. Under the so-called compromise, if he is tried, he would not have the right of trial by jury if the sentence were less



than \$300 or if the imprisonment were for less than 45 days.

Ninety-nine percent of all the criminal contempt cases would fall within that sphere. I was a circuit court judge for 8 years and heard cases all over South Carolina. I cannot remember the case of even one man who was sentenced by me or by any other circuit court judge in South Carolina for contempt of court for longer than 45 days in jail.

Therefore, the effect of the so-called compromise is to deny to the citizens of South Carolina and of the United States the right to a jury trial, as is guaranteed in several places in the Constitution. That is the reason I have made this extended address. It is to call to the attention of the Senate and to the people of the Nation that the pending bill is a dangerous bill. In my opinion, it is purely a political bill.

Mr. KNOWLAND. Mr. President, will the Senator yield under the same conditions as heretofore stated?

Mr. THURMOND. I yield under the same conditions.

Mr. KNOWLAND. I can assure the Senator, whether we make that proviso in our remarks back and forth, the Senator will be fully protected in his rights to the floor.

Mr. THURMOND. I shall be pleased to yield to the Senator from California under those conditions.

Mr. KNOWLAND. I did listen to the earlier part of the Senator's address. I was in the Chamber at the time. I must confess that for several hours I did get some sleep and was able to freshen up and to change my clothes, and I am now back in the Chamber.

Mr. THURMOND. I notice that the Senator looks very fresh at about 6:45 in the morning.

Mr. KNOWLAND. Yes. I am glad to be here with the Senator. Of course, the question which obviously disturbed a majority of the two Houses of Congress was that the statutes which are now on the statute books were not effective in protecting those constitutional rights. The Senators who felt that way are just as sincere as the Senator from South Carolina. I know the Senator from South Carolina has a deep conviction and is one of the ablest Members of the Senate. However, I refer to the provisions of section 1 of the 15th amendment to the Constitution, which provides:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2 of the 15th amendment reads:

The Congress shall have power to enforce this article by appropriate legislation.

Both sections point up the fundamental constitutional right of American citizens and clearly underscore the fact that Congress not only has the right, but the responsibility in this field.

The Senator may feel that in his State or perhaps in other States—and I have no doubt it is true in many areas of the South—there is no problem relative to the voting rights of American citizens.

But at least the predominant opinion in Congress indicates that there is also a strong feeling that in many areas—and this may not be related only to the South, for that matter—the full rights under the 15th amendment are not being effectively implemented. It was for that reason that the House, by a vote, I believe, of more than 2 to 1, and the Senate finally by a very substantial majority, passed the bill, which is now going through another legislative process. It finally came back to the Senate floor after the House had concurred and amended the Senate version, as the House had a right to do.

My only point is that obviously the Senate of the United States is going to stay in session and complete work on the proposed legislation. It may sit for the remainder of the week, and it may sit next month and, if necessary, the month after that. I wish to emphasize to the Senator from South Carolina that, so far as the recommendations of the minority leader might be followed—and I know of no difference of opinion so far as the majority is concerned, although I cannot speak for the majority, and I would not attempt to do so—there will be no sine die adjournment resolution adopted by the Senate which would permit Congress to adjourn the first session of the 85th Congress until we have completed the work on the pending legislation, which is the civil-rights bill, and completed the work on the proposed legislation dealing with the mutual aid appropriation bill. Therefore, there is no fixed hour and date of adjournment.

I was wondering, therefore, why the Senator was making his extended address, and that is the reason I asked the questions I asked of him. He said he was making the address for the purpose of an educational campaign, for the benefit of the country and the Senate. I was wondering whether he hoped to prevent passage of the bill or merely delay its passage, or whether he had some other reason in mind.

Mr. THURMOND. In answer to the distinguished Senator, I wish to say that I should be highly pleased if the bill did not pass. I should like to ask the Senator this question: Under the statute which I have just read—and that is not a State statute, but a Federal statute, which provides "whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote as he may choose," and so forth, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both—is there any deficiency in the statute? Is that not as clear as it can be? If anyone interferes with another's right to vote, or intimidates, or if he threatens or coerces, he shall be punished. Is that not what it says? If that is the case, why does the Senator believe we should have another statute on voting added to it? Is this statute deficient? The Senator says the present laws are defective, as I understand. The statute I have read is a criminal statute. It will punish a guilty person by fining him for as much as \$1,000 and could send him to jail for a

year. In what respect does the Senator believe the statute is defective?

Mr. KNOWLAND. I shall not at this hour get into a detailed legal argument, because I am not a lawyer, but a newspaperman; furthermore, I would not attempt to put myself up against the distinguished Senator from South Carolina, who has been a judge in his own State and has been for a long time a distinguished member of the bar. I have listened to the arguments on the floor of the Senate. I have read a number of the reports and the proceedings, and I have had some discussions with people who are familiar with the circumstances connected with the subject. I do know that those in the Department of Justice who have been concerned with this problem apparently feel that that statute is not effective so far as the constitutional rights of American citizens are concerned.

Secondly, I am not in a position to argue with the Senator relative to what the legal definition of coercion is. I do say to the Senator that I believe there are various forms of coercion, some of which might be very difficult to prove in a court of law, but which might still be equally effective in keeping people from exercising their voting rights.

The coercion might consist of economic pressure, or there might be some difficulty about finding work in a community or there might be the difficulty of a small merchant maintaining his business. It might be very difficult to trace such things to the fact that a person had tried to go to a voting place on voting day to cast his vote. Nevertheless, such coercion could be quite effective in keeping a person from exercising his right to the voting franchise.

It is also true that in the debate which has taken place on the floor of the Senate it was disclosed that in one of the parishes or voting districts in a Southern State which had been mentioned on the floor of the Senate, there had been the situation where certain facts were laid before a grand jury in that particular State, and the facts were very clear, but still no action was taken in that particular situation.

I will say to the Senator that it should be remembered that the bill has now been stripped practically to a voting-rights bill.

Furthermore, I certainly believe that the fundamental right of an American citizen in this day and age should be protected, because every citizen has the right to vote. If that right is assured to a citizen, in time he may help himself secure the other civil rights to which he is entitled and which are guaranteed to him by the 14th amendment. The bill before us, as I say, is primarily a voting-rights bill. Those who have had some responsibility in this field—and I think some knowledge of it also—feel that the procedure outlined in the bill would at least facilitate the exercise of the voting rights of American citizens in all sections of the country.

Mr. THURMOND. I might say to the distinguished Senator that he is one of the ablest Members of the Senate. Even though he is not a lawyer, he knows a

statute when he hears one read. The criminal statute I have read is just as plain as any criminal statute can be. I am in favor of having every qualified voter enjoy the right of franchise. I want to say that in my State every qualified voter has that privilege. No one—white, colored, or anyone else—is denied the right to vote in South Carolina. The statute I have read protects people from being coerced and intimidated and threatened in any way. If there is any violation of law now, a person who is discriminated against may go to the Department of Justice, and under the statute I have read a violator of that statute will be either sent to jail or fined or both. What the proposed compromise would do would be to take away that right of trial by jury.

Mr. KNOWLAND. Mr. President, will the Senator yield under the same conditions?

Mr. THURMOND. I yield under the same conditions.

Mr. KNOWLAND. I will say that both the original bill as passed by the two Houses and the final form now before us are not intended to deprive anyone of his vote, but to encourage the constitutional right of people to enjoy the right to vote. The fact of the matter is that quite a due process procedure is set up. If a person comes forward and alleges that he has been denied the right, there is a procedure set up by which he may go into Federal court, under his constitutional right, under the 15th amendment and the other constitutional rights he has, and make certain allegations. The judge must make certain findings. If he finds the facts are correct, he issues a court order, directed to what we in our State would call the registrar of voters, but what in other States might be the county clerk, or whatever else he might be, and says, in effect, "You are violating the constitutional rights of this man. He is being discriminated against under the laws of this State. Put him on the registration rolls."

If the local official complies with the law and complies with the Constitution, nobody is fined, and nobody goes to jail. It is only if the local official or the local individuals involved in the case ignore the order of the court and, in effect, say that "we will not comply with the order seeking to protect the constitutional rights of American citizens," that the judge may, under either civil contempt, which may be used in most cases, and may in most cases be effective, or under the criminal contempt provisions, impose the penalties.

So this bill is not seeking to punish people. To the contrary, it is seeking to gain for American citizens the very fundamental right to vote. If nobody is denied the right to vote in the State of the Senator from South Carolina, there will not be a single citizen in the State of South Carolina who will be involved in either a civil or criminal contempt. If nobody is being denied the right to vote in any other State, there will not be a single citizen, man or woman, who will be involved in either civil or criminal contempt under this bill. There will not be large numbers of persons who will be fined or jailed for 10 days or 30 days or

45 days, to force compliance with the constitutional rights of American citizens. That is going to be so only if the conditions which the Senator says prevail in his State do not prevail in other areas of the country and large numbers of American citizens are denied their constitutional rights. It seems to me it is all clear and simple. The Senator has nothing to fear in his own State or in any other State, because if nobody is being denied the right to vote, nobody can be punished by either civil or criminal contempt proceedings under the bill.

Mr. THURMOND. I should like to say, in reply to that statement, whether a single person in South Carolina would be affected by the bill or not would not change my opinion about the bill, because the bill as passed by the House affects American citizens everywhere. The bill the Senate passed delineated and made a distinction between civil contempt, the purpose of which is to bring about compliance with an order, and criminal contempt, the purpose of which is to punish for a crime.

A criminal contempt has been held, in a court decision which I cited earlier today, to be a crime. Criminal contempt is a crime. The bill as passed by the House provides for punishment for criminal contempt and provides that a judge can try the case, in his discretion. The defendant does not get a jury trial for a criminal contempt unless the punishment goes beyond 45 days or beyond a \$300 fine. I am not concerned about the people of South Carolina violating the voting rights of citizens, because I do not think anybody in South Carolina is violating anyone's voting rights. I presume this bill is aimed chiefly at helping the Negroes; is it not, Senator?

Mr. KNOWLAND. No. The bill would be aimed at any American citizen, without regard to race, creed, or color, whose voting rights under the 15th amendment would be denied.

Mr. THURMOND. As a matter of fact, it is the Negro whom it is chiefly aimed to help. Is that not a fact?

Mr. KNOWLAND. I suppose most allegations of a denial of voting rights come from colored citizens of the United States, but I assume the same situation might apply to Indians, in some instances, or might apply to others who might be entitled, under the Constitution, to the right to vote; but it is not aimed at any one race or one section of the country. The Constitution, as the Senator well knows, and I think would not dispute, applies to all 48 States of the Union, and not merely to a part of the Union.

Mr. THURMOND. I am sure that is correct, but I refer to the practical purpose of the bill. I understood that was so admitted, and one reason why the right of trial by jury was attempted to be taken away was that southern juries would not convict in cases involving the right of Negroes to vote.

For the Senator's information, in my State I would like him to know that in the 1952 election President Eisenhower lacked just a few votes of carrying the State. The Negroes voted in heavy numbers. The Negro newspaper, the Light-

house and Informer, of Columbia, S. C., published by and for Negroes, bragged about the fact that they were responsible for winning the State for Stevenson. It said that more than 80,000 of them had voted in that election, and that represented about one-fourth of the entire votes cast in that general election. The Negroes of our State comprise only 40 percent of the population. If they voted to the extent of almost one-fourth of all the votes cast in that election—and they probably voted more, because they admitted they cast that many—I think it is indicative that the Negroes are voting in large numbers. Of course, they are not so well qualified to vote as are the white people. I do not know of a Negro in South Carolina who is qualified and wants to vote who is denied that privilege. So Negroes are voting in my State.

Mr. KNOWLAND. I might say to the Senator I was in his State in 1952. I happened to travel with then General Eisenhower, who was a candidate for the presidency before he became President of the United States. I attended meetings with the President-to-be. The point I want to make perfectly clear is that I do not dispute the fact, as stated by the distinguished Senator, that a large number—perhaps a good majority—of the Negro citizens of this country or of his State may be registered Democrats. I think they may continue to vote for the Democratic ticket, so far as that is concerned. They may have been responsible, as the Senator says, for having carried South Carolina for Stevenson—

Mr. THURMOND. That is what they said.

Mr. KNOWLAND. Or, at least, that is what they said; but that would not change my viewpoint in the slightest, as a Republican, if they were entitled as American citizens to vote, even though they were responsible for the defeat of my party in that State. I might say that in the northern areas, the heavily populated areas, with large Negro populations, for the most part Negroes have voted the Democratic ticket, and generally for New Deal candidates, and it certainly is not politically advantageous to my party when they vote that way. That still would not change my viewpoint that, if they are American citizens and if under the Constitution they are entitled to the right of any other citizen to vote, which the Constitution clearly gives them, both the Senate and the House, as well as the executive branch of the Government and the local public officials and the national public officials, have the responsibility to see that they are not denied the right to vote and to exercise their constitutional rights, whether the citizens may be predominantly Democratic, predominantly Republican, or predominantly Independent.

That point is not at issue here. The issue is whether they are entitled, under the qualifications of the State laws, and under the Constitution of the United States, to vote. If they are, they should be assured that every public official who raises his hand to support both the State and National Constitution has the responsibility to see that citizens get the right to vote when they want to exercise it. In this country, we do not



have coerced voting, where citizens have to go to the polls. But if citizens want to do so, they should be allowed to do so, without any direct intimidation or without any of the more subtle, indirect intimidations or coercions which sometimes can be practiced, as the distinguished Senator knows.

Mr. THURMOND. I should like to ask the Senator if he has had evidence presented to him which has convinced him that there is a need for this bill to be passed, in spite of all the laws the States have to protect the right to vote, and in spite of section 594 of the United States criminal code which protects the right to vote. Has the Senator ever had evidence presented to him that convinced him it is necessary to pass the bill, in spite of the laws of the States and the Federal statutes?

Mr. KNOWLAND. I will say to the Senator if I did not feel that it was both necessary and desirable to pass the bill, I would not have supported it. I believe there have been sufficient facts presented to indicate that a bill of this type is both necessary and desirable.

I have never taken the position on the floor, or publicly or privately, in which I have made a blanket indictment and stated that southern juries would not convict, because I have the highest respect for the people of the South, for their responsibilities of citizenship, for their loyalty to this country, and for the fact that they have served in uniform side by side with citizens from other sections of the country in fighting off our enemies in the various struggles in which this Nation has been engaged. I have never suggested that there should be a blanket indictment of a whole people under any circumstances. I do not now say that the facts outlined by the Senator from South Carolina, with respect to his own State, are not correct. Of course, I do not know his State as well as does the Senator from South Carolina, but if he tells me that there are no cases where a person is deprived of his right to vote, where a Negro citizen, if he possesses precisely the same qualifications that would be expected of a white citizen—

Mr. THURMOND. None that I know about.

Mr. KNOWLAND. That he has exactly the same rights to register, exactly the same rights to vote, I take the Senator's word for it, because I have great respect for him. I will say, however, that in the facts presented by the Attorney General's office before the committee, relative to another State in the broad general area of the South—I might say the same thing might apply in an area of the North or the West, for that matter, because what we are seeking to protect is the rights of American citizens in all 48 States of the Union—it was shown that large numbers of persons who had been registered were purged from the registration rolls. The predominant number, if not all of the purges, were members of the Negro race, with very few, if any, members of the white race. Purely on the law of averages, to a reasonable man, one would not have to be a lawyer to know that it does not seem to be a matter of chance.

Then when they sought to re-register, according to the facts presented, the local registrar indicated, though there were several thousand of them, he could not register more than 50 a day. That meant those persons had to stand in line for long periods of time, which would naturally be a discouraging thing in trying to get back on the registration rolls.

There was used the apparently rather interesting and novel provision of verbal question. I doubt very much whether many, if any, Members of the Senate could have answered some of the questions which were asked. If a question was answered one way, that apparently was not the right answer. If the question was answered the other way, which any reasonable person might have done, that apparently was not the right answer. Perhaps the same position would have been taken by the local registrar if the citizen involved had been of any other race, but, again, to a reasonable person it seems that there was at least an effort made to discourage American citizens from exercising the right of franchise.

I again reiterate that, to the best of my knowledge and belief, that occurrence did not take place in the State of South Carolina.

The Senator has made a very fine statement of the rights the citizens of his State enjoy. I think all Americans will rejoice in that fact. I want to say there is nothing in the proposal before the Senate which will in the least change the power of the States to prescribe the qualifications of their voters. They have that right under our Federal system. I think, however, the States have the obligation not merely to give lip service to, but to follow both the letter and the spirit of the Constitution, and that whenever such qualifications are prescribed, whatever they may be, they should be applied impartially and equitably to every American citizen, regardless of his race, color, creed, or previous condition of servitude.

Those are the words of the Constitution. Those are the words that every citizen occupying a position as a registrar, a county clerk, or a local voting commissioner has a full obligation to comply with. Such persons should not apply one rule to one group of citizens and a different rule to a different group of citizens. If they will apply the laws with equity and with impartiality, then they have nothing to fear in the slightest in the way of either civil or criminal contempt under this bill, at least in my judgment.

Mr. THURMOND. I should like to ask the Senator from California one more question, and with that I will desist.

Although the Senator is not a lawyer, he is one of the best read men in the United States. I imagine he is an expert on the Constitution, also, because he is a very deep student.

I wonder how the Senator could agree to this compromise, which would deprive people in criminal contempt cases of the right to a trial by jury, when the Constitution is so clear on that point?

Mr. KNOWLAND. I will say to the Senator that I will leave the matter to

the lawyers, to debate later the specific point which the Senator mentions. I, at least, have heard of no section of the country where there is a provision for a trial by jury in an equity proceeding where there is a contempt of the court.

Mr. THURMOND. I am speaking of criminal contempt.

Mr. KNOWLAND. I know, but I am speaking also of a contempt of the court in carrying out its order in an equity proceeding.

Mr. THURMOND. In reply to that I will say to the Senator I agree that in civil contempt cases under the present law the court has the right to use its power to bring about compliance with an order, in civil contempt cases. However, I am speaking of criminal contempt cases, which are provided for in the compromise bill. The bill provides for criminal contempt actions.

Criminal contempt is a crime. I have here a decision which sustains that point. Since criminal contempt is a crime, there is a right to a trial by jury.

The Constitution of the United States in article III, section 2, says this:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; \* \* \*

The sixth amendment reads:

In all criminal prosecutions—

That is what we are referring to. We refer to a criminal prosecution for criminal contempt. It is a prosecution by the judge, who is the prosecutor, the legislature, the judge and the jury.

The court has held that criminal contempt is a crime, and the Constitution makes reference to all criminal prosecutions. We refer here to a criminal prosecution.

The sixth amendment says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, \* \* \*.

And so forth.

In the seventh amendment to the Constitution there is also a reference to a jury trial. The amendment I have read is exactly to the point.

If the Senator had provided in the compromise bill that the judge could impose a sentence of imprisonment for 1 day—not 45 days, but even 1 day—or a fine of even \$1 in a criminal-contempt case, he would be giving the judge the power to try a man without a jury in violation of the Constitution, even though the punishment would be negligible.

What I am opposed to is the fact that the compromise bill, the way it is written and the way it has come to the Senate, violates the Constitution of the United States. I am vitally concerned about that.

Mr. KNOWLAND. If the Senator will yield further, then I shall not interrupt him any more.

All I can say to the distinguished Senator from South Carolina is that the highest law officers of the Government of the United States are the Attorney General of the United States and representatives of the Department of Justice.

They, too, have sworn to uphold the Constitution of the United States. The most able lawyers in the Department of Justice have looked over the proposed legislation, as well. In their judgment, it is constitutional and it does not violate the Constitution of the United States.

The Senator is entitled, of course, to make the assertion that in his judgment the provision is not constitutional. Such arguments come up even before the Supreme Court of the United States, as the distinguished Senator knows, from time to time, as well as before other courts. Sometimes the judges can agree by a unanimous vote as to what they think is constitutional or what they think is unconstitutional. However, over the long period of our history there have been many notable cases relative to the constitutionality of some act of Congress or the constitutional rights of some individual as to which the Supreme Court of the United States, which is the highest judicial tribunal of the land, has divided on a 5-to-4 decision.

The Senator's assertion that the provision is not constitutional—I am sure the Senator would be the first to admit—does not make it unconstitutional. I quite admit that the assertion of any qualified lawyer on this side, who might make the assertion the provision was constitutional, would not, by that assertion, make it so. Nor would the opinion of the Attorney General make it so.

At least I do not want the record to show that merely by having the Senator make the assertion that in his judgment it is not constitutional, necessarily, ipso facto, that assertion makes a fact.

Mr. THURMOND. Of course, we remember also that the Attorney General in the original bill wanted to transfer these matters to the equity side of the court to deprive citizens of the right of jury trial. We have to keep that in mind.

Mr. KNOWLAND. If the distinguished Senator will yield further, I wish to thank him for his courtesy in yielding. I hope he has enjoyed our discussion as much as I have. I hope perhaps it has been a brief respite to him, under all the circumstances. I would stay to listen to the Senator, but I have a breakfast engagement with the President at the White House. I know under those circumstances the distinguished Senator will excuse me.

Mr. THURMOND. It is a pleasure to yield to the distinguished Senator, for whom I have such high admiration.

Mr. President, I continue to read my statement:

#### BILL OF RIGHTS GUARANTIES

Before taking up specific provisions of several of the bills pending before the committee, I should like to read for you two of the basic provisions in the Bill of Rights. The ninth amendment to the Constitution provides:

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

The 10th amendment to the Constitution provides:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Those last two amendments of the Bill of Rights make clear the intent of the Founding Fathers. Their intent was that all rights not specifically listed, and all powers not specifically delegated to the Federal Government, would be held inalienable by the States, and the people.

#### BILL OF RIGHTS UNALTERED

This basic concept of the Bill of Rights has never been constitutionally amended, no matter what the Federal courts have done, no matter what the executive branch of the Federal Government has done, and no matter what the Congress might have done or attempted to do in the past. The people and the States still retain all rights not specifically delegated to the Federal Government.

Let us also consider these proposals from a practical standpoint.

What could be accomplished by a Federal law embodying provisions which are already on the statute books of the States that cannot be accomplished by the State laws? I fail to see that any benefit could come from the enactment of Federal laws duplicating State statutes which guarantee the rights of citizens. Certainly the enactment of still other laws not approved by the States could result only in greater unrest than has been created by the recent decisions of the Federal courts.

#### MR. DOOLEY WAS RIGHT

The truth is very much as Mr. Dooley, the writer-philosopher, stated it many years ago, that the Supreme Court follows the election returns. If he were alive today, I believe Mr. Dooley would note also that the election returns follow the Supreme Court.

And now it looks as if some people are trying to follow both the Supreme Court and the election returns.

Having made these general comments, I would like to comment specifically on some of the pending proposals. First, on the proposal for the establishment of a Commission on Civil Rights.

#### COMMISSION UNNEEDED

There is absolutely no reason for the establishment of such a commission. The Congress and its committees can perform all of the investigative functions which would come within the sphere of constitutional authority.

I do not believe the members of any commission, however established, could represent the views of the people of this country as well as the Members of Congress can. I hope that the members of this committee and the Members of the Congress will not permit themselves to be persuaded that anyone else can look after the problems of the people any better, or as well, as the Congress can.

Furthermore, there is no justification for an investigation in this field.

I hope this committee will recommend against the establishment of such a commission.

Another bill would provide for an additional Assistant Attorney General to head a given by the Attorney General last year be partment. I have searched the testimony given by the Attorney General last year before the committees of the Congress with regard to this proposal, and I have found no valid reason why an additional Assistant Attorney General is needed.

I can understand how an additional Assistant Attorney General might be needed if the Congress were to approve a Civil Rights Division and enact some of the other proposals in the so-called civil-rights bills. But they are proposals not dealing with criminal offenses—they deal with efforts of the Justice Department to enter into civil actions against citizens.

If the Justice Department is permitted to go into the various States to stir up and agitate persons to seek injunctions and to enter suits against their neighbors, then the Attorney General might need another assistant.

However, the Justice Department should avoid civil litigation, instead of seeking to promote it.

I hope the members of this committee will recognize this proposal as one which could turn neighbor against neighbor, and will treat it as it deserves by voting against it.

#### WORSE THAN EX POST FACTO

Another proposal of the so-called civil-rights bills is closely related to the one I have just discussed. It would provide that—

"Whenever any persons have engaged or about to engage in any acts or practices which would give rise to a cause of action \* \* \* the Attorney General may institute for the United States, or in the name of the United States but for the benefit of the real party in interest, a civil action or other proper proceeding or redress or preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order."

Now that proposal is one which I would label as even more insidious than any ex post facto law which could possibly be imagined.

An ex post facto law would at least apply to some real act committed by a person which was not in violation of law at the time. The point is, however, in such instance the person would actually have committed the act.

This proposal would permit the Justice Department to secure an injunction from a Federal judge or to institute a civil suit on behalf of some person against a second person when the latter had committed no act at all. An injunction might be secured from a Federal judge charging a violation of the law without any evidence that a person even intended to do so.

How any person could support by oath a charge as to whether another person was about to engage in violating the law is beyond my understanding.

Many of the pioneers who settled this new continent came because they wanted to escape the tyranny of European despots. They wanted their families to live in a new land where everybody could be guaranteed the right to trial by jury, instead of the decrees of dictators.

Congress, as the directly elected representatives of the people, should be the last to consider depriving the people of jury trials. We should never consider it at all. But, if this proposal to strengthen the civil-rights statutes is approved, that would be its effect.

#### AGENTS COULD MEDDLE

Under this provision, the Attorney General could dispatch his agents throughout the land. They would be empowered to meddle with private business, police elections, intervene in private lawsuits, and breed litigation generally. They would keep our people in a constant state of apprehension and harassment. Liberty quickly perishes under such government, as we have seen it perish in foreign nations.

A further provision of that same proposal would permit the bypassing of State authorities in such cases. The Federal district courts would take over original jurisdiction, regardless of administrative remedies, and the right of appeal to the State courts.

#### STATE COURTS STRIPPED

This could be a step toward future elimination of the State courts altogether. I do not believe the Congress has, or should want, the power to strip our State courts of authority and vest the Federal courts with that authority.

Still another proposal among the so-called civil-rights bills would "provide a means of further securing and protecting the right to vote." I have had a search made of the laws of all 48 States and the right to vote is protected by law in every State.



# SOUTH CAROLINA CONSTITUTION PROTECTS VOTER

In South Carolina, my own State, the constitution of 1895 provides in article III, section 5, that the general assembly shall provide by law for crimes against the election laws and, further, for right of appeal to the State supreme court for any person denied registration.

The South Carolina election statute spells out the right of appeal to the State supreme court. It also requires a special session of the court if no session is scheduled between the time of an appeal and the next election.

Article II, section 15 of South Carolina's constitution, provides that no power, civil or military, shall at any time prevent the free exercise of the right of suffrage in the State.

In pursuance of the constitutional provisions, the South Carolina General Assembly has passed laws to punish anyone who shall threaten, mistreat, or abuse any voter with a view to control or intimidate him in the free exercise of his right of suffrage. Anyone who violates any of the provisions in regard to general, special, or primary elections, is subject to a fine and/or imprisonment.

In this proposed Federal bill to "protect the right to vote," a person could be prosecuted or an injunction obtained against him based on surmise as to what he might be about to do. The bill says that the Attorney General may institute proceedings against a person who has engaged or "is about to engage in" any act or practice which would deprive any other person of any right or privilege concerned with voting.

## UNCONSTITUTIONAL AMENDING

I believe the effect of enactment of such legislation as these proposals would be to alter our form of government, without following the procedures established by the Constitution.

I believe the effect of enacting these bills into law would be to take from the States power and authority guaranteed to them by the Constitution.

In recent years there have been more and more assaults by the Federal Government on the rights of the States, as the Federal Government has seized power held by the States. In many instances, I believe, this has been done without a constitutional basis.

The States have lost prestige. But more important, the States have lost a part of their sovereignty whenever the Federal Government has taken over additional responsibilities. That loss might seem unimportant at the time, but gradually it could become a major part of the sovereignty of the States.

Officials of the Federal Government, whether in the executive, legislative, or the judicial branch, should not forget to whom they owe their allegiance. Each of us owes his allegiance to the Constitution and to the people—not to any agency, department, or person. We have taken an oath to support and defend the Constitution.

We must take into account the facts as they really are, and not be panicked by the organized pressures which so often beset public officials.

## STATES CREATED UNION

We must not lose sight of the fact that the States created the Federal Union; the Federal Government did not create the States.

All of the powers held by the Federal Government were delegated to it by the States in the Constitution. The Federal Government had no power, and should have no power, which was not granted by the States in the Constitution.

If this Congress approves the legislation embodied in the bills pending before the committee, it will be an unwarranted attempt to seize power not rightfully held by the Congress or by any branch of the Federal Government.

I hope this committee will consider these facts and recommend the disapproval of these bills.

Mr. President, that was the statement I made before the Judiciary Committee of the House of Representatives on February 26.

Mr. President, on August 6 I made my third address on the floor of the Senate in which I voiced my vigorous objections to a number of provisions contained in H. R. 6127, as amended by the Senate, which was the least obnoxious of all the many obnoxious forms of this bill.

I shall now repeat my several objections to this milder form of the bill as I stated them on August 6. These were my words at that time:

Mr. President, I am opposed to the creation of a Commission on Civil Rights as proposed in part I of H. R. 6127.

To begin with, there is absolutely no need or reason for the establishment of such a Commission. If there were any necessity for an investigation in the field of civil rights, such an investigation should be conducted by the States or by an appropriate committee of the Congress, acting within the jurisdiction of Congressional authority. It should not be done by a commission.

I also object to part I of H. R. 6127 because of the fact that it places duties upon the Commission and endows it with powers which no governmental commission should have.

In fact, Mr. President, the language of the bill proposing to establish this Commission is so broad and so general that it may encompass more evils than have yet been detected in it.

Under its duties and powers the Commission would be able to subpoena citizens to appear before it to answer questions on many subjects outside the scope of elections and voting rights.

Section 104 (a) provides the Commission shall—

"(1) Investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based."

Mr. President, the bill, in part IV, contains an additional protection of the voting right of citizens above and beyond present State and Federal laws. Provision is made for enforcement of part IV, and there were already sufficient enforcement provisions to carry out the intent of the existing State and Federal laws. I do not see how a commission could enhance officers nor the powers of law enforcement officers nor the enforcement and punitive authority of the courts.

I can see no valid reason why a commission should be created, in addition to the legal enforcement procedures, unless the purpose is for the Commission to stir up litigation among our people.

This bill has been advertised, promoted, any ballyhooed as a right-to-vote bill. However, I want to cite two paragraphs which give broad authority for investigations other than alleged violations of a person's right to vote.

Section 104 (a) provides the Commission shall—

"(2) Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and

"(3) Appraise the laws and policies of the Federal Government with respect to equal

protection of the laws under the Constitution."

Instead of limiting the power of the Commission, these two paragraphs provide it with carte blanche authority to probe into and meddle into every phase of the relations existing between individuals which the Commission and members of its staff could conjure up.

I want to call particular attention to a divergence in language between paragraphs 2 and 3. Paragraph 2 refers to a study of "legal developments constituting a denial of equal protection." Paragraph 3 says "appraise the laws and policies of the Federal Government with respect to equal protection."

The significant thing here is the omission of the specific intent of paragraph 2. Although the language of paragraph 2 is obscure and omits a governmental reference, it obviously must refer to State and local governments, else it would be redundant and have no meaning at all.

Also, as I pointed out, investigations conducted under paragraphs 2 and 3 could go far afield from the question of voting rights. The Commission could exert its efforts toward bringing about integration of the races in the schools, and elsewhere, under the authorization of these two paragraphs. Combining its authority to investigate on an unlimited scale and its authority to force witnesses to answer questions, the Commission would have a powerful weapon.

Mr. President, I do not believe the people of this country realize the virtually unlimited powers of inquiry which would be placed in the hands of this political Commission. While the Commission would have no power to implement its desires, I do not believe the people of this country want such a totalitarian type of persuasion imposed upon them.

Part I of H. R. 6127 purports to create a Civil Rights Commission. Actually, it would create a traveling investigation commission.

Section 103 (b) of part I also would place tremendous power within the grasp of the Attorney General with reference to members of the Commission "otherwise in the service of the Government." The clear implication is that whoever drafted this scheme to send traveling agents over the country intended to make use of certain members of the executive branch of the Federal Government. I don't believe it would be necessary to look further than the Justice Department to determine where Commission members already in Government service would be secured. By placing his employees on the Commission, the Attorney General would transform the traveling agents into an additional investigative arm of the Justice Department.

Mr. President, I next call attention to the potential abuse found in section 102 (g) under the innocuous title, "Rules of Procedure of the Commission." That section provides that "no evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than 1 year."

In an editorial of July 26, 1957, the Washington Post very correctly pointed out how this section could be used to imprison reporters and other citizens for disclosure of what a witness might voluntarily tell them. This editorial provides a penetrating and enlightening criticism of this section. Because of its pertinency and fine analysis, I shall read the last three paragraphs of the editorial which is entitled "Open Rights Hearings," which states:

"The bill contains an invitation to the Commission to operate behind closed doors.

It provides that "if the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall \* \* \* receive such evidence or testimony in executive session. \* \* \*" Some closed sessions may be necessary to avoid unfair reflections upon individuals, but these should certainly be an exception to the general rule. In our opinion, this section ought to be rewritten in more positive vein to provide that sessions of the Commission should be open to the public, unless it should find that closed hearings were essential to avoid unfairness.

"The House also wrote into the bill a dangerous section providing for the fining or imprisonment for not more than 1 year of anyone who might 'release or use in public,' without the consent of the Commission, any testimony taken behind closed doors. If the Commission should choose to operate under cover, without any valid reason to do so, newspaper reporters and other citizens could be jailed for disclosure of what a witness might voluntarily tell them. This is a penalty that has been shunned even in matters affecting national security. Such a provision is an invitation to abuse and a serious menace to the right of the people to know about the activities of governmental agencies.

"It is well to remember that this would not be merely a study commission. In addition it would be under obligation to investigate allegations that persons were being deprived of their rights under the 14th and 15th amendments. It could subpoena witnesses and documents and appeal to the courts for enforcement of such edicts. Its powers would be such that it should be held to scrupulous rules of fairness. To encourage the Commission to operate in secret, and then to penalize news mediums and citizens for disclosing what should have been public in the first place, would be the sort of mistake that Congress ought to avoid at the outset."

Mr. President, I think the points made in the editorial are clear and valid. Secrecy in the activities of such a Commission could only lead to a denial of the rights of an individual rather than to protection of his rights.

Another subject which must not be passed over is the subpoena power of the Commission. Section 105 (f) provides that "Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission."

Mr. President, many of the committees and special committees of the Congress do not have this power. The Truman Commission on Civil Rights did not have it. The subpoena is a punitive measure, generally reserved for penal process whereby powers are granted to force testimony which would not otherwise be available. If the proposed Commission were simply a factfinding Commission and nonpolitical, the extreme power to force testimony by the use of a subpoena would not be needed.

Neither would the power contained in section 105 (g) which provides that Federal courts shall have the power, upon application by the Attorney General, to issue "an order requiring" a witness to answer a subpoena of the Commission and "any failure to obey such order of the court may be punished by said court as a contempt thereof."

The power of subpoena in the hands of a political commission and the additional power to enforce its subpoenas by court order diverge from the authority of the traditional American factfinding commission.

I look with suspicion upon such a Commission so endowed with authority, and I object to its establishment.

Mr. President, I want to discuss another reason, briefly, why I would be opposed to the establishment of the Commission pro-

posed in part 1 of H. R. 6127. Every appropriation bill which has come before the Senate this year has been reduced by the Senate below the budget request. The people of this country have called upon the Members of Congress to reduce the costs of government, not to increase them by creating new agencies or commissions.

The advocates of the Commission might argue that the cost of its operation would not be great, but nowhere in the records of the hearings have I found an estimate of what the total cost would be. If the Commission were to exist only for the 2 years provided in the bill, the compensation and per diem allowance of Commission members would amount to more than a quarter of a million dollars, not counting their travel allowances.

Since there is no limitation on the number of personnel which might be appointed by the Commission, there is no way to estimate the ultimate cost of personnel salaries and expenses. Since the Commission is designed to travel over the country at will, very heavy travel expenses undoubtedly would be incurred.

The taxpayers would never know how many of their tax dollars were wasted by virtue of the seemingly innocuous language in section 105 (e). Unknown, concealed costs are not, however, the only dangers lurking in that subsection. A serious departure from sound legislative procedure is also involved.

In the past, when creating an agency or commission, Congress retained control of its creation by the appropriation power. This is a wonderful check, Mr. President, against the abuse or misuse of Commission authority. Scrupulous care should be taken to preserve it.

However, section 105 (e) provides that "all Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties."

Thus the Civil Rights Commission could call on the other governmental agencies to perform many of its tasks. Congressional control over the Commission would be much less than if the Commission had to depend on its own appropriations and would not be permitted to use the resources of other agencies. Once the Commission is created, only another law can check its activity during the period of its existence.

Another thing that concerns me about this Commission is the fact that once a Government agency or commission is established, nothing else on earth so nearly approaches eternal existence as that Government agency or commission. Mr. President, I feel that the 2-year limitation placed upon the Commission in this bill would simply be a starting point, and the people of this country should realize that at this time.

With further reference to section 104 (a), I want to point out the use of the mandatory word shall. This word requires the Commission to investigate all sworn allegations submitted to the Commission of any citizen allegedly being deprived of his right to vote.

But the provision neglects to require that such allegations be submitted by parties in interest—not simply by some meddler who seeks to create trouble between other persons. This is another provision of this bill similar to section 131 (c) which would permit the Attorney General to make the United States a party to a case without the consent of the party actually involved.

Another objection to 104 (a) is that under this provision a person could make an allegation to the Commission against a person who was not even a citizen of the same State. Even so, under the mandatory language of section 104 (a), the Commission would be required to make an investigation of the charges.

Since the Commission is limited by section 102 (k) to subpoenaing witnesses to

hearings only within the State of residence of the witness, there would be no opportunity in such a situation for the accused to confront his accuser. Charges against a person should not be accepted by the Commission unless the accuser is a citizen of the same State as the person he is charging with a violation of the law.

Also, Mr. President, once the Commission has received the sworn allegation, there is no requirement that other testimony received relating to the allegation be taken under oath. Failure to make all persons giving testimony subject to perjury prosecutions in the event they testify to falsehoods would surely destroy the value of any such testimony received.

The Commission could and might adopt a rule to require sworn testimony; but I should not like to see the Senate leave that point to the discretion of the Commission because, in my judgment, the Congress should require that practice to be followed.

Mr. President, as I stated earlier, it is my view that an inquiry into the field of civil rights, or so-called civil rights, is entirely unnecessary at this time. The laws of the States and the Federal laws are being enforced effectively.

Should there come a time when information might be needed on this subject, the Congress should not delegate its authority to a commission. In such a delicate and sensitive area, the Congress should proceed with deliberation and care. The appropriate committees of the Congress itself should hold hearings limited to the jurisdiction of the Congress, and the Congress should make its own determination as to the need for legislation.

There is no present indication that any such study will be needed.

Part II of the bill still provides for the appointment of one additional Assistant Attorney General in the Justice Department. As I have stated in previous addresses, there is absolutely no need for an additional Attorney General to be appointed at a cost to the taxpayers of \$20,000 per year.

Of course, that would merely be a small part of the total cost because a large staff of lawyers would also be employed.

The other provisions of the bill do not necessitate the establishment of a civil-rights division in the Justice Department, because there is no indication there would be any substantial increase in such cases with which the Department should be concerned.

As a matter of fact, even those who have advocated passage of H. R. 6127 have admitted time and again here in the Senate that there has been a steady decrease in the number of civil-rights cases throughout the country.

Since there has been a decrease in civil-rights cases, and since there is no indication that any increase should be expected, I can see absolutely no reason for the expansion of the present civil-rights section of the Justice Department into a Civil Rights Division with an additional Assistant Attorney General in charge.

Mr. President, in view of the fact that sufficient justification has not been presented for the appointment of an additional Assistant Attorney General, I hope the Senate will not approve such additional expenditures as would be required for this purpose. In my opinion, the Attorney General has failed entirely to show a need for an additional assistant.

Part III of the bill as amended has been thoroughly discussed and I shall not dwell on that at this time.

Part IV, which is the section dealing with what the advocates of the bill have said was the entire purpose of the bill, still has provisions which are objectionable to me. Section 131 (c) still contains language which, to me, borders on an effort at thought control instead of providing an unneeded additional



guaranty of the right to vote. Also, it gives the Attorney General undue authority. The section reads as follows:

"(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding hereunder the United States shall be liable for costs the same as a private person."

As long ago as February 26, when I appeared before the special Judiciary Subcommittee of the House of Representatives to testify against pending civil-rights bills, I expressed my opposition to the language contained in the section I have just quoted. I do not believe it possible for the Attorney General, for any of his representatives, or for anybody else to determine what is in another person's mind and whether he is about to engage in some violation of the law.

If the Attorney General should attempt to ascertain what is going on in the minds of other persons, he will need soothsayers and prophets instead of an additional Attorney General.

I object to this language because I do not believe it possible for any witness to testify truthfully that he knows another person was about to violate the law, unless some overt action had been taken by the accused person.

Mr. President, an attempt to apply this provision against American citizens would be completely out of keeping with the guaranties of personal freedom contained in the Constitution and in the Bill of Rights.

I object also to the authority granted the Attorney General in section (c) to "institute for the United States, or in the name of the United States," a civil action or other court proceeding on behalf of a person without the consent of that person. Individuals have adequate legal remedies which they themselves may institute on their own behalf. It is not necessary to give the Attorney General this extreme power of absolute discretion to be exercised as he desires on behalf of some individual who may not wish to take court action or to have anybody else take such action on his behalf.

If one of the duties of the proposed additional Assistant Attorney General would be to seek out persons and insist upon entering the courts on their behalf, this provision, combined with part II, provides another objection to the appointment of an Assistant Attorney General.

The American system has never condoned the idea that a third party should stir up trouble between two other persons. Instead, the American system abhors troublemakers, especially when troublemaking takes the form of barratry. This form of troublemaking has been looked down upon much in the same way other lawyers look down upon their colleagues who chase ambulances.

The United States Government should not be placed in this position of disrepute, and certainly it should not be called upon to bear the expenses of such court proceedings.

Another particularly obnoxious provision is found in section 131 (d) which provides that—

"(b) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law."

No legitimate reason has been presented as to why administrative remedies and remedies

provided in the courts of the States, should not be exhausted prior to Federal district courts taking jurisdiction in election-law violations.

This could be a step toward future elimination of the State courts altogether. I do not believe the Congress has, or should want, the power to strip our State courts of authority and to vest it in the Federal courts. Some of the advocates of H. R. 6127 have spoken out strongly on behalf of the Federal courts during the debate on the jury-trial amendment. I wish they were equally as vehement in their defense of our State courts.

There is no reason to permit an individual to bypass the administrative agencies of his own State and the courts of his own State in favor of a Federal court when the matter involved is principally a State matter. If a person should be dissatisfied with the results obtained in the State agency and courts, he could then appeal from the decision. But until he has exhausted established remedies, he should not be permitted to bypass them.

The laws of all the 48 States contain provisions protecting the right to vote. No additional protection is needed beyond existing State and Federal laws.

In my own State of South Carolina, the constitution of 1895 required the general assembly to provide by law for the punishment of crimes against the election laws. That has been done. The State constitution further required a provision to permit a person to appeal to the State supreme court if he should be denied registration. The election law spells out the right of appeal to the State supreme court, and requires that the court hold a special session if one is not scheduled between the time of an appeal and the next election.

South Carolina's constitution also provides that no power, civil or military, shall at any time prevent the free exercise of the right of suffrage in the State. In pursuance of this constitutional provision, the South Carolina General Assembly has enacted laws for the punishment of anyone who threatens, mistreats, or abuses any voter in an effort to control or intimidate him in the free exercise of his right of suffrage. These laws apply to all elections. Anyone who violates these laws is subject to a fine and/or imprisonment.

Mr. President, in view of the existing laws of the States and the existing Federal laws, I now contend, as I have contended since the so-called civil-rights bills were introduced, that any qualified voter in the United States is fully protected in his right of suffrage.

This bill, H. R. 6127, is unnecessary. It is an encroachment upon the rights of the States, and it infringes upon the rights of individuals when the Attorney General is empowered to take action on the behalf of any person without his consent.

I believe this bill should be rejected, because of the various unnecessary and unconstitutional provisions which I have discussed.

Part V of the bill, which was added to insure and provide for trial by jury in proceedings to punish criminal contempts, is an amendment which I approved and voted for, but I do not consider it as strong as desirable. In my opinion, the bill which the senior Senators from Mississippi and Virginia and I introduced in the Senate last March should be approved, to provide best for the right of trial by jury for every American citizen.

However, the addition of part V to the bill makes it much less objectionable than the bill would have been without the assurance of trial by jury in criminal-contempt proceedings contained in part V.

Mr. President, I want to reiterate my previous assertions that this bill is unnecessary, and in some respects unconstitutional.

H. R. 6127 in its original form carried the label of being a right-to-vote bill; but when we unwrapped the package here in the Senate and examined it carefully, as we have, we found the label was entirely misleading.

The so-called civil-rights bill should have been entitled "A bill to empower the Attorney General to deprive certain citizens of their right to trial by jury." Also, it should have been labeled as an implement intended to be used to force integration of the races in the public schools.

Happily, we examined the contents of the package, stripped off the old label, and advertised the deception so that every citizen could recognize the dangers wrapped in the package.

The amendments which have been enacted have reduced the power which was intended to be placed in the hands of the Attorney General. They have removed the authority for the use of military forces in cases of alleged civil-rights violations. They have made the proposed Commission answerable to Congress as well as to the President, and have provided for the members to be subject to confirmation by the Senate. They have better defined and narrowed the powers of Federal judges in contempt proceedings. All of these amendments have vastly ameliorated the original obnoxiousness of H. R. 6127. However, nothing could entirely remove the objectionable features of this packaged bill of goods, submitted to the American people under a deceptive label.

I shall vote against passage of H. R. 6127, because I believe that in so doing I shall be casting a vote for the preservation of our liberties, and for the preservation of constitutional government in this country.

Mr. President, that was the statement which I made on the floor of the Senate in which I voiced vigorous objection to a number of provisions contained in H. R. 6127 as amended by the Senate. Of course, the Senate bill was the least obnoxious of all the many obnoxious forms of the bill.

Mr. President, I now wish to discuss part IV of H. R. 6127 and the 15th amendment to the Constitution.

PART IV—TO PROVIDE MEANS OF FURTHER SECURING AND PROTECTING THE RIGHT TO VOTE

Part IV of the proposed civil-rights bill confers on the Attorney General the right to bring civil action and seek an injunction in a Federal district in the name of the United States if he believes any person is violating or about to violate either of two laws presently existing for the protection of voters.

Let us examine the two laws the Attorney General seeks to enforce by civil suit or injunction.

The first of these laws, presently appearing as section 2004 of the Revised Statutes of 1874—title 42, United States Code, section 1971—is actually section 1 of the old Enforcement Act of May 31, 1870—Sixteenth United States Statutes at Large, page 140. This bill, S. 810 and H. R. 1293, passed the respective Houses of Congress without debate on its merits under the rule on motion. This bill as it passed Congress contained in its second section a definite provision that civil damages to the aggrieved might be recovered through civil suit in the Federal courts. Furthermore, it provided for the obtaining of political office by civil suit through quo warrant proceedings in Federal courts.

On May 20, 1870, an attempt was made in the Senate to allow third parties to sue in behalf of the aggrieved party. This is the same proposal contained in the present bill whereby the Attorney General would be allowed to bring civil action and seek injunctions. Even this radical 41st Congress would not accept any such proposition providing double penalties. The proposition in the present bill would provide double penalties because present law contained in both title 18, Section 242—Deprivation of Rights Under Color of Law—and title 42, Section 1971—Race, Color, or Previous Condition Not To Affect Right to Vote—afford appropriate criminal and civil remedy.

To show how the Senate in 1870 rejected such an idea of double penalties, let us examine the colloquy in the Senate on the proposal to allow someone other than the aggrieved to bring civil suit—Congressional Globe, volume 93, 41st Congress, 2d session, 1870, pages 3563–3564:

Mr. WARNER. I understand I am in order in offering to amend the amendment.

The PRESIDING OFFICER. The amendment to the amendment is in order.

Mr. WARNER. I will repeat it, then, for the information of the Senate. I move to amend the Senate bill in section 2, line 15, by striking out the words "the person aggrieved thereby" and inserting "any person who shall sue for the same."

Mr. EDMUNDS. I hope that this amendment will not be agreed to. There are now two views taken of this branch of the bill as it stands. One is that there ought not to be any provision at all for the party aggrieved; that it ought all to be out; and another view is that taken by my friend from Alabama, that it does not go far enough; that we ought not to confine this redress to the person whose vote is refused. The committee considered both those views, and thought, in analogy to State legislation and to the simple proprieties of justice, that this middle ground was the true one.

If a voter is deprived of his right to vote by the misconduct of an official, it is a personal grievance to him, an actionable injury, for which all civilized laws give him redress in some form. It is true that in most States and countries no specific amount of damages is allowed, for the reason that it is thought safer, inasmuch as that might be a matter of speculation, to leave it under the circumstances of each case to be great or small, as a jury shall think it wise to make it. But in applying the 15th amendment, which is intended to secure the rights of a large class of the population of the United States, and to secure their rights in courts which may be supposed not to be altogether friendly, by juries who may be supposed not to be altogether friendly, in communities where the local officers are found to be those who deny the rights that the 15th amendment secures, we thought it wise not to leave it to an unfriendly jury to give only 1 penny damages, if a man under the 15th amendment was deprived of a right he had, but to fix the sum the party should be entitled to recover as his damages; and on the other hand, in a community where juries might be very favorable to the party aggrieved, we thought it right to impose upon juries a limit above which they ought not to go; so that they should not either give no damages at all nor excessive damages.

This branch of the section, therefore, is framed upon that theory. It is to give to the person aggrieved, as damages for the deprivation of his rights as a citizen, a private right of his own, a right to sue, which all laws give; it would not be necessary to put

that into the statute—he would have the right of action; but to fix the amount for each specific wrong to him which he should be entitled to recover. Then we provide in another part of the bill, and perhaps in the same section, just as we ought to do if we are to have any law at all, that the officer guilty of this wrong to the citizen is also guilty of an offense against the public, a criminal misdemeanor, for which he may be indicted and fined, of course within certain limits, in the discretion of the court. I submit to my friend from Alabama whether, on the whole, this middle ground, which is defensible both by philosophy and by analogy, is not the true one.

Mr. WARNER. I desire to make this bill as effective for the purpose intended as possible. The persons who will be aggrieved, particularly in our section of the country, will in the main be ignorant and timid persons, who will be afraid to sue. The fact that they may be afraid to go to the polls and vote is evidence that they will not perhaps have the courage and fearlessness to sue; but there may be some third party who would be willing to enforce the penalty. I think in the great majority of cases the person aggrieved would not avail himself of this provision.

Mr. EDMUNDS. Then, I suggest to my friend that he would not be entitled to any action at all under this section, because this is not a section to give every man \$500 who is afraid to offer to do what he has a right to do; but it is to give him as damages the sum of \$500 for a positive and specific denial to him of the exercise of a right that he attempts to exercise; otherwise, he would have no cause of action. You cannot give a right of action to anybody because he is intimidated. The intimidation part of the law must be purely criminal, and is found in another part of the bill.

Mr. WARNER. But my amendment would give a remedy by enabling any other person than the party aggrieved to enforce the penalty. The party aggrieved I think in most cases would fail to enforce it; but some other party might.

Mr. EDMUNDS. Some other party may in his name.

Mr. POOL. I desire to say a word in regard to the particular amendment now pending. This bill is for the purpose of enforcing the 15th amendment, which applies to colored voters, most of whom reside in the section of the country from which the Senator from Alabama and myself come. The great and most effectual means used to interfere with their exercise of the right secured to them by the 15th amendment is by intimidation, by violence. I think that the penalty which is named in this second section, to be enforced by the party aggrieved, would never be put into operation at all. The purpose of the bill is to protect those citizens against intimidation from voting.

I confess that there is something in the suggestion of the Senator from Vermont, that there is no intimidation in this particular section aimed at. But, sir, it is perfectly sure that the very same means of intimidation which prevents a colored citizen from voting will be resorted to to prevent him from bringing this penal action, and unless the section is amended as suggested by the Senator from Alabama, I do not believe that an action will ever be brought in those States, because it is much more difficult for one of those citizens to bring and maintain a criminal action than it is for him to perform the single act of voting.

Mr. EDMUNDS. Will my friend permit me to make a suggestion right there?

Mr. POOL. Certainly.

Mr. EDMUNDS. If you take out this penalty, as it is called, really liquidated damages, from the person who is aggrieved, whose right is denied, and who has suffered injury, and give it to anybody who will sue for it, it becomes

a pure penalty. Then the question is, whether you can have a bill which contains double penalties; whether you are to punish, in the strict sense of punishment, a man twice for the same offense; because my friend will see that the section, in addition to giving these damages to the party aggrieved as damages, makes it a criminal misdemeanor, punishable on indictment and conviction by a fine of not less than \$500 and imprisonment not less than a month nor more than a year. I suggest to my friend, who is a cultivated and educated lawyer, whether he would not in court find himself in great difficulty with a bill of double penalties, which were purely such.

Mr. POOL. I have never examined that question under the laws of the United States. I only know that is frequently done in my own State. We have statutes with double penalties, as referred to by the Senator, and we have never had any difficulty in that State with regard to them.

But I understood the committee to mean by this section that there was danger in the States where it is principally to apply of not being able to obtain a grand jury who will find a bill of indictment, and that in the event no bill of indictment could be found before a grand jury the party aggrieved, or, if amended as the Senator from Alabama suggests, any person in the community may still punish the offender by bringing a penal action. It seems I had mistaken the purpose of the committee entirely from what is said by the Senator from Vermont. I think, nevertheless, the amendment had better be made, unless there really be that legal objection which the Senator suggests as to double penalties, so that it could not, under the laws of the United States and the practice of the United States courts, be enforced. If that were so, it would be conclusive that the amendment ought not to be adopted. I did not understand the Senator as expressing the positive opinion that such could not be done.

Now, Mr. President, I shall discuss injunctions issuing from Federal district judges on the question of a person's qualification for voting.

The civil-rights bill in part IV confers on the district courts of the United States jurisdiction to issue injunctions in civil-rights actions and it is to be assumed that these injunctions will concern, among other supposed rights, the right to vote.

Actually appropriate remedy already exists where a person's civil rights are violated. Section 242 of title 18, United States Code, provides a penalty and damages may be recovered in a civil action. The West Virginia Jehovah's Witnesses case is a typical example of adequate remedy existing in such cases. In this case, the United States attorney was unable to get an indictment by the grand jury. He therefore proceeded to prosecute by information, as provided by rule 7 (a) of the Federal Rules of Criminal Procedure, and subsequently got a conviction. The information charged that two public officers, acting under color of law, had willfully deprived their victims of the Federal rights of free speech, freedom of religion, the right not to be deprived of liberty without due process of law, and the right to equal protection of the laws. The conviction was upheld by the United States court of appeals—*Calette v. U. S.* ((1943) 132 F. 2d 902. Civil suits were brought by the Witnesses against their prosecutors—those who had deprived them of their rights—and a



settlement was made totaling \$1,170 in damages which was paid.

How can the Congress vest jurisdiction in Federal courts to determine the qualifications of voters and allow Federal judges to issue injunctions in effect requiring that certain persons—the judge thinks are qualified—shall be registered and allowed to vote?

The qualifications of voters are fixed and enumerated in the constitution of each sovereign State. For purposes of determining who is entitled to vote in each State for United States Representatives and Senators, the Federal Constitution simply adopts such qualifications as the State has fixed for voting for members of that State's legislature.

The language of article I, section 2, clause 3 of the United States Constitution reads:

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

Similarly, the 17th amendment adopts for the purpose of electing United States Senators such qualifications as the States have fixed:

The Senate of the United States shall be composed of 2 Senators from each State, elected by the people thereof, for 6 years; and each Senator shall have 1 vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

In the fixing of qualifications of voters the States are limited only by the 15th amendment and the 19th amendment in that the right to vote may not be denied because of race or color or sex, respectively.

That the respective States determine who are entitled to vote has never been seriously controverted. The United States Supreme Court has repeatedly declared that the right to vote comes from the State. In declaring sections 3 and 4 of the old Enforcement Act of May 31, 1870, unconstitutional, the Supreme Court in 1875 said—*U. S. v. Reese* ((1875) 92 U. S. 214, 217, 218); also *Butts v. Merchants and Miners Transportation Co.* ((1913) 230 U. S. 126):

The 15th amendment does not confer the right of suffrage upon anyone. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, one race having certain qualifications are permitted by law to vote, those of another having the same qualifications must be. Previous to this amendment, there was no constitutional guaranty against this discrimination; now there is. It follows that the amendment has invested the citizens of the United States with a new constitutional right which is within the protecting power of Congress. That right is exemption from discrimination in the exercise of the elective franchise on account of race, color, or previous condition of servitude. This, under the express provisions of the second sec-

tion of the amendment, Congress may enforce by appropriate legislation.

This leads us to inquire whether the act now under consideration is appropriate legislation for that purpose. The power of Congress to legislate at all upon the subject of voting at State elections rests upon this amendment. The effect of article I, section 4, of the Constitution, in respect to elections for Senators and Representatives, is not now under consideration. It has not been contended, nor can it be, that the amendment confers authority to impose penalties for every wrongful refusal to receive the vote of a qualified elector at State elections. It is only when the wrongful refusal at such an election is because of race, color, or previous condition of servitude, that Congress can interfere, and provide for its punishment. If, therefore, the third and fourth sections of the act are beyond that limit, they are unauthorized.

Thus, if the 15th amendment has not conferred the right to vote upon anyone, how can Congress give a Federal judge authority to confer that right by injunction?

The Attorney General knows that it is a settled principle of law that an injunction will not issue to prevent a crime. At the present time the laws governing enforcement of civil rights are criminal statutes and as such he seeks to have them reenacted as civil statutes so he can secure injunctions. An injunction is really a serious proposition.

Actually an injunction is a proceeding in equity and not of law and under this principle since all of the States have adequate procedure for determining the qualifications of voters in courts of law, injunctions cannot issue in such cases.

An injunction is actually the giving of validity to a judge's own individual opinion. The injunction had its origin during the reign of Henry VIII when Cardinal Wolsey augmented the authority of the Court of Chancery in exercising his equitable authority over everything that could be a matter of judicial inquiry. Both Wolsey and his successor, Sir Thomas More, were severely criticized by the English judiciary for issuing injunctions in equity and thereby substituting their individual opinions for the verdict of a jury in a common law court—the Law magazine, London, volume XXVII, 1870, pages 1–25.

Such great importance is attached to the issuance of an injunction that Lord Correnham in his judgment in *Brown v. Newall* ((1870), 2 M. and C. 558, 570), said:

Now, that that ex parte injunction was an order which ought not to have been made, is not in dispute. It has been subsequently dissolved, and nothing is attempted (570) to be said in support of it at the bar; and it is impossible that it could have been sustained. The order was a departure from the known and established rule and practice of this court. Nothing is so difficult as to bring within any general rule every case in which a special injunction ought to be granted; but, when an action has regularly proceeded, and is on the very eve of trial, an ex parte injunction to stop it is an order such as I have not before seen. The vice chancellor appears to have stated that the order was made under some misapprehension of the facts; and indeed it is quite obvious that it must have been so, for the vice chancellor could not have made the order if the facts had been thoroughly understood. It is very probable that some

facts were then supposed to exist which did not actually exist.

I am not entitled, however, to assume that the order was made upon any other grounds than those stated in the affidavit which was used upon the application for the injunction; and I am, therefore, to see whether, on that affidavit, the parties have suppressed or misrepresented facts in such a way as was calculated to induce the court to grant the injunction.

I am most unwilling to lay down any rule which should limit the power and discretion of the court as to the particular cases in which a special injunction should or should not be granted; but I have always felt—and since I have been upon the bench I have seen no reason to alter my opinion—that extreme danger attends the exercise of this part of the jurisdiction of the court, and that it is a jurisdiction which is to be exercised with extreme caution. It is absolutely necessary that the power should exist, because there are cases in which it is indispensable; but I believe that practically it does as much injustice as it promotes—571—justice; and it is, therefore, to be exercised with extreme caution. The court can have no ground upon which it can proceed, in granting an ex parte injunction, but a faithful statement of the case; and where the court has found a party misstating the case, either by misrepresentation or suppression, the court has always exercised its jurisdiction, for the purpose of repressing that practice; and I am desirous to abstain from putting, by anticipation, a limit to that power. The extent to which the court is to go in so doing is only to be determined by the case itself; but then it must appear, upon the affidavits, that there was such misrepresentation. Now the affidavit upon which the ex parte injunction was obtained certainly does not state all the facts; but the question is, whether there was any such suppression or misstatement as to lead the court to grant the injunction. I do not find on that affidavit that description of misrepresentation or suppression which, in my opinion, presented a case likely to procure a judgment on the application, but different from the case which really existed.

Thus we can easily see, even if we had the power, that it would be a dangerous experiment to allow Federal district judges to issue injunctions on simple ex parte affidavits as is proposed in the present bill. And it might be possible under this proposal to assign New York or Vermont Federal judges to a crowded injunction calendar in Virginia to determine who is qualified to vote in that State. Section 134 of title 26, United States Code, simply requires that a district judge reside in the district or one of the districts for which he is appointed and does not preclude his assignment to another district. In fact, Chief Justice Warren under section 292 of the Judicial Code—title 28, United States Code—may assign California judges to South Carolina:

SEC. 292. District judges:

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court

of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises. (June 25, 1948, ch. 646, sec. 1, 62 Stat. 901.)

The Federal Enforcement Act of 1870 attempted to do just what this bill seeks to do, that is, take away from the States the control of their elections and place that control in the hands of federally appointed officials. If anyone has any doubts about the failure of the Enforcement Act or even its constitutionality he should read the various decisions of the United States Supreme Court declaring almost every section of the act unconstitutional. When Congress finally got around to repealing that act in 1893 here are some of the frauds cited in Congress as reasons for repeal. They included 19,000 fraudulent naturalization certificates being issued by a single judge in New York State. They included payment in fees from the United States Treasury to a single Federal supervisor of elections and commissioner of the Federal court the sum of \$145,000. Interestingly enough, repeal was initiated by a New York Congressman. See CONGRESSIONAL RECORD, volume 25, pages 1959, 1808.

Mr. President, on Tuesday afternoon, August 27, I made a motion in the Senate to have H. R. 6127 in its so-called compromise form referred to the Senate Judiciary Committee. I pointed out that I believed it to be a dangerous procedure to allow bills to come over from the House of Representatives and be placed on the calendar of the Senate without being referred to the appropriate committee. However, my motion was voted down 66 to 18, so the bill is now before the Senate for consideration.

Since very few Members of the Senate were present at that time to hear my objections to the present version of H. R. 6127, I shall present my arguments again.

Mr. President, I was bitterly opposed to the passage of H. R. 6127 in the form which was approved by the Senate. I am even more bitterly opposed to the acceptance of this so-called compromise which has come back from the House of Representatives.

Later on I want to comment on various provisions of the entire bill, but at this time I am directing my comments at the specific provisions of the so-called compromise. In my view, it is no less than an attempt to compromise the United States Constitution itself.

In effect, it would be an illegal amendment to the Constitution because that would be the result insofar as the constitutional guaranty of trial by jury is concerned.

Article III, section 2, of the Constitution provides that—

The trial of all crimes, except in cases of impeachment, shall be by jury.

Again in the sixth amendment—in the Bill of Rights—it is provided that—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The fifth and seventh amendments to the Constitution provide additional guaranties of action by a jury under certain circumstances. The fifth amendment refers to the guaranty of indictment by a grand jury before a person shall be held to answer for a crime. The seventh amendment guarantees trial by jury in common-law cases.

These guaranties were not included in our Constitution without good and sufficient reasons. They were written into the Constitution because of the abuses against the rights of the people by the King of England. Even before the Constitution and the Bill of Rights were drafted, our forefathers wrote indelibly into a historic document their complaints against denial of the right of trial by jury.

That document was the Declaration of Independence.

After declaring that all men are endowed with certain unalienable rights, including life, liberty, and the pursuit of happiness, the signers of the Declaration pointed out that the King had a history of "repeated injuries and usurpations, all having in direct object to the establishment of an absolute tyranny over these States." Then they proceeded to the listing of a bill of particulars against the King.

He was charged with "depriving us in many cases of the benefits of trial by jury."

That is what the Declaration of Independence contained. The King was charged, among other things, with depriving the American people of the benefit of trial by jury.

That is the very thing I am fighting for—the right of trial by jury, which is contained in the Constitution, and embodied in it in quite a number of places. The compromise bill which comes from the House attempts to compromise the Constitution of the United States. The bill does not provide for a trial by jury unless the penalty is more than 45 days' imprisonment or more than a \$300 fine. That is a compromise of the Constitution.

Mr. President, when our forefathers won their freedom from Great Britain, they did not forget that they had fought to secure a right of trial by jury. They wrote into the Constitution the provisions guaranteeing trial by jury. Still not satisfied, they wrote into the Bill of Rights 2 years later the 3 specific additional provisions for jury action.

When the original Constitution was written there was placed in it article III, section 2, which guarantees the right of

trial by jury. Then the Bill of Rights was adopted, and that right was provided in three different places.

It is a well-known fact that there was general dissatisfaction with the Constitution when it was submitted to the States on September 28, 1787, because it did not contain a Bill of Rights.

A majority of the people of this country, under the leadership of George Mason, Thomas Jefferson, and others, were determined to have spelled out in the Constitution in the form of a Bill of Rights those guaranties of personal security which are embodied in the first 10 amendments.

It was 9 months after the Constitution was submitted to the States before the ninth State ratified the Constitution, thus making it effective.

Although by that time it was generally understood, and pledges had been made by the political leaders of the day, that a Bill of Rights would quickly be submitted to the people, 4 of the 13 States still were outside the Union.

Nineteen months after the Constitution was submitted to the States, George Washington was inaugurated on April 30, 1789, as our first President. Even then, however, North Carolina and Rhode Island remained outside the Union for several months, North Carolina ratifying on November 21, 1789, and Rhode Island on May 29, 1790.

The reluctance of all the States to enter the Union which they had helped to create clearly demonstrated how strong the people felt about the necessity of including a Bill of Rights in the Constitution. The Constitution might never have been ratified had it not been for the assurances given to the people by Hamilton, Madison, and other political leaders that a Bill of Rights would be drafted as soon as the Constitution was ratified. Leaders of that day carried out the mandate of the people, and the Bill of Rights with its guaranties of trial by jury was submitted to the States on September 25, 1789.

In 1941, the late John W. Davis, that great constitutional lawyer and onetime Democratic nominee for President, was asked to state what the Bill of Rights meant to him. "The Bill of Rights," he declared, "denies the power of any government—the one set up in 1789, or any other—or of any majority, no matter how large, to invade the native rights of a single citizen."

Mr. Davis continued his definition with the following:

There was a day when the absence of such rights in other countries could fill an American with incredulous pity. Yet today, over vast reaches of the earth, governments exist that have robbed their citizens by force or fraud of every one of the essential rights American citizens still enjoy. Usage blunts surprise, yet how can we regard without amazement and horror the depths to which the subjects of the totalitarian powers have fallen?

The lesson is plain for all to read. No men enjoy freedom who do not deserve it. No men deserve freedom who are unwilling to defend it. Americans can be free so long as they compel the governments they themselves have erected to govern strictly within the limits set by the Bill of Rights. They can be free so long, and no longer, as they call to account every governmental agent and officer



who trespasses on these rights to the smallest extent. They can be free only if they are ready to repel, by force of arms if need be, every assault upon their liberty, no matter whence it comes.

Mr. President, this bill is an assault upon our liberty. The United States is a constitutional government, and our Constitution cannot be suspended or abrogated to suit the whims of a radical and aggressive minority in any era.

The specific provisions in the Constitution and the Bill of Rights guaranteeing trial by jury have not been repealed. Neither have they been altered or amended by the constitutional methods provided for making changes in our basic law if the people deem it wise to make such changes.

Nevertheless, in spite of the prevailing constitutional guaranties of trial by jury, we are here presented with a proposal which would compromise the provisions of the Constitution—yes, in my opinion, amend the Constitution illegally.

This compromise provides that in cases of criminal contempt, under the provisions of this act, "the accused may be tried with or without a jury" at the discretion of the judge.

It further provides:

That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of \$300 or imprisonment in excess of 45 days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury.

Mr. President, the first of the provisions I have just cited, giving discretion to a judge whether or not a jury trial is granted in a criminal case, is in direct conflict with the Constitution.

When our forefathers met in 1787 in Philadelphia they wrote in article III, section 2, of the Constitution that in all crimes except treason a man shall be entitled to a jury trial. In several places in the Bill of Rights they wrote it again, with special emphasis in the sixth amendment that a man is entitled to a jury trial. Yet the compromisers brought forth a compromise which attempts to compromise the Constitution of the United States. We cannot compromise the Constitution of the United States. The compromise would have been unconstitutional if it had provided that if a judge wanted to punish for criminal contempt he could sentence the defendant to serve 1 day or fine him \$1. He has no right to fine him \$1 or give him 1 day's punishment in prison without a jury trial, because the Constitution says that in a criminal case a man charged with crime is entitled to a jury trial.

I cited last night a decision which holds that criminal contempt is a crime. If criminal contempt is a crime, then a man charged with criminal contempt is entitled to a jury trial under the provisions of the Constitution of the United States, and this so-called compromise which has come to the Senate is an effort of the Senate and the House of Representatives to get together, but in the effort to get together and pass a political bill—and that is all it is—they

have been willing to compromise the Constitution of the United States.

The Constitution does not provide for the exercise of any discretion in a criminal case as to whether the person accused shall have a jury trial. The Constitution says, "The trial of all crimes except in cases of impeachment shall be by jury."

The sixth amendment says, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury."

The Constitution does not say in some crimes. The Constitution says in all crimes. The Constitution does not say trial may be by jury. The Constitution says trial shall be by jury.

How, then, Mr. President, can we be presented with this compromise? How can we be asked to accept a proposal so clearly in conflict with and in violation of the Constitution?

The Constitution makes no exception to the trial by jury provision in criminal cases in the event contempt is involved.

If the Constitution had had an exception in it and read, "This shall not apply to criminal contempt or crimes of criminal contempt," then there would be some basis for the Congress to legislate. But it did not make such an exception. Let me repeat and let me emphasize. The Constitution says "The trial of all crimes shall be by jury"—not all crimes except those involving contempt, but all crimes.

What power has been granted to this Congress to agree to any such proposal when it is in such complete contradiction to the Constitution? There is no power except the power of the people of this Nation by which the Constitution can be amended. The power of the people cannot be infringed upon by any lesser authority.

As the directly elected representatives of the people, this Congress should be the last body to attempt to infringe upon the authority which is vested solely in the people.

We are here dealing with one of the basic legal rights and one of the most vital personal liberties guaranteed under our form of government. But the proposed compromise insists that the treasured right of trial by jury be transformed into a matter of discretion for a judge—for one person—to decide whether it shall be granted or withheld.

What right has a Federal judge to use his discretion and tell a man he can be tried by a jury? The Constitution says if a man is charged with a crime he is entitled to be tried by a jury if he wants to be tried by a jury. In the Constitution there is no exception of criminal contempt or any exception that gives a judge the power to try a man so charged rather than a jury.

We are dealing with the basic rights of the people of this Nation and we should be careful to protect those precious rights which have been handed down to us by our forefathers. This compromise attempts to make trial by jury a matter of degree, as stated in the second part of the provision which I quoted. We cannot make trial by jury a matter of degree. If the Constitution gives a man the right of trial by jury,

he has that right and we cannot take it away from him. The Congress cannot take it away. Furthermore, this compromise pretends to let the judge try the case if he wants to do so, in his discretion. Then if he finds the defendant ought to be punished by a fine in excess of \$300 or by imprisonment in excess of 45 days, the man is entitled to a trial by jury. Do you not know, Mr. President, that if a judge has already tried a man, and then the defendant asks for a jury trial, the judge's decision is bound to affect the jury in the case strongly, even if it were constitutional for that to be done, which it is not?

Under this proposal if a man were to receive a sentence of a fine of \$300 or 45 days in prison he would be deprived of his right of trial by jury except at the discretion of the judge. On the other hand, if a dollar were added to the amount of money, or even 1 cent, and a day, or even an hour, to the length of punishment, that man would be granted a new trial with a jury deciding the facts.

Mr. President, this is not something which can be compromised. I realize that Congress may want to get away from Washington. We have had a long, hard session. I also realize that both national parties are playing to the minorities by means of the right-to-vote bill, when each State in the Nation has laws on its books to protect the right to vote, and section 594 of the Federal Code of Criminal Procedure protects the right to vote. Yet, as a political gesture, both parties are making this play to try to claim credit. Watch my prediction that in the elections of 1958 both parties will try to claim that they got the civil-rights bill through the Congress.

Why are we not more interested in preserving the Constitution? Are we going to violate the Constitution by passing a political civil-rights bill in order to give thunder and political fodder to politicians to enable them to garner votes? Which is more important, the Constitution of this country or the political parties vying for the votes of minorities?

I wish to see the right to vote exercised by every man who is qualified to vote and who wants to vote. If he is entitled to vote, I want to see him vote. But the true purpose of this bill is not to insure the right to vote, because we have statutes in every State, and we have statutes on the Federal Code of Criminal Procedure now already that punish people interfering with anybody trying to vote. If the statutes we now have on the books are not being enforced, what good will it do to put another statute on the books? If the Justice Department is claiming that there are any individuals who have been denied their right to vote, why does it not prosecute them under the present law, which is completely adequate? And if no people have been denied the right to vote, then why is it claimed that this bill is necessary?

The right of trial by jury is too dear a right to be measured in dollars and cents and in terms of days and hours. The right of trial by jury is guaranteed by the Constitution. It is the vital principle upon which our form of government

is based. Principle is not a matter of degree.

Perhaps the House and the Senate wanted to get together and they thought this was the only way they could do it, but I want to tell the American people when they did get together and brought forth this compromise they violated the Constitution of the United States. This proposed compromise is a true child of the parent bill. Like father, like son; a chip off the old block. Both are bad.

Under this proposal, if a man were to receive a sentence of a fine of \$300 or 45 days imprisonment, he would be deprived of his right of trial by jury, except at the discretion of the judge. On the other hand, if a dollar were added to the amount of the fine—or even 1 cent—and if a day, or even an hour, were added to the length of imprisonment, that man would be granted a new trial, and a jury would decide the facts.

Mr. President, this is not something which can be compromised. The right of trial by jury is too dear a right to be measured in dollars and cents or in terms of days and hours. The right of trial by jury is guaranteed by the Constitution. It is a vital principle upon which our form of government is based. Principle is not a matter of degree.

The proposed compromise is a true child of the parent bill—like father, like son, or a chip off the old block. Both are bad. But the provisions of the compromise are even worse than the provisions of the bill which I opposed when it was passed by the Senate.

The inclusion by the Senate of part V, with its jury-trial provision, made the bill a vast improvement over the radical bill which was sent to us from the House of Representatives.

However, the present unconstitutional compromise now makes part V conform with the obnoxious provisions which were in the original bill. In the name of constitutional government, I hope a majority of the Senate will vote against this proposal.

The principal purpose of this bill which the House has returned to the Senate is political. Both parties fear the bloc voting of the pivotal States. Both parties want to be in position to claim credit for the passage of what is being called a civil-rights bill. Both parties hope to be able to capitalize on the passage of a bill such as this one in the congressional elections of 1958, and then to carry those gains into the presidential election of 1960.

Propaganda and pressure exerted upon the Congress and upon the American people explain how such a bill as this one came to be considered at all. Stewart Alsop, the newspaper columnist, only last week stated the simple facts of the case.

He said that behind the shifting, complex, often fascinating drama of the struggle over civil rights, there is one simple political reality—the Negro vote in the key industrial States in the North. That is, of course, in hard political terms, what the fight has been all about.

Those are the words of Stewart Alsop; and he is not a southerner, so far as I know.

To explain his point, he cited the situation prevailing in New York, Pennsylvania, and Illinois. Pointing out that the Negro vote can be absolutely decisive in these States, Mr. Alsop stated that it is almost inconceivable that any presidential candidate could lose those three States and win an election.

The following four paragraphs are quoted directly from Mr. Alsop's column:

In 1954, Averell Harriman was elected Governor of New York by less than 15,000 votes over Senator IRVING IYES. According to Harris' analysis, Harriman polled a whopping 79 percent of the Negro vote. Negro voters thus supplied Harriman with his margin of victory several times over. Two years later, the Democrats had dropped some 90,000 Negro votes to the Republicans—or about 6 times the number of votes IYES needed to defeat Harriman.

Or take another close race—the victory of Senator JOSEPH CLARK, of Pennsylvania, over the Republican incumbent, Senator James Duff, in 1956. Again, CLARK just squeaked in, with a plurality of less than 18,000 votes. CLARK, despite the Supreme Court, carried the Negro vote by a huge 76 percent margin, which was worth about 150,000 votes to him. Suppose the Negro vote had dropped off as sharply in Pennsylvania as it did in Illinois, where it nosedived from 75 percent in 1952 to 58 percent in 1956. Then Duff would be in the Senate by a comfortable majority, and CLARK would be practicing law.

Other examples could be cited, like that of Senator PAUL DOUGLAS, of Illinois, who owes about 60 percent of his 1954 plurality to the Negro vote. But the lesson is clear enough. If the Republicans can attract something approaching half the Negro vote in the Northern States, the Republican Party will then be the normal majority party in those States.

Read the role of big States in which the Negroes can be expected to poll 5 percent or more of the total vote—not only New York, Pennsylvania, and Illinois, but such States as Michigan, Ohio, New Jersey, California. It then becomes clear what is at stake in the civil-rights struggle—nothing less than the future balance of political power in the Nation.

But, Mr. President, are we going to compromise the Constitution, whether we lose an election or not? Which is more important—to win an election or to preserve the Constitution? It is about time that both parties began to consider the welfare of the country and to determine whether the Constitution is of more importance, or whether winning an election is of more importance.

Mr. President, the advocates of this proposed legislation may believe it fits their objective today; but I am convinced that if this bill is enacted into law, eventually it will be just as undesirable to its advocates as it is to me.

No explanation of the bill can alter the fact that it was, and is now, under the proposed compromise, a force bill. Its purpose is to put a weapon of force into the hands of the Attorney General and into the hands of Federal judges to exercise arbitrarily.

Just as the Attorney General can decide arbitrarily whether to prosecute a case, so now this compromise provides Federal judges with authority to exercise discretion in applying the law.

Under the provisions of the compromise, jury trial may be granted or withheld on any grounds whatsoever in the mind of a judge, so long as the sentence

he metes does not exceed the maximum limit set for denying trial by jury.

The proponents of the bill claim it would strengthen the rights of individuals. In contrast to this claim, the bill actually would strengthen the bureaucratic power of the Attorney General and the arbitrary authority of Federal judges.

No new right is granted by this bill. No old right held by the people is better protected. The substance of the bill is to deprive the people of a right held under the Constitution.

When the bill was debated in the Senate, many authorities were quoted on the importance of trial by jury. At that time I quoted the great legal mind of 18th century England, Blackstone. Because of the authoritative place he holds in jurisprudence, I wish to quote him again at this time. This is what Blackstone had to say:

The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law. And if it has been so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases. \* \* \* It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals. A constitution, that I may venture to affirm has, under providence, secured the just liberties of this Nation for a long succession of ages. And therefore a celebrated French writer, who concludes, that because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury.

That is what Blackstone, the leading legal light the world has known, had to say. I wish to repeat one of his sentences:

And therefore a celebrated French writer, who concludes, that because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury.

Mr. President, a trial by jury is one of the bedrocks of this democracy. It is one of the bedrocks of this Nation. It is one of the bedrocks of this Government. When we talk to people in the street and to laymen generally about taking away their right of trial by jury, they cannot understand it, because they know that the Constitution provides that a man shall have a trial by jury when he is charged with the commission of a crime.

At another point, Blackstone further declared his faith in trial by jury in these words:

A competent number of sensible and upright jurymen, chosen by lot \* \* \* will be found the best investigators of truth, and the surest guardians of public justice. For the most powerful individual in the State will be cautious of committing any flagrant invasion of another's right, when he knows that the fact of his oppression must be examined and decided by 12 indifferent men, not appointed till the hour of trial; and that, when once the fact is ascertained, the law must of course redress it. This, there-



fore, preserves in the hands of the people that share which they ought to have in the administration of public justice.

Mr. President, the wisdom of Blackstone's words is undeniable. The liberty of every citizen must continue to be protected by the right of trial by jury. This is not a right which applies to one person and is denied another. The Constitution makes no exception in its guaranty of trial by jury to every citizen.

On May 9, 1957, Associate Justice Brennan of the United States Supreme Court delivered an address in Denver, Colo. In that address, Justice Brennan dealt with the subject of trial by jury, and made the following statement:

American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it. One has only to remember that it is still true in many States that so highly is the jury function prized, that judges are forbidden to comment on the evidence and even to instruct the jury except as the parties request instructions. The jury is a symbol to Americans that they are bosses of their Government. They pay the price, and willingly, of the imperfections, inefficiencies and, if you please, greater expense of jury trials because they put such store upon the jury system as a guaranty of their liberties.

Mr. President, that is a significant statement to me, coming from a member of the present Supreme Court. I will not predict what the Court might do when the constitutionality of the denial of trial by jury as embodied in this so-called compromise is presented to the Court.

However, I shall not be surprised if the Court declares the bill unconstitutional, because on June 10, 1957, in Reid against Covert, the so-called military wives case, the Supreme Court issued a strong opinion on behalf of trial by jury. In that case the Court said:

Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has served and remains one of our most vital barriers to governmental arbitrariness. These elemental procedural safeguards were embedded in our Constitution to secure their inviolateness and sanctity against the passing demands of expediency or convenience.

#### And further:

If \* \* \* the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes. But we have no authority to read exceptions into it which are not there.

If the people of this Nation want Federal judges to have the power to punish persons for criminal contempt by sentences of either days, weeks, or months in jail, or by fines of dollars, they can amend the Constitution and provide for it. If the people of this country want Federal judges to have the discretion of determining whether a person shall have a jury trial or not, then they can amend the Constitution and so provide. There is no provision and no exception for either instance in the present Constitution.

That is certainly a clue to what might be expected from the Court when it is

called upon to decide the constitutionality of part 5 of H. R. 6127 as it has been amended by this so-called compromise.

I think what the Supreme Court did in the Reid against Covert case might be a clue to what it might do, or what might be expected of the Court, when it is called upon to decide the constitutionality of part 5 of H. R. 6127 as it has been amended by this so-called compromise.

Many claims have been made that this is a bill to protect the individual's right to vote. The evidence proves that there are more than adequate laws in all of the States to protect the right to vote. I requested the Library of Congress to make a study of the laws of the States by which the right to vote is protected in each State. A summary of these laws was submitted to me, and I request that this summary be printed in the RECORD at the conclusion of my remarks.

As to my own State of South Carolina, I shall discuss at some length the constitutional and statutory safeguards protecting a citizen's right to vote.

The people of my State vote. I am in favor of qualified people voting. All the people of my State vote if they are qualified.

Whence comes this hue and cry? Those raising it have not presented the matter to the Judiciary Committee, so the chairman of that committee may hold hearings. They have held hearings for weeks and months on the subject, and the proponents of the bill have failed to present evidence to show that people do not have the right to vote.

It is inescapable, as I have said, that this is a political bill and not a bill to provide the right to vote. The people already have that privilege.

If any such incident as a refusal to permit a citizen to vote had occurred, justice would have been secured in the courts of South Carolina.

The Federal Government has no monopoly over the administration of justice. The people of the States are interested in justice just as are the officials of the Federal Government, but I shall return to that subject in a few minutes and go into the matter of the Federal statutes a little more fully.

We have Federal statutes to protect the right to vote, if the voters are not satisfied with the State statutes, and certainly the Federal statutes protect them.

I say that the Negro citizens in South Carolina are safeguarded in their rights; and the payment of a poll tax is not required.

Both white and Negro citizens exercise their franchise freely in South Carolina. Our requirements are not stringent. As I have said, South Carolina does not require the payment of a poll tax as a prerequisite to voting. Registration is necessary only once every 10 years.

When I was Governor of South Carolina, I recommended that the poll tax be repealed as a prerequisite to voting. The legislature acted promptly and submitted the matter to the people, and the people voted in favor of repeal of the poll tax as a prerequisite to voting. The legislature approved it, and we have no poll tax in my State as a prerequisite to voting.

Proof that Negroes vote in large numbers in South Carolina, if proof is desired, can be found in an article which was published following the general election in 1952 in the Lighthouse and Informer, a Columbia, S. C., Negro newspaper. In its issue of November 8, 1952, the Lighthouse and Informer discussed the results of the election and declared that "estimates placed the Negro votes at between 60,000 and 80,000 who actually voted."

This represents almost one-fourth of the votes cast in that election. I did not see an estimate of the Negro votes in the 1956 general election, but reports which came to me indicated there was another large turnout.

Mr. President, I shall now read the provisions of the South Carolina constitution which protect a citizen's right to vote:

#### SOUTH CAROLINA CONSTITUTION ELECTION PROVISIONS

Article 1, section 9, suffrage: The right of suffrage, as regulated in this constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct.

Article 1, section 10, elections free and open: All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this constitution shall have an equal right to elect officers and be elected to fill public office.

Article 2, section 5, appeal; crimes against election laws: Any person denied registration shall have the right to appeal to the court of common pleas, or any judge thereof, and thence to the supreme court, to determine his right to vote under the limitations imposed in this article, and on such appeal the hearing shall be de novo, and the general assembly shall provide by law for such appeal, and for the correction of illegal and fraudulent registration, voting, and all other crimes against the election laws.

Article 2, section 8, registration provided; elections; board of registration; books of registration: The general assembly shall provide by law for the registration of all qualified electors, and shall prescribe the manner of holding elections and of ascertaining the results of the same: *Provided*, At the first registration under this constitution, and until the 1st of January 1898, the registration shall be conducted by a board of three discreet persons in each county, to be appointed by the Governor, by and with the advice and consent of the senate. For the first registration to be provided for under this constitution, the registration books shall be kept open for at least 6 consecutive weeks; and thereafter from time to time at least 1 week in each month, up to 30 days next preceding the first election to be held under this constitution. The registration books shall be public records open to the inspection of any citizen at all times.

Article 2, section 15, right of suffrage free: No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State.

In addition to these general provisions of the constitution protecting the right to vote, I shall now read specific statutory provisions contained in the South Carolina Code. I believe it is especially appropriate that I do so in view of the fact that it has been charged that South Carolina, as well as other States, has failed to protect the right of citizens to vote.

The charge is false. The right of every citizen to vote in South Carolina is protected, and I want the record to be clear; therefore, I cite the following provisions of law in South Carolina:

**SOUTH CAROLINA CODE**

**TITLE 23**

**23-73. Appeal from denial of registration.**

The boards of registration to be appointed under section 23-51 shall be the judges of the legal qualifications of all applicants for registration. Any person denied registration shall have the right of appeal from the decision of the board of registration denying him registration to the court of common pleas of the county or any judge thereof and thence to the supreme court.

**23-74. Proceedings in court of common pleas.**

Any person denied registration and desiring to appeal must within 10 days after written notice to him of the decision of the board of registration file with the board a written notice of his intention to appeal therefrom. Within 10 days after the filing of such notice of intention to appeal, the board of registration shall file with the clerk of the court of common pleas for the county the notice of intention to appeal and any papers in its possession relating to the case, together with a report of the case if it deem proper. The clerk of the court shall file the same and enter the case on a special docket to be known as Calendar No. 4. If the applicant desires the appeal to be heard by a judge at chambers he shall give every member of the board of registration 4 days' written notice of the time and place of the hearing. On such appeal the hearing shall be *de novo*.

**23-75. Further appeal to supreme court.**

From the decision of the court of common pleas or any judge thereof the applicant may further appeal to the supreme court by filing a written notice of his intention to appeal therefrom in the office of the clerk of the court of common pleas within 10 days after written notice to him of the filing of such decision and within such time serving a copy of such notice on every member of the board of registration. Thereupon the clerk of the court of common pleas shall certify all the papers in the case to the clerk of the supreme court within 10 days after the filing of such notice of intention to appeal. The clerk of the supreme court shall place the case on a special docket, and it shall come up for hearing upon the call thereof under such rules as the supreme court may make. If such appeal be filed with the clerk of the supreme court at a time that a session thereof will not be held between the date of filing and an election at which the applicant will be entitled to vote if registered the chief justice or, if he is unable to act or disqualified, the senior associate justice shall call an extra term of the court to hear and determine the case."

In other words, in our State if anybody has an appeal and it goes before the trial judge and he denies it, the supreme court will go into session in order to hear such a case so as to be sure that nobody is deprived of the right to vote:

**23-100. Right to vote.**

No elector shall vote in any polling precinct unless his name appears on the registration books for that precinct. But if the name of any registered elector does not appear or incorrectly appears on the registration books of his polling precinct he shall, nevertheless, be entitled to vote upon the production and presentation to the managers of election of such precinct, in addition to his registration certificate, of a certificate of the clerk of the court of common pleas of his county that his name is enrolled in

the registration book or record of his county on file in such clerk's office or a certificate of the secretary of state that his name is enrolled in the registration book or record of his county on file in the office of the secretary of state.

**23-349. Voter not to take more than 5 minutes in booth; talking in booth, etc.**

No voter, while receiving, preparing and casting his ballot, shall occupy a booth or compartment for a longer time than 5 minutes. No voter shall be allowed to occupy a booth or compartment already occupied by another, nor to speak or converse with anyone, except as herein provided, while in the booth. After having voted, or declined or failed to vote within 5 minutes, the voter shall immediately withdraw from the voting place and shall not enter the polling place again during the election.

**23-350. Unauthorized persons not allowed within guard rail; assistance.**

No person other than a voter preparing his ballot shall be allowed within the guard rail, except as herein provided. A voter who is not required to sign the poll list himself by this title may appeal to the managers for assistance and the chairman of the managers shall appoint one of the managers and a bystander to be designated by the voter to assist him in preparing his ballot. After the voter's ballot has been prepared the bystander so appointed shall immediately leave the vicinity of the guard rail.

**23-656. Procuring or offering to procure votes by threats.**

At or before every election, general, special or primary, any person who shall, by threats or any other form of intimidation, procure or offer or promise to endeavor to procure another to vote for or against any particular candidate in such election shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor more than \$500 or be imprisoned at hard labor for not less than 1 month nor more than 6 months, or both by such fine and such imprisonment, in the discretion of the court.

**23-657. Threatening or abusing voters, etc.**

If any person shall, at any of the elections, general, special or primary, in any city, town, ward or polling precinct, threaten, mistreat or abuse any voter with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall upon conviction thereof suffer fine and imprisonment, at the discretion of the court.

**23-658. Selling or giving away liquor within 1 mile of voting precinct.**

It shall be unlawful hereafter for any person to sell, barter, give away or treat any voter to any malt or intoxicating liquor within 1 mile of any voting precinct during any primary or other election day, under a penalty, upon conviction thereof, of not more than \$100 nor more than 30 days' imprisonment with labor. All offenses against the provisions of this section shall be heard, tried and determined before the court of general sessions after indictment.

**23-659. Allowing ballot to be seen, improper assistance, etc.**

In any election, general, special, or primary, any voter who shall (a) except as provided by law, allow his ballot to be seen by any person, (b) take or remove or attempt to take or remove any ballot from the polling place before the close of the polls, (c) place any mark upon his ballot by which it may be identified, (d) take into the election booth any mechanical device to enable him to mark his ballot, or (e) remain longer than the specified time allowed by law in the

booth or compartment after having been notified that his time has expired and requested by a manager to leave the compartment or booth and any person who shall (a) interfere with any voter who is inside of the polling place or is marking his ballot, (b) unduly influence or attempt to influence unduly any voter in the preparation of his ballot, (c) endeavor to induce any voter to show how he marks or has marked his ballot, or (d) aid or attempt to aid any voter by means of any mechanical device whatever in marking his ballot shall be fined not exceeding \$100 or be imprisoned not exceeding 30 days.

**23-667. Illegal conduct at elections generally.**

Every person who shall vote at any general, special, or primary election who is not entitled to vote and every person who shall by force, intimidation, deception, fraud, bribery, or undue influence obtain, procure, or control the vote of any voter to be cast for any candidate or measure other than as intended or desired by such voter or who shall violate any of the provisions of this title in regard to general, special, or primary elections shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in jail for not less than 3 months nor more than 12 months or both, in the discretion of the court.

Mr. President, the provisions of the South Carolina Constitution and the provisions of the South Carolina statutes, which I have just read, prove the absolute lack of necessity for additional protection of the right to vote in my State. Also, the summary of the laws of other States, which I have requested to be printed in the RECORD at the conclusion of my remarks, proves that there is no necessity for greater protection of the right to vote in any other State.

The claim that this is a right-to-vote bill is completely without foundation. If the advocates of this so-called civil-rights bill want to deny the right of trial by jury to American citizens, they should proclaim their objective and seek to remove the guaranty of trial by jury from the Constitution. They should follow constitutional methods. Then the people of this Nation would not be misled, as some have been, to think that H. R. 6127 would give birth to a right to vote for anybody—a right already held by those it purports to help.

Mr. President, I also object to part I of this bill which would create a Commission on Civil Rights. To begin with, there is absolutely no need or reason for the establishment of such a commission. If there were any necessity for an investigation in the field of civil rights, it should be conducted by the States, or by an appropriate committee of the Congress within the jurisdiction held by the Congress.

The Congress should not delegate its authority to a commission. In such a delicate and sensitive area, the Congress should proceed with great deliberation and care. There is no present indication that any such study will be needed in the foreseeable future.

The establishment of a Commission as proposed in this bill is most unwise.

Section 104 (a) of part I provides the Commission shall—

(2) Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and



(3) Appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

These two paragraphs provide the Commission with absolute authority to probe into and to meddle into every phase of the relations existing between individuals, limited only by the imagination of the Commission and its staff.

The Commission can go far afield from a survey on whether the right to vote is protected. Through the power granted in the paragraphs I have cited, the Commission could exert its efforts toward bringing about integration of the races in the schools and elsewhere. It would be armed with a powerful weapon when it combined its investigative power and its authority to force witnesses to answer questions.

I do not believe the people of this country realize the almost unlimited powers of inquiry which would be placed in the hands of this political Commission. I do not believe the people of this country want to have such a strong-arm method of persuasion imposed upon them. Section 105 (f) of part I provides that "subpenas for the attendance and testimony of witnesses or the protection of written or other matter may be issued in accordance with the rules of the Commission."

This is an unusual grant of authority. Many of the committees and special committees of the Congress do not have this power. The Truman Commission on Civil Rights did not have it. The subpoena is a punitive measure, generally reserved for penal process whereby powers are granted to force testimony which would not otherwise be available. If the proposed Commission were simply a factfinding commission and nonpolitical, the extreme power to force testimony by the use of a subpoena would not be needed. The power of subpoena in the hands of a political commission and the additional power to enforce its subpoenas by court order diverge from the authority usually held by traditional factfinding groups.

There are several grounds for serious objection to section 104 (a) of part I. This section permits complaints to be submitted to the Commission for investigation, but it does not require the person complaining to have a direct interest in the matter. This means, of course, that any meddler can inject himself into the relationship existing between other persons. It opens the door for fanatics to stir up trouble against innocent people.

This section opens the door wide for such organizations as the NAACP, the ADA, and others to make complaints to the Commission with little or no basis for doing so.

If an NAACP official in Washington made a complaint against a citizen of South Carolina, the South Carolina citizen would not have the opportunity of confronting his accuser unless the accuser appeared voluntarily.

Although part I requires sworn allegations to the Commission, there is no requirement that testimony taken by the Commission be taken under oath. Failure to make all witnesses subject to per-

jury prosecutions by placing them under oath would certainly make testimony of little value. The Commission might adopt a rule to require sworn testimony, but this should not be left to the discretion of the Commission. It should be written into law.

There are many other objections to part I which were pointed out during the debate before the Senate passed its version of the bill. I shall not go into them further at this time.

Part II of the bill provides for the appointment of an additional Assistant Attorney General in the Justice Department. Since the Justice Department already has a section to handle civil-rights cases, there is no reason to create this new position. The creation of a new division would require many additional attorneys and other employees in the Justice Department. The Department has not disclosed how many additional lawyers, clerks, and stenographers it would plan to employ.

A Civil Rights Division in the Justice Department is not needed because there is no indication that there will be any increase in the number of civil-rights cases which are now being handled by a section in the Department.

The Attorney General had a most difficult time trying to show that an additional Assistant Attorney General was needed, and he failed completely in his efforts to do so. As a matter of fact, even those who have advocated passage of H. R. 6127 have been forced to admit time after time that conditions relating to civil-rights matters have been steadily improving all over the country.

Since conditions have improved, and there is no indication that conditions will change unless the Attorney General and the Civil Rights Commission create trouble, there is absolutely no justification for the appointment of an additional Assistant Attorney General in charge of civil-rights matters in the Department of Justice.

Mr. President, permit me to digress in order to discuss certain matters pertaining to the Bill of Rights.

I have before me a book entitled "Our Bill of Rights: What It Means To Me—A National Symposium," edited by James Waterman, Wisconsin:

#### FOREWORD

Things of the spirit never die. They flame anew each time they are under fire. They are flaming high at this moment.

Bombs may blow the body to bits, but they bind the soul together.

This book is testimony to the spirit of man; to his personality; to his right to be decent.

From the beginning of time men have had to fight for this sort of life. The fight has never been easy, but it has always been won.

As long as men believe in freedom they will achieve it. The Dark Ages shall not return.

When freedom dies man lives on his knees. When freedom lives man walks erect.

The Bill of Rights is our prayer book and our promise of salvation. The cause of freedom is the cause of God. That is the dedication of this volume.

None of us is wise enough to say finally what one event is the greatest in our history. There are some that cry aloud for that description:

The Declaration of Independence; the Treaty of Paris, ending the Revolutionary

War; the adoption of the Constitution; the pronouncement of the Monroe Doctrine; the Emancipation Proclamation; the end of the War Between the States; the war for freedom and democracy, begun in 1917—and still going on.

I have left to the last, although it belongs at the top, the formulation and adoption of the Bill of Rights—the first 10 amendments to the Constitution, adopted by the baby nation December 15, 1791.

In this group of principles are to be found the soul and spirit of the Constitution. With the Bill of Rights added, the Constitution becomes nearly a perfect thing. Without the bill, the seven articles of the original draft are largely given over to the protection of property.

Jefferson, shocked by the omissions in the Constitution, as promulgated in 1789, while he was United States Minister to France (another type of France than Vichy represents today), drafted the additions to our great charter. Thus we were given the four freedoms by which we grew strong in self-reliance, in courage, in independence, and in self-respect.

The amendments gave us free speech, free press, free worship, free assembly, and also the right to petition. They gave us full protection of the citizen against oppression; the right of trial by jury and, generally, the right of the individual against the state. Jefferson said himself, speaking in the prophetic tone that is true of great men:

"The Bill of Rights is what the people are entitled to against every government."

This publication is testimony to an immortal writing that will live with the Ten Commandments, the Sermon on the Mount, Magna Carta, and those other great fountains of faith by which men live.

Today we fight again for the ideals that democracy gives to us as rights. We shall never lose them; the whole world some day will achieve them.

To help all of us to realize the high privilege we have of living under the Bill of Rights, the thoughts contained herein were put in words by men and women who believe the fires of freedom must always burn brightly and sometimes fiercely. Now is one of those times.

HERBERT BAYARD SWOPE,  
Chairman, Bill of Rights Sesqui-centennial Committee.

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America is face to face with certain grim realities. It is apparent that the expense attached to the defense effort will run into an appalling sum. The sweeping readjustments that will eventually reach every family are becoming clearer by the day. The need for redirection of our whole economy in order to supply plants which manufacture implements of war with an abundance of raw materials is now painfully obvious.

Yes, the world that we know is being refashioned. But so be it, and although the disappearance of familiar patterns and habits of living brings a momentary shock,

there must be no regrets, no longing backward glances. Neither can we afford to hang our heads, wring our hands and insist that we cannot defend democracy without destroying it. After all, the only disaster that will overtake us is the disaster that comes from indecision and inaction.

I like to remind myself of the origin of the Bill of Rights. It came into being at a time of great distress and clearly represented the desires of the people who had paid a high price for their independence, and were determined to keep it. Since that time it has weathered an internal conflict, foreign wars, periods of economic depression. Even during these emergencies there has been no foreshortening of the scope of the Bill of Rights, nor has its fundamental character been altered. Invariably after these crises have passed each American has turned his face homeward and found, to his intense joy, his personal liberty inviolate. This augurs well for the future. Perhaps the destructive forces loose in the world will assume more awesome proportions than any yet seen; perhaps the dangers and hardships of the civilian population will be greater than ever before; but I cannot believe that these new developments will serve to swerve us from our course any more than the vicissitudes of the past.

Undoubtedly it will mean a vigilant citizenry constantly on guard. But we have that. Undoubtedly it will mean leadership of the highest quality, but we have that, too. In fact, I can think of no more impressive reiteration of belief in the Bill of Rights than that made by Franklin D. Roosevelt in his message to Congress last January:

"In the future days which we seek to make secure, we look forward to a world founded upon four essential human freedoms.

"The first is freedom of speech and expression—everywhere in the world.

"The second is freedom of every person to worship God in his own way—everywhere in the world.

"The third is freedom from want. . . .

"The fourth is freedom from fear. . . .

"That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

"This Nation has placed its destiny in the hands, heads, and hearts of its millions of free men and women, and its faith in freedom under the guidance of God. Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights and keep them. Our strength is our unity of purpose.

"To that high concept there can be no end save victory."

Mr. President, those were the words of the late President Franklin D. Roosevelt, in speaking of the Bill of Rights, which guarantees a jury trial to the people of the United States, but which the so-called compromise civil-rights bill would deprive the people of.

I read further:

We accept our liberty, as we do our health, pretty much as a matter of course, hardly giving it a thought until we begin to lose it. Then we become conscious of how much it means.

Experience throughout the long period of human history teaches that liberty must be won in every generation and can be held only by eternal vigilance. As foes of freedom the aggressors reappear with different weapons, but always with the same aim—to destroy the souls of freemen.

That religion and democracy are closely linked together is a truism proved amply in the history of our country. The American colonies were settled by men and women seeking a free life, as well as a home for freedom. Religion was written prominently into their agreements, covenants, pacts, and constitutions, but the early colonists made no provision for the free exercise of religion. Those who had fled before the demands of conformity later determined by law that others must conform or get out of the colony. It was said of Governor Endicott of the Massachusetts Bay Colony, if he had found toleration in his dictionary, he would have cut the word out, just as he drew his sword and cut the red cross out of the English flag because it represented the ancient Catholic faith of England. This attitude, formulated into law and supported by stern preaching, led to the founding of Rhode Island by Roger Williams and his associates. They were the first ones to put into practice the principle of the independence of the individual conscience even beyond the grants of liberty by the State. Maryland was founded by a small company of Catholics seeking freedom of worship in 1634, only 14 years after the Protestant Pilgrims had landed at Plymouth.

Under Lord Baltimore's liberal rule there developed a large degree of freedom in religion, as well as a remarkable advance in democratic procedure. The people of Maryland not only took part in making their laws but were given power to originate laws. No other colony at the time enjoyed quite as much freedom, and in 1649 the assembly passed the Toleration Act which confirmed by law these liberties. Following this action, Maryland became the refuge not only for the oppressed Catholics from England, but Protestants from some of the other American colonies, Puritans from Virginia, Quakers, and others who found congenial homes in this colony.

It is true that the Toleration Act was not very broad in that it tolerated only those of the Christian religion, but it was a step forward on the road to liberty and marked a greater advance than anything even in England at the time. It remained for the colony at Providence, R. I., to advance the act of toleration by granting full religious freedom to Christians and Jews and even to those without any religious affiliation or belief. The act affirmed "that men of all religions should live unmolested so long as they behaved themselves."

The Bill of Rights provides for freedom of religion. Our Bill of Rights provides for many vital rights which we enjoy.

The study of the Constitution should be an essential part not only of the education of the American youth, but of all Americans, and especially those who have become naturalized citizens of this great Nation. While all of us cannot be trained in the technicalities of the law, we should have some idea of our fundamental institutions. We need to know their relationship to our daily life, the reasons for their existence, and the benefits we derive from them, as well as the importance to ourselves of their perpetuation. The Constitution is not self-perpetuating by any means; if it is to survive it will be because it has the support of the people—not passive, but active public support. This means making adequate sacrifice to maintain that which is of the greatest benefit to the greatest number.

The Constitution has its roots in the great and heroic past of the English-speaking race. Today, under that Constitution which was adopted through the blood and sweat of the pioneers of our country, the safeguard of personal liberty is ever present. Under our great Bill of Rights our governmental power is divided into three parts. The first is the power granted to the Central Government; the second that reserved to the States; and the third, and by far the most important, although at times the fact may not be generally recognized, the power reserved to the people under the many inhibitions upon both State and Federal legislation.

In the turmoil which now seems to have engulfed the entire world, the citizens of the United States should well remember particularly that it is the people, those who go to make up the great cross-section of this country, who must guard the ramparts from the ever-increasing dangers of nazism, fascism, and communism. Our Constitution is the final safeguard of every right that is enjoyed by any American citizen. So long as it is observed, those rights will be secure, but should it fall into disrespect or disrepute the way of orderly, organized government as we have known it for the past 150 years will be at an end.

When the Federal Constitution was on September 28, 1787, submitted by Congress to the legislatures of the several States for ratification, there was very strong opposition to its adoption in all the States. The Democrats, under the leadership of Thomas Jefferson, feared that the provisions of the instrument would unduly abridge States rights and result in a Government too highly centralized for their views. It was necessary for nine States to ratify the Constitution before it could take effect. It was not until June 21, 1788, that the ninth State, New Hampshire, gave its approval. The States which had not ratified up to that time were Virginia, New York, North Carolina and Rhode Island. Virginia and New York gave their assent in 1788. When President Washington was inaugurated on April 30, 1789, on the steps of the Federal Hall in New York, neither North Carolina nor Rhode Island had ratified and, therefore, were not States of the United States. These two reluctant States did, however, come into line. North Carolina ratified on November 21, 1789, and Rhode Island on May 29, 1790.

The Bill of Rights was a pacer in the democratic movement in America and as such is entitled to all the prestige of leadership. Yet it really took a century after its enactment for American women to procure the 19th amendment to the Federal Constitution which compelled reluctant States to grant them the basic right of the free—the right to vote. Non-Christian men and freethinkers of their sex more readily wrested from State legislatures the guaranty of their civil rights.

But even the original Bill of Rights would have been a dead letter if dauntless men and women, risking death, had not taught the public to listen without rioting to opinions which it abhorred.



That educational process enabled the letter of the law to live in practice, or application, for the American way of life. In celebrating the original Bill of Rights now, we should celebrate with it the courage and skill of the men and the women who made tolerance a fact as well as a principle of law. The open forum, so characteristic of American democracy, owes its inception and its continuation to persons of both sexes who insisted that law and practice were parts of the same thing.

That rights carry duties has become a third aspect of democratic evaluations, nurtured on free debates. It is increasingly understood in America that liberty could become license; that rights if viewed as extreme personal privileges could reduce society to anarchy. There is today, in connection with rights, the wide prevalence of the philosophy that rights are granted to individuals in order that they may develop their talents for competent voluntary cooperation in the thought and action essential to the strength of society, to general welfare, and to the very endurance of civil liberties themselves.

A history of civilization could be written around the derivation of the privileges that constitute our Bill of Rights. The emphasis would be not on rulers and governments but on the struggle mankind has waged for centuries to obtain recognition of the rights of individual men. These rights are guaranties necessary to any people who wish to live in the free atmosphere of liberty. They are the foundation of any government that exists by the free will of the governed and not by the military force of self-appointed rulers.

The history of our own Bill of Rights is fired with the determination of the American people to preserve their liberties as individuals living in a free state. It is significant that these first 10 amendments in our Constitution were drawn from earlier declarations of rights which a number of the Original Thirteen States had formulated for themselves before they joined the Union. They not only served as models for our Federal Constitution but became basic patterns for new democracies all over the world.

Today there is abroad in the world a monstrous force that would set the clock back and reestablish regimes that rank the state above the individual. Already in many lands fundamental rights have been destroyed; and the existence of our own is threatened. Such crises have occurred before in the history of man but never with such ruthless vehemence and on such a worldwide scale.

Mr. President, there are many objections to H. R. 6127, but the strongest objection is the failure to give a jury trial. I wish now to present to the Senate some information on the jury trial and I shall go into the historical development of the jury system. This information is coming from the History of the Jury System, by Maximus A. Lesser, instructor of political science, New York Evening High School. Some very important points are brought out here about the jury system which are pertinent to this debate.

# HISTORICAL DEVELOPMENT OF THE JURY SYSTEM

(By Maximus A. Lesser)

## CHAPTER I. GENERAL CHARACTERISTICS OF THE JURY

The subject we propose to investigate is the historical genesis and gradual development of an institution which, today is an inseparable element of English jurisprudence and an important factor in the administration of justice, wherever the English or common law, " \* \* \* the State's collected will, o'er thrones and globes elate, sits empress, crowning good, repressing ill."

This purpose is not free from difficulties, for, while the nature and functions of the tribunal, as today existent, are sufficiently well comprehended, still the origin of that institution and the successive steps by which it was evolved are less clearly understood and subject to considerable misconception, as is evinced by the many and conflicting theories advanced in explanation thereof. It is the object of this treatise to reconcile, as far as may be, these various views, to give to each well sustained suggestion its proper weight and effect during the formative period, and to trace its influence in the production of the result. The method of treatment is, in general, chronological; for the English jury is so closely interwoven with the historical and political development of the English nation, that every component which contributed to the formation and completion of the latter had a concomitant effect upon the former; accordingly, the history and features of each foreign factor will be described in connection with that period of our history at which it first made itself felt. For to the jury may be truly applied, what Maine says of law, that it is a matter of growth, the result of the needs of the community in which it originated; and an institution—as another writer well observes—which "does not owe its existence to any positive law; it is not the creature of an act of Parliament establishing the form and defining the functions of the new tribunal. It arose \* \* \* silently and gradually out of the usages of a state of society which has forever passed away." We will, in the first place, regard its general aspect and characteristics as beheld today, and then proceed to consider whether, and in what respects, it is resembled by institutions of early days. The body with which we have to deal—in the language of an able Scotch jurist—"is the institution by which disputed facts are to be decided for judicial purposes in the administration of civil or criminal justice, and which is in modern times familiar to us under the denomination of trial by jury. \* \* \* The etymological derivation of the term is obviously from *juro*, to swear, whence we find this institution called in forensic Latin *jurata*, and the persons composing it *jurati*. \* \* \* When the object is inquiry only, this tribunal is sometimes called an *inquest* or *inquisition*, as in the instance of a grand jury or coroner's inquest; but when facts are to be determined by it for judicial purposes, it is always styled a jury."

This board of inquiry, then, is composed of "a body of men taken from the community at large, summoned to find the truth of disputed facts. Their office is to decide upon the effect of evidence and thus inform the court truly upon the question at issue, in order that the latter may be enabled to pronounce a right judgment. But they are not the court itself nor do they form part of it; and have nothing to do with the sentence which follows the delivery of their verdict." While, concerning the third characteristic element of our jury, De Lolme wrote that they who have the power to discriminate between disputed facts and "to whom the law has thus exclusively delegated the prerogative of deciding that a punishment is to be inflicted—those men without

whose declaration the executive and the judicial powers are both thus bound down to inaction, do not form among themselves a permanent body, who may have had time to study how their power can serve to promote their private views or interest; they are men selected at once from among the people, who perhaps never were before called to the exercise of such a function, nor foresee that they ever shall be called to it again."

In other words, the jury is the sole judge of the weight of evidence adduced and the arbiter of compensation for contracts broken or injuries sustained, and is composed of men selected by lot and "sworn to declare the facts of a case as they are delivered from the evidence placed before them"—its province being to determine the truth of facts or the amount of damages in civil, and the guilt or innocence of the accused in criminal, cases.

This province is confined by the following limitations:

(1) It is restricted to the consideration of matters proved by evidence at the trial;

(2) It is subject to the instructions of the judge, concerning the rules of law applicable;

(3) It is influenced by the directions of the judge, as to weight, value, and materiality of evidence;

(4) It is affected by the selection of the jurors from the locality of the action, whence they discharge their duties with a certain amount of independent local knowledge, whilom "counted on, and deemed essential to a just consideration of the case."

Two other qualifications may be added. After the rendition of a verdict in a civil case, it is still within the power of the trial judge to modify or even annul the same, in a proper case; for instance, "because the verdict is for excessive or insufficient damages, or otherwise contrary to the evidence or contrary to law."

Again, in a criminal case, a verdict of conviction, even when accompanied by a recommendation of mercy, does not control the sentence to be meted out by the presiding magistrate, who may impose the highest or lowest or any intermediate penalty prescribed by law as proper for the offense committed.

How, then, did this institution, whose features as currently administered have just been described, originate? What are the sources from whence it arose, and the forces by which it was developed? Did it spring forth, like Minerva from the brain of Jupiter, ready for action and fully equipped with forensic vesture and legal armament, or was its development the result of the gradual accretion of successive strata of growth? As stated above, various and conflicting theories are advanced to answer these queries.

"Many writers of authority," says Canon Stubbs, "have maintained that the entire jury system indigenous in England, some deriving it from Celtic tradition based on the principles of Roman law, and adopted by the Anglo-Saxons and Normans from the people they had conquered, others have regarded it as a product of that legal genius of the Anglo-Saxons of which Alfred is the mythic impersonation, or as derived by that nation from the customs of primitive Germany or from their intercourse with the Danes. Nor even, when it is admitted that the system of recognition was introduced from Normandy, have legal writers agreed as to the source from which the Normans themselves derived it. One scholar maintains that it was brought by the Norsemen from Scandinavia; another, that it was derived from the processes of the Canon Law; another, that it was developed on Gallic soil from Roman principles; another, that it came from Asia through the Crusades." An

American authority insists that it "is undoubtedly a development of English institutions and civilization." Again, it is suggested that it was borrowed by the Angles and Saxons from their Slavonic neighbors in northern Europe; it has been traced to the assises de Jerusalem of Godfrey de Bouillon; it is even claimed to be of divine origin; and, finally, a French scholar despairingly exclaims: "Son origine se perd dans la nuit de temps."

According to Robertson, "the true answer is, that forms of trial resembling the jury system in various particulars are to be found in the primitive institutions of all [Aryan] nations. That which comes nearest in time and character to trial by jury is the system of recognition by sworn inquest, introduced into England by the Normans \* \* \* the instrument which the lawyers in England ultimately shaped into trial by jury." The name "Recognition," Bracton tells us, is deduced from the fact that the participants "acknowledged" a disselsin or dispossession by their verdict, and the inquest itself was "directly derived from the Frank capitularies, into which it may have been adopted from the fiscal regulations of the Theodosian Code and thus own some distant relationship with the Roman jurisprudence." This is the system which, Lord Campbell writes, "in the fifth Norman reign had nearly superseded the simple juridical institutions of our Anglo-Saxon ancestors;" while an eminent American jurist, after observing that investigation has shown among Norman legal usages traces more closely resembling our form of jury trial than anything afforded by the system of the Anglo-Saxons, concludes:

"We regard it, therefore, as certain that all these influences contributed to establish this mode of trial in England, and to shape it as we know it to exist there. Indeed, it was not until all of them had had an opportunity of completing their work, that we find what we should now call a jury."

A due regard for the definiteness of legal phraseology calls for some comment on the meaning of "law and fact," terms so frequently employed in the course of this work. Law, in its widest sense, is a rule of action; in its technical sense, it is a general rule of human action, taking cognizance only of external acts, enforced by a determinate human authority paramount within a state. Whether the rule so enforced be moral or pernicious, is impertinent to the question. "The existence of law is one thing, its merit or demerit another." Again, "although human actions are the subject-matter about which law is conversant, they are not essential to its existence; for the rule is the same, whether its application is called forth or not. \* \* \* The rule continues in abstraction and theory, until an act is done on which it can attach. \* \* \* The maxim, *ex facto oritur jus* must be understood in this sense; and the duty of judicial tribunals, consequently, embraces the investigation of doubtful or disputed facts, as well as the application of the principles of jurisprudence to such as are ascertained."

Fact is a term most difficult to define—so much so that Mr. Justice Stephen (in the third edition of his *Digest of the Law of Evidence*) abandoned the attempt previously made. Webster's definition (ed. 1859) is: "Anything done, or that comes to pass; an act; a deed; an effect produced or achieved; an event." Negatively, a learned American jurist suggests that "nothing is a question of fact which is not a question of the existence, reality, truth of something." Anything which is the subject of testimony is "matter of fact," while "matter of law" is the general law of the land of which courts take judicial cognizance. Evidence is the means or method by which a fact under judicial examination may be proved or disproved. "Whether there be any evidence, is a ques-

tion for the judge. Whether sufficient evidence, is for the jury."

In any event, it is clear that the formula of Coke, hereinabove quoted, "was never meant to be taken absolutely \* \* \*. It relates to issues of fact, and not to the incidental questions that spring up before the parties are at issue. The jury has to do with only a limited class of questions of fact, namely, questions of ultimate fact." "In general, issues of fact, and only issues of fact, are to be tried by jury; when they are so tried, the jury and not the court are to find the facts, and the court and not the jury is to give the rule of law; the jury are not to refer the evidence to the judge and ask his judgment upon that, but are to find the facts which the evidence tends to establish, and may only ask the court for judgment upon these."

Mr. President, I shall next take up the history of the jury system of the Anglo-Saxons:

#### CHAPTER VI—THE SYSTEM OF THE ANGLO-SAXONS

As regards the manner of men who now directed the destinies of England—for under that name (derived from the Angles) the island is henceforth known—and who indelibly impressed their characteristics upon it, and concerning their status in the scale of civilization, a graphic description is afforded us by the same historian. They "were little removed from the original state of nature; the social confederacy among them was more martial than civil; they had chiefly in view the means of attack and defense against public enemies, not those of protection against their fellow citizens; their possessions were so slender and so equal that they were not exposed to great danger, and the natural bravery of the people made every man trust to himself and to his particular friends for his defense. \* \* \* An insult upon any man was regarded by his relations and associates as a common injury; they were bound by honor, as well as by a sense of common interest, to revenge his death or any violence which he had suffered; they retaliated on the aggressor by like acts of violence; and if he were protected, as was natural and unusual, by his own clan, the quarrel was spread still wider and bred endless disorders in the nation."

Such, then, was the state of civilization which the Saxons enjoyed, and such the social and political structure which superseded the administration of the Romans. For almost four centuries the seven Anglo-Saxon kingdoms—true to the characteristics of their founders—present a history of uninterrupted warfare, bloodshed and internecine strife, though Christianity had meanwhile prevailed among them. Wessex, however, gradually acquired the hegemony, and in A. D. 827 its King Egbert succeeded in securing his acknowledgment as supreme head of the heptarchy, with which event the history of the English nation properly begins.

Concerning their civil and social condition at this period, after a sojourn of 400 years on English soil, it appears that "though they had been so long settled in the island [they] seem not as yet to have been much improved beyond their German ancestors, either in arts, civility, knowledge, humanity, justice, or obedience to the laws. \* \* \* Bounty to the church atoned for every violence against society." It cannot be doubted that, under ordinary circumstances, nationalization would have paved the way to improvements in the administration of justice, which, under the primitive system and the constant wars of the Saxons, had sadly degenerated. For, since "their language was everywhere nearly the same, their customs, laws, institutions, civil and religious \* \* \* a union also in government opened to them the agreeable prospect of future tran-

quillity. \* \* \* But these flattering views were soon overcast by the appearance of the Danes, who, during some centuries, kept the Anglo-Saxons in perpetual inquietude, committed the most barbarous ravages upon them, and at last reduced them to grievous servitude."

The first great landmark in the history of English law is the reign of King Alfred (871-901), who, after he had restored peace, and either settled the Danes in or expelled them from the country, turned his attention to the administration of justice, which had become a mere name. His political and juridical institutions are recorded by Hume, as follows: "That he might render the execution of justice strict and regular, he divided all England into counties; these counties he divided into hundreds, and the hundreds into tithings. Every household was answerable for the behavior of his family \* \* \*. Ten neighboring householders were formed into one corporation, who, under the name of a tithing, decennary, or fribourg, were answerable for each other's conduct, and over whom one person, called a tithingman, headbourn, or borsholder, was appointed to preside. Every man was punished as an outlaw who did not register himself in some tithing."

"By this institution, every man was obliged from his own interest to keep a watchful eye on the conduct of his neighbors; and was in a manner surety for the behavior of those who were placed under the division to which he belonged. Whence these decennaries received the name of frankpledges. The borsholder summoned together the whole decennary to assist him in deciding any lesser difference which occurred among the members. In appeals from the decennary, or in controversies arising between members of different decennaries, the case was brought before the hundred, which consisted of 10 decennaries or 100 families of freemen, and which was regularly assembled once in 4 weeks for the deciding of causes. (Leg. Edw. c. 2.)

"Their method of decision deserves to be noted, as being"—at least in our historian's opinion—"the origin of juries. \* \* \* Twelve freeholders were chosen, who, having sworn (together with the hundred or presiding magistrate of that division) to administer impartial justice, proceeded to the examination of that cause which was submitted to their jurisdiction. And besides these monthly meetings of the hundred, there was an annual meeting appointed \* \* \* for the inquiry into crimes, the correction of abuses, and other matters of public concern. If a further appeal were desired, or in controversies between members of different hundreds, the case was brought before the freeholders of the county (or shire) over whom the bishop together with the alderman presided. A final appeal lay to the King himself."

"Formerly the alderman possessed both the civil and military authority; but Alfred \* \* \* appointed also a sheriff in each county, who enjoyed a coordinate authority with the former in his judicial (as distinguished from the military) function. His office also empowered him to guard the rights of the crown in the county, and to levy the fines imposed."

Such was the system established by Alfred, and adhered to by his successors as far as those turbulent times permitted. For its promotion and perpetuation, as well as for the guidance of the magistrates, on whom the duty to administer it was incumbent, the same king—according to our historical guide—"framed a body of laws which, though now lost, served long as the basis of English jurisprudence, and is generally deemed the origin of what is denominated the common law." While his judgment concerning the paternity of the system is, that "the similarity of these institutions to the customs of the ancient Germans, and to the Saxon laws during the heptarchy, pre-



vents us from regarding Alfred as the sole author of this plan of government, and leads us rather to think that he contented himself with reforming, extending, and executing the institutions which he found previously established."

Thus far Hume, whose profound historical researches, combined with his early legal training, certainly entitle his opinion to much weight. But the existence, among the Saxons, of any institution resembling the jury has been hotly contested, and the dispute whether it was known to the Anglo-Saxons or introduced as a result of the Norman conquest, may be thus summarized: Coke (in his *Institutes*) Spelman (*Glossarium Archæologicum*) Blackstone (*Com. III*, ch. 23) Nicholson (preface to Wilkin's *Anglo-Saxon Laws*) and Turner (*Hist. Anglo-Saxons*, IV, book XI, ch. 9) ascribe it to Saxon paternity. On the other hand, Hickes (*Dissert. Epist.* p. 34) Reeves (*Hist. Eng. Law*, I, 22, 24) and Palgrave (*Rise and Progress of Commonwealth*, I, 243) claim with equal confidence that it was introduced by or at least derived from the Normans and was not of Anglo-Saxon origin.

So Judge Cooley (*Am. Cycl.* IX 722) approvingly observes that "so many of the attendant circumstances indicate that it was a Norman institution, bestowed upon his English subjects by a Norman king, that Sir Francis Palgrave has not hesitated to consider our jury trial as derived directly from Norman law"; and Mr. Macclachlan (*Eng. Cycl.* III, 24) remarks: "Without entering minutely into this controversy, it may be stated that the traces of the trial by jury, in the form in which it existed for several centuries after the conquest, are more distinctly discernible in the ancient customs of Normandy than in the few and scanty fragments of Anglo-Saxon law which have descended to our time."

The conclusion reached by Mr. Forsyth affords perhaps the fairest statement of the case, and may be advantageously quoted in this place: "It may be confidently asserted that trial by jury was unknown to our Anglo-Saxon ancestors; and the idea of its existence in their legal system has arisen from a want of attention to the radical distinction between the members or judges composing a court, and a body of men set apart from that court, but summoned to attend in order to determine conclusively the facts of the case in dispute. This is the principle on which is founded the intervention of a jury; and no trace whatever can be found of such an institution in Anglo-Saxon times."

"If it has existed," he continues, "it is utterly inconceivable that distinct mention of it should not frequently have occurred in the body of Anglo-Saxon laws and contemporary chronicles which we possess, extending from the time of Ethelbert (568-616) to the Norman Conquest (1066). Those who have fancied that they discover indications of its existence during that period, have been misled by false analogies and inattention to the distinguishing features of the jury trial which have been previously pointed out. While, however, we assert that it was unknown in Saxon times, it is nevertheless true that we can recognize the traces of a system which paved the way for its introduction, and rendered its adaptation at a later period [the reign of Henry II] neither unlikely nor abrupt. . . . Of the exact mode in which trials were conducted in these [ante-Norman] courts, we know little; but the Anglo-Saxon laws and contemporaneous annals make frequent mention of two classes of witnesses, who play a most important part in the judicial proceedings of the time." These are compurgators and official witnesses, who, together with other features of their system, will be more fully considered hereafter.

With the demise of King Alfred, his system gradually lost ground. "During the reign of eight kings who succeeded Alfred," wrote Gilman, "the country suffered constant invasions from Denmark, which became so oppressive that in 991 the King, Ethelred II, agreed to pay the Danes 10,000 pounds, called *danegelt*, to buy immunity. This sum was raised by a tax on land, the first one recorded in English history." Eleven years later the same King planned and partly executed a general massacre of foreigners in the island (Danemot) which led to a fierce attack from the Danes, to the expulsion of the King, and to the establishment of Sweyn as ruler of England. His son Canute married Ethelred's widow, a sister of the Duke of Normandy, in order, as it were, to legitimize his title, to strengthen his alliances, and to make secure the succession of his line.

When Canute, the Dane, mounted the English throne (1014) it might be supposed that he would transplant to, and incorporate in the system of, England the Danish quasi-jury or *Nævninger*—an institution common, with modifications, to all the Scandinavian nations—which derived its appellation from the fact of being composed of a fixed number of men (usually 12) named by the inhabitants of each district; a majority of those so chosen was competent to render a decision (subject to the ratification of the bishop and 8 best men of the district) in civil suits; while in criminal cases the accuser was obliged to convince the *Nævn* by sworn evidence of the truth of his charge, before the accused would be subjected to a public trial—this institution thus combining the functions of grand and petit jury with the exercise of judicial powers.

Canute, however, who was a lineal descendant of Alfred, and desirous of emulating that monarch, adopted a policy of conciliation toward the English. He had his succession to the throne ratified by a general assembly (*Witenagemot*) and publicly consented to restore and observe the Saxon customs and laws. In 1030, he addressed a letter "To all the Nations of the English"—under which designation he also meant to include the Danes, Swedes, and Norwegians—in which he said: "Be it known to you all, that I have dedicated my life to God, to govern my kingdom with justice, and to observe the right in all things." That is, he refrained from making any essential innovations or alterations in the systems (political or judicial) to which his several dominions were accustomed, and in consequence Danish rule had no tangible formative effect on English jurisprudence.

The last of the Saxon line who ruled in England—chosen by the people when Sweyn's family became extinct—was Edward the Confessor (1042-66) whom Hume deems commendable for his attention to the administration of justice, and his compiling for that purpose a body of laws which he collected from the laws of Ethelbert, Ina, and Alfred. This compilation, though now lost (for the laws that pass under Edward's name were composed afterward) was long the object of affection to the English nation..

#### CHAPTER VII—FORMS OF TRIAL AND TRIBUNALS AMONG THE SAXONS

Having examined the social and political status of the Saxons in England, as evidenced by their history and environment, we may expect to find, on considering the judicial institutions, their personal characteristics reflected therein. Here, as there, we distinguish the same primitive system of administration, the same rudimentary ideas of right, the same regard for the efficacy of clerical absolution, the same adherence to old and meaningless forms, and the same reverence for the *vis major*.

The judicial system of the Anglo-Saxons depended for its administration on, and consisted of, four distinct factors or elements: these were, sectatores or suitors of court, the secta or suit of witnesses, official witnesses, and compurgators. These have been generally confounded or at least not clearly distinguished, and the misconception of their proper functions has given rise to many ingenious theories. In general it may be said that of all these functionaries the first class only performed judicial duties; the second and the third were species of witnesses; the fourth officiated (at least originally) in criminal cases only, while none of them were jurors. A delineation of the functions of each will be given, and a distinction attempted.

The name of sectatores is applied by Forsyth to the limited number of freemen "who attended the hundred, county and manorial courts, to try offenses and determine disputes there; \* \* \* and the obligation to attend was in the nature of a tenure, for neglect of which they might be distrained to appear." For, in accordance with the customs of those days, "to do suit at a county or other inferior court was \* \* \* one of the common tenures by which land was held, and the suitors, called sectatores, or \* \* \* at a later period pares, were therefore bound to give their attendance." Anciently their number appears to have depended on chance or convenience; nor do they appear to have acted always under the sanction of an oath; for to Reeves "it seems that causes in the county and other courts were heard and determined by an indefinite number of persons called sectatores," of whom "the frequent mention," he continues, "is no proof of juries, properly so-called, being known to our Saxon ancestors." It would seem that this form of judicial tribunal was the modified outcome of a feature of the elaborate county system established by Alfred, and a result of the alterations necessitated and the encroachments caused by the incessant warfare prevalent after the death of that monarch, which must have greatly affected his system of government. The whole matter, however, is involved in much obscurity, and will be resumed, to some extent, in the chapter treating of the *judicium parium*.

Concerning the second of the four classes, Professor Robertson observes: "The trial per sectam \* \* \* resembled in principle the system of compurgation. The plaintiff proved his case by vouching a certain number of witnesses (secta) who had seen the transaction in question, and the defendant rebutted the presumption thus created by vouching a larger number of witnesses on his own side." It was thus an application to civil suits of the principle, which governed the system of compurgation in relation to criminal causes. At a later period in Saxon history, however, it seems that compurgation was also extended to (and thus superseded the use of the secta in) \* \* \* civil proceedings; or, at least, that the term "compurgation" was employed to designate both the criminal and the civil (i. e., the sectatory) method. Indeed, the very name of secta became an alternative term for sectatores—the judges above described—which led to the confounding of the one with the other, and bred endless confusion and mistake.

At a more advanced period of the Anglo-Saxon dominion, when the defects of their mode of evidence and system of trial became perceptible even to their untutored minds, an attempt was made to partially remedy these defects by the official appointment in each district of sworn witnesses, whose duty it was to attest therein all sales, endowment of a woman *ad ostium ecclesiae*, and the execution of charters. They were not subject to cross-examination, and their oath was decisive in case of dispute. Later, persons peculiarly qualified by circumstances

(though not preappointed), were similarly sworn to prove age, ownership of chattels, and the death of one in whose estate dower was claimed. Hence in the Year Books (16 Edw. II, 507, A. D. 1323) we read complaint that one "may name ses cosyns et ses auns, who by his procurement will decide against us."

The most important of the four elements, and that destined to play the largest part in the development of trial by jury, was compurgation. Under the Saxon system, in criminal cases the charge of the prosecutor or accuser sufficed to put the accused on his defense.

This defense was by means of the process of compurgation, which was in vogue among the various Teutonic nations (12 being the usual number) and rested on the maxim: "Nobilis homo ingenuus—cum duodecim ingenuis se purget." Compurgators may be defined as persons, who supported by their oaths the credibility of the party accused, pledging their belief in the latter's denial of the charge brought against him.

These were in no sense witnesses, for they might be wholly ignorant of the real facts in dispute; nor were they a jury, for no evidence was submitted to their consideration. They were merely friends of the party who summoned them; they knew his character, and by their united oaths they at once attested that character and their confidence in his truthfulness and the justice of his cause.

This mode of trial was brought into England by the Saxons, and Judge Cooley thus describes it: "Then the party accused—or, in later times, the party plaintiff or defendant—appeared with his friends, and they swore, he laying his hand on theirs and swearing with them, to the innocence of the accused, or to the claim or defense of the party. Little is certainly known either of the origin or of the extent, in point of time or of country, over which the trial by compurgators prevailed; but it must have had great influence over the subsequent forms of procedure. It fixed the number of the traverse (i. e., the petit or trial) jury at 12, that being the common number of compurgators \* \* \* and this was a great improvement on the varying and sometimes very large number in Greece and Rome."

Where the compurgators coincided in a favorable declaration, there was a complete acquittal. But if the accused was unable to present a sufficient number of these purgers; or, "if the party had been before accused of larceny or perjury, or had otherwise been rendered infamous and was thought not worthy of credit—he was driven to make out his innocence by an appeal to heaven, in the trial by ordeal," which was practiced either by the boiling water or the red-hot iron; the former being supplied to the common people, while the latter was reserved for the nobility. The nature of this institution is so curious and interesting, and its peculiarities throw so much light on the character of that age, as to warrant a fuller consideration of this primitive predecessor and sometime competitor of our criminal jury.

If the accused was sentenced to undergo the ordeal by hot water, "he was to put his head into it or his whole arm, according to the degree of the offense: if it was by cold water, his thumbs were tied to his toes, and in this posture he was thrown into it. If he escaped unhurt by the boiling water (which might easily be contrived by the art of the priests), or if he sunk in the cold water, which would certainly happen, he was declared innocent. If he was hurt by the boiling water or swum in the cold, he was considered as guilty."

Mr. LONG. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. THURMOND. I will yield for a question.

Mr. LONG. Will the Senator tell me the name of the case he is reading?

Mr. THURMOND. It is the History of the Jury Trial.

Mr. LONG. I thank the Senator.

Mr. THURMOND. This so-called amendment that came from the House does not provide for a jury trial unless the judge in his discretion sees fit to give one; or unless he imposes punishment of more than 45 days' imprisonment or a fine of more than \$300.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I will yield for a question.

Mr. LONG. Is the Senator quoting at this point from a particular case, and, if so, will the Senator give us the name of the case?

Mr. THURMOND. I am not quoting from a case at this particular time. I am going back into the History of the Jury Trial.

Mr. LONG. I thank the Senator.

Mr. THURMOND. And to show how through the life of this Nation the jury trial has developed.

Mr. LONG. I thank the Senator.

Mr. THURMOND. And how our forefathers in writing the Constitution put into it by article III, section 2, under which a man charged with a crime is entitled to a trial by jury.

To remove any further doubt, when the Bill of Rights was written the same provision was made in several places. The sixth amendment of the Bill of Rights guarantees a man charged with a crime the right to a jury trial.

During the night, probably about 4 or 5 o'clock this morning, I did cite a case holding that criminal contempt is a crime. If criminal contempt is a crime, then a man who is being tried for criminal contempt is entitled to a jury trial under the Constitution.

Mr. LONG. Will the Senator yield for another question?

Mr. THURMOND. I yield.

Mr. LONG. Does the Senator know whether it has ever been held that criminal contempt is not a crime under the law of the Nation?

Mr. THURMOND. I do not know of any decision in the courts where criminal contempt has not been considered a crime, and I have had all the authorities and ran them down. Criminal contempt is a crime. We have a decision on that point. When a man is charged with criminal contempt, he is entitled to a trial by jury. However, under this proposal, the so-called compromise which came from the House, he will not get a jury trial unless the judge, out of the goodness of his heart, says "I think you are entitled to a jury trial, and I am going to give you one."

Mr. LONG. I thank the Senator.

Mr. THURMOND. Or unless the judge tries him first and finds him guilty and finds that he should be punished by more than 45 days' imprisonment or \$300 fine, in which event he can give him a new trial. The judge tries him once, and then he will be tried again. I think there again the so-called compromise is unconstitutional because you cannot put

a man in jeopardy two times. If he is tried once, he has been in jeopardy and he cannot be put in jeopardy again.

The whole thing is a concoction to get a compromise on something for civil rights. It is purely an endeavor to get some kind of compromise; but it violates the Constitution, and I hope the Senate and the Congress will not pass it. Even people who believe in civil rights and have fought for civil rights are of that opinion.

The distinguished Senator from Minnesota [Mr. HUMPHREY] has made many speeches on civil rights. I remember one he made in 1948 at the Democratic Convention in Philadelphia, which I did not like at all because I am a States righter and not a so-called civil righter. I believe in real civil rights, but not the kind of civil rights which are being alleged here.

I do not know how Senators who really believe in civil rights and who know the Constitution can vote for a bill which flatfootedly violates several provisions of the Constitution.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I yield.

Mr. LONG. Does the Senator know of any greater civil right any person possesses in any nation than the right to a trial by a jury of his peers and his neighbors when he is accused of a crime?

Mr. THURMOND. I cannot imagine any civil right I would rather possess were I charged with a crime. I do not know of any civil right that is more vital to the people of the United States than the right of trial by jury. I do not know of any civil right that one could envision that could be more important. The right of trial by jury is most important because a man may be tried for his life. If he is not tried for his life, he can be put in prison. He can have his liberty taken away from him.

It is only after trial by jury that a man in this Nation can have his liberty taken away from him. I do not want a judge to try me if I ever have to be tried. I want 12 of my peers, 12 of my fellow countrymen, as the Constitution provides.

Mr. LONG. Does the Senator yield further?

Mr. THURMOND. I yield.

Mr. LONG. Is not the right to trial by jury, in which a person accused of a crime to challenge any prejudiced person who might be on the jury venire one of the possible differences between the free system of government that exists in this Nation and other free nations as compared to the system of government that exists in Communist nations?

Mr. THURMOND. The Senator is eminently correct. The Senator has the vision to see and realize the importance of what jury trial means to the people of this Nation.

I quoted during the night Associate Justice Brennan of the Supreme Court. I do not think a man could have made a stronger address than he made on the jury-trial question. Justice Brennan made a powerful argument for a jury trial even in automobile-accident cases. Even where property is involved—not



liberty, not life, but property—he believed there should be protection to the citizen through jury trial. Under the so-called compromise civil-rights bill a judge can put a man in jail for 45 days, and some judges will do so if they have the opportunity. They will make it exactly 45 days if they want to punish a man.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I yield.

Mr. LONG. Under the facts stated in regard to the situation in Washington Parish, La., it was contended that more than 1,000 colored people were denied voting rights. I am not sure if that was correct or not. Perhaps those people should or should not be on the rolls. But assuming the charge was correct, it would be possible for a judge in that case to put a person in jail for 4,500 days without a jury trial, alleging that there were 1,000 different offenses.

Mr. THURMOND. I see no reason why he could not, if he tries the defendant on each separate offense, which I think he would have to do to sentence him for more than 45 days. If he tries the accused for one act of depriving a person of his right to vote, there would be only one act, and 45 days in my opinion would be the limit. But if a judge saw fit to try a man and sentence him to prison for 45 days, he could try him again on another charge with respect to a man who claims his rights were violated in connection with voting and the defendant could be given another 45 days. I do not think there is any limit to that. I think he could keep filing them.

Mr. LONG. Is it not conceivable following such a procedure a judge could put a man in jail for his natural lifetime without a jury trial? Suppose he alleges that the defendant prevented 2,000 people from registering. That would be 90,000 days he could put the man in jail without a jury trial.

Mr. THURMOND. While I think theoretically that is possible, I do not think actually it would be practicable. But it is theoretically possible to do that.

I wish to read the distinguished Senator what Associate Justice Brennan said:

American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it.

What is the Congress doing here if they let a judge try a man for criminal contempt, which is a crime?

I quote Associate Justice Brennan further:

One has only to remember that it is still true in many States that so highly is the jury function prized that judges are forbidden to comment on the evidence—

In my State they cannot comment on the evidence and I do not believe they can in the State of the Senator from Louisiana, can they? In a few cases I believe they can.

Mr. LONG. No; not in a criminal case.

Mr. THURMOND. I do not believe they can even instruct the jury except

as the parties request instruction. In some States the judge cannot charge the jury at all except where the parties request him to instruct, so jealously is the right of trial by jury regarded, leaving to the 12 fellow countrymen, 12 peers of the defendant, the authority to decide the case.

I wish to quote further from Associate Justice Brennan:

The jury is a symbol to Americans that they are bosses of their Government. They pay the price, and willingly, of the imperfections, inefficiencies, and, if you please, greater expense of jury trials because they put such store upon the jury system as a guaranty of their liberties.

Mr. LANGER. Will the Senator yield for a question?

Mr. THURMOND. I yield for a question to my distinguished colleague from North Dakota.

Mr. LANGER. I regret that because of my ill health, of which the Senator is aware, I was unable to be here.

Mr. THURMOND. I am sorry, too. I thought about the distinguished Senator a great deal and inquired about him.

Mr. LANGER. I am sure during the night sometime the distinguished Senator from South Carolina discussed how the jury system came into being; is that correct? The divine right of kings principle was set aside and the jury system installed in its place.

Mr. THURMOND. That is right. I am going now into the history of the jury system. That is the very thing I am discussing now.

Mr. LANGER. The distinguished Senator knows that in the State of South Carolina—and, I might say, it is true in some of the other States—the higher courts have set aside verdicts of guilty because of the presence of prejudiced jurors or jurors who did not tell the truth on their examination, when they were asked if they knew anything about the facts.

We have always been extremely jealous under the Constitution to see that every defendant receives a fair and honest trial. I know that there have been such cases in the State of South Carolina as the type to which I have referred.

Mr. THURMOND. Exactly. I was a trial judge for 8 years, and came into close contact with jurors. I know how jurors feel. I know how the people feel. The citizens of this country believe in the jury system. It is a part of their nature to believe in the jury system. Those who have talked with me do not like the fact that the bill provides for compromising the Constitution in order to get a compromise civil-rights bill. We should not compromise the Constitution. That is exactly what this so-called compromise bill does, on the jury-trial question.

Mr. LANGER. I am sure that when the distinguished Senator was a judge, if any efforts were made to influence a jury, either by telephone or letter, if the judge became aware of it, he promptly declared a mistrial.

Mr. THURMOND. The Senator is correct. Any judge would set aside a verdict if a juror were influenced.

Judges are human. Some people look upon a Federal judge as sacrosanct, so to speak—clothed with a robe, high, mighty, and arrogant. They are human, and they are subject to the errors of human nature, just as any other citizen is. They should not be entrusted with this great power, involving the liberty of our people, in violation of the Constitution.

Mr. LANGER. The distinguished Senator knows that once in a while there is a dishonest judge. Is not that true?

Mr. THURMOND. I presume it is. However, I have never heard of any in South Carolina.

Mr. LANGER. We had a very dishonest Federal judge in the State of North Dakota at one time. I had personal experience with him. Time and again during my service in the Senate I have charged that judge with being dishonest. He is still alive. I did not rely upon Congressional immunity. I have made that statement often. I have never been sued for it, and I know very well that I never will be.

Mr. THURMOND. I am sure that the distinguished Senator would not want such a judge to try him for criminal contempt, which is a crime. I am certain that the distinguished Senator from North Dakota would want a jury to try him. Is not that correct?

Mr. LANGER. That is certainly correct. I believe that in the State of South Carolina, or any other State, the people will insist not only on good, honest judges, but also on seeing to it that the jury system is kept unimpaired.

Mr. THURMOND. Some of the proponents of the bill think they are going to punish the South. However, the bill applies to every American. The bill will fly back in the faces of some of its proponents and their friends, and they will be surprised.

Mr. LANGER. I thank the distinguished Senator.

Mr. THURMOND. It is a pleasure to discuss this question with the distinguished Senator from North Dakota.

I was discussing the history of the jury system.

I continue to read from "History of the Jury System," in the chapter entitled "Trials and Tribunals Among the Saxons."

It will be observed that it was the priests who had charge of administering these tests of innocence—termed *judicia dei*—and they doubtless reaped a rich harvest from the monopoly of this privilege, commensurate with the wealth and the guilt of the accused.

Mr. LANGER. Mr. President, will the Senator further yield?

Mr. THURMOND. I am pleased to yield for a question.

Mr. LANGER. In view of the fact that I mentioned a dishonest judge, I should like to give an illustration of how a dishonest judge operates.

In the first place, when it is desired to obtain a jury which is dishonest, a special assistant United States marshal will be appointed. The marshal will walk into a store, for example, and say, "Mr. Jones, I would like to have you take 100 subscriptions to a certain newspaper." The man behind the counter might say,

"Why should I take a hundred subscriptions?" The marshal may say, "We are fighting the Governor of the State."

If the man takes 100 subscriptions, and pays \$100, or \$1 apiece for a year, his name goes into the jury box; and if he does not subscribe, his name does not go into the jury box.

In the case to which I have reference, the slips which were put into the box were different. The names of those who were prejudiced against a defendant would be written on wide slips. The names of those who were not so prejudiced were written upon narrow slips. A clerk was conniving with the judge. I may say that later the clerk went to the penitentiary. He would feel around until he felt a broad slip, and withdraw that slip.

A Federal judge has a vast amount of power. A judge may say, "I am not going to allow any of the defense lawyers to examine any prospective jurors. Let them write out their questions and submit them to me, and I will ask the prospective jurors whether or not they are prejudiced, or what answers they have to the questions."

Two or three days might be consumed in the effort to get a fair jury; but because of the fact that the Federal judge will not allow the lawyers for the defendant to ask any questions, the judge will finally get a jury which has not been thoroughly examined from the viewpoint of the defendant.

That is not all. A dishonest judge, by the tone of his voice, can let the jury know what he himself thinks of the case. For example, the defendant may be giving testimony, and if the United States attorney interrupts him the Federal judge may say, "Well, let the defendant tell his story," with a sneer on his face, for the benefit of the jury.

When it comes to his instructions, he may, in a very low tone of voice, give the instructions he is required to give which are favorable to the defendant. Then he raises his voice and makes gestures which let the jury know that he does not believe the defendant to be innocent. He tries to impress the jury by his loud tone of voice and the things he says in his instructions, which tend to prejudice the jury.

I have seen it happen. I myself was a trial lawyer. I served at one time as attorney general of my State, and later as governor of the State.

As I have previously stated, a Federal judge has a vast amount of power. He can name special bailiffs if he decides that the number of bailiffs in the court is not sufficient. He can appoint half a dozen or a dozen more, and have them carry revolvers to impress the rank and file of the jurors with the great importance of the case.

A Federal judge can claim that his life is in danger, and he can have Federal troops escort him back and forth between the courthouse and the hotel. A Federal judge can have airplanes flying over the courthouse, to repel the mob, for the purpose of impressing the jury with the gravity of the case which is pending before it.

I have gone all through that experience. When I came to the Senate one

of the charges brought against me was with respect to the four Federal cases in which I, as governor of the State, was tried.

A Federal judge who is dishonest, with all the power he has, need not be afraid of any governor, because he holds his position for life. During the history of the United States there have been only five impeachments of Federal judges.

I well remember a case which was brought before I became a Member of the Senate. Senator Josiah Bailey, a very distinguished Senator, said to me in connection with that case, "I voted 'not guilty' on all counts except the last one. I voted 'guilty' on the last one."

It was the fact that he voted "guilty" on that count which resulted in the impeachment of the judge.

We must take into consideration the money that is required, the lawyers who are required, and so forth. The Senate does not like to take up an impeachment case. Yet, that is the only remedy a poor man has in the matter of impeaching a dishonest Federal judge.

I am frankly delighted that the distinguished Senator from South Carolina has been going into the history of how the jury trial originated. There was a great battle to obtain the right of trial by jury on behalf of the people of England before they ever achieved their goal. One of the very first of the English juries was sent out by the judge time and time again and asked to bring in a verdict of guilty, and the jury refused to do so. They were out for many hours defying the judge. Finally, the judge said he would put them in jail.

One of the greatest calamities that could possibly occur in this country or in any other country would be to have the "divine right of kings" come back and the jury system made inoperative.

I wish to thank the distinguished Senator from South Carolina for bringing the matter to the attention of the Senate.

Mr. THURMOND. The able and distinguished Senator from North Dakota is to be commended for his statement.

Mr. President, it is not a question of civil rights. They have hooked to it an unconstitutional provision. It is now a question of whether we shall vote for a bill that violates the Constitution and takes away from citizens the right to a trial by jury.

I believe it was at Runnymede, in 1215, that there were wrenched from King John certain rights for the benefit of the people which were written into a paper known as the Magna Carta. One of the rights wrenched from King John and which the people had cherished so long and which had been denied them was the right of trial by jury.

Mr. President, our Declaration of Independence starts out by citing grievances, among which was the fact that in many instances the citizens of the Colonies had been tried without a jury. That was one of the grievances brought up and included in the Declaration of Independence.

When our Constitution was written our forefathers had heard their fathers speak of how in generations back the people

had suffered persecution. That was why many of them came to these shores, to enjoy liberty and freedom. After studying the governments of the world at that time our forefathers finally decided on the tripartite system of government, with its three branches, executive, legislative, and judicial, which could check on each other.

They did not stop with that, Mr. President. The States organized their governments on the same basis, so that what we have is what is known as a compound Republic. We have a division of power between the States and the Federal Government. We have a division of power between the different branches on the national level and on the State level. Our forefathers, when they wrote the Constitution in Philadelphia in 1787, were determined that one thing that would be contained in it would be the right of trial by jury. It is found in article III, section 2, and it provides that the trial of all crimes except cases of impeachment shall be by jury. It does not make any other exceptions for civil rights or anything else. It provides that all crimes except that of impeachment shall be tried by jury and that the trial shall be held in the State in which the crime was committed.

Even after the Constitution was written, three distinguished men attending the Convention would not sign it. They were George Mason, of Virginia, who was the author of the Bill of Rights; John Randolph, of Virginia, another very prominent citizen; and Elbridge Gerry, of Massachusetts. They refused to sign the Constitution even after it was written.

Mr. JOHNSON of Texas. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I yield for a question.

Mr. JOHNSON of Texas. Mr. President, would the Senator from South Carolina be willing to yield to me for the purpose of submitting a unanimous-consent request to the Senate to the effect that when the Senator-elect from Wisconsin appears the telegram of the Governor of the State of Wisconsin may be read and the oath be administered by unanimous consent of the Senate, without my friend from South Carolina losing the floor thereby, and that his remarks thereafter shall not count as a second speech against him, and that this interruption be placed in another portion of the RECORD?

Mr. THURMOND. Mr. President, I yield under those conditions.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senator-elect from Wisconsin appears in the Chamber the clerk may read the telegram from the Governor of Wisconsin and that the Senate give its consent to the oath being administered to the Senator-elect.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Texas? The Chair thinks it also includes the provision that the Senator from South Carolina [Mr. THURMOND] shall not lose the floor.



Mr. JOHNSON of Texas. All the conditions enumerated, Mr. President.

Mr. KNOWLAND. Mr. President, reserving the right to object—and, of course, I shall not object—I should like to be associated with the unanimous-consent request made by the distinguished majority leader.

Mr. JOHNSON of Texas. Mr. President, I make the request on behalf of the minority leader and myself. I wish to make it abundantly clear that when the Senator-elect from Wisconsin appears consent will have already been given to his being sworn in after the telegrams have been read; and that the Senator from South Carolina will still retain the floor and will be protected in his right to the floor and in the fact that he has made only one speech on this subject. Also, Mr. President, I request that the interruption be placed in the RECORD at the conclusion of the remarks of the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the request is agreed to.

Mr. JOHNSON of Texas. I thank the Senator from South Carolina for yielding.

Mr. THURMOND. Mr. President, I was engaged in colloquy with the Senator from North Dakota [Mr. LANGER] at the time when we were interrupted. I should like to continue the colloquy with him.

Mr. President, I thank the distinguished Senator from North Dakota for his questions and for bringing out the points he did. What I started to say is that when the Constitution Convention was held in Philadelphia in 1787 for the purpose of writing a constitution, the deputies, as they were called then, were confronted with the very difficult proposition of how the States would have representation. The large States wanted representation in proportion to population; the small States wanted representation according to States, regardless of size. Of course, they reached a compromise, and we have the two bodies of Congress. The Senate has an equal number of Senators from each State, regardless of the size of the State, and the House of Representatives is based on population. That is only one of the many intricate problems which had to be fought and settled by the Convention. It was a very difficult task to bring about the adoption of the Constitution.

Mr. LANGER. Will the Senator yield for a question at this point?

Mr. THURMOND. I yield.

Mr. LANGER. The Senator from North Dakota as the distinguished Senator from South Carolina knows, is very much interested in the small States. The two Senators from North Dakota are very much interested in the small States. They have been battling and fighting for the rights of the small States. Today there are six States which never have had any Cabinet members. For example, take the State of Florida. It has now for 107 years been a member of this Union. Yet the State of Florida has never had a member of the Cabinet, although the city of New York under

Franklin Roosevelt at one time had six from the State of New York.

Take the State of Nevada. Nevada had an Ambassador. The State of South Dakota has never had one. Montana never has had one. Idaho never has had one. The Senator from North Dakota finally succeeded in getting one for North Dakota, the first one after 62 years of statehood. It seems to me that the Senators from these States and from the States of smaller population a long time ago ought to have gotten together and said to the State Department, "We demand that citizens of the States of lesser population also have some appointments as ambassadors, or occasionally have a man appointed to the Cabinet of the President of the United States."

Mr. THURMOND. I thoroughly agree with the Senator, and what I said was by way of illustration.

Mr. LANGER. Yes.

Mr. THURMOND. The point I started to make was this: There were so many problems confronting the deputies in Philadelphia that they had a very hard time drafting a constitution and even after it was drafted, it would not have been ratified if they had not promised the leading political leaders of the day that there would be a Bill of Rights. That is the only way they were able to have the Constitution adopted; and even then, George Mason, of Virginia; John Hancock, of Massachusetts; Elbridge Gary, of Massachusetts, refused to sign it. They did not want to take for granted any question about the rights to which the people were entitled, and one of the precious rights in which they were most interested was the right of trial by jury. The right of trial by jury was not only written in article III, section 2 of the Constitution, but in several places in the Bill of Rights. The right of trial by jury has been handed down to us as part of our Government as a great heritage, and we do not want to run the risk of losing that precious right.

Mr. LANGER. Will the Senator yield for a question?

Mr. THURMOND. I yield.

Mr. LANGER. Is it not true at the present time in one foreign country after another, to whom we have been sending foreign aid and with whom we fought in World War II, later in the Korean war—one of the very things we are advocating in these countries are reforms which will provide trial by jury. Is that not correct?

Mr. THURMOND. I understand we have been advocating that other countries, in which we have been trying to help the people to set up democratic governments, accord the right of trial by jury. It is going to look a little inconsistent to those people to whom we have held out trial by jury as the ideal, when we pass a bill which proposes to take away trial by jury.

Some persons do not feel this is important; some of them say, "Well it is a compromise. The House held to a certain idea and the Senate another; and it is a matter of getting together as best they could."

But this is a vital question. There is nothing more important, no right more important than that of trial by jury.

Mr. LANGER. I assume the Senator means a fair trial, an honest trial.

Mr. THURMOND. Exactly.

Mr. LANGER. The experience the Senator has had as judge ably demonstrated that, did it not?

Mr. THURMOND. My experience has been that a jury will come nearer rendering a fair verdict than a judge will, because there are 12 men on the jury—and Mr. Justice Brennan concurs in this—who hear the evidence and reach a conclusion. It is a most important matter; yet here in this so-called civil rights bill—

Madam President, may we have order, please?

The PRESIDING OFFICER (Mrs. SMITH of Maine in the chair). The Senate will be in order.

The Senator will proceed.

Mr. THURMOND. The effect of the so-called civil-rights bill is to amend the Constitution. The Constitution says, in article III, section 2, that "the trial of all crimes, except cases of impeachment, shall be by jury," and then in the sixth amendment to the Constitution the statement is made again. It says, "In all"—it does not say in some—it does not say in all but civil rights; it makes no exception. It says:

In all criminal prosecutions the accused shall enjoy the right to a speedy and a public trial, by an impartial jury of the State . . . to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses.

And so forth. Instead of that, this civil-rights bill now includes an amendment—which has been added by the House of Representatives—which gives the judge the power to make the decision, without a trial by jury, unless the fine exceeds a certain amount of money or unless the period of incarceration exceeds a certain number of days.

Mr. LANGER. Madam President, will the Senator from South Carolina yield further?

The PRESIDING OFFICER (Mrs. SMITH of Maine in the chair). Does the Senator from South Carolina yield further to the Senator from North Dakota?

Mr. THURMOND. I yield.

Mr. LANGER. Is it not true that one of the arguments used when the right of women's suffrage was asked for, was that women should have the right to sit on juries?

Mr. THURMOND. That is correct.

When I was Governor of South Carolina, I recommended that women be allowed to sit on the juries. I think it is very wholesome to have that allowed. Such a law has not yet been passed in South Carolina, but I think it will be; in my opinion, that time will come.

Mr. LANGER. We who live in North Dakota have had such a law for many years, and it works very satisfactorily.

Mr. THURMOND. I so understand.

In some States, women are allowed to serve on juries, if they wish, but they are not forced to do so. In other States, women must serve on juries, if called. In other States, women do not have to serve at all on juries.

Madam President, the bill of rights—and the right of trial by jury is the heart of the bill of rights—is the most

precious document of the American people.

Madam President, let me say to the distinguished Senator from North Dakota that when the Declaration of Independence was written, it included a very definite reference to trial by jury. I wish to read part of the Declaration of Independence, in order to remind the distinguished Senator from North Dakota of that fact.

Mr. LANGER. Madam President, I shall be very glad to have the Senator from South Carolina do so.

Mr. THURMOND. Madam President, I read now from the Declaration of Independence:

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such Government, and to provide new guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

A little later in the Declaration of Independence, we find the following—

Mr. LANGER. Madam President, it is very interesting to hear the Declaration of Independence read.

Mr. THURMOND. It is, indeed.

I read further from the Declaration of Independence:

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us in many cases, of the benefits of trial by jury.

That was one of the cardinal points which was set forth in the Declaration of Independence, namely, that the King of England had deprived the colonists "in many cases, of the benefits of trial by jury."

Mr. LANGER. I thank the distinguished Senator from South Carolina.

(At this point Mr. THURMOND in accordance with the previous unanimous-consent agreement, yielded to Mr. JOHNSON of Texas for the purpose of having the Senator-elect from Wisconsin take the oath of office. By agreement, the proceedings incident thereto appear in the RECORD at the conclusion of Mr. THURMOND's speech.)

The VICE PRESIDENT. Pursuant to the order, the Chair recognizes the Senator from South Carolina.

The Senate will be in order.

Mr. THURMOND. Mr. President, a good many Senators were not here when I presented my views earlier during this debate, and I shall take a few minutes now to express a few points which I should like to have them hear.

Mr. President, I was bitterly opposed to the passage of H. R. 6127 in the form which was approved by the Senate. I am

even more bitterly opposed to the acceptance of this so-called compromise which has come back from the House of Representatives.

Later on I want to comment on various provisions of the entire bill, but at this time I am directing my comments at the specific provisions of the so-called compromise. In my view, it is no less than an attempt to compromise the United States Constitution itself.

In effect, it would be an illegal amendment to the Constitution because that would be the result insofar as the constitutional guaranty of trial by jury is concerned.

Article III, section 2, of the Constitution provides that—

The trial of all crimes, except in cases of impeachment, shall be by jury.

Again in the sixth amendment—in the Bill of Rights—it is provided that—

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The fifth and seventh amendments to the Constitution provide additional guaranties of action by a jury under certain circumstances. The fifth amendment refers to the guaranty of indictment by a grand jury before a person shall be held to answer for a crime. The seventh amendment guarantees trial by jury in common law cases.

As I have stated earlier today, I cited a decision during this debate to show that criminal contempt is a crime. Since criminal contempt is a crime, a man charged with criminal contempt is entitled to a jury trial. I know of no way, under the Constitution, by which a man charged with a crime can be denied a trial by jury.

Since the decision I have cited shows that criminal contempt is a crime, it simply follows that a man charged with criminal contempt is entitled to a trial by jury.

These guaranties to which I referred, in article III, section 2, of the Constitution and in the fifth and seventh amendments, were not included in our Constitution without good and sufficient reasons. They were written into the Constitution because of the abuses against the rights of the people by the King of England. Even before the Constitution and the Bill of Rights were drafted, our forefathers wrote indelibly into a historical document their complaints against the denial of the right to trial by jury. That document was the Declaration of Independence. I am going to read the section of the Declaration of Independence in which our forefathers with courage and stamina severed their relations with the mother country, Great Britain, and established their own government. A list of grievances against the King was set forth in that document and among those grievances there



was one pertaining to trial by jury. It reads as follows:

Depriving us in many cases of the benefits of trial by jury.

In other words, those who signed the Declaration of Independence gave as one of the reasons for declaring their independence and for cutting loose from the King the fact that they had been deprived in many cases of the benefits of trial by jury. Therefore we can see with that incentive in mind in writing the Declaration of Independence why there was such a strong urge in writing the Constitution to include in it a provision for trial by jury, and then later in writing the Bill of Rights, to provide a trial by jury without the exceptions which are contained in this so-called compromise that came from the House of Representatives.

Mr. President, when our forefathers won their freedom from Great Britain, they did not forget that they had fought to secure a right of trial by jury. They wrote into the Constitution the provisions guaranteeing trial by jury. Still not satisfied, they wrote into the Bill of Rights 2 years later the 3 specific additional provisions for jury action.

It is a well-known fact that there was general dissatisfaction with the Constitution when it was submitted to the States on September 28, 1787, because it did not contain a Bill of Rights. A majority of the people of this country, under the leadership of George Mason, Thomas Jefferson, and others, were determined to have spelled out in the Constitution in the form of a Bill of Rights those guarantees of personal security which are embodied in the first 10 amendments.

It was 9 months after the Constitution was submitted to the States before the ninth State ratified the Constitution, thus making it effective.

Although by that time it was generally understood, and pledges had been made by the political leaders of the day, that a Bill of Rights would quickly be submitted to the people, 4 of the 13 States still were outside the Union.

Nineteen months after the Constitution was submitted to the States, George Washington was inaugurated on April 30, 1789, as our first President. Even then, however, North Carolina and Rhode Island remained outside the Union for several months, North Carolina ratifying on November 21, 1789, and Rhode Island on May 29, 1790.

The reluctance of all the States to enter the Union which they had helped to create clearly demonstrated how strong the people felt about the necessity of including a Bill of Rights in the Constitution. The Constitution might never have been ratified had it not been for the assurances given to the people by Hamilton, Madison, and other political leaders that a Bill of Rights would be drafted as soon as the Constitution was ratified. Leaders of that day carried out the mandate of the people, and the Bill of Rights with its guarantees of trial by jury was submitted to the States on September 25, 1789.

In 1941, the late John W. Davis, that great constitutional lawyer and one-

time Democratic nominee for President, was asked to state what the Bill of Rights meant to him.

The Bill of Rights, he declared—

denies the power of any Government—the one set up in 1789, or any other—or of any majority, no matter how large, to invade the native rights of a single citizen.

Mr. Davis continued his definition with the following:

There was a day when the absence of such rights in other countries could fill an American with incredulous pity. Yet today, over vast reaches of the earth, governments exist that have robbed their citizens by force or fraud of every one of the essential rights American citizens still enjoy. Usage blunts surprise, yet how can we regard without amazement and horror the depths to which the subjects of the totalitarian powers have fallen?

The lesson is plain for all to read. No men enjoy freedom who do not deserve it. No men deserve freedom who are unwilling to defend it. Americans can be free so long as they compel the governments they themselves have erected to govern strictly within the limits set by the Bill of Rights. They can be free so long, and no longer, as they call to account every governmental agent and officer who trespasses on these rights to the smallest extent. They can be free only if they are ready to repel, by force of arms if need be, every assault upon their liberty, no matter whence it comes.

Mr. President, this bill is an assault upon our liberty. The United States is a constitutional Government, and our Constitution cannot be suspended or abrogated to suit the whims of a radical and aggressive minority in any era.

The specific provisions in the Constitution and the Bill of Rights guaranteeing trial by jury have not been repealed. Neither have they been altered or amended by the constitutional methods provided for making changes in our basic laws if the people deem it wise to make such changes.

Nevertheless, in spite of the prevailing constitutional guarantees of trial by jury, we are here presented with a proposal which would compromise the provisions of the Constitution—yes; in my opinion, amend the Constitution illegally.

This compromise provides that in cases of criminal contempt, under the provisions of this act, "the accused may be tried with or without a jury" at the discretion of the judge.

It further provides:

That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of \$300 or imprisonment in excess of 45 days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury.

Mr. President, the first of the provisions I have just cited, giving discretion to a judge whether or not a jury trial is granted in a criminal case, is in direct conflict with the Constitution.

The Constitution does not provide for the exercise of any discretion in a criminal case as to whether the person accused shall have a jury trial. The Constitution says "The trial of all crimes except in cases of impeachment shall be by jury."

The sixth amendment says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury.

The Constitution does not say in some crimes. The Constitution says in all crimes. The Constitution does not say trial may be by jury. The Constitution says trial shall be by jury.

How, then, Mr. President, can we be presented with this compromise? How can we be asked to accept a proposal so clearly in conflict with and in violation of the Constitution?

The Constitution makes no exception to the trial by jury provision in criminal cases in the event contempt is involved. Let me repeat and let me emphasize. The Constitution says "the trial of all crimes shall be by jury"—not all crimes except those involving contempt, but all crimes.

What power has been granted to this Congress to agree to any such proposal when it is in such complete contradiction to the Constitution? There is no power except the power of the people of this Nation by which the Constitution can be amended. The power of the people cannot be infringed upon by any lesser authority.

As the directly elected representatives of the people, this Congress should be the last body to attempt to infringe upon the authority which is vested solely in the people.

We are here dealing with one of the basic legal rights and one of the most vital personal liberties guaranteed under our form of government. But the proposed compromise insists that the treasured right of trial by jury be transformed into a matter of discretion for a judge—for one person—to decide whether it shall be granted or withheld.

This compromise attempts to make trial by jury a matter of degree, as stated in the second part of the provision which I quoted.

Under this proposal, if a man were to receive a sentence of a fine of \$300 or 45 days' imprisonment, he would be deprived of his right of trial by jury, except at the discretion of the judge. On the other hand, if a dollar were added to the amount of money, or even 1 cent, and a day, or even an hour, to the length of imprisonment, that man would be granted a new trial with a jury deciding the facts.

Mr. President, this is not something which can be compromised. In this day and time I wonder, sometimes, if there is not too much compromise. It does my heart good to see a man with strong convictions, a man who believes in something, a man who stands for something and who is not willing to compromise on everything when there is a vital principle at stake.

Mr. President, I realize that legislation to a large extent is compromise. That is perfectly legitimate when it does not involve the Constitution. But when it involves the Constitution, there should be no compromise. There should have been no compromise on this bill which comes back to the Senate from the House. There can be no compromise

with reference to the manner in which the bill was amended.

The right of trial by jury is too dear a right to be measured in dollars and cents or in terms of days and hours. The right of trial by jury is guaranteed by the Constitution. It is a vital principle upon which our form of Government is based. Principle is not a matter of degree.

This proposed compromise is a true child of the parent bill—like father, like son, or a chip off the old block. Both are bad. But the provisions of the compromise are even worse than the provisions of the bill which I opposed when it was approved by the Senate.

The enactment in the Senate of part V, with its jury-trial provision, was a vast improvement over the radical bill which was sent to us from the House of Representatives.

However, this unconstitutional compromise now makes part V conform with the obnoxious provisions which were in the original bill. In the name of constitutional government, I hope that a majority of this Senate will vote against this proposal.

The principal purpose of this bill which the House has returned to the Senate is political. Both parties fear the bloc voting of the pivotal States. Both parties want to be in position to claim credit for the passage of what is being called a civil-rights bill. Both parties hope to be able to capitalize on the passage of a bill such as this one in the Congressional elections of 1958, and then to carry those gains into the presidential election of 1960.

Propaganda and pressure exerted upon the Congress and upon the American people explain how such a bill as this one came to be considered at all. Stewart Alsop, the newspaper columnist, only last week stated the simple facts of the case.

He said that—

Behind the shifting, complex, often fascinating drama of the struggle over civil rights, there is one simple political reality—the Negro vote in the key industrial States in the North. That is, of course, in hard political terms, what the fight has been all about.

#### VISIT TO THE SENATE OF 12 MEMBERS OF THE ITALIAN CHAMBER OF DEPUTIES

Mr. AIKEN. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I will yield for a question.

Mr. AIKEN. Mr. President, I should like to ask the Senator if he will yield in order that I may introduce to the Senate 12 members of the Italian Chamber of Deputies.

Mr. THURMOND. Mr. President, I will yield under certain conditions, namely, that the Senator from Vermont gets unanimous consent of the Senate for me to yield to him, that I shall not lose my right to the floor, and that it shall not be counted as a second speech when I resume.

Mr. AIKEN. Mr. President, with that understanding I ask unanimous consent

that the Senator from South Carolina may yield for the purpose stated.

The PRESIDING OFFICER (Mr. BUSH in the chair). Is there objection? The Chair hears none.

Mr. AIKEN. Mr. President, I wish to introduce to the Senate 12 members of a committee of the Italian Chamber of Deputies, corresponding to the Agricultural Committee, who are standing in the rear of the Chamber.

[Applause, Senators rising.]

Mr. AIKEN. Mr. President, I thank the Senator from South Carolina for yielding.

Mr. THURMOND. Mr. President, I should like to join the Senator from Vermont in extending a welcome to these distinguished guests of the United States Senate.

The PRESIDING OFFICER. The Senator from South Carolina may proceed.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 1996) to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, to provide that the excess-land provisions of the Federal reclamation laws shall not apply to the lands of the Kendrick project, Wyoming, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 109. An act to incorporate the Jewish War Veterans, U. S. A., National Memorial, Inc.;

H. R. 662. An act to provide for the establishment of a fish hatchery in the northwestern part of the State of Pennsylvania;

H. R. 1262. An act to authorize and direct the Administrator of Veterans' Affairs to accept certain land in Buncombe County, N. C., for cemetery purposes;

H. R. 6701. An act granting the consent and approval of Congress to the Tennessee River Basin Water Pollution Control Compact;

H. R. 6959. An act to authorize the Secretary of the Interior to cooperate with Federal and non-Federal agencies in the augmentation of natural food supplies for migratory waterfowl;

H. R. 7964. An act to remove the limitation on the use of certain real property heretofore conveyed to the city of Austin, Tex., by the United States;

H. R. 8424. An act to include certain service performed for Members of Congress as annuitable service under the Civil Service Retirement Act;

H. R. 8606. An act to amend the Civil Service Retirement Act with respect to annuities of survivors of employees who are elected as Members of Congress;

H. R. 8868. An act to remove the present \$1,000 limitation which prevents the settlement of certain claims arising out of the crash of an aircraft belonging to the United States at Worcester, Mass., on July 18, 1957;

H. R. 8928. An act to amend the act of June 9, 1880, entitled "An act to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city";

H. R. 9240. An act to revise certain provisions of law relating to the advertisements of mail routes, and for other purposes; and H. J. Res. 453. Joint resolution establishing that the 2d regular session of the 85th Congress convene at noon on Tuesday, January 7, 1958.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 175) proposing a code of ethics for Government service, in which it requested the concurrence of the Senate.

#### HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles, and referred, as indicated:

H. R. 662. An act to provide for the establishment of a fish hatchery in the northwestern part of the State of Pennsylvania; and

H. R. 6959. An act to authorize the Secretary of the Interior to cooperate with Federal and non-Federal agencies in the augmentation of natural food supplies for migratory waterfowl; to the Committee on Interstate and Foreign Commerce.

H. R. 1262. An act to authorize and direct the Administrator of Veterans' Affairs to accept certain land in Buncombe County, N. C., for cemetery purposes; to the Committee on Labor and Public Welfare.

H. R. 6701. An act granting the consent and approval of Congress to the Tennessee River Basin water pollution control compact; to the Committee on Public Works.

H. R. 7964. An act to remove the limitation on the use of certain real property heretofore conveyed to the city of Austin, Tex., by the United States; to the Committee on Government Operations.

H. R. 109. An act to incorporate the Jewish War Veterans, U. S. A., National Memorial, Inc.; and

H. R. 8868. An act to remove the present \$1,000 limitation which prevents the settlement of certain claims arising out of the crash of an aircraft belonging to the United States at Worcester, Mass., on July 18, 1957; to the Committee on the Judiciary.

H. R. 8424. An act to include certain service performed for Members of Congress as annuitable service under the Civil Service Retirement Act;

H. R. 8606. An act to amend the Civil Service Retirement Act with respect to annuities of survivors of employees who are elected as Members of Congress; and

H. R. 9240. An act to revise certain provisions of law relating to the advertisements of mail routes, and for other purposes; to the Committee on Post Office and Civil Service.

#### HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 175) was referred to the Committee on Post Office and Civil Service, as follows:

*Resolved by the House of Representatives (the Senate concurring).* That it is the sense of the Congress that the following code of ethics should be adhered to by all Government employees, including officeholders:

##### CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all



governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles ever conscious that public office is a public trust.

#### CIVIL RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendments of the House of Representatives to the amendments numbered 7 and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. THURMOND. Mr. President, to explain his point Mr. Alsop cited the situation prevailing in New York, Pennsylvania, and Illinois. Pointing out that the "Negro vote can be absolutely decisive in these States," Mr. Alsop stated that it is "almost inconceivable that any presidential candidate could lose those three States and win an election."

In other words, Mr. Alsop says that the whole civil-rights fight is purely political, and the effect of it is that both parties are vying to get the Negro vote in the doubtful States.

To explain his point he cited the situation prevailing in New York, Pennsylvania, and Illinois, pointing out that the Negro vote can be absolutely decisive in those States. Mr. Alsop stated that it is almost inconceivable that any Presidential candidate could lose those three States and win the election.

I shall not take any more further time to present the analysis he made, but he went into considerable detail.

Mr. President, the advocates of this proposed legislation may believe it fits their objective today, but I am convinced that if this bill is enacted into law eventually it will be just as undesirable to its advocates as it is to me.

No explanation of this bill can alter the fact that it was, and is now, under the proposed compromise, a force bill. Its purpose is to put a weapon of force into the hands of the Attorney General and into the hands of Federal judges to exercise arbitrarily. Just as the Attorney General can decide arbitrarily whether or not to prosecute a case, so now this compromise provides Federal judges with authority to exercise discre-

tion in applying the law. Jury trial may be granted or withheld on any grounds whatsoever in the mind of a judge so long as he does not exceed the maximum limit prescribed for denying trial by jury.

The proponents of this bill claim it would strengthen the rights of individuals. In contrast to this claim the bill actually would strengthen the bureaucratic power of the Attorney General and the arbitrary authority of Federal judges. No new right is granted by this bill. No old right held by the people is better protected by it. The substance of the bill is to deprive the people of a right held under the Constitution.

When this bill was debated in the Senate, many authorities were quoted on the importance of trial by jury. At that time I quoted that great legal mind of the 18th century of England, Blackstone, because of the authoritative place he holds in jurisprudence.

I have also quoted heretofore and cited a case which holds that criminal contempt is a crime. That is a decision I have heretofore reviewed. I might refer to it again for the benefit of any who missed it because that is an important point. I do not believe that some of the lawyers in the Congress have realized that criminal contempt is a crime.

*Bessett v. W. B. Conkey Co.* (194 U. S. 324) says a contempt proceeding is criminal in its nature. *Ex parte Grossman* (267 U. S. 87) says a criminal contempt committed by disobedience of an injunction issued by the district court to abate a nuisance in pursuance of the prohibition law is an offense against the United States, and within the pardoning powers of the President under article II of the Constitution.

The Conkey case I just referred to, volume 194 United States Reports, page 324, defines civil and criminal contempt, pointing out that the latter, criminal contempt, is criminal and punitive in its nature, and the Government, the courts, and the people are interested in their prosecution.

If criminal contempt is a crime, as the United States Supreme Court decision holds it is, then under the Constitution of the United States a man charged with criminal contempt is entitled to a jury. There is no ifs, ands, and buts about it. There can be no exceptions.

Article III, section 2 of the Constitution provides:

The trial of all crimes, except in cases of impeachment, shall be by jury.

Again in the sixth amendment in the Bill of Rights, it is provided:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Mr. President, when this bill was previously debated in the Senate, I cited Blackstone as an authority, and I may cite him again today, but I want to refer

to a portion of this bill, to show how it violates the Constitution on the jury trial question.

Mr. LANGER. Will the Senator yield for a question?

Mr. THURMOND. I will be pleased to yield to my distinguished friend for a question.

Mr. LANGER. Could the Senator from South Carolina tell us how it happened that the Federal judges encroached upon the rights of defendants? How did they come to hold that contempt of court was not a crime?

Mr. THURMOND. There is a long story about contempt and how it arrived at where it is now.

I might say, in brief, and that is what my distinguished friend is interested in, that under the present law a man charged with criminal contempt gets a jury trial unless the Government is a party to the suit, and in labor disputes defendants get a jury trial even if the Government is a party to the suit.

Under this so-called compromise which the House sent to the Senate, that will not be the case unless a judge in his discretion sees fit to give the defendant a jury trial, or the judge tries him and decides he wants to punish him to a greater extent than a \$300 fine or a 45 days' prison sentence, in which event he would then have a jury trial.

Mr. President, under the version of the bill which was passed by the House of Representatives, the Attorney General could substitute the government for a private party, and thereby could deprive an individual of a jury trial.

But the Senate amended the bill as passed by the House of Representatives; and the Senate sent the bill, as thus amended, back to the House of Representatives. The Senate, by means of one of its amendments, drew a distinction and delineated between civil contempt and criminal contempt. The amendment provided that if the purpose of the action the judge wished to obtain was compliance with his order, in the case of something to be done in the future, failure to comply with the order would constitute civil contempt; but if the purpose was to punish for something done in the past, failure to comply with the judge's order would constitute criminal contempt.

The Senate amended the bill, as I have stated, and returned the bill, as thus amended, to the House of Representatives. Then the House of Representatives added the amendment which I believe violates the Constitution.

Mr. LANGER. I thank the Senator from South Carolina.

Mr. THURMOND. It has been a pleasure, I assure the distinguished Senator from North Dakota.

Mr. President, because of the authoritative place that Blackstone holds in jurisprudence, I wish to quote him at this time. Every lawyer respects Mr. Blackstone. He said:

The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law.

That is what Blackstone said about trial by jury—that it is "the glory of the English law."

Blackstone further said:

And if it has been so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases. \* \* \* It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals. A constitution, that I may venture to affirm has, under Providence, secured the just liberties of this Nation for a long succession of ages. And therefore a celebrated French writer, who concludes, that because Rome, Sparta, and Carthage have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, were strangers to the trial by jury.

In other words, Rome, Sparta, and Carthage did not have trial by jury when their people lost their liberties.

At another point, Blackstone further declared his faith in trial by jury in these words:

A competent number of sensible and upright jurymen; chosen by lot \* \* \* will be found the best investigators of truth and the surest guardians of public justice. For the most powerful individual in the State will be cautious of committing any flagrant invasion of another's right, when he knows that the fact of his oppression must be examined and decided by 12 indifferent men, not appointed till the hour of trial; and that, when once the fact is ascertained, the law must of course redress it. This, therefore, preserves in the hands of the people that share which they ought to have in the administration of public justice.

Mr. President, that is what Mr. Blackstone said. No brighter legal mind ever shone in the brilliant galaxy of Anglo-Saxon jurisprudence.

Mr. President, the wisdom of Blackstone's words is undeniable. The liberty of every citizen must continue to be protected by the right of trial by jury. This is not a right which applies to one person and is denied to another. The Constitution makes no exception in its guaranty of trial by jury to every citizen.

On May 9, 1957, Associate Justice Brennan, of the United States Supreme Court, delivered an address in Denver, Colo. In that address, Justice Brennan dealt with the subject of trial by jury, and he made the following statement:

American tradition has given the right to trial by jury a special place in public esteem that causes Americans generally to speak out in wrath at any suggestion to deprive them of it. \* \* \* One has only to remember that it is still true in many States that so highly is the jury function prized, that judges are forbidden to comment on the evidence and even to instruct the jury except as the parties request instructions.

Mr. President, in my State the judge charges the jury as to the law, but he cannot comment on the facts. In some States a judge is not even permitted to charge the jury, unless the parties to the suit request it.

I read further from the address by Associate Justice Brennan, of the United States Supreme Court:

The jury is a symbol to Americans that they are bosses of their Government. They pay the price, and willingly, of the imperfections, inefficiencies and, if you please, greater expense of jury trials because they

put such store upon the jury system as a guaranty of their liberties.

Mr. President, those are the words of Associate Justice Brennan, in speaking about jury trials. I do not know how he could have stated the matter in much stronger terms.

Mr. President, that statement by Associate Justice Brennan is most significant, to me, in that it comes from a member of the present Supreme Court of the United States. I shall not predict what the Court may do when the question of the constitutionality of the denial of trial by jury, as embodied in the so-called compromise, is presented to the Court. However, I shall not be surprised if the Court declares the bill to be unconstitutional, because on June 10, 1957, in the case of Reid against Covert, the so-called military wives case, the Supreme Court issued a strong opinion on behalf of trial by jury. In that case the Court said—and this is the Supreme Court of the United States speaking:

Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has served and remains one of our most vital barriers to governmental arbitrariness.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a question?

The PRESIDING OFFICER (Mr. KENNEDY in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I yield.

Mr. LANGER. If the Congress can say to the people of the United States that a Federal judge has absolute power to forbid a jury trial if the sentence is not more than 45 days in jail or a fine of not more than \$300, and if such a law is held constitutional, what would there be to stop a future Congress from changing the amounts to 10 times those—in other words, let us say, to 450 days in jail and a fine of \$3,000, or even more?

As I see it, the distinguished Senator from South Carolina is fighting for a principle.

Mr. THURMOND. Exactly. The principle—not the exact amount of the punishment or the exact amount of the fine—is the important consideration in this case.

Mr. LANGER. In other words, the Senator from South Carolina is chiefly concerned with the principle, rather than with the exact amount of the punishment—whether it be 45 days in jail or a fine of \$300, or whether it be more than that; is that correct?

Mr. THURMOND. Exactly.

Mr. LANGER. Certainly it is a fact that the Congress should not give to any Federal judge the power to levy fines of \$300 or to imprison for 45 days, without a jury trial.

Mr. THURMOND. The Senator is eminently correct. The Congress does not have power to do it if it wants to.

Mr. LANGER. In my opinion, you certainly quoted excellent authority to sustain that view.

Mr. THURMOND. I thank the Senator very much.

These elemental procedural safeguards were embedded in our Constitu-

tion to secure their inviolateness and sanctity against the passing demands of expediency or convenience.

And further:

If \* \* \* the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes. But we have no authority to read exceptions into it which are not there.

If the Constitution provided that a Federal judge could give to a defendant a jury trial if he wanted to do so, or to refuse it if he wanted to do that, then there would be authority for what the House sent to the Senate. If the Constitution provided that in cases of criminal contempt defendants would be excepted from the jury trial, the House would have been legally justified in passing what they did. But there is no exception to the right of jury trial in the Constitution or in the Bill of Rights.

The Constitution will first have to be amended in order that this so-called compromise bill, which has passed the House and is before the Senate, can be upheld.

I cannot say what the Supreme Court will do, no one can say, but I do not see how they could make any other holding in view of the Constitution and the Bill of Rights. That is certainly what may be expected from the Court, in view of the statement I just quoted from Justice Brennan, when it is called upon to decide the constitutionality of part V of H. R. 6127 as it has been amended by this so-called compromise.

Many claims have been made that this is a bill to protect the individual's right to vote. The evidence proves that there are more than adequate laws in all the States to protect the right to vote. I requested the Library of Congress to make a study of the laws of the States by which the right to vote is protected in each State, and I spoke on them during the night, starting with Alabama, and covered every State, including Wyoming.

I cited the law and the section of the code, including North Dakota and all the States. They all have laws to protect the right to vote. In a few minutes, I am going to cite a Federal section to show that there is a Federal law already on the subject; so, if a Federal law were desired on the subject, we already have one.

I think it is a matter that ought to be left to the States, but if people disagree about that, and if it is within the jurisdiction of the Federal Government, we already have a statute on the subject. But this bill is a violation of the Constitution on the right to a jury trial question, regardless.

Mr. LANGER. Will the Senator yield for a question?

Mr. THURMOND. I yield.

Mr. LANGER. Would the Senator be kind enough to read the statutes in South Carolina and Mississippi, if he has them?

Mr. THURMOND. Many claims have been made that this is a bill to protect the individual's right to vote. The evidence proves that there are more than adequate laws in all the States to protect the right to vote. As to my own State of South Carolina, I shall discuss at some



length the constitutional and statutory safeguards protecting a citizen's right to vote. I shall discuss them in a few minutes.

I do not know of a single case having arisen in South Carolina in which a potential voter has charged that he has been deprived of his right to vote. Had such an instance occurred, justice would have been secured in the courts of South Carolina. The Federal Government has no monopoly over the administration of justice.

Both white and Negro citizens exercise their franchise freely in South Carolina. Our requirements are not stringent. South Carolina does not require the payment of a poll tax as a prerequisite to voting.

When I was Governor of South Carolina, on May 1, 1947, I recommended to the State legislature that it repeal the poll tax as a prerequisite to voting.

The legislature took favorable action and submitted the question to a vote of the people at the next general election, which was in November 1948.

The people voted favorably on the amendment, and then in January 1949, or early in 1949, the legislature ratified the action of the people. Our poll tax was eliminated as a prerequisite to voting. So we have no poll tax in my State as a prerequisite to voting. We have a school tax, but no one has to pay to vote. Moreover, registration is necessary only once every 10 years.

Proof that Negroes vote in large numbers in South Carolina—if proof is desired—can be found in an article which was published following the general election in 1952 in the *Lighthouse and Informer*, a Columbia (S. C.) Negro newspaper. In its issue of November 8, 1952, the *Lighthouse and Informer* discussed the results of the election and declared that: "Estimates placed the Negro votes at between 60,000 and 80,000 who actually voted."

This represents almost one-fourth of the votes cast in that election. I did not see an estimate of the Negro votes in the 1956 general election, but reports which came to me indicated there was another large turnout.

Mr. President, I shall now read the provisions of the South Carolina Constitution which protect a citizen's right to vote:

#### SOUTH CAROLINA CONSTITUTION ELECTION PROVISIONS

##### ARTICLE 1, SECTION 9. SUFFRAGE

The right of suffrage, as regulated in this constitution, shall be protected by law regulating elections and prohibiting under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct.

##### ARTICLE 1, SECTION 10. ELECTIONS FREE AND OPEN

All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this constitution shall have an equal right to elect officers and be elected to fill public office.

##### ARTICLE 2, SECTION 5. APPEAL; CRIMES AGAINST ELECTION LAWS

Any person denied registration shall have the right to appeal to the court of common pleas, or any judge thereof, and thence to the supreme court, to determine his right to vote under the limitations imposed in this

article, and on such appeal the hearing shall be de novo, and the general assembly shall provide by law for such appeal, and for the correction of illegal and fraudulent registration, voting, and all other crimes against the election laws.

##### ARTICLE 2, SECTION 8. REGISTRATION PROVIDED; ELECTIONS; BOARD OF REGISTRATION; BOOKS OF REGISTRATION

The general assembly shall provide by law for the registration of all qualified electors, and shall prescribe the manner of holding elections and of ascertaining the results of the same: *Provided*, At the first registration under this constitution, and until the first of January 1898, the registration shall be conducted by a board of three discreet persons in each county, to be appointed by the Governor, by and with the advice and consent of the senate. For the first registration to be provided for under this constitution, the registration books shall be kept open for at least 6 consecutive weeks; and thereafter from time to time at least 1 week in each month, up to 30 days next preceding the first election to be held under this constitution. The registration books shall be public records open to the inspection of any citizen at all times.

##### ARTICLE 2, SECTION 15. RIGHT OF SUFFRAGE FREE

No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State.

In addition to these general provisions of the constitution protecting the right to vote, I shall now read specific statutory provisions contained in the South Carolina Code. I believe it is especially appropriate that I do so in view of the fact that it has been charged that South Carolina, as well as other States, has failed to protect the right of citizens to vote.

The charge is false. The right of every citizen to vote in South Carolina is protected, and I want the RECORD to be clear; therefore, I cite the following provisions of law in South Carolina:

#### SOUTH CAROLINA CODE—TITLE 23

##### 23-73. APPEAL FROM DENIAL OF REGISTRATION

The boards of registration to be appointed under section 23-51 shall be the judges of the legal qualifications of all applicants for registration. Any person denied registration shall have the right of appeal from the decision of the board of registration denying him registration to the court of common pleas of the county or any judge thereof and thence to the supreme court.

##### 23-74. PROCEEDINGS IN COURT OF COMMON PLEAS

Any person denied registration and desiring to appeal must, within 10 days after written notice to him of the decision of the board of registration, file with the board a written notice of his intention to appeal therefrom. Within 10 days after the filing of such notice of intention to appeal, the board of registration shall file with the clerk of the court of common pleas for the county the notice of intention to appeal and any papers in its possession relating to the case, together with a report of the case if it deem proper. The clerk of the court shall file the same and enter the case on a special docket to be known as Calendar No. 4. If the applicant desires the appeal to be heard by a judge at chambers he shall give every member of the board of registration 4 days' written notice of the time and place of the hearing. On such appeal the hearing shall be de novo.

##### 23-75. FURTHER APPEAL TO SUPREME COURT

From the decision of the court of common pleas, or any judge thereof, the applicant may further appeal to the supreme

court by filing a written notice of his intention to appeal therefrom in the office of the clerk of the court of common pleas within 10 days after written notice to him of the filing of such decision and within such time serving a copy of such notice on every member of the board of registration. Thereupon the clerk of the court of common pleas shall certify all the papers in the case to the clerk of the supreme court within 10 days after the filing of such notice of intention to appeal. The clerk of the supreme court shall place the case on a special docket, and it shall come up for hearing upon the call thereof under such rules as the supreme court may make.

I do not know of any other State which gives this protection.

If such appeal be filed with the clerk of the supreme court at a time that a session thereof will not be held between the date of filing and an election at which the applicant will be entitled to vote if registered the chief justice or, if he is unable to act or disqualified, the senior associate justice shall call an extra term of the court to hear and determine the case.

The supreme court will be called together to hear one man's case on appeal. What more can we do than that? We have, first, the board of registration; next the court of common pleas, and then the supreme court. The supreme court will hold an extra session, if necessary, to hear the appeal, and even if there is only one man who feels that he has been disenfranchised, or disqualified, for any reason, to receive a registration certificate.

##### 23-100. RIGHT TO VOTE

No elector shall vote in any polling precinct unless his name appears on the registration books for that precinct. But if the name of any registered elector does not appear or incorrectly appears on the registration books of his polling precinct he shall, nevertheless, be entitled to vote upon the production and presentation to the managers of election of such precinct, in addition to his registration certificate, of a certificate of the clerk of the court of common pleas of his county that his name is enrolled in the registration book or record of his county on file in such clerk's office or a certificate of the secretary of state that his name is enrolled in the registration book or record of his county on file in the office of the secretary of state.

In other words, if he loses his certificate, or has any trouble with the board—the books are filed there—if his name is on the book, the clerk will give him a certificate. If it is not there, he can even go to the secretary of state at Columbia, if there is any local prejudice or other trouble. He can go to the State capital, and obtain a certificate from the secretary of state. That is the protection we give. We have some others.

##### 23-349. VOTER NOT TO TAKE MORE THAN 5 MINUTES IN BOOTH; TALKING IN BOOTH, ETC.

No voter, while receiving, preparing, and casting his ballot, shall occupy a booth or compartment for a longer time than 5 minutes. No voter shall be allowed to occupy a booth or compartment already occupied by another, nor to speak or converse with anyone, except as herein provided, while in the booth. After having voted, or declined or failed to vote within 5 minutes, the voter shall immediately withdraw from the voting place and shall not enter the polling place again during the election.

23-350. UNAUTHORIZED PERSONS NOT ALLOWED WITHIN GUARDRAIL; ASSISTANCE

No person other than a voter preparing his ballot shall be allowed within the guardrail, except as herein provided. A voter who is not required to sign the poll list himself by this title may appeal to the managers for assistance and the chairman of the managers shall appoint one of the managers and a bystander to be designated by the voter to assist him in preparing his ballot.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. THURMOND. I am glad to yield.

Mr. LANGER. A little while ago the distinguished Senator said that he had before him the election laws of all 48 States.

Mr. THURMOND. That is true.

Mr. LANGER. Are not the laws of South Carolina more liberal than those of other States?

Mr. THURMOND. I think they are more liberal with respect to voting. I think we have gone further than have most of the other States. We repealed the poll-tax requirement. We have given every opportunity to everyone to vote. I do not know of anyone in my State today who is denied the right to vote if he wishes to vote.

Our requirements are not too severe. The only requirement is that the voter must be able to read or write the Constitution. The Constitution was used in order to have reference to some document. Anyone who can read and write can read the Constitution as well as he can read anything else. Or if he cannot do that, he must own \$300 worth of property. If he meets either requirement, he can vote.

Mr. LANGER. The Senator stated that there was a Federal law in this connection.

Mr. THURMOND. Yes.

Mr. LANGER. May we have the Federal statute read?

Mr. THURMOND. Mr. President, the Senator from North Dakota has just asked me about the Federal law on the books with regard to voting. I should like to have the Senator from North Dakota and other Senators hear this. I ask the distinguished Senator from South Dakota [Mr. CASE] and other Senators to listen to the statute I am about to read. Last night I made the point that every State in the Union has laws on this subject. Of course, if the Senator from South Dakota has already made up his mind, I do not wish to take his time. Will he give me his attention for just a moment?

Mr. CASE of South Dakota. The Senator from South Dakota is listening.

Mr. THURMOND. I do not wish to take the Senator's time if his mind is made up. But if his mind is open, I want him to hear this.

I made the statement last night that every State in the Nation has statutes to protect the right to vote. I called upon the Library of Congress to compile those statutes, and I read them into the RECORD. They will be found in my speech. Starting with Alabama and going through Wyoming, every State has laws protecting the right to vote.

But some people say that we need Federal laws. I do not believe many people

know that we have Federal statutes on the subject. For some reason or other they must have overlooked them. I wish to read the Federal law at this time to show that there is a Federal law on the statute books. It is designated as section 594 of chapter 29, title 18, of Criminal Code and Criminal Procedure. It reads as follows:

594. INTIMIDATION OF VOTERS

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the Office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. (June 25, 1948, ch. 645, sec. 1, 62 Stat. 720.)

If anyone intimidates, threatens, or coerces another with respect to voting, or with respect to how he wishes to vote, or for the purpose of interfering with his right to vote, or to vote for whomever he chooses, there is a Federal statute under which a Federal judge can send him to jail for 1 year, or fine him \$1,000. There is already a Federal statute on the subject. So why pass the bill coming from the House, or any other bill to provide the right to vote?

The statute which I have just read is a criminal statute. It enables the Federal Government, if it wishes to protect the right to vote, to protect any man's right to vote, because it can put a man in jail for as long as 1 year, or fine him \$1,000 if he interferes with the right of anyone to vote.

The only difference is that this is a criminal statute, and if a man were prosecuted under this statute he would get a jury trial. If we believe in the Constitution and in jury trials, we want to preserve that right anyway. The Constitution is clear on the question of jury trials. Article III, section 2, is specific on it. The Bill of Rights contains several references to it. The sixth amendment, in the Bill of Rights, is directly to the point.

I have before me a decision—I do not know whether the Senator heard it or not—which upholds the contention that criminal contempt is a crime. If criminal contempt is a crime, then a man is entitled to a trial by jury under the Constitution of the United States if he is charged with criminal contempt.

If there have been complaints to the Federal Government in any State of the Nation about people not being allowed to vote, why has not the Justice Department taken action under the statute to which I have just referred, and put offenders behind bars or fined them if they interfered with the right of other people to vote?

The Federal Government has the power to do it. It is not necessary for it to have more power. The accused should have a jury trial. This is a free country. The mere fact that a jury returns a verdict which one of the parties may not

like is no excuse for abolishing the jury trial.

Either the Federal Government is not doing its duty in protecting people who have complained to it that they could not vote for one reason or another, or that voting has been interfered with for one reason or another, and has not given the proper protection to those people who complained to it, or there have been no complaints.

If there have been any complaints, it was the duty of the Department of Justice to take action, and they could take action under the statute I have cited. There is no use beating about the bush and saying there is a duty to pass a right to vote bill. There is such a law on the statute books. Every State in the Union has such a law. The United States Code contains a provision protecting the right to vote. Let the Attorney General enforce this statute I have cited. If he has received any complaint from South Carolina about any man not voting, or has received a complaint from any other State, it is his duty to take action under the statute, and see that the one who interferes is punished. He can be put in jail for a year or fined \$1,000.

Mr. President, I am merely desiring to call this to the attention of Senators who are in the Chamber at this time, because so many of them do not seem to understand that we now have a Federal law on the books, section 594, which provides for the protection of voting rights. I do not know how it could be made any stronger.

The Senator from North Dakota was asking about the South Carolina statute. I read from the statutes:

After the voter's ballot has been prepared the bystander so appointed shall immediately leave the vicinity of the guard rail.

23-656. PROCURING OR OFFERING TO PROCURE VOTES BY THREAT

At or before every election, general, special, or primary, any person who shall, by threats or any other form of intimidation, procure or offer or promise to endeavor to procure another to vote for or against any particular candidate in such election shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 nor more than \$500 or be imprisoned at hard labor for not less than 1 month nor more than 6 months, or both by such fine and such imprisonment, in the discretion of the court.

23-567. THREATENING OR ABUSING VOTERS, ETC.

If any person shall, at any of the elections, general, special, or primary, in any city, town, ward, or polling precinct, threaten, mistreat, or abuse any voter with a view to control or intimidate him in the free exercise of his right of suffrage, such offender shall, upon conviction thereof, suffer fine and imprisonment, at the discretion of the court.

23-658. SELLING OR GIVING AWAY LIQUOR WITHIN 1 MILE OF VOTING PRECINCT

It shall be unlawful hereafter for any person to sell, barter, give away, or treat any voter to any malt or intoxicating liquor within 1 mile of any voting precinct during any primary or other election day, under a penalty, upon conviction thereof, of not more than \$100 nor more than 30 days imprisonment with labor. All offenses against the provisions of this section shall be heard, tried, and determined before the court of general sessions after indictment.



23-659. ALLOWING BALLOT TO BE SEEN,  
IMPROPER ASSISTANCE, ETC.

In any election, general, special, or primary, any voter who shall (a) except as provided by law, allow his ballot to be seen by any person, (b) take or remove or attempt to take or remove any ballot from the polling place before the close of the polls, (c) place any mark upon his ballot by which it may be identified, (d) take into the election booth any mechanical device to enable him to mark his ballot or (e) remain longer than the specified time allowed by law in the booth or compartment after having been notified that his time has expired and requested by a manager to leave the compartment or booth and any person who shall (a) interfere with any voter who is inside of the polling place or is marking his ballot, (b) unduly influence or attempt to influence unduly any voter in the preparation of his ballot, (c) endeavor to induce any voter to show how he marks or has marked his ballot or (d) aid or attempt to aid any voter by means of any mechanical device whatever in marking his ballot shall be fined not exceeding \$100 or be imprisoned not exceeding 30 days.

23-667. ILLEGAL CONDUCT AT ELECTIONS  
GENERALLY

Every person who shall vote at any general, special, or primary election who is not entitled to vote and every person who shall by force, intimidation, deception, fraud, bribery or undue influence obtain, procure, or control the vote of any voter to be cast for any candidate or measure other than as intended or desired by such voter or who shall violate any of the provisions of this title in regard to general, special, or primary elections shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in jail for not less than 3 months nor more than 12 months or both, in the discretion of the court.

Mr. President, I believe what I have read covers the constitutional provisions and the statutory provisions. Does not the Senator from North Dakota think those provisions add to the protection of voters?

Mr. LANGER. Will the Senator be kind enough to repeat the Federal statute?

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I yield for a question.

Mr. LANGER. I am particularly interested in where the Federal statute states that one can be both fined and imprisoned.

Mr. THURMOND. It says "or both."

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

But such person can get a jury trial, though. In other words, that is just another crime. It is like when a man is charged with murder or any other crime.

He will have a jury trial. If he is found guilty, then the judge can sentence

him to \$1,000 or 1 year in prison, or both. That is a strong statute.

Mr. LANGER. I want to thank the distinguished Senator for bringing that to the attention of the Senator from North Dakota.

Mr. THURMOND. The Senator is entirely welcome.

I think it is a statute that a good many people may have overlooked. There has been so much talk about the right to vote and people not having the right to vote protected until I thought the Senate and the people of the Nation ought to know that not only every State has laws protecting the right to vote, but the Federal Government also has on the statute books a statute protecting the right to vote. As I stated, that is section 594, of chapter 29, title 18, Criminal Code and Criminal Procedure.

Mr. President, the provisions of the South Carolina constitution and the provisions of the South Carolina statutes, which I have just read, prove the absolute lack of necessity for additional protection of the right to vote in my State.

Mr. LANGER. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Will the Senator yield to the Senator from North Dakota?

Mr. THURMOND. I will be glad to yield to my distinguished friend.

Mr. LANGER. For a question?

Mr. THURMOND. For a question.

Mr. LANGER. Have there been any decisions by the South Carolina Supreme Court on any of the statutes which the distinguished Senator has read?

Mr. THURMOND. I do not recall offhand that any cases have gone to the supreme court. In our State everybody registers and votes who wants to, and I guess that is probably the reason there have been no cases taken to the supreme court.

Mr. LANGER. I thank the Senator.

Mr. THURMOND. The Senator is welcome.

Mr. President, also, the summary of the laws of other States, which I have requested to be printed in the RECORD at the conclusion of my remarks, prove there is no necessity for greater protection of the right to vote in any other State.

The claim that this is a right to vote bill is completely without foundation. If the advocates of this so-called civil-rights bill want to deny the right of trial by jury to American citizens, they should proclaim their objective and seek to remove the guaranty of trial by jury from the Constitution. They should follow constitutional methods. Then the people of this Nation would not be misled, as some have been, to think that H. R. 6127 would give birth to a right to vote for anybody—a right already held by those it purports to help.

Mr. President, I also object to part I of this bill which would create a Commission on Civil Rights. To begin with, there is absolutely no need or reason for the establishment of such a commission. If there were any necessity for an investigation in the field of civil rights, it should be conducted by the States, or by

an appropriate committee of the Congress within the jurisdiction held by the Congress.

The Congress should not delegate its authority to a commission. In such a delicate and sensitive area, the Congress should proceed with great deliberation and care. There is no present indication that any such study will be needed in the foreseeable future.

The establishment of a commission as proposed in this bill is most unwise.

Section 104 (a) of part I provides the Commission shall—

(2) study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution; and

(3) appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution.

These two paragraphs provide the Commission with absolute authority to probe into and to meddle into every phase of the relations existing between individuals, limited only by the imagination of the Commission and its staff.

The Commission can go far afield from a survey on whether the right to vote is protected. Through the power granted in the paragraphs I have cited, the Commission could exert its efforts toward bringing about integration of the races in the schools and elsewhere. It would be armed with a powerful weapon when it combined its investigative power and its authority to force witnesses to answer questions.

I do not believe the people of this country realize the almost unlimited powers of inquiry which would be placed in the hands of this political Commission. I do not believe the people of this country want to have such a strong-arm method of persuasion imposed upon them. Section 105 (f) of part I provides that "subpenas for the attendance and testimony of witnesses or the protection of written or other matter may be issued in accordance with the rules of the Commission."

This is an unusual grant of authority. Many of the committees and special committees of the Congress do not have this power. The Truman Commission on Civil Rights did not have it. The subpoena is a punitive measure, generally reserved for penal process whereby powers are granted to force testimony which would not otherwise be available. If the proposed Commission were simply a factfinding commission and non-political, the extreme power to force testimony by the use of a subpoena would not be needed. The power of subpoena in the hands of a political commission and the additional power to enforce its subpoenas by court order diverge from the authority usually held by traditional factfinding groups.

There are several grounds for serious objection to section 104 (a) of part I. This section permits complaints to be submitted to the Commission for investigation, but it does not require the person complaining to have a direct interest in the matter. Mr. LANGER, I should like to have the Senator hear this. This means, of course, that any meddler

can inject himself into the relationship existing between other persons. It opens the door for fanatics to stir up trouble against innocent people, to involve neighbor against neighbor. This section opens the door wide for such organizations as the NAACP, the ADA, and others, to make complaints to the Commission with little or no basis for doing so. If an NAACP official in Washington made a complaint against a citizen of South Carolina, the South Carolina citizen would not have the opportunity of confronting his accuser unless the accuser appeared voluntarily.

Although part I requires sworn allegations to the Commission, there is no requirement that testimony taken by the Commission be taken under oath. Failure to make all witnesses subject to perjury prosecutions by placing them under oath would certainly make the testimony of little value. The Commission might adopt a rule to require sworn testimony, but this should not be left to the discretion of the Commission. It should be written into law.

There are many other objections to part I which were pointed out during the debate, before the Senate passed its version of the bill. I shall not go into them further at this time.

Part II of the bill provides for the appointment of an additional Assistant Attorney General in the Justice Department. Since the Justice Department already has a section to handle civil-rights cases, there is no reason to create this new position. The creation of a new division would require many additional attorneys and other employees in the Justice Department. The Department has not disclosed how many additional lawyers, clerks, and stenographers it would plan to employ.

A civil-rights division in the Justice Department is not needed, because there is no indication that there will be any increase in the number of civil-rights cases which are now being handled by a section in the Department.

The Attorney General had a most difficult time trying to show that an additional Assistant Attorney General was needed; in fact, he failed completely in his efforts to do so. As a matter of fact, even those who have advocated passage of H. R. 6127 have been forced to admit time after time that conditions relating to civil-rights matters have been steadily improving all over the country. Since conditions have improved and since there is no indication that conditions will change—unless the Attorney General and the Civil-Rights Commission create trouble—there is absolutely no justification for the appointment of an additional Assistant Attorney General in charge of a Civil Rights Division of the Justice Department.

Part III of the bill, as originally written—which was completely obnoxious—was removed. I have several times stated my views on part IV. I object to its grant of dictatorial power to the Attorney General. The Congress should never agree to place such authority in the hands of any one official of the Government.

Another particularly obnoxious provision is found in section 131 (d) which reads as follows:

(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield to me?

The PRESIDING OFFICER (Mr. HOLAND in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I shall be glad to yield for a question.

Mr. LANGER. As I understand, in the case of the existing section 594, during all these years the Attorney General of the United States has had the power to enforce that section, and he has had the assistance of the United States attorneys in every State of the Union, and they have had the help of their assistants; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. In some of the States there are eastern districts, northern districts, southern districts, and western districts—for instance, as in the case of New York; is that correct?

Mr. THURMOND. That also is correct.

Mr. LANGER. And each of those districts has United States attorneys and assistant United States attorneys and United States marshals; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. So all the necessary machinery for the enforcement of section 594, to protect the voting right of any citizen of the United States who may have had his voting right denied, has been in existence all during this period of time; is that correct?

Mr. THURMOND. That is correct.

Mr. LANGER. Can the distinguished Senator from South Carolina name a single case in which the Attorney General of the United States has tried to enforce any of these statutes?

Mr. THURMOND. In reply to the question of the distinguished Senator, I will say that I do not know about the situation in other States; but as for the situation in my own State, I have not heard of such a case. However, I can see why that would be; I can understand why probably there would not be any such cases in South Carolina. That is because anyone in South Carolina who wishes to register to vote, has no trouble doing so. But I have not heard that any cases of this sort have been brought in other States. Such cases may have been brought in other States, but I have not heard of any.

Mr. LANGER. Will the Senator from South Carolina yield further?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. I wish to ask what additional power the Attorney General will have, if a new Assistant Attorney General is appointed, inasmuch as the Attorney General already has the help of other Assistant Attorneys General and

the help of United States attorneys, whose appointments have to be approved by the Senate; they cannot be appointed until the Congress has consented to the appointments.

Mr. THURMOND. In reply to the question asked by the Senator from North Dakota, I would say that I see no need for an additional Assistant Attorney General—who, if appointed, would receive a large salary. I see no need for the appointment of an additional Assistant Attorney General, because the Department of Justice already has a civil-rights section; and there has been no evidence of any need for a big division, similar to the one now proposed to be created. I think the establishment of such a division would simply mean the payment of more salaries and a larger Federal payroll and more taxes on the backs of the American people.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LANGER. In other words, there has never been a time when, under present law, the Department of Justice could not have presented a case of that sort before a grand jury, if the Department had wished to do so; is that correct?

Mr. THURMOND. Exactly. If there had been any complaint in either North Dakota or South Carolina, let us say, to the effect that someone had not been able to vote, although he was eligible to vote, all the Department of Justice would have had to do would have been to have the United States attorneys in those States look into the matter and take whatever action would have been appropriate under the circumstances.

Mr. LANGER. I thank the Senator from South Carolina.

Mr. THURMOND. I thank the Senator from North Dakota for his questions.

Mr. President, a moment ago I read the provisions of section 131 (d). It simply means that the district courts can, under that provision, bypass the State procedures, the administrative remedies under the State laws, and can take action, and thus can cause much tension, embarrassment, and trouble, although it is not necessary to do so. If anyone cannot obtain justice through the administrative remedies of his State, then of course he will be able to go to the district attorneys, and they can prosecute under the Federal statute I have just read. But the use of the existing remedies under the State laws should first be required—which is the usual procedure one would follow.

No legitimate reason has been presented as to why administrative remedies and remedies provided in the courts of the States should not be exhausted prior to having Federal district courts take jurisdiction in cases of election-law violations.

In other words, I believe in letting the States run their business, if they will. A Federal statute already is in existence; and if there is need to use it, it can be used. But why not let the States handle the matter of voting and the other mat-



ters which are reserved to them under the Constitution? Let the States handle them. Then, if the States fail to do so or if they fall down in the performance of their duty, section 594 is in existence, and it can be used as a hammer with which they can be clubbed to death, if need be.

The present proposal could be a step toward future elimination of the State courts altogether. I do not believe the Congress has, or should want, the power to strip our State courts of authority, and to vest it in the Federal courts. Some of the advocates of H. R. 6127 spoke strongly on behalf of the Federal courts, during the debate on the jury-trial amendment. I wish they were equally as vehement in their defense of our State courts.

There is no reason to permit an individual to bypass the administrative agencies of his own State and the courts of his own State in favor of a Federal court when the matter involved is principally a State matter. If a person should be dissatisfied with the results obtained in the State agency and courts, he could then appeal from the decision. But until he has exhausted established remedies, he should not be permitted to bypass them. That is the point I made just a few minutes ago.

I shall not go into further details with reference to the provisions of this part of the bill, but I am just as strongly opposed to it as I was when it was first introduced. I shall continue to oppose such grants of power to the Attorney General or to any other official.

Mr. President, I based my opposition to H. R. 6127 throughout its consideration in the Senate on three principal points. I am convinced the bill is unconstitutional in several respects which I have cited. I know that it is unnecessary because the right to vote is fully protected in every State and under the laws of the United States where applicable.

Finally, I know that the enactment of such legislation is extremely unwise.

It is unwise because the sure result of passing this bill would be to destroy a great deal of the good feeling existing between the white and the Negro races, not only in the South but in every community where a substantial number of Negroes live. Nothing would be gained, but much would be lost.

The Civil Rights Commission, by using its powers to attempt to force integration of the races, is bound to create suspicion and tension between the races to an even greater degree than the suspicion and tension which was created by the 1954 Supreme Court decision in the school segregation cases.

Unbiased persons who are familiar with the segregation problem, and who observed the detrimental result of the Supreme Court decision, know that a traveling investigation commission and a meddling Attorney General could bring about chaos in racial relations.

The chaos would not be confined to the South because the provisions of this bill will apply to every citizen in every State. However, the Attorney General, in exercising the discretion granted him,

along with the extraordinary powers also granted him, must be expected to confine his investigations and his court actions to the States of the South.

The South has often been derided and condemned on charges of sectionalism, but if the advocates of this legislation believe they will create greater unity instead of greater division in this country by the enactment of this bill, they are entirely mistaken.

George Washington in his Farewell Address used his strongest language against those who would divide our country and urged a unity of spirit. He said:

In contemplating the causes which may disturb our Union, it occurs, as a matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern, Atlantic, and western—whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heartburnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection.

H. R. 6127 is a blueprint for suspicion, confusion, and disunity.

The laws of the Nation are dependent upon the customs and traditions of the people. Unless law is based upon the will of the people, it will not meet with acceptance.

Government in this country derives no power except the power coming from the people. Laws which are not based on the Constitution, which is the basic statement of the will of the people, cannot be justified on any ground.

Mr. President, when there is so much evidence that this bill is unconstitutional, unnecessary, and unwise, it should never be approved. Force may subjugate the human body, but force by itself can never change the human mind. Laws, like leaders, must be of the people, by the people, and for the people.

H. R. 6127 fails to measure up by any standard. It should be rejected. I appeal to every Member of this body who believes in constitutional government and the sovereignty of the people to vote against this bill.

Mr. President, this bill, as I have stated before, has been widely called a right-to-vote bill. That is a completely misleading term. The bill, as I have stated, in my opinion, is unnecessary because we have laws in every State to protect the right to vote. We have laws by the Federal Government to protect the right to vote. In the sections I have cited, a man can be punished severely for any interference with the right to vote.

(At this point Mr. THURMOND yielded to Mr. JOHNSON of Texas and other Senators, who requested the transaction of certain business, all of which appears in the RECORD following Mr. THURMOND's speech.)

Mr. THURMOND. Mr. President, we have the finest Nation in the world. We have the finest Government in the world.

In 1787 our forefathers met in Philadelphia and wrote a document called the Constitution. It was simply a compact between the States. Our forefathers came to this country to get away from tyranny. They had been punished many times without juries. They had been denied the right to worship as they pleased. They have been denied the right of freedom of speech. They had been denied the right of assemblage. They had been denied the right to petition the government, and they had been denied many other rights which we take as a commonplace in this country. They came here to enjoy the benefits of the Government they would establish to provide them those rights. After the States operating as colonies for a while felt the need of a central government for purposes of national defense, for purposes of commerce, for purposes of postal service, trade, and other reasons, they decided to form a union. They met in Philadelphia in 1787, and with deputies from all the 13 States attending that confederal meeting, all except Rhode Island—at that time Rhode Island was in the hands of radicals and ignored the whole proceeding—all with the exception of that one State, had deputies at the Constitutional Convention.

They wrote a document to delegate certain of their powers—there were States before there was a Federal union, of course—to the Federal Government for the purpose of forming a union and a central government which could do certain things for the States better than they themselves could do them.

At that convention there was a very difficult situation. The delegates had to start from scratch, so to speak, to write the basic law for a new nation. Much discussion and debate occurred there, but after working together for several months in Philadelphia they finally arrived at a document, or a compact, which was signed by the representatives of the States, delegating certain powers to the Central Government.

Three of the delegates attending the convention were not pleased, and did not sign it. I believe I stated this morning who they were. They were George Mason, of Virginia; John Randolph, of Virginia; and Elbridge Gerry, of Massachusetts. The other delegates signed their names, except one, who left, but had his friend sign it.

The document was then presented to the States for ratification. Within due time ratification was had, but there was considerable opposition at the convention, and when the question of ratification arose, the main objection which was raised was that there was not spelled out in the Constitution a bill of rights. Some of the most powerful leaders in the States opposed ratification for that reason. Those who did not sign in Philadelphia opposed it chiefly, I understand, for that reason.

The Bill of Rights is a document which we cherish. The Bill of Rights is the finest civil-rights bill in the world. The Bill of Rights is a genuine civil-rights bill. That document provides us with the fundamental civil rights which we enjoy in this country today.

One of the bases of the Bill of Rights—and I like to call it the heart of the Bill of Rights—is the right of trial by jury. In the Bill of Rights, the sixth amendment is a trial-by-jury amendment. It provides specifically that any person charged with a crime shall be tried by a jury. I have previously brought out today that criminal contempt is a crime, and therefore, since it is a crime, a person charged with criminal contempt is entitled to a trial by jury.

The bill which passed the House is a compromise, as most legislation is. Some people may have felt that that was the best the House and Senate could do, because the conferees got together and reconciled the differences between the two Houses. Ordinarily that principle would be sound in connection with legislation, but it is not sound here, because the effect of the so-called compromise would be to violate the Constitution of the United States.

If the so-called compromise had provided that a judge, in his discretion, could try a man for criminal contempt, I would have opposed it just as much if no punishment whatever were involved, because the Constitution says that a man is entitled to a trial by jury when he is prosecuted for a crime. There is no discretion in the Constitution. There is no proviso in the Constitution. There is no exception in the Constitution. The Constitution is perfectly clear on that point.

If the punishment provided in the bill in the House had called for 1 day's imprisonment, or a fine of \$1, I would be just as bitterly opposed to it. The Constitution of the United States provides that if a man is charged with a crime he is entitled to a jury trial. Under the decision which I have cited here twice today, I believe, holding that criminal contempt is a crime, it is clear that a man charged with criminal contempt is entitled to a jury trial.

I do not believe that the compromise amendment is valid. I do not think it is constitutional. The amendment of the distinguished Senator from Wyoming [Mr. O'MAHONEY] delineated and defined civil contempt and criminal contempt, and provided that civil contempt proceedings were for the purpose of bringing about compliance, in which case the order would be issued prior to the act, and that criminal contempt proceedings were to punish, in which case the order would be issued after the act. If the House had accepted it, the American people would be guaranteed trial by jury in the event of a charge of criminal contempt, which is a crime.

Mr. O'MAHONEY. Mr. President, will the Senator yield to me for a question?

Mr. THURMOND. I yield for a question.

Mr. O'MAHONEY. I wish to ask the Senator if I understood him correctly to say that in his opinion the so-called jury-trial provision of the bill which has been returned to us by the House is invalid and unconstitutional?

Mr. THURMOND. That is my opinion.

Mr. O'MAHONEY. I wish to say to the Senator from South Carolina that I completely agree with that opinion. It is

impossible to govern the right of trial by jury by the discretion of the judge, according to the penalty he conceives he intends to inflict.

I should like to ask the Senator another question.

The PRESIDING OFFICER. Does the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield to the distinguished Senator.

Mr. O'MAHONEY. I ask the distinguished Senator from South Carolina if he agrees with me that the question of jury trial should be reexamined as soon as conveniently possible, and that I would be doing a wise thing if, when the new session of Congress assembles, I should introduce a repetition of the general jury-trial amendment, firm in the belief that the advocates of civil rights, upon examination of the pretended amendment which has come to us from the House, will discover that they have bought a pigeon instead of a swallow.

Mr. THURMOND. In reply to the Senator's question, I will say that I agree with him that the bill should be reexamined; but I think the reexamination should take place before Congress passes the bill, and not wait until next January.

Mr. O'MAHONEY. If the Senator will permit me to make this comment—will the Senator yield?

Mr. THURMOND. I will yield for a question.

Mr. O'MAHONEY. I shall frame it in the form of a question. Does not the Senator agree that we are all weary and worn down; that most of us are almost as tired as is the Senator himself; and that perhaps when we return in January in the full vigor of our bodies and minds we shall be able to do a better job than we can do at this session of the Congress? I am going to introduce a jury-trial amendment in the next session in the firm belief that this jury-trial amendment accomplishes nothing; that it does not at all help the advocates of civil rights.

Mr. THURMOND. In reply to the Senator's question I will say that I have been on my feet for the past 17 hours, and I still feel pretty good. But I agree that it has been a long, tough session. But even though it has been a long, tough session I do not think we ought to quit now and pass a bill that the Senator and I both feel is unconstitutional. I think we should refer it to the committee, which I tried to do the other night but was unsuccessful in my attempt. But I think this bill should not be passed at this session. I believe the Senator would prefer that it not be passed; but if it is passed, of course I should be delighted to have the Senator offer an amendment to correct the unconstitutional portion of it when we return in January. But I really do not see why we should have to pass an unconstitutional piece of legislation if we can avoid it.

Mr. O'MAHONEY. Mr. President, will the Senator from South Carolina yield for another question?

Mr. THURMOND. I yield for another question.

Mr. O'MAHONEY. This question is a little different from the one I asked before. I am wondering if the Senator from South Carolina would cooperate with me in enabling me to pass a bill which does not involve any constitutional question. The Senate passed the bill without any opposition at all, and the House has returned it to the Senate with an amendment. I should like to move that the House amendment be concurred in by the Senate, and thus get the bill disposed of.

Mr. THURMOND. If the Senator will ask unanimous consent for me to yield to him on condition that I can retain the floor, and, further, that I shall not be charged with a second speech when I resume the discussion of the present subject—

The PRESIDING OFFICER. Does the Senator from Wyoming ask unanimous consent based on those conditions?

Mr. O'MAHONEY. I do, Mr. President.

Mr. THURMOND. Mr. President, I should like to ask the Senator from Wyoming this question: This is not a civil-rights bill, as I understand, is it?

Mr. O'MAHONEY. No; it is not.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wyoming? The Chair hears none.

#### APPROVAL OF CONTRACT WITH THE CASPER-ALCOVA IRRIGATION DISTRICT, WYOMING

The PRESIDING OFFICER (Mr. HOLAND in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 1996) to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, to provide that the excess-land provisions of the Federal reclamation laws shall not apply to the lands of the Kendrick project, Wyoming, and for other purposes, which were, on page 1, line 3, after "That" insert, "subject to the provisions of section 2 of this act,"; on page 2, line 5, strike out all after "Sec. 2." down through and including "landowners." in line 12, and insert:

The limitations on acreage and restrictions on delivery of water to excess lands under the Federal reclamation laws shall apply to the lands of the Kendrick project, Wyoming, except that 480 irrigable acres shall, in this instance, be substituted for 160 irrigable acres.

And to amend the title so as to read: "An act to approve the contract negotiated with the Casper-Alcova Irrigation District, to authorize its execution, and for other purposes."

Mr. O'MAHONEY. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming.

The motion was agreed to.

Mr. O'MAHONEY. I thank the Senator from South Carolina.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its



reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

- S. 281. An act for the relief of Jaffa Kam;
- S. 684. An act for the relief of Ilse Striegan Bacon;
- S. 880. An act for the relief of Necmettin Cengiz;
- S. 882. An act for the relief of Pauline Ethel Angus;
- S. 1456. An act for the relief of Refugio Guerrero-Monje;
- S. 1467. An act for the relief of Itsumi Kasahara;
- S. 1635. An act for the relief of Maria Talloura Boisot;
- S. 1835. An act for the relief of Maria Domenica Rloci;
- S. 1921. An act for the relief of Maria Godelt;
- S. 2028. An act for the relief of Sherwood Lloyd Pierce;
- S. 2041. An act for the relief of Sala Weissbard; and
- S. 2204. An act for the relief of Margaret E. Culloty.

#### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

- S. 1645. An act to authorize the Secretary of the Interior to grant easements in certain lands to the city of Las Vegas, Nev., for road widening purposes;
- S. 2080. An act relating to the computation of income for the purpose of payment of death benefits to parents or pension for non-service-connected disability or death in certain cases;
- S. 2500. An act to make uniform the termination date for the use of official franks by former Members of Congress, and for other purposes; and
- S. J. Res. 18. Joint resolution to authorize and request the President to issue a proclamation in connection with the centennial of the birth of Theodore Roosevelt.

#### CIVIL RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendments of the House of Representatives to the amendments numbered 7 and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDING OFFICER. The Senator from South Carolina may proceed.

Mr. THURMOND. Mr. President, I was speaking a few moments ago about the States and the Federal Government. I should like to remind the people of this country that we had States before we had a union, and that the only power the Federal Government had and the only power the Union had was the power delegated by the States in Philadelphia in 1787 and in the amendments to the Constitution since that time. All other powers which have not been delegated to the Federal Government are reserved to the States or to the people.

I think the bill which is under consideration is unconstitutional. I think it is invalid. I think we are doing a useless thing. The proponents of the bill who feel that they are helping people, in my

judgment, are going to find that there is just a lot of lost motion involved, because I do not believe the Supreme Court will hold this bill constitutional. I do not see how it could hold it constitutional. This compromise bill which came from the House leaves it entirely up to a Federal judge to say whether or not he is going to give a man a jury trial. That is not what our forefathers wrote into the Constitution. This bill provides that a judge shall decide whether he will grant a jury trial. Suppose he decides he will not grant a jury trial and then tries the defendant. Suppose he decides that the man ought to be imprisoned for more than 45 days or should pay a fine of more than \$300. Then the case must be tried all over again.

That is another reason why I think the bill is unconstitutional. When we once try a man we put him in double jeopardy by trying him again.

So I think we are doing a useless thing here to pass a bill to provide that a judge can try a man and then, if he imposes above a certain sentence, the man can ask for a jury trial and then a jury can try the man. He would be tried twice. That is not only unconstitutional, it is also unfair, because if a judge tries the man himself and fines him more than \$300 or sentence him to be imprisoned more than 45 days, then there is a trial de novo, as they call it.

But the judge's finding of guilt is bound to influence the jury when the jury tries him a second time. It is my opinion that the man can plead double jeopardy. The distinguished Presiding Officer was a distinguished judge in Texas. Any lawyer knows that we cannot try a man more than once for the same offense. The bill coming from the House would allow the man to be tried twice.

Mr. President, I want the American people to know what they are getting in this bill. They are getting a bill under which a judge can try a man and a jury can then try the same man. It is unconstitutional, in my opinion. Furthermore, I think it is extremely unfair, because the judge has already expressed his opinion, and if he is the judge who tries the case a second time he would be bound to show his feelings during the trial. Even if he did not show his feelings during the trial, in my opinion, his feelings would enter into the sentence after the trial.

Mr. President, there are many things in this bill. I am not against civil rights, and I am not against voting. As I have said, the finest civil rights are those in the Bill of Rights. I am for genuine civil rights, not this so-called political civil rights.

Both national parties that are pushing civil rights bills, this right to vote and other bills, are not doing it because they love the Negro. The southern white man does more for the Negro than any other man in any part of the country. This bill is motivated purely by politics. It is a political bill.

We might as well face the facts as they are. Both parties are trying to play to get the Negro vote, and, in some States, if the Negroes vote as a bloc, which they should not do, they are

herded to the polls like sheep and voted. If they vote as individual citizens, which they should, this would not occur. But for some reason, both parties think that they are going to vote as a bloc. I do not know how a few leaders do it, or just how it is done. But it is unfortunate, and it is unfair to the Negro, because it takes him out of the category of an individual. It takes away his dignity. It takes away his sanctity as an individual, in which he can take pride in himself, his accomplishments and his race and not be led around like a bull with a ring in his nose. But that is the feeling of both parties in this country. They think they can vote the Negroes in a bloc, and they are making this play on these civil rights bills, so-called. They are not civil rights bills. They are so-called civil rights bills. The politicians are pushing these so-called civil rights bills to make a play and try to get the vote of the Negroes in certain doubtful States.

I have some good friends who are Negroes. I have helped many of them. I have represented them in lawsuits. I have loaned them money. I value the friendship of many Negroes, and I hate to see them treated like they are being treated. I hope that their real leaders, their genuine leaders, who are sincerely interested in them, will wake up some day and inform the members of their race just what is going on.

Mr. President, there is no need in the world to pass this bill. In the wee hours last night, when most Senators were sleeping, I was here talking, and after I had the Library of Congress, Legislative Section, prepare for me, and I put into the RECORD at that time, statutes which provide voting rights in all the States of the Nation.

The CONGRESSIONAL RECORD of last night contains those statutes of all the States from Alabama to Wyoming. In every one of the States of the Nation there are statutes that protect the right to vote. There is not a single one of the 48 States that does not have statutes to protect the right to vote.

Why does the Federal Government have to have this bill passed? Is it not practically an insult to the States?

It is.

"We need it. The States will not enforce their laws?" If that be the case, all the Government has to do is to enforce the Federal statute I referred to today. Title 18, section 594, is the number of that Federal statute, which provides punishment for anyone who intimidates, coerces, or threatens any person for interfering with any other person in voting. That statute is as clear as a crystal. It provides for a fine of \$1,000, or punishment of 1 year in prison, for anyone who interferes with the right of another citizen to vote. So, if there is anybody in this country today who is prevented from voting, all he has to do is to report it to the district attorney in his State, or if he prefers, to write the Justice Department. He can take that course, and action can be taken under that statute which is already on the books.

Why put another statute on the books? Why put another statute which the Supreme Court will very probably hold to

be unconstitutional? I do not know what the Supreme Court will hold. I do not like to take any chances with the Supreme Court.

At any rate, the Constitution of the United States is clear, the wording is simple. Any seventh-grade child can read article III, section 2, of the Constitution of the United States and see that any citizen charged with a crime is entitled to a jury trial. He can also read the sixth amendment to the Constitution, one of the amendments in the Bill of Rights, and see that any man charged with a crime is entitled to a jury trial.

It is very difficult to understand why the Congress, which is supposed to be composed of the brightest intellects in the country, or some of the brightest intellects, would pass a bill of this kind.

Yet, if the Congress passes such a bill, this so-called compromise bill on voting rights, it will certainly amaze me if the Supreme Court does not hold it to be unconstitutional. I shall be badly disappointed if the Congress passes it.

Of course, under the pressure of different organizations, leftwing organizations, ADA and NAACP, both parties are dancing like jitterbugs on the civil-rights question, because they want to carry the doubtful States where the Negroes, although only a small percentage, if they vote in a block, can swing a State.

I think it will be a great pity if the Congress passes this bill. I hate to see it pass such an unnecessary bill.

It seems to me that every Representative in Congress and every Senator is practically insulting his home State if he votes for this bill. He is practically saying to the governor of his State and the legislators of his State, "Although you have bills to protect voting rights, we have no confidence in you and although we have one Federal law, we are going to pass another Federal law, and ram it down your throats whether or not you want it." I think it is almost an insult to the States.

I suggest that they write the governors of their States and see how many of them want this bill passed. I am wondering how many Senators in this body and how many House Members have checked with the governors to find out if they want this unconstitutional monstrosity passed by the Congress.

I do not believe 10 percent of the governors of the Nation would say, "We are weaklings, and we want you to pass a strong civil-rights bill because we do not have the courage to do it. We do not have the courage to protect our people."

As a matter of fact, Mr. President, the States already have laws on that subject, and I have read them into the RECORD. The voting-rights statutes of the States have been read into the CONGRESSIONAL RECORD, in the case of every State of the Union. Those who read the CONGRESSIONAL RECORD will find them set forth there.

Mr. President, if any Senator, on either side of the aisle, can state why it is necessary to enact another Federal law to protect the right to vote, I should like to have him do so, provided I am able to yield for that purpose without losing the floor and without having the remarks I make after yielding for that purpose

counted as a second speech by me. I challenge any Senator on either side of the aisle to answer this question: Why is another Federal law needed in order to protect the right to vote, when there is already on the statute books section 594, which reads in part as follows:

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose.

In other words, one who intimidates, threatens, or coerces a voter, or even attempts to intimidate, threaten, or coerce him, may, under the provisions of this statute, be prosecuted. He may be prosecuted, not only if his purpose is to interfere with the right of such other person to vote, but also if his purpose is to interfere as to the person for whom such other person may wish to vote.

Mr. President, are there teeth in this statute? There certainly are. This statute provides that anyone who intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any other person, or attempts to interfere with his voting for whomever he wishes to vote for, can be prosecuted in a Federal court and can be fined \$1,000 or sentenced to a prison term of 1 year. Do not those provisions constitute teeth and strength in the existing law? Of course they do.

If there is in the United States, today, any person who is having any trouble in exercising his voting right, again I say that all he has to do is contact the Department of Justice or the district attorney in his home State, and action can be taken under this Federal law to punish any person who interferes with his right to vote.

Inasmuch as section 594 is an existing Federal statute on that subject, why is it necessary to enact another Federal statute dealing with the right to vote? It would be absolutely useless, unnecessary, and futile to enact another Federal statute on that subject; it would be a great mistake to do so, especially in view of the fact that such a statute would be unconstitutional.

Mr. President, please understand that I do not even concede that the Federal Government has a right to enter this field. Instead, I believe that these matters should be handled by the respective States. However, the Federal Government is already in this field—under the provisions of section 594, by means of which a person can be fined as much as \$1,000 or put in jail for as long as one year, if he tries to interfere with the right of someone else to vote.

Since the Federal Government already is in this field, why should another Federal law on the same subject be enacted?

Mr. President, every day that passes, the Federal Government, here in Washington, D. C., is whittling away the rights of the States. It hurts me to see the Federal Government invade fields which are reserved to the States. I deeply regret that a bigger and more powerful Federal Government is being built up in Washington, D. C. This Central Government has become tremendously top-

heavy. I should like to see the States have more power.

Since World War II, the Communists have taken over approximately 17 countries. In doing so, they did not invade by means of troops using bayonets and tanks; those countries were not taken over in that way by the Communists. Instead, the Communists proceeded by way of infiltration. Poland was taken over by the Communists with the aid of some of the Poles. Czechoslovakia was taken over by the Communists with the aid of some of the Czechs. China was taken over by the Communists with the aid of some of the Chinese. The Communists have been able to infiltrate into the central governments; they have been able to worm their way into the police systems, and then into the election systems. Then, before one could realize it, the countries were taken over by the Communists.

Mr. President, why have the Communists been able to take over those countries? Since the end of World War II, they have been able to take over 17 countries, with populations totaling between 600 million and 800 million. The Communists have been able to do that because each of those countries has had a strong central government; and when the Communists obtained control of that central government, they were able to take over control of the entire country.

Mr. President, the more we in the United States build up power in a strong central government, the more risk we run from the standpoint of subversive activities and infiltration. If the people of the United States have the vision to keep the 48 States strong—each with its own election laws and its own police system—there will be no way by means of which the United States can be taken over by subversion. But if more and more power is given to our Central Government, after a while the States will be nothing but territories, and will not have any power.

Mr. President, the so-called civil-rights bill which the Congress is about to pass would simply take power away from the States and would give it to the Federal Government.

A Senator might say, "I should vote for the bill because it will help me in the elections." Mr. President, Senators had better begin to think more about the welfare and safety of their country, and less about the elections.

Mr. President, I am convinced that we must protect the States. The Constitution now protects them; but the Supreme Court and the Congress and the executive branch of the Government have been taking steps—by handing down decisions, passing laws, and issuing regulations and edicts—which violate the rights of the States and take away from the States the power they have.

Mr. President, this development cannot continue to occur, if our country is to be safe. I am disturbed for the safety of my country.

I am a brigadier general in the Army Reserve and if our country becomes engaged in an armed conflict, I am ready to serve. But we must keep our country stronger, or we shall find it engaged in conflict.



One of the ways to weaken it is to weaken the States, as we are doing today, and to keep taking away the powers of the States and building up a powerful Central Government in Washington. It is the greatest mistake in the world. It was not contemplated when our Constitution was written.

Our forefathers decided they would delegate a few powers to the Federal Government, and they spelled them out in the Constitution. All one has to do is to get the Constitution and read it. It spells out just what powers the Congress has, what powers the Federal Government has, but all other powers are reserved to the States and to the people thereof. At the rate we are going now, we will not have any States after a while. The Federal Government will have all the power.

Mr. President, some time ago I read a book by a man by the name of James Jackson Kilpatrick, of Richmond, Va., printed by the Henry Regner Co., of Chicago, entitled "The Sovereign States."

I wish every American could read this book. I am going to read some excerpts from it today. I should like to have Senators listen to some of the passages in this book. This man is a great writer, a true patriot, and a great American.

First, I am going to read a passage by John C. Calhoun, one of the five alltime great Senators, recently selected to have his portrait placed in the Senate reception room. John C. Calhoun, I think, is one of the greatest men this country has produced. I nominated him to be selected to have his portrait placed here, and I am proud the committee selected it. He was a man who had keen vision and a proper conception of the Constitution.

There is one page in the beginning of the book by him that I want to read; it is very short.

This is what he says:

#### FOREWORD

The great and leading principle is, that the General Government emanated from the people of the several States, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community; that the Constitution of the United States is, in fact, a compact, to which each State is a party, in the character already described; and that the several States, or parties, have a right to judge of its infractions; and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort, to use the language of the Virginia resolutions, "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them."

This right of interposition, thus solemnly asserted by the State of Virginia, be it called what it may—State right, veto, nullification, or by any other name—I conceive to be the fundamental principle of our system, resting on facts historically as certain as our revolution itself, and deductions as simple and demonstrative as that of any political or moral truth whatever; and I firmly believe that on its recognition depend the stability and safety of our political institutions.

JOHN C. CALHOUN.

FORT HILL, July 26, 1831.

This was John C. Calhoun.

He wrote that at Fort Hill, and if any Senators want to know where it is, it is at Simpson College. In fact, his home was at the college.

Mr. President, my statement was that Fort Hill is at Simpson College in South Carolina. Of course, that is the greatest college in the United States.

This book on the sovereign State was written, as I have said, by James J. Kilpatrick. First, I want to take up his introduction, and then I want to present some excerpts from the book:

#### INTRODUCTION

Among the more melancholy aspects of the genteel world we live in is a slow decline in the enjoyment that men once found in the combat of ideas, free and unrestrained. Competition of any sort, indeed, seems to be regarded these days, in our schools and elsewhere, as somehow not in very good taste. Under the curious doctrines of the Fair Trade Act, vigorous salesmanship is unfair, and retailers are enjoined against discommoding their fellows. Mr. Stevenson's criticism of the administration's foreign policy, during the last presidential campaign, was not that the policies were so very wrong; they were not bipartisan. With a few robust exceptions, our writers paint in pastels; our political scholars write a sort of ruffled-sleeve, harpsichord prose. We duel with soft pillows, or with buttoned foils; our ideas have lace on them; we are importuned to steer, with moderation, down the middle of the road.

These chamber music proprieties I acknowledge, simply to say, now, that the essay which follows should not be misunderstood. May it please the court, this is not a work of history; it is a work of advocacy. The intention is not primarily to inform, but to exhort. The aim is not to be objective; it is to be partisan.

I plead the cause of States rights.

My thesis is that our Union is a Union of States; that the meaning of this Union has been obscured, that its inherent value has been debased and all but lost.

I hold this truth to be self-evident: That government is least evil when it is closest to the people. I submit that when effective control of government moves away from the people, it becomes a greater evil, a greater restraint upon liberty.

My object is not to prove that the powers and functions of government have grown steadily more centralized, more remote from the people, for that proposition requires no proof; it requires only that one open one's eyes. Rather, my intention is to plead that the process of consolidation first be halted, then reversed, toward the end that our Federal Government may be strictly limited to its constitutional functions and the States may again be encouraged to look after their own affairs, for good or ill.

A long time ago, the geometric mind of Edmund Pendleton offered a theorem. The State and Federal Governments, he said, must follow the path of parallel lines. Others have conceived the relationship in terms of spheres, separate but touching. The idea, when all this began, was that neither authority would encroach upon the other; and in the beginning, it was more feared that the States would usurp Federal powers than the other way around.

Now the rights and powers of the States are being obliterated. The encroachments of the Federal Government have widened its road to a highway and narrowed the road of the States to a footpath. Having deceptively added a dimension to the Federal line, the broad constructionists declare their faithful adherence to the plans of the original draftsmen. Soon, a geometry unknown to Pendleton can proclaim the appar-

ent miracle of parallels that meet this side of infinity.

I do not know that the sovereign powers of the States may be regained at all. Justice Salmon P. Chase once remarked, with great satisfaction, that State sovereignty died at Appomattox. But I do most earnestly believe that an effort must be made to regain these powers. The alternative is for American Government to grow steadily more centralized, steadily more remote from the people, steadily more monolithic and despotic.

Only the States themselves can make the effort; which is to say, only the people of the States. Only if the citizens of Virginia, as Virginians; or of Texas, as Texans; or of Iowa, as Iowans, insist upon a strict obedience to the spirit of the 10th amendment, can the Federal juggernaut be slowed. Only if the people evidence a determination once more to do for themselves can the essential vitality of a responsible and resourceful society be restored.

I do not despair. So long as the I-beams and rafters of the Constitution remain undisturbed, the ravages of Federal encroachment may be repaired. A latent yearning for personal liberty, an inherited resentment against the authoritarian state, a drowsing spirit of independence—these may yet be awakened.

But again, the States, as States, will have to do it.

It will not be easy. In many influential quarters, it will not be popular. It is a sweet narcotic that centralists sell.

Yet there is high example to be found in what the States have done before to preserve their identity. They have not always been spineless. In times past they have resisted, now successfully, now unsuccessfully; but even in their failures, something has been gained merely in the assertion of State convictions.

My purpose here is first to examine the bases of State sovereignty; then to follow the State and Federal relationship from its beginnings under the Articles of Confederation through its refinement in the Constitution; next to review some of the comment on the role the States were expected to play. The place of the States scarcely had been fixed, it will be submitted, before advocates of consolidation began to whittle it down—first in the Chisholm case, which led to the 11th amendment, and more memorably in the Alien and Sedition Acts, which led to the "Doctrine of '98" and the Kentucky and Virginia resolutions of that year. It is proposed to follow this doctrine of the States' "right to interpose," in its various forms and applications down through the years, with particular emphasis upon the dangers of judicial encroachment and the need for State resistance against it. Finally, I have in mind to marshal some of the evidence which supports the case for the South in its immediate conflict with Federal authority, and to review other recent events that seem to me usurpations of the States' reserved powers.

So much, then for the plan of this book. The political heirs of Alexander Hamilton and John Marshall will not care much for it.

J. J. K.

RICHMOND, VA., September 1956.

That was the introduction to the book *The Sovereign States*, by James J. Kilpatrick. James J. Kilpatrick is one of the greatest editors in the Nation today. I will read certain excerpts from the book, beginning on page 3. First I will read a quotation opposite page 3:

The States within the limitations of their powers not granted, or, in the language of the 10th amendment, "reserved," are as independent of the General Government as the General Government, within its sphere, is

independent of the States. (Justice Samuel Nelson, *Collector v. Day* (1871).)

Mr. Kilpatrick has done a fine job and rendered a great service to this country in writing this book:

"The true distinction," said Mr. Pendleton, with some irritation, "is that the two governments are established for different purposes, and act on different objects."

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. THURMOND. I am pleased to here yield to the distinguished Senator from Louisiana, for a question.

Mr. LONG. Did I correctly understand the Senator to make the statement that, according to the preface or introduction to the book, the book would be displeasing to those who agreed with Alexander Hamilton, who was one of the authors of the Federalist Papers, the forerunner of the American Constitution?

Mr. THURMOND. That is correct. The editor said that the political heirs of Alexander Hamilton and John Marshall would not care much for the book.

Alexander Hamilton was a great American, but his philosophy was different from that of Thomas Jefferson. They were both great Americans, but Alexander Hamilton believed more in the theory of a strong Central Government, with the power residing in Washington. Thomas Jefferson's idea was that the power should remain with the States, and that only so much power should be given to the Federal Government as was necessary to perform its functions as delineated in the Constitution.

The Senator has probably read many books about Hamilton. In one of such books his philosophy is described in this way:

Speaking of education, Alexander Hamilton's thought was to select some of the brightest young men and educate them, to make them leaders. Thomas Jefferson's philosophy was to give all an opportunity, and let the leaders rise where they would.

So, when Kilpatrick wrote this statement I am confident that he was contrasting the philosophy of Hamilton more or less with that of Thomas Jefferson.

Hamilton was a very able man, one of the greatest Americans this country has produced; but his philosophy, as the Senator well knows from studying his life and history, was different from that of Thomas Jefferson.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I am pleased to yield for a question.

Mr. LONG. Is it the view of the Senator that Alexander Hamilton would ever for a moment have approved of any proposal whereby an American accused of a crime would have been denied the right to present his case before a jury of impartial people who would hear the case, judge the evidence, and find him guilty or innocent?

Mr. THURMOND. In reply, I will say no. I think Alexander Hamilton and Thomas Jefferson both would have approved of trial by jury. They were both delegates to the Constitutional Con-

vention, and they both rendered magnificent service in many ways.

Mr. LONG. Mr. President, if the Senator will further yield, I believe he will find that Thomas Jefferson was not a delegate to the Constitutional Convention.

Mr. KNOWLAND. Mr. President, did the Senator yield for a question or a statement?

Mr. LONG. The Senator yielded for a question.

Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield to the Senator from Louisiana for a question.

The Senator is correct about Thomas Jefferson. I had in mind Madison.

Mr. LONG. Does not the Senator realize that Thomas Jefferson was not a delegate to the Constitutional Convention? The Senator is perhaps confusing the Constitutional Convention with the convention which adopted the Declaration of Independence. Thomas Jefferson was the drafter of the American Declaration of Independence. Is not the Senator perhaps confusing the Constitutional Convention with the fact that Thomas Jefferson was one of those who participated in drafting the Declaration of Independence? Thomas Jefferson was the American Ambassador to France at the time the Constitution was drafted.

Mr. THURMOND. That is correct. Thomas Jefferson was Ambassador to France, but Alexander Hamilton was a delegate from New York State, and he signed the Constitution. In fact, he was the only delegate from New York State who signed the Constitution.

When I spoke a few minutes ago about Jefferson, I was thinking about Madison. Madison signed the Constitution, as did Blair. Both were from Virginia. George Washington presided over the Convention.

Mr. LONG. Is there any doubt in the Senator's mind that, so far as Alexander Hamilton was concerned, he would never for a moment have contested the right of any citizen to be tried before a jury if he were accused of a crime?

Mr. THURMOND. I agree. If he had taken any other position, he would not have signed the Constitution.

As I have stated, Alexander Hamilton was the only delegate from the State of New York who signed the Constitution as representing the State of New York. In the original Constitution, article III, section 2, provided for jury trial.

Mr. LONG. Is it not, therefore, true that insofar as the right of a citizen to be tried by jury for a crime is concerned, Alexander Hamilton and Thomas Jefferson would have agreed 100 percent that the freedoms guaranteed Americans under their form of government included the right to be tried by a jury of their own neighbors, in the area where the crime was committed, in the event they were accused of committing a crime?

Mr. THURMOND. I can yield only for a question. I shall be glad to express myself after the Senator has concluded. Let the Senator ask any question he wishes. I yield for a question.

Mr. LONG. Is it not correct to state that, although the book from which the Senator is reading may not reflect the views of Alexander Hamilton, it is nevertheless correct to state that Alexander Hamilton and Thomas Jefferson would both have agreed that anyone accused of a crime should have the right to be tried before a jury of his neighbors?

Mr. THURMOND. I thoroughly agree. In my judgment, if Alexander Hamilton and Thomas Jefferson were living today, and both were Members of the Senate, both would be fighting for the right to a jury trial, as provided in the Constitution of the United States.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I shall be glad to yield for a further question.

Mr. LONG. Is it not correct to say that so far as we can determine there has never been a man who served in this body, and who was regarded as a great statesman, who has ever at any time advocated that American citizens should be denied their right to be tried by a jury in the event they were accused of committing a crime against the United States or against a State?

Mr. THURMOND. I think the able Senator is eminently correct. I do not know of a great man in our history, any man whom I would consider great, whose name is on the lips of the people—I cannot think of a single one in our history who would take a position in opposition to jury trials.

Mr. LONG. Mr. President, will the Senator yield for a further question?

The PRESIDING OFFICER (Mr. Scott in the chair). Does the Senator from South Carolina yield to the Senator from Louisiana?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not correct to paraphrase more or less the words of Shakespeare, that those American politicians who have fought against the freedom of Americans to be tried by a jury when accused of a crime have been politicians who more or less strutted and strutted their brief hour on the stage to be heard from no more?

Mr. THURMOND. I do not think any man who takes a stand against giving a person a jury trial will be long remembered after he has gone or when his record is searched and it is found that he opposed a jury trial. I think we would immediately call for a reappraisal of his whole life in the event he had been considered a great man previous to that time.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not true that men like George Norris, William Borah, and Robert M. La Follette, who fought through the years for the right of trial by jury, have statues standing in the Hall of Fame in the Capitol Building?

Mr. THURMOND. The Senator is eminently correct. In fact, there is a quotation from George Norris which I read last night. If I can put my hand on it I should like to read it to the Senator from Louisiana. I have never read a



stronger statement in behalf of a jury trial. He said that in all cases a man should have a jury trial. The distinguished Senator from Virginia [Mr. BYRD] and the distinguished Senator from Mississippi [Mr. EASTLAND], and I introduced a bill in March to provide the very type of jury trial which Senator Norris recommended.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. The Senator from South Carolina having made a great study of all these matters involving jury trials, the freedom of Americans, and States rights, can he now name from memory a single one of those Senators who made a fight down through the years to deny American citizens of the right of trial by jury?

Mr. THURMOND. I could not name a single man whom I considered a great man or a great Senator who opposed jury trials.

Mr. LONG. Does the Senator recall the names of any Americans who have served in this body and who have made a fight against the right of a man accused of a crime to be tried by a jury? Can the Senator offhand recall the name of any such person?

Mr. THURMOND. I cannot recall the name of any American of any stature within my recollection who has opposed jury trials.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. Is the Senator aware of the fact that Senator Borah's statue is just outside the main entrance of the Senate Chamber, immediately outside the door?

Mr. THURMOND. That is correct. I see it every time I go through the door.

Mr. LONG. Is the Senator aware of the fact that Senator William E. Borah, a great constitutional lawyer, even though he came from a very small Western State, population considered, was seriously considered by the Republican Party as its nominee for the Presidency of the United States?

Mr. THURMOND. I have been told that. I did not know the Senator personally; only through reputation. But I know he was a great American. He declared on April 8, 1930:

I am not contending here that labor organizations can at any time employ threats, force, or violence or intimidation. They must keep within the law—

He was referring there to jury trials in labor cases.

I have a long report including a speech by Senator Norris on May 2, 1930. I read it last night—

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a question at that point?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LONG. Is it not true that those who oppose the right of jury trials are

basically those who do not believe in the freedoms that Americans enjoy under the Constitution?

Mr. THURMOND. I certainly agree with the Senator. I think the jury trial is one of the greatest freedoms we have. I look upon it as the heart of the Bill of Rights.

Mr. LONG. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LONG. Is it not true that persons who fear that juries may not convict guilty persons are those who really have very little confidence in the determination of people to uphold free government?

Mr. THURMOND. It seems to me they could not have much confidence in human nature; otherwise they would favor jury trials. To be tried by a man's neighbors, his peers, his fellow men, is the fairest way a man could be tried. I sat on the bench for 8 years and tried many cases, but I always felt much better about it when a jury passed on the question. I watched closely the verdicts of juries. I was deeply impressed. I feel that juries come nearer to meting out justice to criminals than it can be done in any other way.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. LONG. Recognizing the fact that it is possible for a jury to turn a guilty person free, is it not also true that the freedoms which Americans enjoy under their Constitution were calculated in such fashion as to express the philosophy that it is better to turn 9 guilty men free than to send 1 innocent man to the penitentiary or to his death?

Mr. THURMOND. I never did go on the theory of nine guilty ones being turned loose. There is no doubt that there is a common saying to that effect. If I had to make a decision as to whether I would turn 9 guilty ones loose, or put 1 innocent man in prison, I would turn the 9 loose. I think that would be the thinking and the feeling of the average American.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I will be pleased to hear it.

Mr. LONG. Does not this logic become conclusively clear when we contemplate for a moment a capital punishment case where it is possible to put an innocent man to death? In such a situation, would it not be better for the court to turn 9 culprits loose rather than to kill 1 innocent man?

Mr. THURMOND. I agree with the Senator.

Mr. LONG. I thank the Senator.

Mr. THURMOND. There is no question about it. Some juries make mistakes. Anybody in any kind of work makes mistakes. Everybody has weaknesses and there are bound to be errors. Judges make mistakes. Of course, often a judge's philosophy is different.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I shall be glad to hear it.

Mr. LONG. In view of the fact that anyone can make mistakes, is it not somewhat better that the scales of justice should be weighted a little in favor of finding a person innocent when there is a considerable doubt as to whether the person is innocent or guilty?

Mr. THURMOND. Our law is based on the presumption that a man is innocent until he is proven guilty beyond a reasonable doubt. That is a common legal principle that any lawyer knows about who has practiced any criminal law. I do not know precisely what the Senator had in mind on that, though, for this reason: I do not think if a man is given a jury trial, a jury necessarily lets him go free. I think a jury is going to do what it thinks is right unless it is biased, or has been approached in some way, or influenced in some way. Of course, that happens sometimes. It does not happen often, but I think it does happen sometimes.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I will be pleased to hear it.

Mr. LONG. Can the Senator imagine a judge who issues an order ordering the entire world to comply with his injunction as being as fair and impartial as a jury before which a case involving a violation of his order should be tried?

Mr. THURMOND. When a judge hears a contempt case he is the legislator, he is the prosecutor, he is the judge, and he is the jury. If I were a judge and if such a law as is here proposed were on the books, if I were back on the bench, and if I had to act under this type law, I would submit it to the jury anyway.

Mr. LONG. Will the Senator yield for a further question?

Mr. THURMOND. I will be pleased to hear it.

Mr. LONG. In view of the fact that it is contemplated that a judge makes a law by issuing the injunction and then cites the individuals whom he cares to cite, can the Senator think of anything any more inappropriate than the judge who makes the law, addressed to individuals, should be the same person to try the same individuals for violating his own order? Does the Senator not believe that any judge worthy of the name would at least want to have a jury to prove that justice is being done to people who violated his own order?

Mr. THURMOND. I think the Senator is eminently correct. It is unfortunate that a judge who issues an order of contempt has to try the case, because he has already made up his mind to a certain degree. Of course, that might be removed. But still he has made up his mind, or he would not issue the order.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. THURMOND. I yield for a further question.

Mr. LONG. Is it not true that a person who is responsible for issuing the edict and commanding people to do certain things at his discretion should be

the last person to make the final decision on who should be punished for not obeying his order?

Mr. THURMOND. I agree with the Senator. In fact, this is known as injunction-made law. That is what it is. It is injunction-made law, and it is bad law. It is much better to have a jury trial. That is the American way of doing things. That is one of the grievances complained of by those who signed the Declaration of Independence, as I have brought out, namely, that in a great many cases they were denied jury trials. Provisions for jury trial are embodied in several places in the Bill of Rights and the Constitution, so there is no question about the whole intent of our judicial system. Our administration of justice has been based upon jury trials. I think it is one of the most fundamental principles embodied in our type of government.

If this so-called compromise amendment were to go a little bit further, it would sound more like a Communist amendment.

I do not believe I read what Senator Norris said about jury trial. He said:

I wonder if a suffering people, whose forefathers fought for liberty, are going to give up the idea of it in this day and age, in this civilized day, and are going to submit to injunction-made law.

He was wondering whether they were going to submit to it.

#### 1. THE BEGINNINGS

"The true distinction," said Mr. Pendleton, with some irritation, "is that the two governments are established for different purposes, and act on different objects."

This was on the sunny afternoon of Thursday, June 12, 1788, in the New Academy on Shockoe Hill in Richmond. The Virginia Convention had been grappling for 10 days with the new Constitution, and Edmund Pendleton, aging and crippled, had been sitting in dignified silence for as long as he could stand it. Patrick Henry, who was a hard man to live with at any time, was being especially difficult. Once before, on the 5th, Pendleton had attempted to soothe him, but Henry was not to be soothed.

The State and Federal Governments would be at war with one another, Henry had predicted, and the State governments ultimately would be destroyed and consolidated into the General Government. One by one their powers would be snatched from them. A rapacious Federal authority, ever seeking to expand its grasp, could not be confined by the States.

"Notwithstanding what the worthy gentleman said," remarked Mr. Pendleton with some warmth, for there were times when he regarded Mr. Henry as neither worthy nor a gentleman. "I believe I am still correct, and insist that, if each power is confined within its proper bounds, and to its proper objects, an interference can never happen. Being for two different purposes, as long as they are limited to the different objects, they can no more clash than two parallel lines can meet. \* \* \*

They were big ifs that Edmund Pendleton, a judicious man, here used as qualifications. If the State and Federal Governments were each confined within its proper bounds, he said, the clash could never come. But the Federal Government could not be kept confined, even as Henry feared, and the clash did come. It continues to this day. Mr. Pendleton's geometry was fine, but his powers of prophecy (for he believed that each government could be kept in check) were sadly in error.

To understand how the parallel lines of State and Federal powers have turned awry, it is necessary to look back at the period before these lines were drawn. The acts of ratification by Virginia and her neighbors were acts of sovereign States. At stake was their consent to a written constitution. How, it may be inquired, did they come to be sovereign States? What is this concept of State sovereignty?

It would be possible, in any such review, to go back to the great roots of Runnymede, but it will suffice to begin much later, in the turbulent summer of 1776. The startling commitments of Lexington and Concord were behind us then; the bitter trials of White Plains, Vincennes, Camden, and Yorktown still lay ahead. March and April and May had passed—a time of bringing forth of newness, of fresh hope—and great human events had run their course. Now, in June, a resurgent people made the solemn decision to dissolve the political bands which had connected them with another. Thus Jefferson's draft began, thus the Continental Congress adopted it at Philadelphia; from this moment Americans unborn were to date the years of their independence.

The eloquent beginning of the Declaration—the assertion of truths self-evident and rights beyond alienation—is well known: It is a towering irony that Jefferson, whose convictions were cemented in the inequality of man, should have his precise phrase corrupted by the levelers of a bulldozer society. The Declaration's beginning is too much recited and too little read.

What counts, for our present purpose, is not the first paragraph, but the last. Let us inquire, What, precisely, was it that we declared ourselves to be that Fourth of July? Hitherto there had been colonies subject to the King. That form of government would now be abolished. We would now solemnly publish and declare to a candid world—what? That the people of the colonies had formed a free and independent nation? By no means. Or that they were henceforth a free and independent people? Still no.

This was the declaration: "That these United Colonies are, and of right ought to be, free and independent States." Not one State, or one Nation, but in the plural—States; and again, in the next breath, so this multiple birth could not be misunderstood, "that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

It had opened, this Declaration, as an enunciation of what often are termed the "human rights," but it concluded, in the plainest terms, as a pronouncement of political powers—the political powers of newly created States. And these powers of war and peace, these powers of alliance and commerce, were published not as the powers of a national government, but as powers henceforth asserted by 13 free and independent States.

To be sure, the States were united. Their representatives styled themselves Representatives of the United States of America, in Congress assembled, but it was not the spokesmen of a nation who gathered in parliament. These were States in Congress. "One out of many," it is said. In a sense, yes. But the many remained—separate States, individual entities, each possessed, from that moment, of sovereign rights and powers.

Certainly Jefferson so understood our creation. "The several States," he was to write much later, "were, from their first establishment, separate and distinct societies, dependent on no other society of men whatever."

So Mr. Justice Samuel Chase comprehended it: He considered the Declaration of Independence, "as a declaration, not that the United Colonies jointly, in a collective

capacity, were independent States, etc., but that each of them was a sovereign and independent State, that is, that each of them had a right to govern itself by its own authority, and its own laws without any control from any other power on earth." From the Fourth of July, said Chase, "the American States were de facto as well as de jure in the possession and actual exercise of all the rights of independent governments. \* \* \* I have ever considered it as the established doctrine of the United States, that their independence originated from, and commenced with, the declaration of Congress, on the Fourth of July 1776; and that no other period can be fixed on for its commencement; and that all laws made by the legislatures of the several States, after the Declaration of Independence, were the laws of sovereign and independent governments."

So, too, the sage and cool-minded Mr. Justice Cushing: "The several States which composed this Union \* \* \* became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign States."

Even Marshall himself had no doubts: In the beginning, "we were divided into independent States, united for some purposes, but in most respects sovereign." The lines which separate the States, he later remarked, were too clear ever to be misunderstood.

And for a contemporary authority, it is necessary only to turn to Mr. Justice Frankfurter, who some years ago fell to discussing the dual powers of taxation preserved under the Constitution: "The States," he said, "after they formed the Union"—not the people, but the States, "continued to have the same range of taxing power which they had before, barring only duties affecting exports, imports, and on tonnage." Regrettably, Mr. Justice Frankfurter appears in more recent times to have lost his concept of States forming a Union.

It is no matter. Evidence of the States' individual sovereignty is abundantly available. Consider for example, the powers asserted on the part of each State in the Declaration "to levy War, conclude Peace, and contract Alliances." Surely these are sovereign powers. The States exercised them, as States, in the Revolutionary War. But it is of value to note that New York also very nearly exercised her war powers to enter into formal hostilities with the State of Vermont. Tensions reached so grave a point that Massachusetts, in 1784, felt compelled to adopt a formal resolution of neutrality, enjoining her citizens to give "no aid or assistance to either party," and to send "no provisions, arms, or ammunition or other necessities to a fortress or garrison" besieged by either belligerent. When New York adopted a resolution avowing her readiness to "recur to force," Vermont's Governor Chittenden (whose son was to be heard from 30 years later in another row) observed that Vermont "does not wish to enter into a war with the State of New York." But should this unhappy contingency result, Vermont "expects that Congress and the 12 States will observe a strict neutrality, and let the contending States settle their own controversy."

They did settle it, of course. New York and Vermont concluded a peace. The point is that no one saw anything especially remarkable in two separate sovereignties arraying themselves against each other. Vermont was then an individual political entity, as remote at law as any France or Italy. And New York, though a member of the Confederation, and hence technically required to obtain the consent of Congress before waging war, had every right to maintain a standing army for her own defense.

The status of the individual States as separate sovereign powers was recognized on higher authority than the proclamations of



Vermont and Massachusetts. It is worth our while to keep in mind the first article of the treaty of September 3, 1783, by which the War of the Revolution came to an end:

"His Britannic Majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such."

More than 5 years earlier, a treaty of amity and commerce with France had established the same sovereign status of the contracting parties. Louis XVI treated with the 13 American States, but he recognized each of them as a separate power. And it is interesting to note that Virginia, feeling some action desirable to complete the treaty, prior to action by Congress, on June 4, 1779, undertook solemnly to ratify this treaty with France on her own. By appropriate resolution, transmitted by Governor Jefferson to the French minister at Philadelphia, the sovereign Commonwealth of Virginia declared herself individually bound by the French treaty. In terms of international law, Virginia was a nation; in terms of domestic law, she was a sovereign State.

## 2. THE STATE

To review the process by which the colonies became States is not necessarily to answer the basic question, What is a State? It is a troublesome word. The standard definition is that a State is "a political body, or body politic; any body of people occupying a definite territory and politically organized under one government, especially one that is not subject to external control." Chief Justice Chase, in *Texas v. White*, put it this way: "A State, in the ordinary sense of the Constitution, is a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written constitution, and established by the consent of the governed." In the Cherokee case, John Marshall described a State as "a distinct political society, separated from others, capable of managing its own affairs and governing itself."

Thus, variously, a State is defined as a body, a community, and a distinct society. Plainly, mere boundary lines are not enough; a tract of waste and uninhabited land cannot constitute a State. Nor are people, as such, sufficient to constitute a State. James Brown Scott once offered this clear and succinct definition:

"The State is an artificial person, representing and controlled by its members, but not synonymous or identical with them. Created for a political purpose, it is a body politic. It is a distinct body, an artificial person; it has a will distinct from its members, although its exercise is controlled by them; it has rights and duties distinct from its members, but subject to being changed by them; it may hold property distinct from its members, but in trust for them; it may act separately and distinctly from them and bind them by its acts, but only insofar as it is authorized by the law of its creation, and subject to being changed by the source of that power."

Thus the State is seen as a continuing political being, controlled by its citizens and yet controlling them. The State can be bound in ways that its own people cannot be bound; it can exercise powers that no citizen or group of citizens may exercise for themselves. The State may buy, sell, hold, grant, convey; it may tax and spend; it may sue, and if it consent, be sued; it exists to create law and to execute law, to punish crime, administer justice, regulate commerce, enter into compacts with other States. Yet there is no State until a community of

human beings create a State; and no State may exist without the will and the power of human beings to preserve it.

It is this combination of will and power which lies at the essence of the State in being. This is sovereignty. In the crisp phrase of John Taylor, of Caroline, sovereignty is "the will to enact, the power to execute." Long books have been written on the nature of sovereignty, but they boil down to those necessities: The will to make, the power to unmake.

It was this power, this will, that the people as States claimed for themselves in 1776. Henceforth, they said, we are sovereign: The State government is not sovereign, nor is any citizen by himself sovereign. By the "sovereign State" we mean us citizens, the State; we collectively, within our established boundaries; this community of people; we alone who are possessed of the power to create or to abandon.

God knows it was a great, a priceless, power these people as States claimed for themselves. True, not everyone saw it that way. Mr. Justice Story, for one, never grasped the concept of States. Nor did Jackson. Albert J. Beveridge, in his biography of Marshall, refers sneeringly to the States as "these pompous sovereignties," but in a way, Beveridge's is perhaps a high acknowledgment of the simple truth: These infant States were sovereignties, and the people within them were proudly jealous of the fact. They saw themselves, in Blackstone's phrase, "a supreme, irresistible, absolute, uncontrolled authority." This, among other things, was the aim they had fought for. It cannot be imagined that they ever would have relinquished this high power of sovereignty except in the most explicit terms.

## 3. THE ARTICLES OF CONFEDERATION

In time, the Continental Congress gave way to the Articles of Confederation. The articles merit examination with the utmost care; they are too little studied, and there is much to be learned from them.

First proposed in 1778, the articles became binding upon all the States with Maryland's ratification in 1781. Throughout this period, as the war ran on, each of the States was individually sovereign, each wholly autonomous. Mr. Justice Iredell was to observe, in 1795, that had the individual States decided not to unite together, each would have gone its own way, because each "possessed all the powers of sovereignty, internal and external \* \* \* as completely as any of the ancient kingdoms or republics of the world, which never yet had formed, or thought of forming, any sort of Federal union whatever."

But they did form a Federal union—a "perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island, and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia." They styled themselves, "The United States of America," and in the very second article of their compact, they put this down so no one might miss it:

"Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled."

The third article is almost equally brief, and may be quoted in less space than would be required to summarize it:

"The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever."

There will be seen, in these opening paragraphs, the genesis of constitutional provisions that were to follow in less than a decade. Here is the forerunner of the 10th amendment, with its reservation of undelegated powers to the State or to the people; here are the aims set forth of "common defense" and the "general welfare."

The fourth article advanced other phrases that have come down to us: The free inhabitants of each State ("paupers, vagabonds, and fugitives from justice excepted") were to be entitled to "all the privileges and immunities of free citizens in the several States." Here, too, one finds the provision, later to be inserted substantially verbatim in article IV of the Constitution of 1787, providing for the extradition of fugitives. Here the States mutually agreed that "full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State."

The fifth article provided for representation of the States in Congress. There were to be no less than 2, no more than 7 delegates from each State. They would assemble on the first Monday in November of every year. In this Congress, each State cast one vote; each State paid the salary and maintenance of its own delegates. These provisions, of course, were later abandoned; but we may note that the fifth article prohibited delegates to the Congress from "holding any office under the United States for which he or another for his benefit receives any salary, fees, or emolument of any kind," and also provided that "freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress." Both provisions were to turn up later in article I, section 6, of the Constitution.

The sixth and seventh articles dealt generally with limitations upon the States in terms of foreign affairs and the waging of war. Again, many a familiar phrase leaps from this much-maligned compact of Confederation. No State, nor the Congress, was to grant a title of nobility; no two or more States were to enter into any treaty, confederation, or alliance without the consent of the other States in Congress assembled; no State was to keep vessels of war in time of peace ("except such number as shall be deemed necessary by the United States in Congress assembled"), nor was any State to engage in war without the consent of Congress "unless such State be actually invaded by enemies, or \* \* \* the danger is so imminent as not to admit of a delay \* \* \*."

The eighth article provided for defraying the expenses of war among the State "in proportion to the value of all land within each State," and the ninth article dealt with the powers of Congress. Once more, the origin of a dozen specific phrases in our present Constitution is evident. Congress was given the "sole and exclusive right and power of determining on peace and war." It was to enter into treaties and alliances, establish certain courts, fix standard weights and measures, and establish post offices. But the Congress alone could do almost none of these things—it could exercise no important power—without the consent of nine of the member States.

The remaining 4 articles are of less interest and concern, although it may be noted that in 3 places, the framers of the Articles of Confederation provided that their union was a permanent union. The articles were to be inviolably observed by the States the delegates respectively represented, "and the union shall be perpetual."

## 4. WE, THE PEOPLE

Of course, it wasn't perpetual at all. Before 6 years had elapsed, the States came to recognize grave defects in the Articles of Confederation. And because they were sovereign States—because they had the will to

enact and the power to execute, because they who had made could unmake—they set out to do the job again.

What they made, this time, was the Constitution of the United States. So much has been written of the deliberations that summer of 1787 in Philadelphia—so many critics have examined every word of the great document which came forth—that probably no new light can be shed upon it here. Yet the constitutions of most States command their citizens to recur frequently to fundamental principles and the commandment is too valuable an admonition to be passed by. There is much of interest to be found if one examines the Constitution, the debates and the commentaries of the time, in terms of the relationship there established between the States and the new Federal Government they formed.

It may be inquired, was sovereignty here surrendered in whole or in part? What powers were delegated, what powers retained?

Mr. KNOWLAND. Mr. President, I do not want the Senator to strain his voice but I do have some responsibilities as minority leader. I do not think the Senator is making any motion, but I should at least like to know what is going on in the Senate Chamber.

Mr. THURMOND. Mr. President, I yield for a question if the Senator has a question.

Mr. KNOWLAND. My question is, Would the Senator speak up? I do not want him to strain his voice, but I should like him to speak a little louder so I shall be sure no motions are being made or anything of that sort. I do have some responsibility here.

Mr. THURMOND. I suggest that the Senator move closer to me.

Mr. KNOWLAND. Under the rules of the Senate, which are now being strictly enforced, both Senators being in their respective seats, and this happening to be my seat as the minority leader, I urge my request of the Senator.

Mr. THURMOND. We might get unanimous consent to allow the Senator to come closer to me if he wishes. I do not think my colleagues will raise any point. There is an excellent seat here, I may say to the Senator.

Mr. KNOWLAND. I am very well satisfied with the seat to which I am assigned.

Mr. THURMOND. Mr. President, I continue to read:

What were the functions to be performed by the States in the future? Was it ever intended that the States should be reduced to the weakling role thrust upon them in our own time? We must inquire whether this proud possession of State sovereignty, so eloquently proclaimed in 1776, so resolutely affirmed in the articles of 1781, so clearly recognized in the events of the time, somehow vanished, died, turned to dust, totally ceased to exist in the period of the next 6 years.

Now, the argument here advanced is this—It is the argument of John Taylor of Caroline and John Randolph of Roanoke—that sovereignty, like chastity, cannot be surrendered in part. This was the argument also of Calhoun: "I maintain that sovereignty is in its nature indivisible. It is the supreme power in a State, and we might just as well speak of half a square, or half a triangle, as of half a sovereignty." This was the position, too, of the bellicose George Troup of Georgia, of Alexander H. Stephens, of Jefferson Davis. It is the position of plain commonsense: Supreme and ultimate power must be precisely that. Finality knows no

degrees. In law, as in mountain climbing, there comes a point at which the pinnacle is reached; nothing higher or greater remains. And so it is with the States of the American Union. In the last resort, it is their prerogative alone (not that of Congress, not that of the Supreme Court, not that of the whole people) to make or unmake our fundamental law. The argument here is that the States, in forming a new perpetual union to replace their old perpetual union, remained in essence what they had been before: Separate, free, and independent States. They surrendered nothing to the Federal Government they created. Some of their powers they delegated; all of their sovereignty they retained.

It is keenly important that this distinction be understood. There is a difference between sovereignty and sovereign power. The power to coin money, or to levy taxes, is a sovereign power, but it is not sovereignty. Powers can be delegated, limited, expanded, or withdrawn, but it is through the exercise of sovereignty that these changes take place. Sovereignty is the moving river, sovereign powers the stone at the mill. Only while the river flows can the inanimate stone revolve. To be sure, sovereignty can be lost—it can be lost by conquest, as in war; the extent or character of sovereignty can be changed, as in the acquisition or relinquishment of territory or the annexation of new peoples; sovereignty can be divided, when two States are created of one. But properly viewed, sovereignty is cause; sovereign powers, the effect: The wind that blows; the branches that move. Sovereignty is the essence, the life spirit, the soul: And in this Republic, sovereignty remains today where it was vested in 1776, in the people. But in the people as a whole? No. In the people as States.

The delusion that sovereignty is vested in the whole people of the United States is one of the strangest misconceptions of our public life. This hallucination has been encouraged, if not directly espoused, by such eminent figures as Marshall, Story, and Andrew Jackson. It is still embraced by excessively literal and unthinking fellows who read "we the people" in the preamble to the Constitution, and cry triumphantly, "that means everybody." It does not; it never did.

The preamble to the abandoned Articles of Confederation, it was noted, declared the articles "binding between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York," and so forth. The preamble offered by the Convention of 1787, reads:

"We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

The opening few words were questioned repeatedly by Patrick Henry in the Virginia Convention of 1788. He kept asking querulously, what was meant by "we the people," but he got no very satisfactory answer for his pains. Governor Randolph ducked the question, and Pendleton missed the point. Pendleton asked, rhetorically, "who but the people have a right to form government?" and the answer, obviously, in America, is "no one." Then Pendleton said this:

"If the objection be, that the Union ought to be not of the people, but of the State governments, then I think the choice of the former very happy and proper. What have the State governments to do with it?"

Again, the obvious answer is, "The State governments have nothing to do with it," but that was not the question Henry asked. There is a plain distinction between "we

the States" and "we the State governments," for States endure while governments fall. It was Madison who came closest to answering the insistent Henry. Who are the parties to the Constitution? The people, said Madison, to be sure, are the parties to it, but "not the people as composing one great body." Rather, it is "the people as composing 13 sovereignties." And he added:

Mr. LANGER. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I yield for a question.

Mr. LANGER. I ask the distinguished Senator from South Carolina when he was a judge in South Carolina?

The PRESIDING OFFICER. The Chair cannot hear. Will the Senator speak a little louder?

Mr. THURMOND. From 1938 to 1946, 8 years.

Mr. LANGER. The Senator was a circuit judge, was he not?

Mr. THURMOND. Yes; in the highest trial court in the State. About half that time I was in the Army, overseas.

Mr. LANGER. I thank the Senator.

Mr. THURMOND. Continuing to quote from the Kilpatrick book:

"Were it \* \* \* a consolidated government, the assent of a majority of the people would be sufficient for its establishment; and, as a majority have adopted it already, we remaining States would be bound by the act of the majority, even if they unanimously reprobated it \* \* \* But, sir, no State is bound by it, as it is, without its own consent."

Col. Henry Lee took the same point of view in responding to Patrick Henry. Light-horse Harry spoke as other proponents of the Constitution did, in irritation and perplexity. He could not comprehend why Henry's question should even be asked. Obviously, the "we the people" mentioned in the preamble—the "we the people" there and then engaged in ratifying the Constitution—were we "the people of Virginia." If the people of Virginia "do not adopt it, it will always be null and void as to us."

Here Lee touched and tossed aside what doubtless was so clear to others that they could not understand what Henry was quibbling about. Of course, "we the people" meant what Madison and Lee found so obvious: It meant "we the people of the States." Why argue the point? "I take this," said Randolph testily, "to be one of the least and most trivial objections that will be made to the Constitution."

The self-evident fact, as plain as the buttons on their coats, was that the whole people, the mass of people from Georgia to New Hampshire, obviously had nothing to do with the ratification of the Constitution. The basic charter of our Union never was submitted to popular referendum, taken simultaneously among the 3 million inhabitants of the country on some Tuesday in 1788. Ratification was achieved by the people of the States, acting in their sovereign capacity not as "Americans," for there is no "State of America," but in their sovereign capacity as citizens of the States of Massachusetts, New York, Virginia, and Georgia.

This was the sovereign power that sired the new Union, breathed upon it, gave it life—the power of the people of the States, acting as States, binding themselves as States, seeking to form a more perfect union not of people but of States. And if it be inquired, as a matter of drafting, why the preamble of the Articles of Confederation spelled out 13 States and the preamble of the Constitution referred only to "we the people," a simple, uncomplicated explana-



tion may be advanced: The framers of the Constitution, in the summer of 1787, had no way of knowing how many States would assent to the compact.

Suppose they had begun the preamble, as they thought of doing, "We the people of New Hampshire, Massachusetts Bay, Rhode Island," etc., and the State of Rhode Island had refused to ratify? It very nearly did. It was not until May 29, 1790, by a vote of 34 to 32 that Rhode Island agreed to join a union that actually had been created with New Hampshire's ratification nearly 2 full years before. Given a switch of two votes, Rhode Island might have remained, to this day, as foreign to the United States (in terms of international law) as any Luxembourg or Switzerland.

Some of these forebodings clearly passed through the minds of the delegates at Philadelphia. When the preamble first appears in the notes, on August 6, it reads: "We the people of the States of New Hampshire, Massachusetts," etc., "do ordain, declare and establish the following Constitution." In that form it was tentatively approved on August 7. But the preamble, in that form, never is mentioned again. When the document came back from the Committee on Style in early September, the preamble had been amended to eliminate the spelled-out names of States, and to make it read simply that "we the people" ordain and establish. The change was not haggled over. No significance was attached to it. Why arouse antagonism in New York or North Carolina (where there was opposition enough already) by presuming to speak, in the preamble, as if it were unnecessary for New York or North Carolina even to debate the matter? The tactful and prudent thing was to name no States. Only the people as States could create the Union; only the people in ratifying States would be bound, as States, by its provisions.

##### 5. THE STATES IN THE CONSTITUTION

In the end, that was the way the compact read. It bound States—"The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between"—between whom?—"between the States so ratifying the same." Not among people; it was "between States." And this proposal was put forward "by the unanimous consent," not of delegates assembled or of people gathered, but by "the unanimous consent of the States present the 17th day of September in the year of our Lord 1787 \* \* \*."

On the plain evidence of the instrument itself, it is therefore clear: States consented to the drafting of the Constitution; States undertook to bind themselves by its provisions. If 9 States ratified, the Constitution would bind those 9; if 10, those 10. Rhode Island had not even attended the convention; "poor, despised Rhode Island," as Patrick Henry later was to describe her, could stay aloof if she chose. There was no thought here of people in the mass. There was thought only of people as States, and while the new Constitution would of course act directly upon people—that was to be its revolutionary change—it would reach those people only because they first were people of States.

The one essential prerequisite was for the State, as a State, to ratify; then the people of the State would become themselves subject to the Constitution. No individual human being, in his own capacity, possibly could assent to the new compact or bind himself to its provisions. Only as a citizen of Virginia or Georgia or Massachusetts could he become a citizen also of the United States.

Madison recognized this. He acknowledged in his famed *Federalist* 39 that ratification of the Constitution must come from the people "not as individuals composing one entire nation, but as composing the distinct

and independent States to which they respectively belong." "Each State," he said, in ratifying the Constitution, "is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act." This fact lay at the essence of the Federal Union being formed. The States, and within them their local governments, were to be "no more subject, within their respective spheres, to the general authority, than the general authority is subject to them, within its own sphere." The jurisdiction of the Federal Government was to extend "to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects." Even the most casual reading of the Constitution, it may be submitted, abundantly supports Madison's comment here.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I shall be glad to yield to the able Senator from North Dakota for a question.

Mr. LANGER. I should like to ask whether at any time in the history of South Carolina the courts permitted a defendant to be tried without a jury.

Mr. THURMOND. In South Carolina anyone who wishes a jury may have one. There are a few instances where both sides agree to be tried without a jury, by the court. But a defendant is entitled to a jury trial in my State, as is the case in other States which follow the Constitution.

Mr. LANGER. In what year was South Carolina admitted to the Union? It was one of the original colonies, was it not?

Mr. THURMOND. In 1789. It was the eighth State admitted to the Union.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield further for a question?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. Even at that time in South Carolina a defendant had the right to a jury trial, did he not?

Mr. THURMOND. That is correct.

Mr. LANGER. That has been the law continuously up to the present time?

Mr. THURMOND. That is correct. A defendant in South Carolina is always entitled to a jury trial when charged with a crime.

Mr. LANGER. Is that also true in North Carolina?

Mr. THURMOND. I would not attempt to speak for North Carolina, but I feel quite certain that that is a fact. I believe nine States ratified the Constitution before North Carolina did. So North Carolina came in after the Union was formed. So did Rhode Island. Rhode Island was the only State that did not send representatives to the Constitutional Convention in Philadelphia in 1787. The reason for that was that Rhode Island was in the hands of radicals at that time and it did not send any deputies.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield.

Mr. LANGER. Is it true that in every State in the United States under our Constitution a defendant has the right to a trial by jury in a criminal case?

Mr. THURMOND. In every State of the United States a defendant charged with a crime has the right of trial by jury. Some persons confuse magistrate courts or minor courts, but even there, although we may not see it, there is a jury box.

Most persons, unless they are lawyers, do not know that defendants are entitled to a jury trial in those courts. There is a jury box hidden somewhere. Nine out of ten do not ask for a jury trial; that is, in cases where the punishment is a fine of \$100 or 30 days. But even there if a man says "Wait a minute, Mr. Recorder; I want a trial before a jury," it must be given to him.

Mr. LANGER. That is true, for example, if a man is arrested and charged with spitting on the sidewalk or with stealing one cent?

Mr. THURMOND. Any crime.

Mr. LANGER. In other words, trial by jury is fundamental?

Mr. THURMOND. That is correct; and rightly so, because that was one of the grievances pointed out a little earlier today that our forefathers listed in the Declaration of Independence. That was one grievance charged against the King, that in many cases persons had been denied trial by jury. That is written definitely into the Constitution. The right of trial by jury was included in several places in the Bill of Rights. The sixth amendment provides that a man charged with a crime is entitled to a jury trial. That was because our forefathers were taking no chances on not having a jury trial assured to them under the Constitution.

In the seventh amendment it is provided, also, and there is another provision, I believe, in the fifth amendment, that a man must be indicted by a grand jury before he is tried.

Under the bill that came from the House a grand jury will not pass on the question at all. Under this so-called compromise, a man is taken before a judge and is tried. He is not even asked if he wants a trial by a jury. But in the usual procedure, when the Constitution is followed, a man has to be indicted by a grand jury. In my State 18 grand jurors have to agree to a true bill before a man can be brought up for trial. He has a trial before a petit jury. In Federal courts a man can be indicted by a grand jury or on information, but in State courts a man is indicted by a grand jury. But in all the history of judicial administration in this country it has been clear that the American people have been entitled to a jury trial, and it goes back even further than the Declaration of Independence. It goes back to the Magna Carta, when the citizens of England wrung from King John in the year 1215, at Runnymede, certain rights for the people. I presume you and I, Mr. President, would call them civil rights, more or less, or corresponding to our Bill of Rights. But the people wrung from King John certain rights, and one of those rights was that a man charged with a crime would be entitled to a jury trial. So, going back to the year 1215, on down to this time, our people have had a jury trial.

Mr. LANGER. Mr. President, will the Senator yield further for a question?

Mr. THURMOND. I will yield for a further question.

Mr. LANGER. Is it the opinion of the Senator from South Carolina that of all the 10 amendments in the Bill of Rights the very heart and very core of the 10 amendments is the right of the defendant to be tried by a jury?

Mr. THURMOND. All the 10 amendments known as the Bill of Rights are important, but I think the trial-by-jury provision as generally spoken of is the heart of the Bill of Rights. That is the importance attached to it. It is generally spoken of as the heart of the Bill of Rights. In other words, if there should be cut out of the Bill of Rights the right of a trial by jury you have cut the heart of the Bill of Rights out; it would be excised.

What is it to have freedom of speech or freedom of religion or freedom of the press or right to petition the Government or the right to assemble, all of which are guaranteed by the Bill of Rights, or to keep troops from being quartered in our homes, or all the other things guaranteed by the Bill of Rights, if some tyrant, whether a Federal district judge, or any other kind of tyrant, can take a man and himself try him without a jury and put him in prison; and, of course, if a man is in prison he cannot enjoy his civil rights?

Mr. LANGER. Mr. President, I thank the distinguished Senator. We have gotten down to the very core of this entire proposal.

Mr. THURMOND. I thank the Senator very much. I appreciate his deep interest in this matter. The able and distinguished Senator from North Dakota has manifested an unusual interest in the right of trial by jury. He has the vision to see the importance of trial by jury and to see how this proposed bill the House has passed is attempting to bypass the Constitution and in doing so, of course, is violating the Constitution and therefore is a bill the Congress ought to kill.

Mr. LANGER. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. Does the Senator from South Carolina yield further to the Senator from North Dakota?

Mr. THURMOND. I will be pleased to yield to the Senator from North Dakota.

Mr. LANGER. For 4 years I was attorney general of my State.

Mr. THURMOND. I understand the Senator made a very distinguished record as attorney general of the State of North Dakota.

Mr. LANGER. During that time, of course, I had a great deal to do with juries.

Mr. THURMOND. I am sure the Senator did.

Mr. LANGER. And in every single case I submitted to a court a jury trial had been waived.

Mr. THURMOND. Every case the Senator tried I imagine was before a jury.

Mr. LANGER. That is correct.

I should like to ask the distinguished Senator from South Carolina whether in his experience in South Carolina it is true that the average defendant can get better justice from a jury than he can from a judge, no matter how honest and fair the judge may be?

Mr. THURMOND. Regardless of how fair and impartial the judge is or wants to be, it is my judgment from my experience on the bench for 8 years—and as I said for about half of that time I was in the Army during World War II—and from my practice of law before then, since 1930 when I was admitted to the bar—and after I left the Governor's office in January 1951, I practiced until I came to the Senate—I consider that juries give fair verdicts, and I think it would be destroying the administration of justice if we should take any step to hamper or injure or impair in any way the jury system of the United States.

Mr. LANGER. Again I want to thank the Senator.

Mr. THURMOND. Mr. President, I read further:

But the Constitution ought not to be read casually. Viewed from the standpoint of State and Federal relations, what does the Constitution say and do? The rubrics do not demand, before an ordinary mortal may explore the question, that he be ordained a constitutional lawyer or put on the chasuble of the bench. Our Constitution is not the property of a juridical clergy only. The laity may read it too, and with equal acuity and understanding. The terms are not ambiguous.

The first thing to note, perhaps, is that the words "State" or "States" appear no fewer than 94 times, either as proper nouns or pronouns, in the brief 6,000 words of the original 7 articles. The one theme that runs steadily through the whole of the instrument is the knitting together of States: It is a union that is being formed, and while the people are concerned for themselves and their posterity, the Constitution is to be established binding States.

Legislative powers, to begin at the beginning, are vested not in one national parliament of the people, but in a Congress of the United States. The word "Congress" was chosen with precision; it repeated and confirmed the political relationship of the preceding 11 years, when there had been first a Continental Congress and then a Congress under the Articles of Confederation.

This Congress is to consist of two Houses. The first is the House of Representatives, whose Members are to be chosen "by the people of the several States." And here, in the very second paragraph, the framers encountered and opportunity to choose between a "national" and a "federal" characteristic: They might have established uniform national qualifications for the franchise, but they did not. Electors qualified to vote for candidates for the House of Representatives are to have "the qualifications requisite for electors of the most numerous branch of the State legislature."

Representatives and direct taxes are to be apportioned—how? "Among the several States which may be included within this Union, according to their respective numbers." How is this enumeration to be determined? The provision should be noted with care, for it is the first of four clauses that speaks eloquently of the plural nature of our Union: "The actual enumeration shall be made within 3 years after the first meeting of the Congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct." Now,

the antecedent of they is not "Congress," but "United States." Nowhere in the whole of the Constitution or in any of the subsequent amendments is the United States an "it." The singular never appears.

What else sheds light in the second section of article I? We find that "each State shall have at least one Representative," whereupon follows a recital of the States themselves: "Until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3, Massachusetts 8," and so forth. And when vacancies happen "in the representation from any State," the Governor thereof is to issue a writ of election.

The dignity and sovereignty of States are made still more evident in the composition of the Senate. It is to be composed "of two Senators from each State," and whereas Representatives are required to be inhabitants of the States "in which" they shall be chosen, Senators must be inhabitants of the States "for which" they shall be chosen.

It is in section 4 that the first grant of authority to the Federal Government appears: "The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but"—and here the qualified concession—"the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

The delegations of power to a federal government appear most fully, of course, in section 8, but it is worth noting that not all the powers delegated to Congress are exclusive and unqualified powers. Thus, the Congress may raise and support armies, "but no appropriation of money to that use shall be for a longer term than 2 years." Thus, the Congress may provide for organizing, arming, and disciplining the militia, and for governing such part of the militia as may be employed in the service of the United States, but there is reserved "to the States respectively" the appointment of officers and the authority to train their militia according to regulation established by Congress. Thus, too, Congress may exercise Federal authority over federally owned property within the States, but how is such property to be acquired? The authority of the Congress extends only to those places "purchased by the consent of the legislature of the State in which the same shall be," and this applies not only to military and naval installations but also to "other needful buildings."

Several provisions in section 9 merit attention. As a concession to the slave trade—one of the essential compromises without which the Constitution never would have come into being at all—it was provided that "the migration or importation of such persons as any of the States now existing shall think proper to admit," shall not be prohibited prior to 1808. Then follow seven paragraphs of specific restrictions upon the powers of Congress. The privilege of the writ of habeas corpus shall not be suspended; no bill of attainder or ex post facto law shall be passed; no direct tax shall be levied except according to the census of the people as a whole; no tax or duty shall be laid on articles exported "from any State"; and—again emphasizing the separateness of the member States forming the Union—no preference shall be given by any regulation of commerce or revenue of the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

In section 10, the States undertook to restrict themselves. No State shall enter into any treaty, alliance, or confederation; no State shall coin money or make anything but gold and silver legal tender; no State shall make any law impairing the obligation of contracts. Yet even here, the prohibitions are not without qualification.



Thus, the States reserved to themselves the right to levy tariffs on imports or exports sufficient to execute their inspection laws; and though the fact is often forgotten, the States even reserved to themselves the solemn power they had claimed under the Articles of Confederation, to "engage in war," as States, if "actually invaded, or in such imminent danger as will not admit of delay."

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a question?

The PRESIDING OFFICER (Mr. ELLENDER in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I am pleased to yield for a question.

Mr. LANGER. I am very curious. I ask the Senator from South Carolina whether he knows how the House of Representatives arrived at the decision to provide for a maximum of 45 days and \$300 in this instance. Why did not the House of Representatives decide to make the maximum number of days 50, and why did it not choose, as the maximum amount of fine, \$250 or \$500?

Mr. THURMOND. I should like to answer the question the distinguished Senator asked, but I cannot do so. I was not consulted about this compromise. All I know about it is that I heard the majority leader make an announcement, following the taking of action in the House of Representatives. And then I read about it in the newspaper.

But I had understood—and the distinguished Senator from California [Mr. KNOWLAND] can correct me about this if I am mistaken—that there was an effort on the part of the Republicans to provide for 60 days. But, since the Senate had not voted for any provision of this sort, but had voted only for a straight jury-trial provision, 45 days was selected as a compromise. That is my understanding of the matter. I pass on to the Senator from North Dakota only what I heard. But perhaps the Senator from California can answer the question. At any rate, even if 60 days had been originally proposed, and finally 45 days was decided on, the Senate got the worst end of the bargain.

However, even if the provision had been for only 1 day, in my opinion the principle would be the same, because under the Constitution a citizen is entitled to a jury trial; and the Congress has no power to pass a law providing that a Federal judge or any other judge can deprive a citizen of a jury trial. However, under this proposal, a judge would be able, in two ways, to deprive a citizen of a jury trial. In the first place, the Federal judge could decide whether he wanted to allow the person to have a jury trial in the first instance. If the judge decided that there could be a jury trial, the citizen would have a jury trial. If the judge decided that there would not be a jury trial, the judge himself would try the case.

Next, if the judge decided to try the case himself, without a jury, the judge would proceed to try it. If, at the conclusion of the case, the judge were to determine that the punishment he would mete would be more than 45 days im-

prisonment or a fine of more than \$300, the judge would then give the citizen another trial. In other words, this provision of the compromise would give the judge the option of trying the citizen in the first place, and it would give the judge the option of deciding how much punishment he would mete, and then the amount of punishment imposed would determine whether the citizen would receive still another trial.

All those exceptions are entirely foreign to the Constitution. The Constitution provides that a man charged with the commission of a crime is entitled to a jury trial. That provision is as plain as can be. Any child in the fifth grade in school can read it and understand it, and there should not be any difficulty in understanding it.

However, as I have understood in arriving at the compromise an attempt was made to get together on some provision; and the result was a monstrosity. It turned out to be an unconstitutional provision, in my opinion.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield again?

Mr. THURMOND. I am glad to yield.

Mr. LANGER. What I should like to know is this: Is there any precedent, anywhere in the entire United States, for a measure such as this, by means of which a defendant could be tried by a judge, if the sentence imposed were imprisonment for not more than 45 days, or any other number of days, or the imposition of a fine of any size; but that if the term of imprisonment were longer or the amount of the fine were greater, there must be a jury trial? Can the Senator from South Carolina name any precedent at all for such a provision?

Mr. THURMOND. I know of no place in the United States where a person charged with a crime does not have a jury trial. Even under the present criminal-contempt procedure, under existing law, if one is charged with criminal contempt, he is entitled to a jury trial. I know of no instance in any part of the United States, from Maine or the State of Washington on the north, to California, Arizona, New Mexico, Texas, Louisiana, Florida, or any of the other States in the southern part of the Nation, in which one who is charged with the commission of a crime does not have a trial by jury. It seems to me that in the conference, some one or more of the conferees should have raised the point, "This provision would be contrary to the Constitution, and we cannot include such a provision." It seems to me some of the conferees would have suggested that the Constitution provides to the contrary. There is a decision which can be cited on that point; I think I have called it to the attention of the distinguished Senator from North Dakota. The decision in that case holds that criminal contempt is a crime; and, since it is a crime, one charged with criminal contempt is entitled to a jury trial. If there is to be passed a bill providing punishment for criminal contempt, it should provide for a jury trial. I know of no way to get around a jury trial in

this matter because the Constitution has laid down the law. That is basic law.

The Constitution can be amended. Congress can submit an amendment to it. There are four ways to amend the Constitution, and it can be amended so as to provide that a Federal judge in his discretion can give a man a jury trial. Then the compromise would be legal, and what it proposes would be effective. It would be valid.

As the Senator from Wyoming [Mr. O'MAHONEY] said today, confirming my judgment, as it stands now it is not valid. I think it is unconstitutional. The Senator from Wyoming expressed his opinion likewise. We could amend the Constitution to provide for it. Congress could pass a law to provide that a Federal judge could punish a man for contempt, by so many days' imprisonment, or by a fine of so many dollars. We could do that, but it has not been done. Until the Constitution is amended in the manner provided in the Constitution itself, we must abide by it. I know that many people in this country would like to get around the Constitution, and it looks as if they have been doing so.

The Supreme Court has been rewriting the Constitution in some cases, and other branches of the Government at times have encroached upon the Constitution because there is divisional power between the Federal Government and the State governments. When we cross the line of the State government, as here, without constitutional authority, we violate the Constitution.

The States entered into this pact, the Constitution, about which we are talking so much, and in this pact they delegated to the Union only certain things, and they are just as plain as they can be. They are listed in the Constitution. I should like to read to the distinguished Senator what the Constitution says on that point.

Article I, section 1, provides:

All legislative powers herein granted shall be vested in the Congress of the United States, which shall consist of a Senate and House of Representatives.

I will not take the time to go through all that. I will skip to the pertinent portions.

Section 7 of article I provides:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds—

I will skip to section 8. That is more pertinent. This is what the Congress has power to do. The powers are listed.

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises

shall be uniform throughout the United States.

To borrow money on credit of the United States;

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

The PRESIDING OFFICER. Will the Senator suspend to receive a message from the President of the United States? Mr. THURMOND. Certainly.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting nominations was communicated to the Senate by Mr. Miller, one of his secretaries.

#### EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the nomination of Edward L. McCarthy, to be United States marshal for the district of Rhode Island, which was referred to the Committee on the Judiciary.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House has passed, without amendment, the bill (S. 2413) to clarify the authority of the President to fill the judgeship for the district of South Dakota authorized by the act of February 10, 1954, and to repeal the prohibition contained in such act against filling the next vacancy occurring in the office of district judge for such district.

The message also announced that the House had severally agreed to the amendments of the Senate to the following bills and joint resolution of the House:

H. R. 2075. An act for the relief of Albert Heinze;

H. R. 2904. An act for the relief of the Knox Corp., of Thomson, Ga.;

H. R. 3468. An act for the relief of J. A. Ross & Co.; and

H. J. Res. 374. Joint resolution for the relief of certain aliens.

#### CIVIL RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendments of the House of Representatives to Senate amendments Nos. 7, and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

The PRESIDING OFFICER. The Senator will proceed.

Mr. THURMOND. I continue to read from article 1, section 2:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

Congress would not have the power to pass bankruptcy laws, indeed Congress could not pass a law on any subject except for the power given to it by the

Constitution. This provision I have read is the basis for our bankruptcy law.

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

That is your authority for the Federal Government to act in that field.

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.

To constitute tribunals inferior to the Supreme Court.

That gives authority to Congress to establish certain courts of appeals and district courts. They are inferior tribunals, that is inferior to the United States Supreme Court.

To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than 2 years.

But no appropriation of money for that purpose shall be for a longer term than 2 years. We cannot appropriate money for the Defense Establishment for more than 2 years because the Constitution limits it. If we should attempt to do that, we would go beyond the Constitution.

I think that is a suggestion which may apply to foreign aid. If we should commit ourselves for 5 years or 10 years, I think that would be unconstitutional. But some of the defense items are classified under the term "foreign aid."

To provide and maintain a Navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

I want to read that last part again. I wish to call attention to a point:

Reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Do you not know, Mr. President, that if that section was not in the Constitution the Federal Government would be appointing the officers of the National Guard? That is the reason the Government cannot do it: the Constitution reserves that power to the States.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding 10 miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of

forts, magazines, arsenals, dockyards, and other needful buildings;

For that reason the Federal Government cannot go to Louisiana, North Dakota, South Carolina, or New Hampshire and buy a piece of land until the legislature passes an act approving such purchase. Under the provision the State must approve the transaction with respect to property within its borders, whether it owns the property or not, before the Federal Government can get it. Of course, the Government could condemn it; but if it followed the Constitution it would not be able to take it. The Constitution reserves that power to the States.

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to year 1808, but a tax or duty may be imposed on such importation, not exceeding \$10 for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

Regardless of what a State wishes to do, the United States Constitution provides that a writ of habeas corpus shall not be suspended unless—note the exception—"unless when in cases of rebellion or invasion the public safety may require it."

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

We have the income-tax amendment to the Constitution. The 16th amendment to the Constitution provides that Congress can levy an income tax. That is the only authority in the Federal Government to levy an income tax. It does not inherently have that authority. The Federal Government can do only what the States gave it the authority to do when they entered into the compact in Philadelphia in 1787, and the amendments which have been adopted since then. Two years later, in 1789, the States adopted the 10 amendments known as the Bill of Rights, for which there was so much sentiment. I do not believe the Constitution would have been ratified if the delegates to the convention had not promised the Bill of Rights would be submitted, and it was submitted and adopted 2 years after the convention, in 1789.

No tax or duty shall be laid on articles exported from any State.

No preference shall be given by any Regulation of Commerce or Revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.



That is the only reason the States do not impose duties on some articles; otherwise they would probably do it, but under the Constitution they cannot do it.

No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

In other words, if I were an ambassador in London and the Queen of England wished to confer on me a title or wished to give me extra compensation for some reason, I could not take the title or compensation unless Congress permitted it. Congress would have to pass an act to permit it.

Sec. 10. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

In other words, that goes right down the line to support the point I make. So the Constitution provides exactly what the Federal Government can do. What hurts me is to see some distinguished Members of Congress, able men who believe in the division of powers between the Federal and State Governments—or I always thought they did—going along with the bill, because this is a bill that takes power away from the States and gives it to the Federal Government.

The matter of elections is left up to each State. That power was not delegated. The qualifications for electors, the holding of elections, and all relevant matters were reserved to the States. There has been a movement, I understand, to get the Congress to pass a bill eliminating the poll tax. I believe I told the Senate this morning, or this afternoon, that when I was Governor, I recommended that the poll tax be removed in my State, and it was removed. But Congress may not pass a law to do it. It could do it, but it would be unconstitutional for the reason that there is a provision of the Constitution which states that the qualifications of electors shall be left to each State. Therefore, New Hampshire has qualifications and, if the people of that State wish to make as a qualification for voting in that State the payment of a poll tax, they have a right to do so. The only way such a measure could be enacted legally, if it were going to be the law nationwide, would be for Congress to submit an amendment to the Constitution eliminating the poll tax.

The Senator from Florida [Mr. HOLAND] has now pending a proposed constitutional amendment to eliminate the poll tax, amending the Constitution. To do that would be legal; it would be constitutional, and it would be proper. Personally I think it is better to leave to each State the power to fix the qualifications for voting of its citizens. In my State, as I have said, we have very low qualifications. We have heard much about people in my State not vot-

ing. I believe more people vote in my State than vote in New York, because New York has a much higher standard for voting. That State requires, I believe someone said, a high-school education. Someone else said it requires a grade-school education. It is certainly one of the two. In my State we require only that a man be able to read and write the Constitution, or that he own \$300 worth of assessed property. So our requirements for voting are not stringent. They are not nearly as strict as they are in New York. I do not know about the requirements in the State of the Senator from North Dakota.

A few years ago I was Governor of South Carolina. At that time a bill was pending in Congress to remove the poll tax on a nationwide basis. Congress was to do it. It would have been just as unconstitutional as this so-called compromise, whose proponents are trying to get it through the Congress, to deprive the people of a jury trial.

Mr. LANGER. I thank my distinguished friend.

Mr. THURMOND. The Senator is welcome.

Mr. President, I do not believe that American history is taught sufficiently in our high schools and colleges. I do not believe that a course in government is taught in our high schools and colleges. I come in contact with a great many intelligent people, people who have been educated, big financiers who have made a great deal of money, and many others; yet they do not know the fundamentals of the Constitution. It is because they have not studied it. I think the people of the country would be wise to study the Constitution. I think it is more important today than ever before for the people to study it and be able to delineate the powers of the Federal Government, and learn what the Federal Government has not the power to do.

For example, the Congress has no power to abolish the poll tax as a prerequisite for voting, because the qualifications of voters are left to each State.

There are a great many things which Congress cannot do. Yet pressure is brought on Members of Congress, and they vote for certain measures anyway, because of the pressure.

Why do Senators think this so-called compromise on the civil rights bill is being pressed? Why is there any civil rights bill before us? Why call this measure a right-to-vote bill? It is a perfect farce. It is not a right-to-vote bill.

As I have stated, every State in the Union has statutes providing for the right to vote. The Federal Government has statutes providing for the right to vote.

Why is such a bill as this being considered at this time? Because there are pressures on Members of Congress to do so. Some Members of Congress attempted to do so, even though they were doubtful of the constitutionality of the measure. The Senator from Wyoming [Mr. O'MAHONEY] stated earlier in the day that he did not think the jury trial amendment which was put in the compromise bill in the House was constitutional. He said he would offer an amendment in January to correct it.

I would rather see him vote against it now. If the bill should pass anyway, he could later offer his amendment. But if a bill is unconstitutional, I think it is better for us not to vote for it. I think Members of Congress must develop stamina, fortitude, and courage to resist pressures, and to stand by the Constitution. If we do not do so, as I stated earlier in the day, we shall keep whittling away the rights of the States until, after a while, the States will not have any rights. There will be a powerful Central Government—and it will be a powerful monster, too. Everything will radiate from Washington.

I understand there is a movement on foot to establish a national police system. It is desired to convert the FBI, which is purely an investigative agency, into a law-enforcement agency. It is not a law-enforcement agency. Congress would not have the right to establish a national police agency, because under the Constitution the police power is reserved to the States.

However, this investigative agency, the FBI, is in a different situation. It does not do police work. It apprehends criminals and works with the States, and cooperates in the execution of Federal laws, apprehending violators and bringing them to trial. But it is not a police agency. I am glad that Mr. J. Edgar Hoover said that he was opposed to a national police system. I am sorry to see that the President has been recommending a bill to provide Federal aid to education by way of construction of school buildings. I have been amazed at the fact that so many people are not acquainted with the fact that in the entire Federal Constitution there is not a sentence which contains the word "education." The word "education" is not to be found in the United States Constitution. Therefore, since the States did not delegate the field of education to the Federal Government, the Federal Government has no jurisdiction in that field, unless we amend the Constitution and give the Federal Government jurisdiction in the field of education.

We can amend the Constitution. We can follow one of the four methods of amending the Constitution, and give the Federal Government authority in that field, if that is the wise thing to do, which I do not think it is. However, that is the way it must be done. We have no authority to appropriate money for Federal aid to education. I know that the President's intentions are good. However, at Columbia University several years ago he was against Federal aid to education. At any rate, it would be a great mistake for the Federal Government to enter the field of education.

After we begin giving money for Federal aid to education by way of construction, the next demand from the powerful National Education Association, which I understand is building a tremendous office building in Washington, will be for a supplement to the salaries of teachers. The National Education Association will bring pressure on Members of Congress, as do other pressure organizations, and will say, "We need supplements to teachers' salaries."

When we enact legislation for Federal aid to construct the buildings, and to provide supplements to teachers' salaries, the Federal Government will be asked to pay a larger share of such salaries, and there will be more and more control to go with it. Before we know it, there will be Federal control of education, and the parents of the Nation will find their children studying books selected in Washington, instead of by the people in Delaware, North Dakota, and South Carolina.

It is a great mistake for us not to follow the Constitution. If the Constitution needs amending, we can amend it. There is a provision for amending it, and it should be amended from time to time. There have been 22 amendments since it was adopted. In 1789 the first 10 amendments were adopted. Since then 12 other amendments have been adopted. There are now 22 amendments to the Constitution.

We were talking about the 16th amendment awhile ago, the income-tax amendment. I think most people feel that it is necessary, although the income tax appears high. Therefore there had to be a way to bring it about. Congress could not pass an income-tax law. It had no authority to do so until the Constitution had been amended to give Congress the power to do it.

I think it is important to understand what we mean by the division of powers between the Federal Government and the State governments. We have a compound Republic. It is a compound Republic because there are Federal powers and State powers. There are three branches in the Federal Government, each of which checks on the others, with the exception of the Supreme Court. It has practically no check on it, and it has gone wild.

There are three branches in the State governments. Each is supposed to be a check on the others.

There are two checks on the Supreme Court. In the first place, we can impeach Supreme Court justices. However, the House must do the impeaching, and the Senate sits as a jury to hear the case. So, there is not much the Senate can do from that standpoint.

The other one is that, under the Constitution, the appellate power of the Supreme Court can be controlled by the Congress, so that if Congress saw fit to pass a bill to limit the appellate power of the Supreme Court, Congress would have that right. The Constitution gives it the power to do that. Many persons think we have to amend the Constitution before we can do that.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Would the Senator say that would be a form of cruel and inhuman punishment to impose upon his colleagues?

Mr. THURMOND. I would say it is cruel and inhuman punishment to impose on the citizens of America if we pass a bill without providing for a jury trial.

(Manifestations of applause in the galleries.)

The PRESIDING OFFICER. The galleries will be in order.

Mr. THURMOND. I have received letters from a number of States, and I have been in California. I spent a week there in the fall of 1953. Starting at Long Beach and ending up at San Francisco, I made addresses all the way up the coast. I even went to Bakersfield and saw an old friend of the Senator from California there. I talked with many persons there. Unless they have had a change in sentiment, they think, just as the people of South Carolina do, that there should be jury trials.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Does not the distinguished Senator also think that the people of California are interested in the 15th amendment to the Constitution, assuring all American citizens the right to vote?

Mr. THURMOND. I am sure that the people of California are, and I am sure the people of South Carolina are. The people of South Carolina have done something about it, just as have the people of California. Last night, when the distinguished Senator from California was resting comfortably, I was speaking here and trying to rouse the people of America concerning the dangers of taking away their right of trial by jury. I placed in the RECORD the statutes of California on that subject, and here is what they provide:

California: Unless otherwise designated, references are to Elections Code Annotated—West's—1955:

"Hindering public meeting: Every person is guilty of a misdemeanor who, by threats, intimidation, or unlawful violence, willfully hinders or prevents electors from assembling in public meetings for consideration of public questions (sec. 5004).

"Intimidating voter: Every person or corporation is guilty of a misdemeanor, who directly or indirectly uses or threatens to use force, violence, restraint, or inflicts or threatens to inflict any injury, damage, harm, or loss or other forms of intimidation to compel a person to vote or refrain from voting at any election (sec. 1158).

"Interference with free exercise of elective franchise: Every person or corporation is guilty of a misdemeanor who, by abduction, duress, or any forcible or fraudulent means, impedes or prevents the free exercise of the elective franchise by any voter; or who compels or induces a voter either to give or refrain from giving his vote at any election or to vote or refrain from voting for a particular person (sec. 11582).

"Election officers: Any election officer who induces or attempts to induce any voter either by menace or reward, to vote differently from the way he intended to vote, is guilty of a felony (sec. 11583).

"Threat by employer: Any employer, whether a corporation or natural person, is guilty of a misdemeanor, if he encloses material in the pay envelopes containing threats, express or implied, intended to influence political opinions or actions of employees, or who within 90 days before an election exhibits any placard, etc., in the place of employment, containing such threats (secs. 11584, 11585).

"Penalty: Any corporation guilty of intimidating a voter shall forfeit its charter (sec. 11586).

"Misdemeanor: Unless a different penalty is prescribed, a misdemeanor is punishable by imprisonment in the county jail for not more than 6 months or by fine of not over \$500, or by both (Penal Code, sec. 19).

"Scope of penalty provisions: All penalty provisions listed above apply to both final elections and primary elections (sec. 11500)."

Those are statutes of the State of California, and they are good statutes.

Mr. KNOWLAND. Mr. President, will the Senator from South Carolina yield for a further question?

Mr. THURMOND. I yield for a question.

Mr. KNOWLAND. Does the Senator not recognize the fact that under the voting rights bill which the Senate is attempting to pass but which the Senator from South Carolina has, for the moment, successfully prevented the Senate from passing, there is not a single individual who can be cited for either civil or criminal contempt if another American citizen is deprived of his right to vote under the Constitution? So, if the Senator is correct in his statement that no person is deprived of his right to vote in his State—and I feel certain that no American citizen is denied the right to vote in my State—neither California nor South Carolina would cite any public official or other person criminally unless they were depriving people of their right to vote under the laws of the State.

Mr. THURMOND. I think some part of the Union could nullify the Constitution, just as I think some juries turn loose some defendants who are guilty. Some judges will make mistakes, too. But why do we not let the States alone and let them handle their own problems? I know the southern people and I know they are doing all they can for the Negro.

I see my friend the Senator from Kentucky [Mr. COOPER] sitting next to the Senator from California. He feels that his State is doing all it can. I know the State of Mississippi, from which come my good friends, Senator EASTLAND and Senator STENNIS, is doing all it can. We cannot change customs overnight. We have to let the local people work these things out. But Congress did not care to let the local people work these things out.

All that is necessary is to have enforcement of the Federal statute. There is a Federal statute, to which I called attention today. For the benefit of Senators who were not here at the time, I may say that this statute provides that whoever intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person, for the purpose of interfering with the right of such other person to vote, or to vote as he may choose, is guilty of a crime, punishable by a \$1,000 fine or by imprisonment of 1 year.

Mr. COOPER. Will the Senator yield?

Mr. THURMOND. I yield for a question.

Mr. COOPER. Does the Senator know that there has never been any question, since the War Between the States, about the Negro population in



Kentucky having the right to vote, and exercising that right?

Mr. THURMOND. I have never heard any question about it. I simply say that in my State the Negroes are voting in large numbers. They claimed the credit for carrying the election for Stevenson in 1952, and at that time there was a very close election. They claimed they cast more than 80,000 votes, which was about 25 percent of the total. Their own newspaper contained that information. I have a clipping from that newspaper, the *Lighthouse and Informer*. So they are certainly voting in my State, and I am sure they are voting in the Senator's State.

Is it not better to let the local people work out these problems, rather than to rush things on them, and try to change their customs overnight?

As a matter of fact, if you gentlemen want to take any action, however, if the proponents of this bill are not satisfied—I do not think the distinguished Senator is dissatisfied—with the enforcement by the governors of the States of the Nation—and the governors are the chief executive officers of the States and are responsible for enforcing the law—or if the Federal Government is not satisfied with the enforcement being given by the governors to the voting laws of the States to protect the rights of people to vote, then why do they not enforce the Federal statute, which is already on the books?

Mr. COOPER. Because of the Senator's kind reference, I should like to ask a question as follows: Does the Senator know that in Kentucky all citizens, including all Negroes, have had, since the War Between the States, the right to vote, have exercised that right, and that it has never been questioned?

Mr. THURMOND. I am sure that is the case, because I have heard that they vote there. They are voting in the South in larger numbers than ever before. No persons in my State are deprived of the right to vote. If they are qualified to vote, they are allowed to vote. Of course, no man who is not qualified ought to be allowed to vote. New York State has a much higher standard, as I said a while ago, than we have. If a person can merely read or write in my State, he can vote. In New York one has to be a high-school graduate, I believe or at least has to meet a literacy test. So we are not nearly so strict in South Carolina as they are in New York.

The Senator comes from a border State. Kentucky is a great State. I suggest to the Senator, however, since he is from a border State that went in part with the North and in part with the South, that the Senator stick with the South.

Mr. COOPER. Mr. President, I will ask the Senator if it is not true that Kentucky had to make that choice almost a hundred years ago and they chose to stick with the Union?

Mr. THURMOND. Mr. President, if there is any Member in the Senate who is not satisfied with the voting protection given by the governors and the other officials of the States of the Nation, again I say that all they have to do is to call upon the Justice Department to enforce

section 594. It is now against the Federal law to intimidate, threaten, or coerce, or to attempt to intimidate, threaten, or coerce, any voter, in any way, shape, or form. That is the Federal statute which is on the books now. Why not enforce that statute? What is the idea of coming here with a right-to-vote bill? That is a big, high-sounding word that does not mean anything. If we pass this bill, we will pass an unconstitutional bill. It will be all right if the Justice Department will enforce section 594. I believe they are enforcing it. Is there anyone that thinks they are not enforcing this law? Is there anyone who thinks the present administration is not enforcing section 594?

If the Justice Department are enforcing this law, they are protecting people in this matter now. If they are not enforcing this law, let them enforce it and that will protect them. Either the Justice Department are not enforcing this law, if they have had complaints, or they have not had any complaints.

Has the Justice Department had complaints, such as we have been hearing about, that many people have been denied the right to vote? We hear that in the South many people are denied the right to vote. What is there now; what has there been in the past 5 years to keep the Attorney General from going to any Southern State to enforce this statute? It is a Federal statute. The Attorney General not only has the right to enforce it, but he has the duty. If there have been any complaints about people in the South not voting, I have not heard of them. But if there have been any complaints about them not voting, then the Justice Department ought to do something about it. If the Justice Department has taken no action to enforce this statute, it shows one of two things: The Department has not had anybody objecting, or, if there were objections, it ignored them and did not do its duty by enforcing the statute. The point is there is a Federal statute now, so why pass another bill? All the Congress needs to do is to follow the Constitution. If we will follow the line of demarcation in the Constitution between the powers delegated to the Federal Government and the powers reserved to the States, we will not get into difficulties about all these different things.

If a bill were introduced to repeal the poll tax as a prerequisite to voting, there would not be any question but that the Congress would not consider it because it would be unconstitutional. The qualifications of voting are reserved to the States. Why can we not look at it from that viewpoint and not try to say whether it is a good bill or a bad bill? On the right to vote bill, should there be any question whether we are going to accept this compromise? I do not think there should be any question at all, because the Constitution says a man charged with a crime is entitled to a jury trial. The court decision which I have before me holds that criminal contempt is a crime.

Mr. President—

The PRESIDING OFFICER (Mr. FREAR in the chair). The Senator from South Carolina.

Mr. THURMOND. I will proceed now, if there are no further questions.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. THURMOND. Article III, defining the judicial power of the United States, contains several provisions of interest in this review.

Mr. LANGER. Mr. President, will the Senator yield for a question?

Mr. THURMOND. I will yield to the able Senator for a question.

Mr. LANGER. Is it correct that under Federal statute 594 there can be imposed a fine of \$1,000 or imprisonment of 1 year in jail?

Mr. THURMOND. That is correct.

Mr. LANGER. The compromise right to vote bill cuts it down to a fine of \$300 and 45 days in jail. If the judge determines that the defendant ought to suffer a greater penalty than that, the case has to go to a jury.

Mr. THURMOND. In reply to the Senator, I will say if this bill is passed, of course I am expecting it to be held unconstitutional as soon as it can be tested. But until that is done, they will have a choice.

There could be a prosecution under the Federal statute, which is section 594; or such a person could be taken before a Federal judge, and the Federal judge could decide whether he wanted to try the case. If the judge decided he was in a hurry to take a vacation trip, he could simply say, "I will try the case myself." Then, under the provisions of the compromise measure, the judge would try the case; and the person being tried could not complain.

Let me ask the Senator from North Dakota what he would do. Suppose he were to find himself in such a situation; and suppose the judge were to say to him, "Mr. LANGER, I will not give you a jury trial. I will try you myself"—and then the judge would rear back on his haunches and would grin.

What would the Senator from North Dakota do under those circumstances? There would be nothing he could do, because the judge would have a right to try him under the provisions of the compromise measure which has come to us from the House of Representatives.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for another question?

The PRESIDING OFFICER (Mr. FREAR in the chair). Does the Senator from South Carolina yield to the Senator from North Dakota?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. Inasmuch as section 594 is on the statute books, why is not this right-to-vote bill entirely superfluous?

Mr. THURMOND. Mr. President, the Senator from North Dakota has put his finger on exactly what I have been discussing in the Senate for—let me see, Mr. President, how long has it been?

The PRESIDING OFFICER. Twenty-one hours.

Mr. THURMOND. No; Mr. President, it has been 22 hours and 10 minutes. [Laughter.] For 22 hours and 10 minutes I have been trying to emphasize that

point—namely, why is this compromise necessary, when a Federal statute on this subject is already on the statute books? It provides for a fine of \$1,000 or imprisonment of 1 year in jail.

If the Department of Justice is interested in the persons who are alleged to have been deprived of the right to vote—regardless of whether they are whites, Negroes, or others—why does not the Department of Justice take action to enforce section 594 and thus protect the right to vote? The Department of Justice can do that under section 594. That is up to the Department of Justice. I do not know what the Department will do; that is up to the Department of Justice.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for another question?

Mr. THURMOND. I yield for a question.

Mr. LANGER. During the last 5 years, has anyone been arrested under section 594?

Mr. THURMOND. In reply to the question of the distinguished Senator from North Dakota, I wish to say that I have never heard that anyone in my State has been tried under that statute. So there is no use in having the representatives of the Department of Justice come to South Carolina and say that people there are deprived of the right to vote, because if anyone representing the Department of Justice does come to South Carolina and does make such a statement, I will tell him that it is his own fault, for those in the Department of Justice have failed to do their duty; they have a law under which they can punish such persons, but they have not done so. Either no one in South Carolina is deprived of the right to vote, or else the Department of Justice has failed to do its duty.

Mr. LANGER. I thank the Senator from South Carolina. I get the point very clearly.

Mr. THURMOND. Let me ask whether there are any more questions.

The PRESIDING OFFICER. Does the Senator from South Carolina yield the floor?

Mr. THURMOND. Mr. President, I shall proceed. I am just trying to find a section of the Constitution to which I wish to refer.

Mr. LANGER. Mr. President, while the Senator from South Carolina is doing that, will he yield for another question?

Mr. THURMOND. I shall be pleased to yield for a question.

Mr. LANGER. Can the Senator from South Carolina tell the Senate how many years ago section 594 was enacted into law?

Mr. THURMOND. I believe it was in 1939.

Mr. LANGER. Do I correctly understand that since that time, there has been no prosecution under that provision of law? Is that true, so far as the Senator from South Carolina knows?

Mr. THURMOND. I have not heard of a single prosecution in South Carolina under that statute.

Mr. LANGER. Has the Senator heard of one in any other State?

Mr. THURMOND. If there has been one, I have not heard of it. I would not say there has not been one in some other State, but I do not know of a case of that sort which has been tried in the Federal courts. Some have been tried in the State courts; we are enforcing our State laws.

But I have not heard of a case in which anyone has been tried under this Federal statute—which carries with it a heavy penalty, namely, a fine of \$1,000 or imprisonment in jail for 1 year. I have never heard of anyone who has been tried under that law. But, Mr. President, of course I am not surprised at that, because in South Carolina, everyone who wishes to register to vote and to vote, does register and does vote, if he is qualified. So I do not think it likely that there would be any cases of that sort in South Carolina.

Mr. President, there have been insinuations to the effect that the Southern States are denying some people the right to vote. I think insinuations about any States should stop—whether that be Northern States, Southern States, Eastern States, or Western States. All of us are Americans. We have a great country. In all the wars the United States has ever fought, the United States has had brave soldiers from all sections of the country. It is very bad to have people in one section of the country try to snipe at people in another section of the country. That is the very thing George Washington warned against in his Farewell Address.

Mr. LANGER. Yes, I am familiar with that admonition by George Washington.

Mr. THURMOND. Mr. President, if anyone in the South has been intimidated or coerced or threatened with regard to voting—if anyone in any Southern State has been treated in that way—the district attorney in the State can take action any day he wishes to; and if the Department of Justice does not do it, the Department is failing to perform its duty with respect to such violations; or else there are no violations of that sort. So evidently there have not been any violations of that sort in the State of South Carolina, or else no one has complained about them. As a matter of fact, I am quite sure that there have not been any violations of that sort in my State, because, as I have said, anyone in South Carolina who wishes to vote, and who is qualified to vote, and who registers, can vote.

Mr. President, I should like to read what George Washington said.

Sometimes, Mr. President, when I see the able Senator from Kentucky [Mr. COOPER] sitting in his seat in this Chamber—so able a judge and lawyer, and a fine soldier in World War II; and when I see in the Chamber the distinguished senior Senator from Michigan [Mr. PORTER], who lost both of his legs in that war; and when I see my other fellow veterans who are distinguished Members of this body or are distinguished Members of the House of Representatives, and then when I see matters of a sectional nature brought up here, and when one group wishes to try to have enacted into law a measure aimed at

punishing another section of the country, it makes my heart ache. My colleagues who are veterans did not feel that way when they were serving in the Armed Forces overseas; they did not feel that way when they were in uniform. If the Members of Congress from various sections of the United States would just accord to all the other States the same respect that they expect to have accorded to their own States I am sure that we would not be having this trouble; and then I would not have been speaking here on this subject for more than 22 hours in an effort to arouse the American people.

The PRESIDING OFFICER. For 22 hours and 10 minutes.

Mr. THURMOND. No, Mr. President, for 22 hours and 20 minutes. [Laughter.]

I would not be trying to arouse the American people if it were not necessary. But why should the North want to pick on those of us who live in the South? Why do the people in New York want to pick on us? Why do the people in New Jersey want to pick on us? Or why do the people of any other section of the country want to pick on us? We think we are fairly good people. We think we are patriotic. The Members of Congress from the Southern States want to work together with all the other Members of Congress.

Mr. President, I want to extend every courtesy to every other Member of Congress, and I want to see those who live in any particular section of the country extend to the rest of the people of the country the same courtesy that they expect to have extended to themselves.

But, Mr. President, I can tell you this: This right-to-vote bill—and I say this because I know something about its history—is aimed at the South. It is aimed at the South; and it hurts me to see that done, because South Carolina is not guilty, and this bill should not be enacted. I do not believe the other Southern States are guilty. The Southern States have done their part in every way. As I have said, the people of the Southern States have fought for their country and have served in public office in every way. They have been honorable people.

Yet, in order to try to win the votes of certain minority blocs, some pressure groups are willing to punish us, to put us under the heel, and to grind and grind and grind us. I am getting tired of it. (Manifestations of applause by the occupants of the galleries.)

The PRESIDING OFFICER. The doorkeepers must keep the galleries in order.

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

Mr. THURMOND. I yield.

Mr. COOPER. A minute ago the Senator spoke very generously of our association and friendship during World War II. I know that he did not mean to intimate that there was any intention upon the part of the Senator from Kentucky, in his vote on the civil-rights bill, to show any bias or prejudice toward his own people in the South.

Mr. THURMOND. I am sure that there was not, Senator.



Mr. COOPER. Does the Senator remember?

Mr. THURMOND. I remember, and I say to the Senator from Kentucky he is one of the finest and most gracious gentlemen I have known.

The Senator from Kentucky is not one of those ardent proponents of the bill who is trying to ram the bill home. I do not know how he is going to vote, but he is a good constitutional lawyer. I hope he will not vote for it. I hope he will think over the jury trial issue and not vote for it.

He has not been one of those who has been baiting the South.

Mr. COOPER. The Senator from Kentucky is a good friend of the Senator from South Carolina, but the Senator from Kentucky will vote for civil rights. He intends to vote for the bill this evening or at some later time.

In the debate he said again and again that he believes in the juries in the South, and that the people of the South would respect the law and would follow the law. I am sure the Senator from South Carolina knows that the Senator from Kentucky said that.

Mr. THURMOND. I am sure he did say that.

The only thing is that if the Senator feels that the South obeys the law, I do not understand why he should want to have this bill passed.

I will get on with what George Washington said.

Mr. President, George Washington, in his Farewell Address, used his strongest language against those who would divide our country; he urged a unity of spirit. He said:

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heartburnings which spring from these misrepresentations: they tend to render alien to each other those who ought to be bound together by fraternal affection.

That was George Washington speaking.

George Washington wanted to see the people from the North to the South, and to the East and the West, bound together with a fraternal feeling. He wanted a fraternal attitude manifested.

Why should we not manifest a fraternal attitude on these matters? Why should we not try to help another section, and not sponsor legislation which is aimed at any particular section, merely to try to get votes to win an election?

I have said, and I repeat, that since every State in the United States from Alabama to Wyoming has laws on its books to protect the right to vote, and since the Federal Government has a statute on its books to protect the right to vote, there is no need for this bill.

I say, and I repeat, that I think the bill is purely political, and I think that

both parties have been trying to grab the ball to see who could get the spotlight for the elections coming up in 1958.

Article III, defining the judicial power of the United States, contains several provisions of interest in this review. We may note, for example, two further uses of the plural: First, the judicial power is to extend "to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority." Second, treason against the United States is to consist "only in levying war against them, or in adhering to their enemies." Because the authority of the Court will be considered at length in a later chapter, it will suffice here merely to point out that nowhere in article III is the Court given jurisdiction over controversies between a State and the United States. That proposal was specifically advanced during the convention, and specifically rejected.

Every section—indeed, every paragraph—of article IV touches upon the Federal nature of the Union. Full faith and credit are to be given, in each State, to the acts and judicial proceedings of every other State. If this were not a Federal Union, the provision would be nonsense. Beyond this, the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. A person charged in any State with crime, who shall flee from justice and be found in another State, shall be delivered upon demand to be removed to the State having jurisdiction of the crime.

Then comes the provision that Northern States were to flout over a period of 30 years: "No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due."

Finally, we may note in article IV the provision for admitting new States into this Union (not this Nation, but this Union): "No new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress."

Article V had best be quoted in full. It has not been changed by so much as an apostrophe in the years since it came from Philadelphia in September of 1787. It still fixes and defines the sovereign power:

Pause for a moment over this article of the Constitution. We are dealing here with Taylor's "will to enact" and "power to execute"; we are dealing with Marshall's "power to make and unmake." It was plainly envisioned by the framers that their work would require amendment through the years. "That useful alterations will be suggested by experience, could not but be foreseen," Madison was to write. There was a double aim in the provision, even a triple aim. Article V, Madison tells us, was intended, first, to guard equally against too-easy amendment on the one hand and too-difficult amendment on the other. It was drafted, secondly, to permit amendments to originate both with the Federal and with the State Governments. But it was intended, finally, to leave the ultimate decision upon changing the Constitution to the sovereign States themselves—not to the people as a mass, nor even to a bare majority of the States as such. It was recognized that the great, overriding principle of protection for minorities should apply here as bindingly as it was to apply elsewhere. If one-fourth of the States plus one should object to a change in the Constitution—even if that change

were desired by three-fourths minus one (and even if this larger fraction should include the great bulk of the total population)—the change could not be engrafted to the Constitution.

Article VI is brief. Its first provision covers debts and engagements entered into under the Articles of Confederation and continues these obligations under the proposed new Constitution; its third provision prohibits any religious test as a qualification for public office and requires an oath to support the Constitution of all public officers, both State and Federal.

It is the second provision that merits brief attention in this summary review:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Let us go back: What is to be supreme? Three things. First, "this Constitution." Secondly, "laws of the United States which shall be made in pursuance thereof." Third, treaties made "under the authority of the United States." That is all. Not Executive orders of the President. Not even judgments of the Supreme Court. The Constitution, the laws made in pursuance thereof, the treaties.

In passing, note the phrase "law of the land." It stems originally from the Magna Carta; but as it appears in the Constitution, "law of the land" was merely a substitution, proposed by the committee on style, for "law of the several States and their citizens and inhabitants." The object was to extend this new supreme law to Territories as well as to the States. And this phrase, "law of the land," is as close as the Constitution ever comes to suggesting a "nation." Actually the word "nation" or the word "national" never appears in the Constitution.

The aim, we will recall, was to form "a more perfect Union." Representatives and taxes were to be apportioned among the several States which may be included "within this Union." The militia may be called forth to execute "the laws of the Union." The President is to provide Congress with information on the "state of the Union." New States are to be admitted "into this Union." The guaranty of a republican form of government goes "to every State in this Union." But never, at any point, are the United States described, in the Constitution, as comprising a "nation."

This is not to contend, of course, that ours is not a Nation, or that the Federal Government does not operate nationally. It is only to suggest that the deliberate terms of the Constitution speak for themselves, and should be heeded: Our country is, first and foremost, originally and still, a Union of States. And when we speak of the law of the land, it should be kept steadily in mind that the land is a Federal Union, in which each of the States stands coequal with every other State. The Constitution is supreme not only in its authority over each State, but also in its protection over each State. And each State, each respective State, is entitled to rely upon the Constitution as embodying supreme law that all other States must adhere to with equal fidelity, like it or not, until the Constitution be changed by the States themselves.

Note, too, the careful qualification that defines laws enacted by the Congress. Just any laws of the United States are not enough: Laws, to be binding, must be laws made in pursuance of the Constitution. Any attempted statutes that invade the residuary authority of the States, Hamilton tells us, "will be merely acts of usurpation, and will

deserve to be treated as such." And he adds, at another point, that:

"There is no position which depends on clearer principles than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid."

Surely, it may be urged that precisely the same standard must be applied to other branches of the Federal Government—the executive and judicial no less than the legislative. By extension, thus, judgments of the Court, to be supreme law of the land, must be made pursuant to the Constitution. A judgment of the Court, so violative of the clear terms and understandings of the Constitution as to invade the residuary authority of the States, must also be regarded as a usurpation, and should deserve to be treated as such. The argument will be pursued at greater length hereafter.

Finally, this brief examination of the Constitution from the standpoint of the States may be concluded with a second look at article VII. It should be read carefully, for this is the clause that binds: "The ratification of the conventions of 9 States"—not, again, the approval of a majority of the people in a popular referendum, but the ratification of 9 States—"shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

Thus, on September 17, the Convention concluded its work. George Washington, as President of the Convention, transmitted the document to the Congress. A prophetic sentence appeared in his letter, as he mentioned the compromises necessary for the surrender of sovereign powers: "It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved." The States had done the best they could through their delegates. Eager to consolidate their Union, each State had been disposed "to be less rigid on points of inferior magnitude than might have been otherwise expected." They launched the ship.

"Well, Doctor," said the lady to Mr. Franklin, "what have we got, a republic or a monarchy?"

"A republic," replied the doctor, "if you can keep it."

It is pretty hard to keep when bills are introduced to violate the Constitution by chipping off and whittling away the rights of the States in an effort, it seems, to reduce them to colonial status.

Continuing the quotation from the Kilpatrick book:

#### 6. THE PROPHETIC MR. HENRY

For the States' understanding of what the Constitution was to mean to them, as States, we can look not only to the internal evidence of the Constitution itself, but to the debates in the ratifying conventions and to some of the contemporary criticism, notably in the Federalist papers. We can look, also, to some of the pronouncements of the Supreme Court from time to time, and to the writings of scholars of our own day.

The evidence is overwhelming. By written compact, solemnly ratified, the States agreed mutually to delegate certain of their sovereign powers to a Federal Government. They enumerated these powers. All other powers they reserved to themselves, and these reserved powers did not need to be enumerated: the reserved powers constituted all inherent

powers of sovereign States not specifically abridged.

So plain was this understanding that the feeling most frequently encountered, in reading comments of the period, is one of incredulity that anyone should doubt it.

"The proposed Constitution," said Hamilton, "so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power."

So, too, said Madison:

"It is to be remembered that the General Government is not to be charged with the whole power of making and administering laws. Its jurisdiction is limited to certain enumerated objects which concern all the members of the Republic, but which are not to be attained by the separate provisions of any. The subordinate governments, which can extend their care to all other objects which can be separately provided for, will retain their due authority and activity."

Neither Hamilton nor Madison could quite imagine the Federal Government ever seriously encroaching upon the States.

"Allowing the utmost latitude to the love of power which any reasonable man can require," said Hamilton, "I confess I am at a loss to discover what temptation the persons intrusted with the administration of the General Government could ever feel to divest the States of the authorities of that description. The regulation of the mere domestic police of a State appears to me to hold out slender allurements to ambition. Commerce, finance, negotiation, and war seem to comprehend all the objects which have charms for minds governed by that passion; and all the powers necessary to those objects ought, in the first instance, to be lodged in the national depository."

Then he added, with a singular absence of prophecy:

"The administration of private justice between the citizens of the same State, the supervision of agriculture and of other concerns of a similar nature, all those things, in short, which are proper to be provided for by local legislation, can never be desirable cares of a general jurisdiction. It is therefore improbable that there should exist a disposition in the Federal councils to usurp the powers with which they are connected. \* \* \*

"It will always be far more easy for the State governments to encroach upon the national authorities, than for the National Government to encroach upon the State authorities."

That is where he was wrong. In other words, Hamilton had no idea that the Federal Government would ever attempt to encroach on the rights of the States. In his day it looked to him as if it would be easier for the States to encroach on the rights of the Federal Government than for the Federal Government to encroach on the rights of the States. But in recent years do-gooders, welfare-staters, and left-wingers, and other pressure groups are trying to transform this Government. They are trying to make of it a national government. It is not a national government; it is a Federal Government. The States came together in a federation and formed this Government. That is the conception which I hope we can get over to the people of the Nation, that our Government is not a national government; it is a Federal Government made by the States coming together and forming a federation and signing the compact which became the Constitution. Therefore we have a Federal Govern-

ment, not a national government. I hope we shall never have a national government. We must stop the Federal usurpation that is now going on and has been going on for some years.

Madison, also, imagined that the Federal Government would "be disinclined to invade the rights of the individual States, or the prerogatives of their governments." For his part, Hamilton thought it more probable that the States would encroach upon the Federal Government, and he imagined that in such contests the State governments, because they "will commonly possess most influence" over the people, would dominate Federal agencies "to the disadvantage of the Union." However, all such conjectures Hamilton viewed as "extremely vague and fallible." He preferred to assume that the people "will always take care to preserve the constitutional equilibrium between the general and the State governments."

In No. 45, Madison treated at considerable length the widespread apprehension that the States would be obliterated. Some of his comments have been outdated; what he has to say about the election of Senators, for example, unhappily has been superseded by the misfortune of the 17th amendment. Some of his other observations, dealing with functions of what was to become the Bureau of Internal Revenue, may occasion some wary reflection on the lengths by which even a Madison could miss his guess. But as contemporary evidence of the role guaranteed to the States, No. 45 justifies quotation at some length:

"The State governments will have the advantage of the Federal Government, whether we compare them in respect to the immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them to the prediction and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other."

"The State governments may be regarded as constituent and essential parts of the Federal Government; whilst the latter is nowise essential to the operation or organization of the former. Without the intervention of the State legislatures, the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will, perhaps, in most cases, of themselves determine it. The Senate will be elected absolutely and exclusively by the State legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men, whose influence over the people obtains for themselves an election into the State legislatures. Thus, each of the principal branches of the Federal Government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing toward them. On the other side, the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the Federal Government, and very little, if at all, to the local influence of its members."

"The number of individuals employed under the Constitution of the United States will be much smaller than the number employed under the particular States. There will consequently be less of personal influence on the side of the former than of the latter. The members of the legislative, executive, and judiciary departments of 13 and more States, the justices of peace, officers of militia, ministerial officers of justice, with all the county, corporation, and town officers, for 3 millions and more of people, intermixed, and having particular acquaintance with every class and circle of people, must exceed,



beyond all proportion, both in number and influence, those of every description who will be employed in the administration of the Federal system. Compare the members of the three great departments of the 13 States, excluding from the judiciary department the justices of peace, with the members of the corresponding departments of the single government of the Union; compare the militia officers of 3 millions of people with the military and marine officers of any establishment which is within the compass of probability, or, I may add, of possibility, and in this view alone, we may pronounce the advantage of the States to be decisive.

"If the Federal Government is to have collectors of revenue, the State governments will have theirs also. And as those of the former will be principally on the seacoast, and not very numerous, whilst those of the latter will be spread over the face of the country, and will be very numerous, the advantage in this view also lies on the same side. It is true, that the confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States; but it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection, under the immediate authority of the Union, will generally be made by the officers, and according to the rules, appointed by the several States. \* \* \*

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.

"The operations of the Federal Government will be most extensive and important in times of war and danger; those of the State governments in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the Federal Government. The more adequate, indeed, the Federal powers may be rendered to the national defense, the less frequent will be those scenes of danger which might favor their ascendancy over the governments of the particular States.

"If the new Constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of new powers to the Union, than in the invigoration of its original powers. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose, and from which no apprehensions are entertained. The powers relating to war and peace, armies and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress by the Articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual mode of administering them."

Even John Marshall, who did more than any man in our history to aggrandize the Federal Government and to weaken the States, never doubted the basic structure of divided powers. Consider, briefly, his comment in the famed case of *McCulloch v. Maryland*. The case arose when Congress established the Bank of the United States, and Maryland undertook to levy a tax upon

the bank's Baltimore branch; James McCulloch, the cashier, refused to pay the tax, and Maryland sued.

The legal questions were two: Did Congress have power to incorporate the bank, and secondly, did Maryland have power to tax it? Marshall answered the first one "Yes," the second, "No." With the bulk of his reasoning, strict constructionists and apostles of States rights will disagree: Marshall's sophisticated mind did not boggle at stretching "necessary" to mean "convenient." In considering the actual act of ratification by which the Union was formed, Marshall was not much impressed by the fact, which he could not escape, that the people met in State conventions. "Where else should they have assembled?" he asked. But even here, a couple of sentences merit quotation as evidence from the States' greatest detractor:

"It is true, [the people] assembled in their several States—and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the States, and of compounding the American people into one common mass. Of consequence, when they act, they act in their States."

Marshall went on in his opinion to confuse "States" and "State governments," thus setting up a convenient strawman to batter down. No one ever had contended that the Constitution was ratified by State governments, but Marshall, with a glittering display of intellectual swordsmanship, neatly skewered the nonexistent objection. Then he went on to say:

"This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was pending before the people, found it necessary to urge. That principle is now universally admitted. But the question respecting the extent of the powers actually granted is perpetually arising, and will probably continue to arise, as long as our system shall exist."

True enough, the question of "the extent of powers" does continue to arise to this day, though the doctrines of Marshall have so pervaded public thinking that it often is forgotten that the Federal Government has any limitations whatever. But the separateness of the States and the nature of their delegated powers were clearly recognized when the Constitution was created. The prophets who foresaw the trend toward consolidation—notably Patrick Henry and George Mason—were told they were old women, seeing ghosts.

Consider, if you will, the debate on ratification in Virginia. The transcript offers some absorbing reading. If the clash of a Henry and a Madison with a Pendleton and a Marshall does not prompt reflection upon subsequent corruption of the Constitution, at the very least their battle must lead to regrets at the decline in the quality of today's legislative debates. There were giants in those days. This was, to paraphrase Marshall, a Constitution they were debating. What was said of the relationship of the States and the Federal Government?

Go back in time. This was a sultry summer in Richmond. At least twice the brief convention was interrupted by thunder storms so severe the delegates were forced to recess. Tempers flared sharply. At one point Edmund Randolph, infuriated with Patrick Henry, was prepared to let their friendship "fall like Lucifer, never to rise again." They began on Monday, June 2; they adjourned sine die on Friday, June 27. Into those 4 weeks, the Virginians of 1788 packed a world of profound reflection upon the meaning and intention of the Constitution.

Edmund Pendleton served as president of the Virginia convention. He was a remarkable man: lawyer, scholar, statesman, thinker. In advocating ratification, Pendleton was joined by James Madison, John Marshall, Edmund Randolph, and Light Horse Harry Lee. They carried the day against Patrick Henry and George Mason, as leading opponents of the proposition.

The convention scarcely had begun before Henry established the broad spread of argument. He did not propose to abide by any parliamentary decision to debate one clause at a time. Before the convention in Philadelphia the previous summer, said Henry, a general peace and a universal tranquillity had prevailed. Now he was "extremely uneasy at the proposed change of government." He swept the room with a cold eye: "Be extremely cautious, watchful, jealous of your liberty. Instead of securing your rights, you may lose them forever."

George Mason came to his side. He charged that the new Constitution would create "a national government, and no longer a confederation." He especially denounced the authority proposed in the general government to levy direct taxes. This power, being at the discretion of Congress and unconfined, "and without any kind of control, must carry everything before it." "The idea of a consolidated government," he said, "is totally subversive of every principle which has hitherto governed us. This power is calculated to annihilate totally the State governments. \* \* \* These two concurrent powers cannot exist long together; the one will destroy the other; the general government, being paramount to and in every respect more powerful than the State governments, the latter must give way to the former."

Then Mason voiced the argument that is as applicable in the mid-20th century as it was toward the end of the 18th:

"Is it to be supposed that one national government will suit so extensive a country, embracing so many climates, and containing inhabitants so very different in manners, habits, and customs? It is ascertained, by history, that there never was a government over a very extensive country without destroying the liberties of the people. \* \* \* Popular governments can only exist in small territories."

On Thursday, June 5, Pendleton undertook to respond to Henry and to Mason. Was the proposed government, he inquired, truly a consolidated government? Of course not. "If this be such a government, I will confess, with my worthy friend, that it is inadmissible. \* \* \* The proposed Federal Government, he said, "extends to the general purposes of the Union. It does not intermeddle with the local, particular affairs of the States. \* \* \* It is the interest of the Federal to preserve the State governments; upon the latter the existence of the former depends. \* \* \* I wonder how any gentleman, reflecting on the subject, could have conceived an idea of the possibility of the latter."

Henry conceived it. He conceived it very clearly. The proposed Constitution, he felt, was "extremely pernicious, impolitic and dangerous." He saw no jeopardy to the people in the Articles of Confederation; he saw great jeopardy in this new Constitution. And he had this to say:

"We are descended from a people whose government was founded on liberty: Our glorious forefathers of Great Britain made liberty the foundation of every thing. That country is become a great, mighty, and splendid nation; not because their government is strong and energetic, but, sir, because liberty is its direct end and foundation. We drew the spirit of liberty from our British ancestors: By that spirit we have triumphed over every difficulty. But now, sir, the American spirit, assisted by the ropes and

chains of consolidation, is about to convert this country into a powerful and mighty empire. If you make the citizens of this country agree to become the subjects of one great consolidated empire of America, your government will not have sufficient energy to keep them together. Such a government is incompatible with the genius of republicanism."

And note this prophetic observation:

"There will be no checks, no real balances, in this government. What can avail your specious, imaginary balances, your rope-dancing, chain-rattling, ridiculous ideal checks and contrivances?"

What indeed? What have these ideal checks and balances availed the States in the 20th century? Henry saw the empty prospect: "This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints toward monarchy; and does not this raise indignation in the breast of every true American?"

It was monarchy, per se, that Henry foresaw. And it was despotism at the hands of a general government that he feared.

"What are your checks in this Government?" he kept asking.

No one ever answered him accurately, though half a dozen members of the Convention undertook to refute Henry and to allay his apprehensions. Randolph, replying to the objection that the country soon would be too large for effective government from the capital, commented that "no extent on earth seems to me too great," but he added, "provided the laws be wisely made and executed." It has proved to be a large qualification.

Madison also responded to Henry's general objection that the liberty of the people was in danger: "Since the general civilization of mankind," he said, "I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations."

Follow closely what Madison had to say next. He is expounding the relationship of the State and Federal Governments as he, above all men, understood it:

"Give me leave to say something of the nature of the Government. \* \* \* There are a number of opinions; but the principal question is, whether it be a federal or consolidated government. In order to judge properly of the question before us, we must consider it minutely in its principal parts. I conceive myself that it is of a mixed nature; it is in a manner unprecedented; we cannot find one express example in the experience of the world. It stands by itself. In some respects it is a government of a federal nature; in others it is of a consolidated nature. \* \* \* Who are parties to it?"

Note this, especially; it was quoted earlier but it bears repetition:

"The people—but not the people as composing one great body; but the people as composing 13 sovereignties."

Francis Corbin, one of the ablest political students of his time, then joined Madison in soothing the growing fear that the Federal Government might one day absorb the State Governments. "The powers of the General Government," he said, "are only of a general nature, and their object is to protect, defend, and strengthen the United States; but the internal administration of government is left to the State legislatures, who exclusively retain such powers as will give the States the advantages of small republics, without the danger commonly attendant on the weakness of such governments."

Henry, undaunted, straightened his red wig and returned to the debate. "That government is no more than a choice among

evils," he remarked, "is acknowledged by the most intelligent among mankind, and has been a standing maxim for ages." He could not accept the idea that this new government would be "a mighty benefit to us."

"Sir, I am made of so incredulous materials, that assertions and declarations do not satisfy me. I must be convinced, sir. I shall retain my infidelity on that subject till I see our liberties secured in a manner perfectly satisfactory to my understanding."

This exchange occurred on Friday, June 16. The following Monday, Henry renewed his assault:

"A number of characters, of the greatest eminence in this country, object to this government for its consolidating tendency. This is not imaginary. It is a formidable reality. If consolidation proves to be as mischievous to this country as it has been to other countries, what will the poor inhabitants of this country do? This government will operate like an ambushade. It will destroy the State governments, and swallow the liberties of the people, without giving previous notice."

Madison came back with fresh replies and new remonstrances. The States were safely protected, he assured the Virginia convention. And renewing the arguments he had advanced in the Federalist, "There will be an irresistible bias toward the State governments." It was utterly improbable—almost impossible—that the Federal Government ever would encroach upon the States. "The means of influence consist in having the disposal of gifts and emoluments, and in the number of persons employed by and dependent upon a government. Will any gentleman compare the number of persons which will be employed in the General Government with the number of those which will be in the State governments? The number of dependents upon the State governments will be infinitely greater than those on the General Government. I may say, with truth, that there never was a more economical government in any age or country, nor which will require fewer hands, or give less influence."

Pendleton again gained the floor to tackle Henry's objection. We are told, he said, "that there will be a war between the two bodies equally our representatives, and that the State government will be destroyed, and consolidated into the General Government. I stated before, that this could not be so. The two governments act in different manners, and for different purposes—the General Government in great national concerns, in which we are interested in common with other members of the Union; the State legislature in our mere local concerns. \* \* \* Our dearest rights—life, liberty and property—as Virginians, are still in the hands of our State legislature."

Patrick Henry remained unconvinced. His opinion and Madison's were "diametrically opposite." The mild-mannered Madison said the States would prevail. Henry, a dramatic and eloquent speaker, feared the Federal Government would prevail. Bring forth the Federal allurements, he cried, "and compare them with the poor, contemptible things that the State legislatures can bring forth. \* \* \* There are rich, fat, Federal emoluments. Your rich, smug, fine, fat, Federal officers—the number of collectors of taxes and excises—will outnumber anything from the States. Who can cope with the excise man and the tax men?"

Henry did not imagine that the dual governments could be kept each within its proper orbit. "I assert that there is danger of interference," he remarked, "because no line is drawn between the powers of the two governments, in many instances; and where there is a line, there is no check to prevent the one from encroaching upon the powers of the other. I therefore contend that they must interfere, and that this interference must subvert the State government as being

less powerful. Unless your government have checks, it must inevitably terminate in the destruction of your privileges."

William Grayson, burly veteran of the Revolution, was another member of the Virginia convention who clearly perceived the absence of effective checks and balances. "Power ought to have such checks and limitations," he said, "as to prevent bad men from abusing it. It ought to be granted on a supposition that men will be bad; for it may be eventually so."

Grayson was here discussing his apprehensions toward the powers vested by article III in the Supreme Court of the United States. "This Court," he protested, "has more power than any court under heaven." The Court's appellate jurisdiction, especially, aroused his alarm: "What has it in view, unless to subvert the State governments?"

Mr. President, only in the past few months this Court rendered a decision which struck down the sedition statutes in 48 States and two Territories, merely because the Federal Government had a statute on sedition. The Supreme Court held that because of that fact, the Federal Government had preempted the whole field, and struck down the State statutes on sedition. Sedition means overthrowing the Government. That is the practical effect of it.

Steve Nelson, in Pennsylvania, was convicted under Pennsylvania law. He appealed his case to the United States Supreme Court, and the Court turned him loose, on the ground that when the Federal sedition statute was enacted, that statute preempted the field. Thus it struck down all the State statutes on the subject. Forty-two States and two Territories had statutes on the subject.

Judge Howard Smith in the House, who was the author of the bill, said there was no such intention on his part when he introduced the bill. There was even a provision in the bill that the State laws should not be affected. Yet the Supreme Court struck down the sedition statutes in 42 States and two Territories. Nine men overruled the legislatures of 42 States, and would have overruled the supreme courts in 42 States if their statutes had been tested.

In New York a man named Slochower was employed by the City College of New York. The charter of the City College provides that if any schoolteacher takes refuge behind the fifth amendment, upon being asked by an official body about his Communist connections, he shall be automatically dismissed. He was questioned by an official body. He was automatically dismissed. But what happened? The Supreme Court reinstated him in his job. City College of New York cannot control its own faculty because of these nine men in Washington. Forty-eight State legislatures cannot have sedition statutes because of these nine men in Washington.

Out in New Mexico a man applied for membership in the bar. A similar situation occurred in California. One of the men was admittedly a former Communist. The bar did not want him to become a member. Certainly the bar board should have discretion enough to determine whether a man had the character to be admitted. The board turned him down.

In the other case the man refused to answer questions about his Communist



connections. Both of those men—one a former Communist, the other tied in with the Communists—were refused licenses to practice law, one in New Mexico and the other in California. But the nine men comprising the Supreme Court ordered those boards to give the applicants their licenses.

Also, in California there were 14 Communists convicted of actually organizing Communist cells. They were preaching the doctrine of communism. They were convicted in the California court. The case was appealed to the United States Supreme Court. What did that Court do? It turned five of them loose and gave the other nine a new trial. It virtually held, in fact, that one can preach communism all he wants to. So long as the organizing does not begin until a future day, it will be all right. In other words, there would have to be action to put it into effect immediately under the holding of the Court.

How are we going to protect this Government? How is the FBI going to protect it? How are the people of California going to protect it when they catch people who are actually organizing Communist cells and who are advocating communism and preaching communism, and then the Supreme Court turns them loose, laying down a dangerous doctrine—and it is a dangerous doctrine to which I just referred.

Then there is the Watkins case, Mr. President, which has hampered investigations by the Congress. The Supreme Court handed down a decision after Watkins had been convicted of contempt and turned him loose. The Court, in effect, held that a member of the counsel or someone who wanted to ask questions would have to explain the questions to the witness. A smart witness would never admit he understood or comprehended what was meant.

In the city of Washington, Mr. President, one of the most dangerous decisions, I think, that has ever been handed down involved the man Mallory, who raped a white woman. He was caught the next day. He was caught about 2 o'clock. Along about 8 or 9 o'clock he was given a lie-detector test, and he confessed the crime and admitted that he raped the white woman. The officers could not get hold of the United States Commissioner that night, and had to wait until the next morning, about 9 o'clock. They held the admitted criminal from about 2 o'clock one day to 9 o'clock the next day, and in the meantime he gave a confession to the police in Washington. He was tried, convicted, and sentenced to death. He had confessed his crime. But the case was appealed to the Supreme Court. What did those nine men do with it? They reversed the decision and said the police had held the man too long.

What is going to happen in this Nation if police officers cannot hold criminals from 2 o'clock one day to 9 o'clock the next day, especially when those criminals have confessed to their crimes?

Heretofore in judicial administration there has been no particular time fixed. A person could be held a reasonable time before arraignment. Under this decision the man would have to confess at

just about the time he was arrested, because the Supreme Court held that after he is arrested he is under coercion; and because he was held that short time the Supreme Court reversed the case, and the district attorney said there would not be any use to try it again; that the evidence depended on the confession.

As a result of that case, the Chief of Police in Washington said it would be very difficult to apprehend and detect criminals and arrest them hereafter and be able to make the evidence stand up in court. He called it a terrible handicap to law enforcement in such cases.

Mr. President, there are other decisions the Supreme Court has handed down about which I should like to tell the Senate. The Court seems to get its greatest delight out of turning loose Communists.

The record is disgraceful. The FBI, the law-enforcement agencies, police officers chase down Communists and narcotic people—and they are hard to catch. Then the Supreme Court reverses decisions and turns them loose and they walk the streets, as did the confessed rapist who was sentenced on his own confession. It is a disgrace to this Nation.

Mr. President, I still think this compromise bill is unconstitutional, but with the present Supreme Court no one can predict what they will do about it.

It was John Marshall, who 15 years later would do so much to justify Mason's apprehensions, who undertook to allay his fears now. The Federal Government, he insisted, certainly would not have the power "to make laws on every subject." Could Members of the Congress make laws affecting the transfer of property, or contracts, or claims, between citizens of the same State?

"Can they go beyond the delegated powers? If they were to make a law not warranted by any of the powers enumerated, it would be considered by the judges as an infringement of the Constitution which they are to guard. They would not consider such a law as coming under their jurisdiction. They would declare it void."

Marshall saw no danger to the States from decrees of the Supreme Court; "I hope that no gentleman will think that a State will be called at the bar of the Federal court. \* \* \* It is not rational to suppose that the sovereign power should be dragged before a court."

Madison, Monroe, and others joined Marshall in defending the third article. Their debate was long and detailed. Much of it was concerned with questions of pleading and practice. But after several days, they went on to other aspects of the Constitution: The prospect of judicial despotism was recognized by the few, and denied by the many.

#### 7. THE STATES RATIFY

In the end, Virginia ratified. It was a close vote. A motion to postpone ratification until amendments, in the nature of a bill of rights, could be considered by "the other States in the American confederacy," failed by 88 to 80. Then the main question was put, and this was what Virginia agreed to. It merits careful reading:

"We, the delegates of the people of Virginia, \* \* \* having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared, as well as the most mature deliberation hath enabled us, to decide thereon, do, in the name and in behalf of the people of Virginia, declare and make known, that the

powers granted under the Constitution, being derived from the people of the United States, be resumed by them whenever the same shall be perverted to their injury or oppression, and that every power, not granted thereby, remains with them, and at their will; that, therefore, no right, of any denomination, can be canceled, abridged, restrained, or modified, by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that, among other essential rights, the liberty of conscience and of the press cannot be canceled, abridged, restrained, or modified, by any authority of the United States."

The vote on that main question was 89 to 79, but even that narrow margin of approval was predicated upon a gentlemen's agreement that the Virginia convention would recommend a number of amendments, in the form of a Bill of Rights, to be presented to the first Congress. And the first of these recommended amendments reads: "That each State in the Union shall respectively retain every power, jurisdiction, and right, which is not by this Constitution delegated to the Congress of the United States, or to the departments of the Federal Government."

By the time Virginia completed ratification, of course her decision no longer carried compelling importance. The Virginia convention had opened on June 2, not quite 2 weeks after South Carolina, on May 23, had become the eighth State to ratify. But while the Virginians were debating the issue, New Hampshire, on June 21, had become No. 9: The new union had been formed, and the Constitution had become binding upon the nine States "ratifying the same." It has ever been Virginia's fate to make the right decisions, but to put off making them as long as possible.

In this consideration of State and Federal relationships, there is something to be learned from the other resolutions of ratification. The easy ones came first: Delaware came first, on December 7, 1787, "fully, freely, and entirely" approving and assenting to the Constitution; and then, in quick succession, Pennsylvania on December 12, after a bitter fight; New Jersey on December 18, and Georgia—Georgians had not even read the Constitution—on January 2, 1788. Connecticut followed a week later, with a comfortable vote of 128 to 40.

Then a month's hiatus set in. Massachusetts did not become No. 6 until February 7, and her approval of this "explicit and solemn compact" was not unqualified:

"It is the opinion of this convention that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of this commonwealth, and more effectually guard against an undue administration of the Federal Government."

It will come as no surprise that the very first amendment recommended by Massachusetts was "that it be explicitly declared that all powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised."

Two months later, on April 28, Maryland ratified. Then there was another lapse of nearly a month before South Carolina, on May 23, became No. 8. South Carolina accompanied her resolution of ratification with a pointed statement that she considered it essential "to the preservation of the rights reserved to the several States" and for the freedom of the people, that the State's right to prescribe the manner, time, and places of Congressional elections "be forever inseparably annexed to the sovereignty of the several States." Then South Carolina added:

"This convention doth also declare that no section or paragraph of the said Constitution warrants a construction that the

States do not retain every power not expressly relinquished by them and vested in the General Government of the Union."

New Hampshire, in voting its approval on June 21, closely paralleled the action of Massachusetts, but New Hampshire's declaration as to reserved powers was even more explicit. The people of New Hampshire wanted it understood that all powers not "expressly and particularly delegated" were reserved.

Mr. LANGER. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I am pleased to yield.

Mr. LANGER. Was the action of the South Carolina convention unanimous? [Laughter.]

Mr. THURMOND. I do not recall, from reading the history of that matter, whether it was unanimous or not. The action of the South Carolina convention was not unanimous when it acted on the question of adopting the resolution of ratification for the admission of South Carolina to the Union. South Carolina was the eighth State to be admitted to the Union. New Hampshire was the ninth. New Hampshire's action resulted in the formation of the Union; ratification by nine States was required in order to form the Union.

After that, Massachusetts, New York, North Carolina, and Rhode Island ratified the Constitution and became members of the Union.

Mr. LANGER. I thank the Senator from South Carolina.

Mr. THURMOND. I am not sure whether the action by the South Carolina convention was unanimous or not.

Mr. LANGER. I know the Senator from South Carolina, who has been a very distinguished governor of his State, is very well informed in regard to such matters.

Mr. THURMOND. As stated in the book, *The Sovereign States*—

South Carolina accompanied her resolution of ratification with a pointed statement that she considered it essential "to the preservation of the rights reserved to the several States" and for the freedom of the people, that the State's right to prescribe the manner, time, and places of Congressional elections "be forever inseparably annexed to the sovereignty of the several States."

Then South Carolina added:

"This convention doth also declare that no section or paragraph of the said Constitution warrants a construction that the States do not retain every power not expressly relinquished by them and vested in the General Government of the Union."

I construe that declaration to be part of the resolution of ratification, which was not adopted unanimously.

Mr. LANGER. I thank the distinguished Senator from South Carolina.

Mr. THURMOND. I have been glad, Mr. President, to have the Senator from North Dakota ask these questions.

Mr. President, a few years ago, when I was a young State senator, I made a commencement address in another county, about 40 miles from my home. The commencement was held in a long school building in which the acoustics were very bad. People in the rear could not hear, and looked as if they were going to sleep—and maybe they were.

So I raised my voice, and said, "Ladies and gentlemen, I want you to know that I am speaking for the future citizens of South Carolina." By raising my voice, I woke up the people in the rear of the room; and one fellow rose up, shook his head, and said, "Well, brother, if you speak much longer, they will soon be here, too." [Laughter.]

Mr. President, I feel so good that I believe I could speak quite a long time. [Laughter.]

Mr. President, I felt it my duty to make sure that I had not failed to exert every effort to emphasize the dangers of this bill.

I began speaking at 8:50 last night. It is now 5 minutes after 9. I shall conclude my remarks in a very few minutes.

Mr. President, in closing, I desire to remind the Senate that every State in the Nation has laws to protect the right to vote; and the Federal Government has a statute which protects the right to vote. In my opinion, Mr. President, this bill is unconstitutional, for the reasons I have stated during this debate.

This so-called compromise, which came to the Senate from the House of Representatives, permits a Federal judge to decide whether he will try one who is charged with criminal contempt, or whether he will permit him to be tried by a jury. The bill further provides a Federal judge with the discretionary power—if he does not try the person, without a jury—to decide what punishment he will impose. If he imposes a fine greater than \$300 or imprisonment for more than 45 days, the defendant can then demand a jury trial. That process could result in two trials in the case of a defendant charged with criminal contempt. I believe that would be unconstitutional. Under our system of jurisprudence, a man can never be put in jeopardy more than once for the same offense. Furthermore, if a judge should find such a person guilty, as a result of the first trial, we can realize what effect that would have on the jury which would be used in the second trial.

Mr. President, I should like to remind the Senate of the decision I have cited today, which holds that criminal contempt is a crime. That decision says criminal contempt is a crime. The Constitution says a man charged with a crime is entitled to a jury trial. The Constitution makes no exceptions.

The pending bill, which has come to the Senate from the House of Representatives, has now been amended in such a way that it could not conform to the Constitution.

Mr. President, in spite of the great amount of debate and discussion which previously have taken place on the subject of House bill 6127, I felt that this bill was of such importance to the citizens of the United States that it was my duty to make sure that I had not failed to exert every effort again to emphasize the dangers of the bill. I have spoken several times on it before.

Mr. President, I wish to say that my action was taken entirely on my own volition. I believe that every Senator must follow the dictates of his own conscience, in connection with such matters.

I do not believe that the action of any other Senator should be judged according to the action I have taken.

Mr. President, if I have helped to bring home to the American people, the citizens of this Nation, the heartfelt conviction which I hold, namely, that this bill is unwise, unnecessary, and unconstitutional, then I shall have done what I believe to be my duty.

I should like to believe that some have been convinced by my arguments, and that my arguments have been accepted on the basis on which I intended them to be accepted—as arguments against what I am convinced is bad proposed legislation, proposed legislation which never should have been introduced, and which never should be approved by the Senate.

Mr. President, I urge every Member of this body to consider this bill most carefully. I hope the Senate will see fit to kill it.

I expect to vote against the bill. [Laughter.]

Mr. President, I wish to extend my sincerest gratitude to the officials of the Senate, to those who have come in to listen to this debate, to the various Senators who have listened to this debate from time to time; to the clerks and the attachés, and to all who did everything they could to make me as comfortable as possible during the 24 hours and 22 minutes I have spoken.

Mr. President, I am deeply grateful for these courtesies, and again I want to thank the Presiding Officer and the others for their courtesies extended to me, and with this I now give up the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the order for the rollcall be rescinded.

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

#### SENATOR FROM WISCONSIN

At 1 o'clock and 5 minutes p. m. Thursday, August 29, 1957, Mr. JOHNSON of Texas said: Mr. President, will the Senator from South Carolina yield to me?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Texas?

Mr. THURMOND. I yield for a question.

Mr. JOHNSON of Texas. Mr. President, will the Senator from South Carolina yield to me, in accordance with the agreement previously reached, under the conditions previously stated, so the Senator-elect from Wisconsin may present himself?

Mr. THURMOND. I yield in accordance with that agreement.

Mr. JOHNSON of Texas. Mr. President, the Senator-elect, Mr. WILLIAM PROXMIRE, of the State of Wisconsin, comes to the Senate today with an overwhelming mandate from the people of Wisconsin. His victory represents the unity which has been achieved in every part of the State, by people from every walk of life.



Mr. President, we are very happy to welcome the Senator-elect from Wisconsin and the entire State of Wisconsin into the ranks of the Senate majority.

Pursuant to the consent previously given, I ask unanimous consent that it now be in order for the Senator-elect to proceed to the desk and to have the oath of office administered, immediately following the conclusion of the reading of the two telegrams which are at the desk, one being from the board of State canvassers, and the other being from the Governor of Wisconsin.

The VICE PRESIDENT. Without objection, it is so ordered.

The telegrams will now be read.

The telegrams were read, as follows:

MADISON, WIS.,

August 28, 1957, 2:07 p. m.

HON. FELTON M. JOHNSTON,

Secretary of the United States Senate,  
Capitol Building, Washington, D. C.:

On the basis of unofficial returns of the vote cast August 27, 1957, for United States Senator, Mr. WILLIAM PROXMIRE is the United States Senator-elect from Wisconsin for the residue of the unexpired term ending January 3, 1959, official certificate of election will follow upon completion of official canvass of vote cast.

STEWART G. HONECK,

Attorney General,

WARREN R. SMITH,

State Treasurer,

Members of the Board of State  
Canvassers.

MADISON, WIS.,

August 29, 1957, 9:54 a. m.

HON. FELTON M. JOHNSTON,

Secretary of the United States Senate,  
Capitol Building, Washington, D. C.:

Unofficial election returns show WILLIAM PROXMIRE elected to the United States Senate for the balance of the term expiring January 3, 1959. Request no delay in swearing in Wisconsin's newly elected Senator. Upon receipt of official canvass I, as transmitting officer, will promptly forward official return.

VERNON W. THOMSON,

Governor, State of Wisconsin.

The VICE PRESIDENT. If the Senator-elect from Wisconsin will come to the desk, the oath of office will be administered to him.

Mr. PROXMIRE, escorted by Mr. WILEY, advanced to the desk; and the oath of office prescribed by law was administered to him by the Vice President.

[Applause on the floor and in the galleries.]

The Senator-elect thereupon subscribed to the oath in the official oath book.

Mr. THURMOND. Mr. President, I should like to ask unanimous consent for leave to speak to the new Senator without my losing the floor.

Mr. KNOWLAND. I did not hear the Senator's request for unanimous consent.

Mr. THURMOND. I ask unanimous consent for leave to speak to the new Senator, without my losing the floor, and without having another speech being counted against me.

Mr. KNOWLAND. I have no objection.

Thereupon Mr. THURMOND greeted the new Senator from Wisconsin.

Mr. THURMOND. Mr. President, may we have order, please?

## CIVIL-RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendment of the House of Representatives to Senate amendments Nos. seven and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. ELLENDER. Mr. President, this morning I was aroused to come to the Senate at 10 o'clock to make the short speech I have to deliver. I have been sitting in my place now for 11 hours and 45 minutes awaiting my opportunity. While I am on my feet I wish to compliment the distinguished junior Senator from South Carolina [Mr. THURMOND] for his great feat of endurance. I know what an ordeal he went through. I wish to say that I held title of the longest filibuster for about 2 or 3 years until another idiot, in the person of the senior Senator from Oregon [Mr. MORSE] beat my record. [Laughter.]

But there is one record I hold which I do not believe anyone will ever exceed. It was established about a year after I became a Member of the Senate over 19 years ago, and I was successful in holding the floor for 6 successive days by unanimous consent, and speaking from 6 to 8 hours. So I know the ordeal through which my good friend from South Carolina went in the 24 hours he spoke.

Mr. President, I am opposed to the so-called compromise of H. R. 6127. As I have stated previously, the entire concept of the measure is repugnant to our Constitution and the separation of Federal and State powers provided under that Constitution. The bill, as it passed the Senate, was opposed by me and by a number of other Senators because it permits unwarranted and unjustified interference by the Federal Government of one of the most basic rights of the States, the right to fix qualifications of voters without interference from the Central Government. I am still opposed to it for that reason. Moreover, it still involves the creation of a super grand jury with nationwide jurisdiction, authorized and empowered to rove at will over the length and breadth of our country ferreting ways and means of injecting the heavy hand of the Federal judiciary into the electoral processes of our States.

But, Mr. President, the Senate bill provided one important safeguard against the exercise of tyrannical power by the Attorney General and the Federal judiciary: The right to trial by jury in all cases arising under it.

The Senate adopted the jury trial amendment by a substantial margin. Senators favoring it made logical and well-reasoned speeches urging its adoption. The Senate was convinced that guaranteeing trial by jury to all persons charged with what amounts to a criminal offense was the only proper thing to do.

Now, in the closing hours of this session of Congress, a small group of willful men in the House of Representatives, led by persons who have only minute numbers of Negroes in their Congressional districts, have determined to play poli-

tics once again with the so-called right-to-vote bill.

They, along with some Members of this body, have evidently forgotten the admonition of the distinguished junior Senator from Wyoming [Mr. O'MAHONEY], myself and others who warned that the Nation cannot afford to sacrifice the basic right of trial by jury in order to allegedly further safeguard another right, the right to vote.

I make that statement, Mr. President, because the jury trial amendment has not only been compromised, it has been brutally raped and almost nullified. The entire Constitution has been seduced and subverted by the sanctimonious sabotage of self-seeking pressure groups.

The Senate demonstrated, by voting overwhelmingly to adopt the jury trial amendment, that the right to trial by jury must remain equal to and as important as, the right to vote.

The so-called compromise amendment adopted by the House provides for jury trial as a matter of right only if the penalty to be imposed exceeds 45 days in jail or a fine of \$300. This appears to be not only acceptable, but actually pleasing, to the so-called liberals in Congress.

Is it not strange now, Mr. President, that the very same Members of the Congress who cry in one breath that we must not encumber the right to vote with dollar qualifications, such as the poll tax, are now clamoring for and supporting an amendment which places a dollar value on jury trials?

This compromise is an abomination for no other reason than it puts a price tag on the right of trial by jury.

Of course, some of the membership of the other body would have our people believe that the alleged compromise merely brings the jury-trial feature of this bill into line with a District of Columbia law. This is not only poppycock; it is foolishness.

Here is the District of Columbia law from which the compromise was patterned and with which the jury trial would be aligned. It is found in section 616 of title 11 of the District of Columbia Code:

Prosecutions in the police court shall be on information by the proper prosecuting officer. In all prosecutions within the Constitution of the United States, the accused would be entitled to a jury trial, the trial shall be by jury, unless the accused shall in open court expressly waive such trial by jury and request to be tried by the judge, in which case the trial shall be by such judge, and the judgment and sentence shall have the same force and effect in all respects as if the same had been entered and pronounced upon the verdict of a jury.

In all cases where the accused would not by force of the Constitution of the United States be entitled to a trial by jury, the trial shall be by the court without a jury, unless in such of said last-named cases wherein the fine or penalty may be more than \$300, or imprisonment as punishment for the offense may be more than 90 days, the accused shall demand a trial by jury, in which case the trial shall be by jury. In all cases where the said court shall impose a fine it may, in default of the payment of the fine imposed, commit the defendant for such a term as the court thinks right and proper, not to exceed 1 year. (June 17, 1870, 16 Stat. 153, ch. 133; Mar. 3, 1891, 26 Stat. 848, ch.

536; Mar. 3, 1901, 31 Stat. 1196, ch. 854, Sec. 44; Mar. 3, 1925, 43 Stat. 1120, ch. 443, sec. 4.)

Senators will note that this language is confined to prosecutions before the police court of the District of Columbia. The police court, incidentally, became part of the municipal court in 1942 under the Consolidation Act.

With this in mind, let us look at the jurisdiction of the police court, now part of the municipal court. Section 602 of title 11 of the District of Columbia Code enunciates that jurisdiction. It reads as follows:

The said court shall have original jurisdiction concurrently with the District Court of the United States for the District of Columbia, except where otherwise expressly herein provided, of all crimes and offenses committed in the said District not capital or otherwise infamous and not punishable by imprisonment in the penitentiary, except libel, conspiracy, and violation of the post-office and pension laws of the United States; and also of all offenses against municipal ordinances and regulations in force in the District of Columbia. The said court shall also have power to examine and commit or hold to bail, either for trial or further examination, in all cases, whether cognizable therein or in the District Court of the United States for the District of Columbia. (June 17, 1870, 16 Stat. 153, ch. 133; Mar. 3, 1891, 26 Stat. 848, ch. 536; Mar. 3, 1901, 31 Stat. 1196, ch. 854, sec. 43.) (District of Columbia Code.)

In other words, Mr. President, by adopting the so-called jury-trial compromise, the pattern of jury trials in contempt cases before Federal district courts has been cut from the same cloth as I have heretofore stated as that covering trials in the District of Columbia police court, now part of the District's municipal court system.

During initial Senate debate on this bill, I warned that one of its byproducts would be the conversion of our Federal district courts into police courts. Evidently proponents of this legislation have now come into agreement with me, in a somewhat devious fashion. I might suggest, however, that instead of adopting an amendment which would reduce our Federal district courts to the same level as the old police court of the District of Columbia, it would be wise and more prudent to elevate the District's police court, now part of the municipal court, to the same level as the district courts insofar as jury trials are concerned.

It is also interesting to note, Mr. President, that those who so magnanimously declare that the new language merely brings policy governing jury trials under the pending bill in line with Congressional policy governing the District of Columbia, overlook one important fact. The trials which the new language would govern in this bill would be conducted by district courts. The policy in the District of Columbia, to which I have referred, controls only the actions of the District of Columbia municipal courts, not the United States District Court for the District of Columbia. Thus, once again, we have concrete proof that the amendment drags our Federal district courts down to the same level as the municipal court of the District of Columbia insofar as trial by jury is concerned.

I remind Senators that the only reason jury trials are not guaranteed in some proceedings before the District of Columbia municipal court is because that court has jurisdiction only over a limited number of offenses, all of which are of minor significance, such as violations of traffic regulations.

The reason why such minor infractions as these are not within the classes of offenses for which trial by jury is guaranteed under the Constitution is not complex—it has its roots in the English common-law tradition that petty criminal acts were not triable before a jury.

Thus, it appears to me that the liberals have impaled themselves upon the horns of a dilemma in this regard. They state on one hand that the right to vote is so basic, so precious, that it must be protected at any cost. Hence, it must follow logically that a violation of that right is a criminal act of a serious nature. Yet, the Senate is almost being horsewhipped into following a jury-trial precedent which has its only applicability in one area of the law—that covering minor, petty offenses.

Is it not illogical, Mr. President, for the Senate to plunge headlong into the adoption of this obnoxious legislation under the prodding of those who claim that violation of the right to vote is a heinous act, yet, when we seek to erect basic safeguards against persons accused of perpetrating such vile deeds, we are told that those safeguards are not necessary because they do not apply to the minor crimes within the jurisdiction of the District of Columbia's police court?

Let those who demand this compromise version decide whether this bill is fish or fowl.

If the right to vote is so basic that it must be protected as the measure before us proposes, then an act violating that right is a serious offense, and an accused should be accorded the right of trial by jury.

On the other hand, if the right to vote is to be relegated to the minor types of offenses within the jurisdiction of the District of Columbia police court, where there is no jury trial as a matter of right unless penalties imposed exceed certain dollar limits, then it is nothing less than constitutional larceny for the Senate to rob the States of their right to fix voter qualifications, under the guise of protecting the right to vote.

I would remind Senators again that the acts this bill would render punishable are not such that should be withdrawn from the protection of trial by jury. Senators will notice that one of the acts made grounds for seeking an injunction is a conspiracy to interfere with voting rights. Once an injunction issued, a conspiracy directed at that objective would be subject to punishment for contempt. In effect, the court could punish for conspiracy.

If the punishment meted out were less than the dollar limits or period of time recited in the pending bill, the accused would not be given a jury trial. Yet, in at least one case, the Supreme Court has ruled that the crime of conspiracy is an infamous crime within the meaning of the sixth amendment, and that an attempt to punish a conspiracy without

trial by jury—no matter what the degree of punishment might be—was a violation of the Constitution.

I refer Senators to the case of *Callan v. Wilson* (127 U. S. 540), decided in 1888. In that case, several residents of the District of Columbia were charged with conspiring to deprive certain musicians of work by threatening to suspend them from a musicians union unless they paid their dues. The accused were convicted in the District of Columbia police court without a jury and fined \$25. The petitioner, Callan, brought habeas corpus proceedings, and lost in the lower courts. However, he perfected an appeal to the Supreme Court of the United States, claiming that the provision of District of Columbia law dispensing with a jury trial in prosecutions by an information before the District of Columbia police court were unconstitutional, and that he was being wrongfully detained.

In finding for Callan and ordering his discharge from custody, the Supreme Court of the United States, speaking through Mr. Justice Harlan, said:

Without further reference to the authorities, and conceding, that there is a class of petty or minor offenses, not usually embraced in public criminal statutes and not of the class or grade triable at common law by a jury, and which, if committed in this District, may, under the authority of Congress, be tried by the court and without a jury, we are of opinion that the offense with which the appellant is charged does not belong to that class. A conspiracy such as is charged against him and his codefendants is by no means a petty or trivial offense (*Callan v. Wilson*, supra, at 555).

Later, the Court added:

These authorities are sufficient to show the nature of the crime of conspiracy at common law. It is an offense of a grave character, affecting the public at large, and we are unable to hold that a person charged with having committed it in this District is not entitled to a jury, when put upon his trial. The jurisdiction of the police court, as defined by existing statutes, does not extend to the trial of infamous crimes or offenses punishable by imprisonment in the penitentiary. But the argument, made in behalf of the Government, implies that if Congress should provide the police court with a grand jury, and authorize that court to try, without a petit jury, all persons indicted, even for crimes punishable by confinement in the penitentiary, such legislation would not be an invasion of the constitutional right of trial by jury, provided the accused, after being tried and sentenced in the police court, is given an unobstructed right of appeal to, and trial by jury in, another court to which the case may be taken. We cannot assent to that interpretation of the Constitution.

#### SYLLABUS

Except in that class or grade of offenses called petty offenses, which, according to the common law, may be proceeded against summarily in any tribunal legally constituted for that purpose, the guaranty of an impartial jury to the accused in a criminal prosecution, conducted either in the name, or by or under the authority of, the United States, secures to him the right to enjoy that mode of trial from the first moment, and in whatever court, he is put on trial for the offense charged. In such cases a judgment of conviction, not based upon a verdict of guilty by a jury, is void.

To accord to the accused a right to be tried by a jury, in an appellate court, after



he has been once fully tried otherwise than by a jury, in the court of original jurisdiction, and sentenced to pay a fine or be imprisoned for not paying it, does not satisfy the requirements of the Constitution. When, therefore, the appellant was brought before the Supreme Court of the District, and the fact was disclosed that he had been adjudged guilty of the crime of conspiracy charged in the information in this case, without ever having been tried by a jury, he should have been restored to his liberty (*Callan v. Wilson*, supra, at 556-557).

In other words, Mr. President, in the case just cited, the Supreme Court of the United States held that a conspiracy was a crime of such magnitude that it could not be withdrawn from the protection of trial by jury, even though the dollar amount of the fine imposed was within the maximum stated in the statute governing the District of Columbia police court.

The Senate should also realize the burden the new language places upon an individual charged with violating one of the injunctions issued under the authority of this bill. Instead of having to undergo the expense and trouble of only one trial, a defendant would have to pay for and endure two.

This would result simply because, after hearing the evidence, the judge could decide to impose a penalty exceeding \$300 or 45 days in jail. If he did, the defendant would be entitled, as a matter of right, to demand a new trial, with a jury. Thus, in order to obtain the right of jury trial, as compromised in the pending bill, a defendant would have to subject himself to another trial. In effect, he would have to agree to be tried twice for the same offense.

Lawyers do not try cases for charity, Mr. President. Court costs are frequently not insignificant. Besides, the personal anguish to a defendant in having to be tried twice, the expense of supporting two trials would be most burdensome, to say nothing of the loss of time to an accused involved under such a procedure.

It is my considered judgment, Mr. President, that the compromise bill is no compromise at all. Rather, it is an abject yielding by the Senate—which inserted the jury-trial requirements as a matter of basic principle—of its judgment to that of a very few—a small group of men who desire to use the constitutional rights of American citizens as steppingstones to the political plum tree.

I emphasize with all the strength I have that the Senate will have assisted, aided, and abetted, the perpetration of a monstrous civil wrong under the guise of protecting civil rights if it passes this bill. I plead with Senators to vote down the so-called House compromise, to stand firm on the jury-trial amendment approved by the Senate. Senators who supported the jury-trial amendment did so, I am convinced, because a matter of principle was involved. Yet, now we are being asked, if not almost compelled, to abandon this position of principle and to temper it on the anvil of the almighty dollar. If the Senate felt a few weeks ago that the right to trial by jury in cases arising under this bill should be guaranteed as a matter of principle, then how can we now agree to pervert that

principle by tying it to a sum of money, or a length of time?

I am going to vote against this so-called compromise, and I urge all my colleagues to do likewise. My only regret is that the pressure for adjournment is so great that those of us who seriously, conscientiously, and for good cause oppose this bill cannot obtain sufficient time to discuss it in detail—to lay its faults bare before the bar of public opinion.

I have on my desk in my office a speech covering over 1,500 pages. I had planned to make it should the necessity arise. I think the occasion for its delivery has arrived, and I am ready and willing to begin delivering it. However, I am a realist, Mr. President. I have discussed this matter with a number of my colleagues and it is obvious that proponents of the bill, as it has been compromised, are so numerous that they are able, and also willing and anxious, to choke off debate by invoking cloture at the earliest moment. Under the circumstances, it would be a futile gesture to attempt to obtain sufficient time to properly present the ugly picture of this bill to the American people.

I warn those who have been hypnotized by the legislative snake charmers who advocate this alleged compromise that they are making a bed of thorns for themselves. I urge all Senators to vote against this bill.

#### ORDER OF BUSINESS

During the delivery of Mr. THURMOND's speech,

Mr. JOHNSON of Texas. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield.

Mr. JOHNSON of Texas. Will the Senator yield under the same conditions under which he yielded earlier in the day, so that I may ask unanimous consent that the Senate concur in House amendments on minor bills, with the understanding that when he shall resume his remarks it shall not be counted as an extra speech on the part of the Senator, and with the further understanding that he shall not lose the floor?

Mr. THURMOND. I am pleased to yield with that understanding.

The PRESIDING OFFICER. The understanding of the Chair is that the request of the majority leader is that the Senator addressing the Senate be allowed to yield to him so that he may ask for action on minor bills, with the understanding that the Senator shall not lose his place on the floor. Is there objection? The Chair hears none.

#### FAVORING SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 40) favoring the suspension of deportation in the cases of certain aliens, which was, on page 4, strike out line 8.

Mr. JOHNSON of Texas. Mr. President, on August 5, 1957, the Senate

passed Senate Concurrent Resolution 40, to record Congressional approval of suspension of deportation in certain cases in which the Attorney General had suspended deportation for more than 6 months. Subsequent to this action, the Immigration and Naturalization Service requested that one case included in the concurrent resolution be deleted and returned to the jurisdiction of that service. On August 22, 1957, the House of Representatives passed Senate Concurrent Resolution 40, with an amendment to delete the one case.

The amendment is acceptable and I move that the Senate concur in the House amendment to Senate Concurrent Resolution 40.

The motion was agreed to.

#### LETIZIA MARIA ARINI

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1972) for the relief of Letizia Maria Arini, which were, on page 1, line 3, strike out "paragraph" and insert "paragraphs (9) and", and on page 1, line 9, strike out "paragraph" and insert "paragraphs."

Mr. JOHNSON of Texas. Mr. President, on August 5, 1957, the Senate passed S. 1972, to waive a ground of inadmissibility in behalf of the wife of a United States citizen. On August 22, 1957, the House of Representatives passed S. 1972, with amendments.

There is no objection to the amendments. I move that the Senate concur in the House amendments to S. 1972.

The motion was agreed to.

#### MRS. AHSAPET GAMITYAN

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1049) for the relief of Mrs. Ahsapet Gamityan, which was, to strike out all after the enacting clause and insert:

That the Attorney General is authorized and directed to cancel any outstanding order and warrant of deportation, warrants of arrest, and bonds, which may have issued in the case of Mrs. Ahsapet Gamityan. From and after the date of the enactment of this act, the said Mrs. Ahsapet Gamityan shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and orders have issued.

Mr. JOHNSON of Texas. Mr. President, on August 5, 1957, the Senate passed S. 1049, to grant the status of permanent residence in the United States to the beneficiary. On August 22, 1957, the House of Representatives passed S. 1049, with an amendment to merely cancel outstanding deportation proceedings in behalf of the beneficiary.

The amendment is acceptable, and I move that the Senate concur in the House amendment to S. 1049.

The motion was agreed to.

#### DANIEL ALCIDE CHARLEBOIS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1271) for the relief of Daniel Alcide

Charlebois, which was to strike out all after the enacting clause and insert:

That the Attorney General is authorized and directed to cancel any outstanding order and warrant of deportation, warrants of arrest, and bonds, which may have issued in the case of Daniel Alcide Charlebois. From and after the date of the enactment of this act, the said Daniel Alcide Charlebois shall not again be subject to deportation by reason of the same facts upon which such deportation proceedings were commenced or any such warrants and orders have issued.

Mr. JOHNSON of Texas. Mr. President, on August 5, 1957, the Senate passed S. 1271, to grant the status of permanent residence in the United States to the beneficiary. On August 22, 1957, the House of Representatives passed S. 1271, with an amendment to merely cancel outstanding deportation proceedings in behalf of the beneficiary.

The amendment is acceptable, and I move that the Senate concur in the House amendment to S. 1271.

The motion was agreed to.

#### JUNKO MATSUOKA ECKRICH

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1321) for the relief of Junko Matsuoeka Eckrich, which were, in line 3, strike out "paragraph" and insert "paragraphs (9) and", and in line 9, strike out "paragraph" and insert "paragraphs."

Mr. JOHNSON of Texas. Mr. President, on July 8, 1957, the Senate passed S. 1321, to waive a ground of inadmissibility in behalf of the wife of a United States citizen. On August 6, 1957, the House of Representatives passed S. 1321, with amendments to waive an additional ground for exclusion.

The amendments are acceptable, and I move that the Senate concur in the House amendments to S. 1321.

The motion was agreed to.

#### FAVORING SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the concurrent resolution (S. Con. Res. 41) favoring the suspension of deportation in the case of certain aliens, which were, on page 3, strike out line 4; on page 4, strike out line 5; on page 4, strike out line 12; on page 4, strike out line 15; and on page 4, strike out line 22.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

#### COMMITTEE MEETING DURING SENATE SESSION

During the delivery of Mr. THURMOND's speech,

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be permitted to sit during the session of the Senate today.

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

Mr. JOHNSON of Texas. I make that same request for that committee for the remainder of the week.

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

#### PERMISSION TO COMMITTEES TO FILE REPORTS

During the delivery of Mr. THURMOND's speech,

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be permitted to file a report during the adjournment of the Senate summarizing its activities during the 85th Congress, 1st session.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JOHNSON of Texas. I also ask unanimous consent that during the recess of the Senate the Select Committee on Improper Activities in the Labor or Management Field be permitted to file a report, and the Committee on Government Operations be permitted to file a report of the Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### IMPORT EXCISE TAX ON LEAD AND ZINC

During the delivery of Mr. THURMOND's speech,

Mr. MURRAY. Mr. President, as has been pointed out on this floor many times recently, the domestic lead and zinc producing industries are in dire straits as a result of dumping of these commodities on the American market by foreign producers.

On July 19 the administration recommended to the Congress that it impose an import excise tax on lead and zinc. Hearings were held both by the Ways and Means Committee of the House of Representatives and the Finance Committee of the Senate.

At the conclusion of the Ways and Means Committee hearings, Chairman JERE COOPER, of that committee, addressed a letter to President Eisenhower pointing out that the President, under the so-called escape-clause provision of the Trade Agreements Extension Act of 1951 and the national security amendment—section 7 of the Trade Agreements Extension Act of 1955—had an avenue under which he, the President, could provide relief from import competition and suggested that such a course be followed.

Chairman COOPER stated in his letter to the President, and I now quote:

It is clear that in this instance you have not made recourse to existing administrative procedures which are available to provide relief to these industries.

On August 23 President Eisenhower replied to Chairman COOPER's letter in which Mr. Eisenhower stated that in the event the involved industries initiated an escape-clause proceeding be-

fore the Tariff Commission and I quote from his letter:

I would request the Tariff Commission to expedite its consideration of the matter.

Because of the importance of this correspondence, I ask unanimous consent that Chairman COOPER's letter to the President and the President's reply to that letter be carried in the body of the RECORD for today.

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

AUGUST 16, 1957.

The PRESIDENT,

*The White House.*

MY DEAR MR. PRESIDENT: I am writing to you in connection with the proposal of the Honorable Fred A. Seaton, Secretary of the Interior, on behalf of the administration, for the enactment of sliding-scale import excise taxes on lead and zinc.

Although the communication from Secretary Seaton on this subject was not received by the Committee on Ways and Means until June 19, 1957, at a time when the session was far advanced and the committee was diligently following an agenda previously determined by it, due to the importance of the subject and due to conditions in the lead and zinc industry as depicted by the communication of the Secretary, the committee broke into its agenda and conducted hearings on August 1 and 2, 1957.

I have now had time to carefully review and study the testimony which was presented to the committee at the public hearing on this important subject. It is my sincere conviction that you already have authority, previously delegated to you by the Congress in the trade agreements legislation, to afford relief to domestic industries from import competition in appropriate cases. The testimony of your representatives at the public hearings, in conjunction with the written recommendation of the Secretary of the Interior, indicates that the lead and zinc industries properly constitute such a case in the opinion of the administration. The testimony further shows that your present authority is adequate to afford the relief which you have recommended to the Congress.

As you will recall, one of the principal purposes of the so-called escape-clause provision (sec. 7 of the Trade Agreements Extension Act of 1951) and the national security amendment (sec. 7 of the Trade Agreements Extension Act of 1955) was to afford you an avenue under which you can provide relief from import competition to domestic industries according to the procedures and standards set forth therein. As may further be recalled, the committees of the Congress and the Congress in past years have devoted much time, thought, and attention to providing you with these powers so that our domestic industries can be afforded protection in appropriate cases and so that the national interest can be served by Presidential action without resort to further legislation.

It is clear that in this instance you have not made recourse to existing administrative procedures which are available to provide relief to these industries. In addition you have not advised the Congress that your existing authority under the escape clause and the national security amendment is inadequate in these matters generally, although a subcommittee of the Committee on Ways and Means last fall specifically called upon the administration for any recommendations which it might have for modifying or strengthening these provisions of existing legislation.

The testimony presented to the Committee on Ways and Means during the course of the public hearings on August 1 and 2, 1957, indicated that the proposal for a sliding-scale



import excise tax on lead and zinc is almost identical in major respects with the recommendations of the Tariff Commission made to you under the lead and zinc escape-clause proceeding in 1954. You rejected this recommendation, stating among other things, that the proposed relief did not meet the needs of these industries. The testimony of your representatives further indicated that the situation today in the lead and zinc industries is substantially the same as it was at the time of the escape-clause investigation by the Tariff Commission and your rejection of the unanimous finding of the Tariff Commission.

The testimony at the public hearings also clearly showed that the proposal which the Secretary of the Interior now recommends on behalf of the Administration is almost identical in effect to a proposal that was before the Committee on Ways and Means in 1953 and on which a strongly adverse report was submitted by the State Department. The State Department set forth ten reasons why this proposal was inadvisable and contrary to the national interest. This report was made a part of the recent public hearings.

The proposal which the Administration has now recommended would not become effective, in event of its enactment, until January 1, 1958. Yet, under the national security amendment any relief found appropriate could be put into effect by you almost immediately. Also, under the escape clause I see no reason why you cannot direct the Tariff Commission to report to you within a stated time as to measures which it may deem appropriate for relief of these industries, and I see no reason why you could not have done so on June 19, the date of the proposal, or even earlier for that matter. It is clear from the testimony presented to our committee, aside from the merits of the proposal, that relief can be afforded by you much more speedily than would be the case even with enactment of the proposal.

As you of course know, I have been a strong and consistent supporter of the reciprocal trade agreement program since the inception of the program in 1934. I have consistently supported and worked for proposals which you have made to continue our foreign trade policies, including, for example, your proposal during the last Congress and in this Congress for approval by the Congress for membership in O. T. C.

You have gone on record strongly supporting the reciprocal trade agreements program. At your request the Congress has provided three extensions of your authority during your Administration. An important consideration of the Congress in providing these extensions was the fact that should trade-agreements concessions result in such import competition that domestic industries are injured or are threatened with injury you would have the authority where it is in the national interest to relieve domestic industries of such injury.

I cannot refrain from expressing to you my very great concern as to the impact of a proposal such as the one which your administration has made concerning lead and zinc on the whole structure of the trade-agreements program. In stating this, I do not intend to imply that the lead and zinc industries may not need relief. My concern is due to the fact that this proposal would completely bypass existing authority given you in present trade-agreements legislation. You are asking the Congress to do that which you already have ample authority to do. The authority which you have is not selective, but broad and general, and applies to any and all industries which are injured or threatened with injury as a result of trade-agreements concessions. I am sure you are aware of the fact that there are many other industries that are asking for relief from import competition. Among these are textiles, velveteen, and gingham; tuna fish, hard-

wood-plywood, stainless-steel flatware, fluor-spar, natural gas, petroleum, and many others. There are numerous bills now pending before the Committee on Ways and Means which would provide relief from import competition on the above specified items and many additional ones. I am confident that you would not want to see the Congress bypass and undermine your present authority under trade-agreements legislation by acting on individual items.

I sincerely urge you to personally review the situation in the lead and zinc industries and the proposal submitted to the Congress. Upon such a review, I am sure you will be convinced as I am that you do have ample authority to provide such relief as you deem necessary in the national interest to the lead and zinc industries. I am also confident that you will agree that to bypass the existing provisions of our trade-agreements law will undermine the trade-agreements program.

I can only observe in closing that there is considerable sentiment that, in the absence of your exercising such authority as you may have for an expansion of our foreign trade and the protection of domestic industries, the Congress will be forced to study again the delegation of authority made to you under the trade-agreements legislation. This is an eventuality which neither you nor I would contemplate with equanimity.

The other 14 Democratic members of the Committee on Ways and Means concur with me in this letter.

Very cordially yours,

JERE COOPER,  
Chairman, Committee on Ways and Means.

THE WHITE HOUSE, August 23, 1957.  
The Honorable JERE COOPER,  
Chairman, Ways and Means Committee,  
House of Representatives,  
Washington, D. C.

DEAR MR. CHAIRMAN: I appreciate having your letter concerning the administration's proposal for sliding-scale import excise taxes on lead and zinc. It is gratifying to know that your committee is giving attention to the distressed condition of the lead and zinc mining industries.

In 1954, as you pointed out, the Tariff Commission recommended higher duties for lead and zinc under the escape clause of the Trade Agreements Extension Act of 1951. But other means were available at that time both to meet the public need and afford the relief immediately necessary. Such means were found in the program of increased purchases of domestic ores for the stockpile and the barter of surplus agricultural commodities in exchange for foreign lead and zinc. These programs had the advantage of increasing our inventories of these materials as a security measure while, at the same time, removing price depressing excess supplies from the domestic and world markets. Recently, however, the attainment of our stockpile goals has necessitated adjustments in these programs, and the problem of distress has reappeared.

As I indicated in my press conference on August 21, my view with respect to maintaining the integrity of section 7 of the Trade Agreements Extension Act of 1951 is as one with yours and, I am sure, with that of all the members of the House Ways and Means Committee. H. R. 6894, as you know, is the sole exception proposed by this administration in over 4½ years. In view of this fact, I think you will agree that such exceptions are not proposed lightly.

The special circumstances of this case that suggest the desirability of following the legislative route were set forth by administration witnesses before both your committee and the Senate Finance Committee.

It is understood, of course, that the initiation before the Tariff Commission of an escape-clause proceeding by the industry is available in the last instance. It is my un-

derstanding that the industry will take such course if the Congress does not pass the requested legislation. In that event, I would request the Tariff Commission to expedite its consideration of the matter.

You mentioned the possibility of relief through the national-security amendment of the Trade Agreements Extension Act of 1955. Although a continuously productive mining industry is of fundamental importance to the national security, it is deemed appropriate in present circumstances to invoke the relief afforded by the escape clause of the Trade Agreements Extension Act of 1951 if the Congress does not enact H. R. 6894. The importance of this industry to a strong national defense should, however, not be overlooked.

I share your belief that expansion of foreign trade is in the best interests of the United States and I reiterate my conviction that such an objective can best be implemented by reciprocal trade agreements programs.

Sincerely,

DWIGHT D. EISENHOWER.

#### NOMINATIONS OF GERARD C. SMITH AND DR. HENRY VAN ZILE HYDE

During the delivery of Mr. THURMOND's speech,

Mr. GREEN. Mr. President, late yesterday afternoon the Senate received the nomination of Gerard C. Smith, of the District of Columbia, to be an Assistant Secretary of State. Mr. Smith would be in charge of policy planning.

The rules of the Committee on Foreign Relations require that nominations lie over 6 days before they can be considered. The rules also require that public hearings be held on nominations to positions in this category.

In view of the apparently imminent adjournment of Congress, it would not be possible to act on the nomination unless these rules were waived. Although this could be done by a majority vote of the committee, it is my feeling—and the feeling of such members of the committee as I have been able to consult—that it would be unwise to do so. This nomination is to one of the most important positions in the Department of State, and it should not be considered in haste.

Failure of the Senate to act on the nomination will not appreciably interfere with the work of the Department of State. The President can give Mr. Smith a recess appointment. He can also send the nomination back to the Senate in the next session, and it can then be considered in orderly fashion.

I want to make it clear that lack of Senate action on the nomination in the current session is without prejudice to consideration of the matter next year.

Finally, I might say also, Mr. President, that there is also pending before the Committee on Foreign Relations the nomination of Dr. Henry Van Zile Hyde of Maryland to be the United States Representative on the Executive Board of the World Health Organization. This nomination was received subsequent to the last meeting of the Foreign Relations Committee, and it is also being passed over without prejudice. I am informed that no meeting of the World Health Organization Executive Board is scheduled until January, so that there will be no embarrassment if the nomination is not confirmed at this session.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House insisted upon its amendments to the joint resolution (S. J. Res. 35) to provide for the observance and commemoration of the 50th anniversary of the first conference of State governors for the protection, in the public interest, of the natural resources of the United States, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FRAZIER, Mr. ASHMORE, and Mr. KEENEY were appointed managers on the part of the House at the conference.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 3028. An act to provide for the relief of certain female members of the Air Force, and for other purposes;

H. R. 3625. An act to amend section 214 of the Interstate Commerce Act, as amended, to prevent the use of arbitrary stock par values to evade Interstate Commerce Commission jurisdiction;

H. R. 3940. An act to grant certain lands to the Territory of Alaska;

H. R. 6258. An act to amend the act entitled "An act to provide additional revenue for the District of Columbia, and for other purposes", approved August 17, 1937, as amended;

H. R. 6562. An act relating to the north half of section 33, township 28 south, range 56 east, Copper River meridian, Alaska;

H. R. 6760. An act to grant to the Territory of Alaska title to certain lands beneath tidal waters, and for other purposes;

H. R. 8030. An act to amend the Agricultural Adjustment Act of 1938 with respect to acreage history; and

H. R. 8918. An act to further amend the act of August 7, 1946 (60 Stat. 896), as amended by the act of October 25, 1951 (65 Stat. 657), to provide for the exchange of lands of the United States as a site for the new Sibley Memorial Hospital; to provide for the transfer of the property of the Hahnemann Hospital of the District of Columbia, formerly the National Homeopathic Association, a corporation organized under the laws of the District of Columbia, to the Lucy Webb Hayes National Training School for Deaconesses and Missionaries, including Sibley Memorial Hospital, a corporation organized under the laws of the District of Columbia, and for other purposes.

## EXECUTIVE COMMUNICATIONS, ETC.

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

## PROPOSED TRANSFER BY NAVY DEPARTMENT OF PLANE PERSONNEL BOAT TO CITY OF GREEN COVE SPRINGS, FLA.

A letter from the Acting Secretary of the Navy (Material), reporting, pursuant to law, that the city of Green Cove Springs, Fla., had requested the Navy Department to transfer a 24-foot plane personnel boat, for use in river accident rescue operations by that city; to the Committee on Armed Services.

## REPORT ON PRIME CONTRACT PROCUREMENT ACTIONS WITH SMALL AND LARGE CONCERNS FOR WORK IN THE UNITED STATES

A letter from the Assistant Secretary of Defense (Supply and Logistics), transmit-

ting, pursuant to law, reports on Army, Navy, and Air Force prime contract procurement actions with small and large concerns for work in the United States, for the fiscal year 1957 (with accompanying reports); to the Committee on Banking and Currency.

## REPORT ON NOTICE FOR DISPOSAL OF CERTAIN EXTRA LONG STAPLE COTTON

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a proposed notice of a proposed disposition from the national stockpile of approximately 134,384,000 pounds of extra long staple cotton (with accompanying papers); to the Committee on Government Operations.

## PROVISION OF WAR RISK AND CERTAIN MARINE AND LIABILITY INSURANCE FOR AMERICAN PUBLIC

A letter from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on the provision of war-risk insurance and certain marine and liability insurance for the American public, as of June 30, 1957 (with an accompanying report) to the Committee on Interstate and Foreign Commerce.

## FINAL REPORT ON ADMINISTRATION OF REFUGEE RELIEF ACT OF 1953, AS AMENDED

A letter from the Secretary of State, transmitting, pursuant to law, the final report in respect of the administration of the Refugee Relief Act of 1953, as amended, which expired on December 31, 1956 (with an accompanying report); to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

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

## By the VICE PRESIDENT:

A resolution adopted by My Maryland Post, No. 126, the American Legion, Department of Maryland, favoring the enactment of legislation to provide all known means of safeguarding the health and lives of all Americans from the dangers of the threatened influenza epidemic; to the Committee on Labor and Public Welfare.

The petition of E. K. Nelson, of Jenkintown, Pa., praying for the enactment of legislation to prohibit labor racketeering; to the Committee on Labor and Public Welfare.

A telegram from the Metropolitan Club of America, Inc., Grand Rapids, Mich., signed by Rolland W. Hess, national recording secretary, embodying a resolution favoring the enactment of House bill 2474, to provide increased compensation for postal employees; ordered to lie on the table.

## RESOLUTION OF STATE SENATE OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. President, I have just received from the Senate of the State of New Jersey a resolution which was adopted on August 19 with regard to the drought situation in our State.

I ask unanimous consent that this resolution be printed in the RECORD in connection with my remarks, and be appropriately referred.

There being no objection, the resolution was referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Whereas the State of New Jersey has been visited with one of the most disastrous droughts which has occurred in many years; and

Whereas the farmers of the State have suffered and will continue to suffer tremendous losses by reason of damage to their crops occasioned thereby; and

Whereas the President of the United States has been requested to determine that the State is a disaster area, so that Federal aid may be made available to those suffering damage by reason of the drought and said request has been denied: Now, therefore, be it

*Resolved by the New Jersey Senate, That—*

1. The President of the United States is hereby respectfully requested to reconsider his determination that the farming areas of this State do not constitute disaster areas and to determine them as such disaster areas in order that Federal aid may be available to those persons who would be entitled thereto as a result of such determination.

2. The Secretary of the Senate is hereby directed to forward a copy of this resolution, duly signed by the President and attested by the Secretary, to the President of the United States and to each of the United States Senators, and each Member of the House of Representatives, from New Jersey.

ALBERT MCCOY,  
President of the Senate.

Attest:

HENRY H. PATTERSON,  
Secretary of the Senate.

## RESOLUTIONS OF GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the RECORD the resolutions adopted at the 66th annual convention of the General Federation of Women's Clubs, at Asheville, N. C., June 3-7, 1957.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

## RESOLUTIONS PASSED AT 66TH ANNUAL CONVENTION, ASHEVILLE, N. C., JUNE 3-7, 1957

## TELEVISION SERVICE

Whereas the consideration of the best interests of the greatest number of people has always been of paramount importance to the General Federation; and

Whereas television vitally affects the interest of all the general public: Therefore

*Resolved*, That the General Federation of Women's Clubs in convention assembled, June 1957, urges the Congress of the United States and/or governmental agencies, when evaluating and licensing any development in the use of television, to keep in the forefront of their thinking the necessity of assuring a freedom of choice in the selection of programs while at the same time insuring the maintenance of free television service as it now exists, and further improvement of such television service for all our people.

Mrs. SAMUEL J. MCCARTNEY,  
Chairman, Communications Department.

Approved: Mrs. J. HOWARD HODGE,  
Chairman, Citizenship Division,  
Public Affairs Department.

## PREPAREDNESS DAY

Whereas the date, December 7, should be forever engraved upon the minds of the people of the United States as a day of supreme tragedy due to unpreparedness; and

Whereas there is much concern in the minds of our people and in the Congress of the United States that the lessons so dearly learned in the attack upon Pearl Harbor should not be forgotten, but should serve as incentives for an adequate national defense: Therefore

*Resolved*, That the General Federation of Women's Clubs in convention assembled, June 1957, expresses its approval and support of the proposed legislation by the Congress of the United States which names Decem-



ber 7 Preparedness Day, and asks that appropriate observance take place annually.

Mrs. GERALD WHITAKER,

Chairman, National Defense Division.  
Approved:

Mrs. J. HOWARD HODGE,

Chairman, Public Affairs Department.

#### LIMITATION OF CAMPAIGN EXPENDITURES

Whereas the disclosure of heavy expenditures in the recent national campaign has shocked the Nation and the situations so presented constitute a definite threat to the continuance of free elections in the United States: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957, declares its conviction that—

1. Reforms in the laws governing political campaign spending are imperative;
2. There should be an enforceable and enforced ceiling placed upon campaign expenditures, both personal and total;
3. There should be a full public accounting of campaign funds;
4. A standardized system of reporting campaign funds should be established which will eliminate the loopholes existing in the law now governing such expenditures.

Mrs. J. HOWARD HODGE,

Chairman, Public Affairs Department.

#### POULTRY INSPECTION

Whereas poultry is a major item in the diet of the American public; and

Whereas the General Federation of Women's Clubs is vitally concerned with the health of the family, and realizes that the health of our people is menaced by the fact that mandatory ante mortem and post mortem inspection is not required of poultry processed for human consumption: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled June 1957, urges Congress to enact legislation which will require that poultry placed on sale and intended for human consumption be inspected by the United States Meat Inspection Division of the United States Department of Agriculture under the same conditions as now obtain in the case of meat and meat products.

Mrs. J. R. PATTERSON,

Chairman, Health and Welfare Division.

Approved:

Mrs. WALTER V. MAGEE,

Chairman, Community Affairs Department.

#### PRISON REFORM

Whereas the concept of punishment alone as a deterrent to crime has been outmoded by statistics and by modern scientific studies of treatment of criminals which take into account the physical, sociological, mental and spiritual aspects of personality; and

Whereas use of enlightened modern methods often develops responsible, law abiding citizens with consequent reduction of repeated offenses and commitments; and

Whereas incarceration usually demonstrates that the inmate did not adapt himself to an accepted pattern of behavior, and since it is an established fact that the vast majority of prisoners will return to the outside world to be absorbed by their communities: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled June 1957, urges its member clubs to continue to study, and to urge their legislators to study recent advances in the conservation of human resources through psychological evaluation and wise use of all available methods of rehabilitation, and further, to encourage prison boards and administrators to take advantage of every possible resource in order that prisoners may be provided with and make use of:

1. Psychological evaluation and psychiatric treatment when indicated;

2. Adequate health standards and correction of physical defects where possible;

3. Remedial education;

4. Suitable job training;

5. Opportunity for religious education and counseling;

6. Opportunity for development of latent abilities for better use of leisure time; and further

Resolved, That efforts be made to improve rehabilitative services through raising educational and training standards of prison personnel and to provide adequate followup services upon release of prisoners in order to assist them in their adjustment as productive members of society.

Mrs. ALBERT KUSHNER,

Chairman, Rehabilitation Division.

Approved:

Mrs. WALTER V. MAGEE,

Chairman, Community Affairs Department.

#### RESTRICTIVE ACTION IN MUSICAL ACTIVITIES

Whereas the General Federation of Women's Clubs has consistently held that the cultural value of music and music study are integral parts of the educational experience, and should be available to the young people of America; and

Whereas the leadership of certain professional groups has opposed school bands and orchestras, musical instruction by radio, noncommercial radio programs by student musicians, and has interfered with the school activities involving music instruction to the detriment of the education and development of young people; and

Whereas there have been instances where interference with the conduct of music camps, a program with which the general federation has long been associated, has hampered activities in such camps, and seems to have as its purpose the destruction of such camps: Therefore

Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957:

1. Protests restrictive action by any group or individual affecting the musical education of students or their participation in musical activities, including music camps;
2. Recommends that such legislation as is now in force be invoked;
3. Strongly urges that additional legislation be enacted which can control the situation.

Mrs. WM. H. HASEBROOCK,

Chairman, Fine Arts Department.

Amend resolution entitled "roads and roadside development," by rescinding and substituting the following:

#### "ROADS AND ROADSIDE DEVELOPMENT"

"Whereas the demands of rapidly growing traffic necessitate vast roadbuilding programs; and

"Whereas the Federal Government is engaged in superhighway construction across the Nation at a cost of billions of dollars; and

"Whereas, the problems of highway safety and conservation in roadside development are a constant and immediate concern to motorists and to communities adjacent to the highways: Therefore

"Resolved, That the general Federation of Women's Clubs, in convention assembled, June 1957, and its member clubs continue in the effort to preserve the natural beauties of the landscape and to keep the roadsides free of litter and disfiguring structures; and further

"Resolved that the General Federation of Women's Clubs records its support of strict controls of roadside development through zoning regulations and well-designed planting for safety, beauty, and economy of maintenance; and further

"Resolved, That the General Federation of Women's Clubs urges its member clubs to support legislation providing proper development of highway programs using the scientific

skills of highway engineers, landscape architects, and planning boards.

"Mrs. B. V. TODD,

Chairman, Safety Division, Public Affairs Department."

Amend resolution on self-determination of peoples by adding:

"Be it further resolved, That the General Federation of Women's Clubs strongly condemns the use of mental or physical brutality and/or coercion on the part of an occupying power against a people seeking freedom.

"Mrs. ZAIO WOODFORD SCHROEDER,

Chairman, International Affairs Department."

#### MAINTENANCE OF STRONG UNITED STATES ARMED FORCES

Whereas the deterrence of wars, and achieving victory in case wars are forced upon us, are basic national objectives demanding an every-ready system of adequate forces in all branches of the military system; and

Whereas it is obvious that the conditions of future warfare will render impossible systems of deliberate mobilization and unhurried training after an emergency situation has developed; and

Whereas it is the moral responsibility of the people and the Government of the United States to provide all members of the military service, every protection which physical fitness and adequate training in military science can give them;

Resolved, That the General Federation of Women's Clubs in convention assembled, June 1957, declares its conviction that this Nation should maintain its military forces in adequate quality and numbers; in strength and equipment; and in organization and deployment so as to permit it to meet fully its obligation:

1. To deter war in all forms;
2. To achieve victory in waging either atomic or non-atomic war should such be forced upon us.

Mrs. GERALD WHITAKER,

Chairman, National Defense Division.

Approved:

Mrs. J. HOWARD HODGE,

Chairman, Public Affairs Department.

#### ANNUAL NATIONAL TEACHERS DAY

Whereas the General Federation of Women's Clubs has shown continued interest in the educational progress of the United States; and

Whereas it further recognizes the need for a positive program to stimulate citizens' interest in educational problems; therefore

Resolved, That the General Federation of Women's Clubs, in convention assembled, June 1957, respectfully requests the President of the United States to issue a proclamation officially declaring the observance of a day during National Education Week each year to be known as Teachers' Day; and further

Resolved, That the General Federation adopt Teachers' Day as a nationwide project, for the purpose of giving recognition to the teaching profession for its great influence on the training and development of character of our children.

The General Federation of Women's Clubs recognizes and endorses the progress that has been made in establishing some special honor for teachers.

Mrs. AUBREY MAUNEY,

President, North Carolina Federation of Women's Clubs.

Approved:

Mrs. JOHN L. WHITEHURST,

Chairman, Education Department.

#### RESOLUTION OF BLINDED VETERANS ASSOCIATION, INC.

Mr. LANGER. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution adopted by the

Blinded Veterans Association, Inc., of Washington, D. C., at its convention held at Hartford, Conn., on August 24, 1957, reaffirming their faith and trust in the basic rights guaranteed all citizens by the Constitution of the United States, and that no further legislation is needed to guarantee these rights to blind persons.

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

**RESOLUTION 9 ADOPTED BY THE BLINDED VETERANS ASSOCIATION, 12TH ANNUAL CONVENTION, HARTFORD, CONN.**

Whereas the Blinded Veterans Association, Inc., is a national membership organization composed entirely of blind individuals; and

Whereas this association has, since its inception in 1945, recognized its constitutional right to organize nationally and locally without restriction by any Federal or local laws; and

Whereas the association does, in fact, work closely with Federal, State, and local governmental and voluntary agencies serving blind persons, and has, in turn, been consulted by these agencies; and

Whereas the association, in its efforts to promote higher standards of service for all blind people in the United States, recognizes the value of a constructive approach to achieve this objective; and

Whereas S. 2411 and H. R. 8609, which have been introduced in the 85th Congress, appear redundant in the light of the above and would seem to serve no practical purpose, and, in fact, may be detrimental to the best interests of all blind persons: Now, therefore, be it

*Resolved*, That the members of the Blinded Veterans Association in national convention assembled in the city of Hartford in the State of Connecticut on August 24, 1957, do hereby reaffirm their faith and trust in the basic rights guaranteed all citizens by the Constitution and Bill of Rights of the United States and believe no further legislation is needed to guarantee these rights to blind persons; and be it further

*Resolved*, That the members of the Blinded Veterans Association do hereby offer the full cooperation of the association and its members to Members of Congress interested in raising standards of services to blind persons; and be it further

*Resolved*, That copies of this resolution be sent to all Members of the Senate and House of Representatives of the United States; to the executive directors of the American Association of Workers for the Blind, the American Association of Instructors of the Blind, the American Foundation for the Blind, the National Federation of the Blind, and the Council of State Agencies for the Blind; and to the officials of Government and voluntary agencies serving blind persons in the United States.

**RESOLUTION OF LOWER YELLOWSTONE RURAL ELECTRIC ASSOCIATION, SIDNEY, MONT.**

Mr. MURRAY. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution unanimously adopted at a special meeting of the board of trustees of the Lower Yellowstone Rural Electric Association, of Sidney, Mont., on August 14, 1957. The resolution expresses the trustees' wholehearted support of the REA Administrator, Dave Hamil.

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

Whereas Dave Hamil, REA Administrator is doing a first-rate job of administering the

rural electrification and telephone program on a nonpartisan basis without being influenced by political, private or industrial factions; and

Whereas reports and rumors indicate the interference and pressure by the Secretary of Agriculture and others: Now, therefore,

Mr. President, we request that you give Dave Hamil a clean bill of health for the fine forthright job he has been and is doing in administering the electric and telephone program for rural people and that you reprimand and stop the departmental heads of your administration (who are permitting themselves to be influenced against the REA Administrator) from interfering in any form.

Respectfully submitted,

C. R. THIESSEN,  
Secretary.

**RESOLUTIONS OF DEPARTMENT OF NEVADA, THE AMERICAN LEGION, REGARDING PROPOSED INCREASES IN SERVICE-CONNECTED DISABILITY COMPENSATION**

Mr. MALONE. Mr. President, the 39th annual department convention of the department of Nevada, the American Legion at Elko, Nev., August 15 to 17, 1957, passed seven very pertinent and timely resolutions:

**RESOLUTIONS**

Service-connected disability compensation.

The veterans' employment service.

Foreign aid.

Status of forces agreement.

The Bricker amendment.

Red China.

The McCarran-Walter Immigration Act.

Our new department commander for 1957 and 1958 is Victor F. (Vic) Whittelesa.

The new president of the women's auxiliary is Mrs. Leona Smith.

I am glad to say that the service-connected compensation bill S. 52 was passed by both Houses of Congress and signed by the President.

Mr. President, I ask unanimous permission to have the resolutions appear at this point in the RECORD as a part of my remarks.

Mr. President, the resolutions passed by my department of Nevada, American Legion, correctly represents the thinking of Americans throughout the Nation.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

**RESOLUTION, SERVICE-CONNECTED DISABILITY COMPENSATION**

Whereas H. R. 52, a bill to provide increases in service-connected disability compensation and to increased dependency allowance, passed the House of Representatives May 13, 1957; and

Whereas on July 22, 1957, this bill was favorably reported by the Senate Committee on Finance for consideration of that body; and

Whereas since this action information has been given to the public that the Executive Office of the President, Bureau of the Budget, under the signature of Percival Brundage, Director, opposes the enactment of this legislation which presages a possible Presidential veto, should the bill pass the Congress as seems possible at this session: Be it

*Resolved* by the 39th annual department convention of the Department of Nevada of the American Legion in convention assem-

bled at Elko, Nev., August 15-17, 1957, Urge upon our Senators and Representative in Congress from Nevada that they support early action on this worthy measure before their respective Houses to the end that the measure may be passed at the present session of Congress; and be it further

*Resolved*, That in the event of a Presidential veto of this measure they support a resolution to enact the legislation over such veto; and be it further

*Resolved*, That a copy of this resolution be forwarded immediately upon adoption to the Senators from Nevada and the Representative in Congress for their consideration at the present session of Congress.

**RESOLUTION, SUPPORTING THE VETERANS' EMPLOYMENT SERVICE**

Whereas by the passage of the Servicemen's Readjustment Act of 1944, Public Law 346 (better known as the GI bill of rights) Congress reaffirmed the will of the Nation to provide for the readjustment of veterans to civilian life; and

Whereas the American Legion has, and always will, be a strong voice in seeing to it that service to veterans for which they, by reason of wartime service, are entitled; and

Whereas with the inclusion of the Korean veteran under the GI bill, there is still a great need for service to this group; and

Whereas because of the age bracket of World War I veterans, and some World War II veterans, there is an ever-increasing need that emphasis be placed on an older-worker program, this need becoming more and more urgent each year: Now, therefore, be it

*Resolved* by the delegates assembled at this 39th American Legion convention held at Elko, Nev., August 15-17, 1957, That there be no cutback in appropriations to the Veterans Employment Service and the Bureau of Veterans' Reemployment Rights, Department of Labor, or curtailment of service to veterans by that agency thereby assuring that the programs as outlined under Public Law 346 be continued.

**RESOLUTION, FOREIGN AID**

Whereas the annual appropriations of this country for foreign aid are reaching stupendous proportions, this year higher than ever before, and the distribution of the tax dollar of American citizens is definitely without the approval of the majority of American citizens; and

Whereas much of the appropriations goes to countries that are not allies of the United States and in most cases are aiding and abetting the Communist cause throughout the world; and

Whereas economic and military aid to Yugoslavia and Poland, two Communist controlled countries which are now scheduled to receive millions of American tax dollars, as well as other Communist nations which will also be the recipients of our millions, cannot do anything but harm to the United States: Now, therefore, be it

*Resolved*, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, That we are strenuously opposed to either economic or military foreign aid to any nation within the Communist sphere of influence, and especially opposed to supplying any such nations any arms, ammunition, or aircraft or other machinery of war and urgently request our Senators and Representatives in Congress to do all possible to prevent such aid or equipment to be supplied such nations. (This is particularly directed to present situations where we are contemplating such action with Poland and Yugoslavia the recipients.)

**RESOLUTION RE STATUS OF FORCES AGREEMENT**

*Resolved*, That it is the sense of the American Legion that the rights of our own citi-



zens should not be sacrificed while the rights of freedom and self-government are secured to the peoples of other nations and that in order to insure justice, maintain the rights and privileges for our citizens who are serving with our Armed Forces in other countries, and to promote the general welfare, the President should forthwith address to the North Atlantic Council, as provided for by article XVII of the NATO Status of Forces Agreement, a request for revision of article VII of such agreement for the purpose of eliminating or modifying article VII so that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of parties to the treaty and that the President should take similar action with regard to the administrative agreement with Japan, as amended, and all other international agreements which give criminal jurisdiction over our Armed Forces to foreign governments which are parties thereto.

#### RESOLUTION, BRICKER AMENDMENT

Whereas: The American Legion, Department of Nevada, has previously gone on record as being in favor of the Bricker or a similar amendment limiting the treaty making powers of the executive branch of our Government: Now, therefore, be it

*Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, That we reiterate our previous stand in favor of the Bricker or a similar amendment and again urge our Representatives in Congress to do whatever is possible to put same in effect.*

#### RESOLUTION, RED CHINA

Whereas, many of our so-called allies are propagandizing and pressuring this country to recognize Communist Red China; and

Whereas, this Nation should never sacrifice its principles and admit to the United Nations Organization, and to our family of friends this murderous, traitorous nation that has cruelly tortured hundreds of American soldiers and civilians and has broken all the laws of decency in conducting war and has broken every agreement and treaty they have made with us; Now, therefore, be it

*Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, That we reiterate our previous stand against admission of Communist Red China to the United Nations Organization or recognition of Red China by the United States and urge our Representatives in Congress to oppose any action by the United States of America that would allow this to happen.*

#### RESOLUTION SUPPORTING McCARRAN-WALTER IMMIGRATION ACT

Whereas there is now on the statute books of the United States the McCarran-Walter Immigration Act of 1952 which controls immigration to this country; and

Whereas this law establishes fair and just quotas for admittance of aliens desiring to come to this country and is a recodification of all previous immigration laws and regulations and has been endorsed by over 100 patriotic organizations, the FBI, the Department of Justice, and many other organizations and individuals conversant with the problems of immigration; and

Whereas again this year there is a movement on action to do away with many of the protective provisions of this law and allow an influx of possibly undesirable persons to enter this country without regard to the carefully thought-out safeguards established by this law, or any recognition of the fair quotas established by said law; and

Whereas these demands for revision of the McCarran-Walter Immigration Act are

mostly from vociferous minority groups, American do-gooders and anti-Communists and subversive and Communist groups who are against any safeguards that would prevent the admittance of subversives and Communists; and

Whereas indiscriminate entry of foreign aliens to our country would increase our problems of employment, housing, schools, and other problems caused by lowering the bars of the present national origins quota system: Be it

*Resolved, by the 39th department convention of the American Legion at Elko, Nev., August 15-17, 1957, in regular meeting assembled, That we are strenuously opposed to any action of any kind that would destroy the efficacy of the McCarran-Walter Immigration Act and allow entry of aliens without any of the safeguards provided by said act and that we respectfully request our Senators and Congressmen in Washington to do all in their power to maintain the McCarran-Walter Immigration Act in its present form on the statute books of this country without any lowering of the various restrictions by special permit, Presidential decree, or otherwise.*

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 2864. A bill to provide for the appointment of additional judges for the Court of Appeals for the Second Circuit and the district courts for the southern and eastern districts of New York (Rept. No. 1157).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 1714. A bill for the relief of Roma H. Sellers (Rept. No. 1161); and

S. 2840. A bill to create a new and separate judicial district in California and to create a new division for the northern district in said State (Rept. No. 1158).

By Mr. O'MAHONEY, from the Committee on the Judiciary, without amendment:

S. J. Res. 131. Joint resolution authorizing the President to issue a proclamation calling upon the people of the United States to commemorate with appropriate ceremonies the 100th anniversary of the admission of the State of Oregon into the Union (Rept. No. 1159).

By Mr. MCLELLAN, from the Committee on Government Operations, without amendment:

H. R. 7964. An act to remove the limitation on the use of certain real property heretofore conveyed to the city of Austin, Tex., by the United States (Rept. No. 1160).

#### BILLS INTRODUCED

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

By Mr. CHAVEZ:

S. 2878. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights; to the Committee on Interior and Insular Affairs.

S. 2879. A bill for the relief of Hiroyasu Hatakeyama; to the Committee on the Judiciary.

By Mr. HOLLAND:

S. 2880. A bill to amend paragraph (k) of section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, to define the term "chemical preservative" as used in such paragraph; to the Committee on Labor and Public Welfare.

By Mr. LANGER:

S. 2881. A bill for the relief of Paul Hege-  
dus; to the Committee on the Judiciary.

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

S. 2882. A bill to authorize the Administrator of General Services to convey certain lands in the State of Colorado to the city of Denver, Colo.; to the Committee on Government Operations.

By Mr. SMITH of New Jersey (for himself, Mr. CASE of New Jersey, Mr. CLARK, and Mr. HUMPHREY):

S. 2883. A bill to amend the Legislative Appropriation Act, 1956, to eliminate the requirement that the extension, reconstruction, and replacement of the central portion of the United States Capitol be in substantial accord with scheme B of the architectural plan of March 3, 1905; to the Committee on Public Works.

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

By Mr. SALTONSTALL (by request):

S. 2884. A bill for the relief of Earl E. Rawson; and

S. 2885. A bill for the relief of Eleanor Constan; to the Committee on the Judiciary.

#### INVESTIGATION OF LABOR-MANAGEMENT RELATIONS AT THE SANDIA CORP., NEW MEXICO

Mr. CHAVEZ submitted the following concurrent resolution (S. Con. Res. 51), which was referred to the Joint Committee on Atomic Energy:

Whereas the national security requires uninterrupted operations of vital atomic installations under contract with the Atomic Energy Commission;

Whereas disputes between labor unions and management at the Sandia Corp. atomic installation at Albuquerque, N. Mex., frequently require the intervention of the atomic energy labor-management panel;

Whereas the Director of the Federal Mediation and Conciliation Service has publicly criticized the Sandia Corp. at Albuquerque, N. Mex., for its inability to negotiate successfully collective bargaining agreements with labor unions representing its employees without the intervention of the atomic energy labor-management panel, and further has stated that labor-management negotiations at the Sandia Corp. have been referred to the atomic energy labor-management panel more often than those of any other atomic installation in the United States;

Whereas the revenues of the Sandia Corp., and hence the wages paid its employees, derive exclusively from public funds disbursed to it under contract by the Atomic Energy Commission; and

Whereas it is in the national interest that negotiation of collective bargaining agreements at atomic installations under contract with the Atomic Energy Commission should be conducted in a manner as to avoid work stoppages and consequent injury to the Nation's atomic energy program: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That the Joint Committee on Atomic Energy is authorized and directed to make a full and complete investigation and study of labor-management relations at the Sandia Corp., for the purpose of determining what action can be taken to improve such relations and thereby help assure continuity of operation of publicly financed atomic energy programs vital to the Nation's security.*

The committee shall report its findings, together with such recommendations as may be desirable, to the Senate and to the House of Representatives at the earliest practicable date, but not later than February 1, 1958.

# INVESTIGATION OF LOSSES TO PERSONS BY DEPREDACTIONS OF WILDFOWL AND ANIMALS FROM FEDERAL WILDLIFE REFUGES

Mr. LANGER submitted the following resolution (S. Res. 196), which was referred to the Committee on the Judiciary:

*Resolved*, That a subcommittee of the Committee on the Judiciary, consisting of three Senators appointed by the chairman, is authorized and directed (1) to make a full and complete study and investigation with respect to damage to crops and other losses sustained by persons living in the vicinity of Federal wildlife refuges and other Federal reservations, by reason of depredations by wildfowl and animals from such refuges or reservations, and (2) to recommend to the Committee on the Judiciary such measures as it may deem desirable for the relief of persons sustaining such damage or loss.

## ELIMINATION OF REQUIREMENT FOR REMODELING OF CENTRAL PORTION OF CAPITOL BUILDING

Mr. SMITH of New Jersey. Mr. President, on behalf of myself, my colleagues, the junior Senator from New Jersey [Mr. CASE], the Senator from Minnesota [Mr. HUMPHREY], and the Senator from Pennsylvania [Mr. CLARK], I introduce, for appropriate reference, a bill to prevent the emasculation of this lovely Capitol Building.

During the 1st session of the 84th Congress, the Congress unfortunately added a provision to the Legislative Appropriation Act of 1956 which authorized an extension of the Capitol in order to provide for additional offices and restaurant facilities, but required such extension to conform with the so-called plan B which was submitted to the Congress in 1905. The substance of plan B provides that the east facade of the central block of the Capitol be torn down and extended 32 feet 6 inches to the east.

Mr. President, this scheme not only will cost the American taxpayers an exorbitant sum of money for the additional space which will be obtained, but it will also do violence to the architectural beauty of this grand structure. The plan has been roundly criticized by the American Institute of Architects at 5 of their annual conventions, including the last 3 meetings in 1955, 1956, and 1957. I cannot believe that there is any justification for proceeding to emasculate this building in such a manner.

The purpose of this bill is to repeal the restrictive language which binds the Architect of the Capitol to undertake the expansion of the Capitol facilities in accordance with this plan.

I ask unanimous consent that the bill may lie open for a period of 24 hours for the purpose of permitting additional Senators to join in cosponsorship.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from New Jersey.

The bill (S. 2883) to amend the Legislative Appropriation Act, 1956, to elimi-

nate the requirement that the extension, reconstruction, and replacement of the central portion of the United States Capitol be in substantial accord with scheme B of the architectural plan of March 3, 1905, introduced by Mr. SMITH of New Jersey (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

## AIR TRAINING FACILITIES

Mr. SYMINGTON. Mr. President, I have written a letter to the Secretary of the Air Force, and inasmuch as the subject matter of the letter has been discussed in the Senate, I ask unanimous consent that my letter to the Secretary be printed in the RECORD.

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

AUGUST 24, 1957.

HON. JAMES H. DOUGLAS,  
Secretary of the Air Force,  
Washington, D. C.

DEAR MR. SECRETARY: In a letter to you of August 20, Senator NEUBERGER said that on Wednesday, August 14, he "appeared before the Task Force on Air Training Facilities, a subcommittee of the Senate Armed Services Committee under the chairmanship of Senator STUART SYMINGTON."

As I discussed with Senator NEUBERGER this morning, this was not a meeting of this task force. It was a conference, called at the request of Senator JACKSON, who asked that there be present members of the Air Force who knew about this matter and a representative of the General Accounting Office.

No stenographer was present, no record was kept of the conference, and therefore no conclusions were reached.

Sincerely yours,

STUART SYMINGTON.

## LETTER OF GORDON GRAY, DIRECTOR OF THE OFFICE OF DEFENSE MOBILIZATION, TO CHAIRMAN OF MONOPOLY SUBCOMMITTEE OF SENATE JUDICIARY COMMITTEE

Mr. DIRKSEN. Mr. President, in the course of the hearings of the Antitrust and Monopoly Subcommittee of the Senate Judiciary Committee on the question of the issuance of tax amortization certificates to the Idaho Power Co., a colloquy developed when Mr. Gordon Gray, Director of the Office of Defense Mobilization, appeared before the committee, as result of which Mr. Gray, either expressly or by implication, was in effect charged with an attempt to conceal certain information from the subcommittee.

Speaking for myself, let me voice my complete confidence in the integrity of Mr. Gray, and his constant effort to disclose all information which the subcommittee requests.

Since the charges appeared, Mr. Gray submitted his views in a letter to Senator KEFAUVER under date of August 27, covering the question of the issuance of tax amortization certificates, and I requested that his letter be inserted in the CONGRESSIONAL RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF DEFENSE MOBILIZATION,  
Washington, D. C., August 27, 1957.  
The Honorable ESTES KEFAUVER,  
United States Senate,  
Washington, D. C.

DEAR SENATOR KEFAUVER: Because there have been public charges to the effect that I attempted to conceal evidence from the Subcommittee on Antitrust and Monopoly when I testified before the subcommittee on the issuance by ODM of accelerated tax amortization certificates to the Idaho Power Co., I should like to set forth the following facts which demonstrate why I could not produce Secretary of the Interior Fred A. Seaton's letter of March 11, addressed to Dr. Fleming, at the time I appeared before the Byrd committee on May 9 and at my first appearance before your committee on May 21. These facts will also explain why Secretary Seaton's letter involved a serious question of executive privilege.

On October 25, 1955, the Department of the Interior through Assistant Secretary Aandahl, who was the customary channel for such communications, advised ODM that the application of the Idaho Power Co. for tax amortization with respect to Oxbow and Brownlee met the criteria then applicable and recommended that necessity certificates be issued covering 60 and 65 percent respectively, of the cost of the projects.

On March 13, 1957, Dr. Arthur S. Fleming, whom I was to succeed as ODM Director the next day, handed to me a letter and one carbon copy, dated March 11, 1957, that he had received from Secretary Seaton recommending against the issuance of the certificates to the Idaho Power Co. Dr. Fleming told me that he had examined carefully the arguments that had been advanced against issuing the certificates and had concluded that these applications, as far as the law and regulations were concerned, could not be differentiated from the other applications that had been granted. He stated that he felt that Secretary Seaton's recommendation grew out of a general disapproval of the basic criteria that had been applied to all cases under the electric power goal. He stated further, however, that he had not issued the certificates before leaving office because of his inability to explore the matter thoroughly with Secretary Seaton by reason of the latter's illness.

In due course I concluded on the basis of my own judgment that certificates of necessity should not be denied under the criteria obtaining at the time of the Idaho Power Co.'s applications. My studies confirmed that Secretary Seaton's objections were not germane to the question of whether the governing criteria warranted issuance of the certificates.

On April 10, I notified Mr. Elmer Bennett, then Assistant to the Secretary of the Interior (the Secretary still being in the hospital), that I had concluded that the certificates of necessity should not be denied to the Idaho Power Co. under the criteria obtaining at the time of the company's applications, and that in my opinion, Secretary Seaton's letter did not discuss whether the company's application met the governing criteria but whether the governing criteria were in fact wise. Mr. Bennett and I agreed that the governing regulations did not provide for this type of recommendation, and that the Secretary's letter, therefore, did not have any legal status under the regulations in this particular case. In view of this, it was agreed that the Secretary's March 11 letter could appropriately be withdrawn, the decision to issue the certificates having been made by ODM.



On April 17, following a telephone conversation between Mr. Bennett and Mr. Charles Kendall, General Counsel of ODM, the Secretary's letter, together with the carbon copy, was returned to the Department of the Interior and I believed that it had thereby been withdrawn for the reasons stated above.

On the same day, April 17, Mr. Bennett sent me a suggested change in the proposed ODM press release concerning the issuance of the certificates to the Idaho Power Co. which he stated had been cleared with the Secretary in the hospital. This suggested change was incorporated in the press release which was actually issued except that in a paragraph which read: "In accordance with then accepted procedures and criteria, established by the ODM, the Department of the Interior on October 25, 1955, recommended that necessity certificates be issued on both projects," the word "accepted" was changed to "applicable." While it was clear to me that Secretary Seaton continued to disapprove the criteria on which certificates within the electric power goal were based, I nevertheless believed, since his letter of March 11 had been withdrawn, and the press release with respect to the issuance of the certificates had been cleared with him, that the Secretary did not regard his letter as an official expression of the views of the Department in this respect and that he did not wish to make what I therefore believed to be his personal views, as set forth in the letter, a matter of record. Based on this belief (although subsequently the Secretary apprised me of the fact that my belief was incorrect) the Secretary's views were clearly privileged and I was under a duty not to discuss them.

At the time of my appearance before the Byrd committee and of my earlier appearance before your subcommittee, no one in ODM had the original or any copy of Secretary Seaton's letter. It was not until after Secretary Seaton returned to his desk and we met for the first time on this matter on May 25, that I learned that he considered his letter of March 11 to be an official expression of the position of his Department. Upon learning this, it was agreed on May 27 that Secretary Seaton's letter of March 11 would be returned to ODM, and that I would furnish the original of the letter to your subcommittee as soon as possible and that the Department of the Interior would furnish the subcommittee with a copy. This was done on Monday, May 27th.

I should appreciate your making this letter a part of the record of your investigation.

Sincerely,

GORDON GRAY,  
Director.

#### THE FACTS ABOUT THE SENATE RESTAURANT

Mr. DIRKSEN. Mr. President, much has been said on the floor of the Senate over a period of time about the operation, management, prices, and service of the Senate restaurant. Some of this has been critical, and I believe the time has come, in the interest of truth, to place the facts before the people and before the Senate.

The Nationwide Food Service of Chicago, which operates the Senate restaurant and other food establishments for the benefit of the Senate and its employees and guests, carries on this operation. This includes the cafeteria in the Senate Office Building, the coffee shop in the Senate Office Building, the snack bar in the Capitol, and the dining room in the Capitol, including quite a

number of rooms which are used for private dining purposes.

For the week of August 19 to August 24, 1957, these various facilities served 21,955 patrons or guests and the income derived therefrom was \$13,303.40.

The Senate dining room is open from 8 in the morning until the Senate goes out of session and of particular importance in this connection is the fact that 89 percent of the business done is handled between the hours of 11 a. m. and 3 p. m., making it in fact a single-meal operation. In the hours from 8 until 11 in the morning and from 3 in the afternoon until closing time is a period of low income and consequently a losing period for the restaurant since it is necessary to carry a staff during these periods.

Since the restaurant management does not know when the dining room will close in the evening, it is always necessary to maintain a standby staff which is large enough to handle a heavy dinner business if the Senate stays in session until a late hour.

Senate Members are fully aware of the fact that the Senate may adjourn or recess at 5 o'clock, 7 o'clock, 10 o'clock or some hour in the early morning but no matter when it may close, the restaurant must maintain service during that period.

To secure employees on such an unpredictable basis, it is obviously necessary for management to pay for 5 hours of work even though they may work for a shorter period and it is also necessary to pay time and a half for overtime, whether it constitutes extra help which may be brought in or whether they be full-time employees. Consequently, the employees must be paid even though the Senate adjourns the session early in the day and no dinner business develops.

When the Senate is not in session, the food facilities are maintained for a 4- or 5-month period on a reduced basis. Here again, the restaurant income drops to less than half its normal volume and, while it can operate with a reduced staff, it is impossible to actually reduce the staff to the same proportion as the drop in income. Then, too, it is necessary as a practical matter to retain key employees during the months that the Senate is in adjournment, if management is to have ready an efficient and trained force when the Senate returns in January.

It is quite evident to any observer that the present dining area is entirely too small for the volume of business which develops during the lunch period, and this has provoked some criticism from Senate Members and others. The fact that it is difficult to use side stands in connection with restaurant service has manifestly prevented the use of certain available space and this in turn necessitates more frequent and longer trips to the service pantry in order to serve the patrons.

Let me point out also that the kitchen is located down two flights of stairs below the pantry and this requires the maintenance of a very considerable utility force to help bring trays of food

to the service pantry. Since it is not feasible to hire these people for just the 2-hour period when they are needed, it becomes necessary to carry them on the payroll for a longer period in order to retain their services. Finally, let me say that here as elsewhere there has been an upward trend in overall food prices, which must be absorbed, and it is my considered opinion that the prices and the service of the restaurant facilities, when considered in the light of the tremendous handicaps with which they are confronted, is, indeed, outstanding.

One other bit of testimony might be of interest and that is that the Senate restaurant has steadily reduced the losses compared with other years. As an example, for the period July 1, 1957, to August 3, 1957, the loss on the entire food operation was \$6,131.96. This is one-half of the loss which was sustained for a comparable period in 1956.

I believe that the management and the personnel of the Senate Restaurant deserve high commendation for the way they have performed under great difficulty.

#### THE MUTUAL-SECURITY PROGRAM

Mr. SMITH of New Jersey. Mr. President, in connection with the mutual-security program, I want to take this opportunity to pay a tribute to my colleagues in the Senate. As my friends know, I have been deeply interested in our foreign policy ever since I came to the Senate 13 years ago and I have been particularly interested in helping, as best I could, in the development of our so-called foreign-aid program. I was one of those who worked continuously with the study we had made last year of the new approach to the mutual-security program and was most hopeful that the reports of the investigators whom we chose from among the most expert in the country would be accepted as a basis for the new approach. The results of these studies and the independent studies that the President had made gave us what might be called a new look on our mutual-security program. There was no difference of opinion by any of those who participated in the studies as to the need to continue the program and especially the need for the support of our military aid and defense assistance for our allies in various parts of the world.

Also it was felt that from the standpoint of the underdeveloped countries we should provide for a long-range revolving loan fund to enable those countries to secure their economic stability and to aid them in developing their own freedom, independence, and self-determination so that they could remain among the nations dedicated to freedom. This is a critical issue of our foreign policy and I believe is the strongest supporting pillar of the President's whole program.

Reviewing the action of the Senate, I call attention to the fact that the President originally asked for \$3.8 billion. The Senate reported a bill authorizing \$3.6 billion. The Senate vote on this

authorization bill was 57 to 25. The Senate brought the House appropriation bill in conference up to \$3.3 billion and finally, in the Appropriations Committee, the Senate restored \$500 million of the House slash of \$800 million bringing the appropriation up to \$3,025 billion. The Senate vote on this appropriation was 62 to 25. We have now witnessed the most unfortunate development, namely the unwillingness of the House to go above \$2.7 billion for the final appropriation for fiscal 1958. This is a devastating defeat not only for the President, but for the safety of America. However, I want to take this opportunity to pay a tribute to our Senate leadership—our majority leader, the Honorable LYNDON B. JOHNSON and our minority leader, the Honorable WILLIAM F. KNOWLAND. Their work was one of the finest evidences of bipartisan teamwork and last ditch fighting in support of the administration and the security of our country.

The only conclusion I can possibly draw from this development is that there are those in the House and especially on the House Appropriations Committee who are determined to destroy the mutual security program. The matter needs our immediate attention and at the beginning of next year we must press the fight vigorously to present to the American people the issue involved in these unfortunate developments this year.

#### MAJOR ISSUES FACING WISCONSIN

Mr. WILEY. Mr. President, I ask unanimous consent that in the final edition of the CONGRESSIONAL RECORD there be printed a statement by myself on the subject of the principal issues of interest to the people of Wisconsin and the Nation.

The PRESIDING OFFICER (Mr. FREAR in the chair). Without objection it is so ordered.

#### THE LEGISLATION OF THE 85TH CONGRESS

Mr. WILEY. Mr. President, I ask unanimous consent that in the final edition of the RECORD it contain a statement which I am preparing on the subject of the legislation acted upon during the first session of the 85th Congress, and the subjects which await our attention in the second session, convening next January 7.

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

#### CIVIL RIGHTS ACT OF 1957

The Senate resumed the consideration of the amendment of the House of Representatives to Senate amendments Nos. 7 and 15 to the bill (H. R. 6127) to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States.

Mr. WATKINS. Mr. President, the civil rights bill compromise which has come over from the House for action in the Senate is not all that I had hoped for, but it is about all that can be expected under the circumstances. Most controversial legislation finally emerges

as a result of compromises. The present bill is no exception. With jury trials limited to voting rights only, some of the major objections I had to the Senate bill have been eliminated.

I believe the bill as amended is one that will make for decided progress toward the objective of protecting the civil rights of the colored people of this Nation. Whether it will be effective will depend largely upon the attitude of the white people of the States where colored people have been essentially denied the right to vote. If white people in these areas act in good faith, the measure will be effective. Without their cooperation the law will be difficult to enforce. I have a very firm conviction that the people will act in good faith.

It was stated in Congressional debate that southern juries will convict in criminal contempt proceedings if a case has been made that the court's orders have, in fact, been violated. The proof of this claim, and the effectiveness of the new law, now is entirely up to the people of the States where it is claimed that voting rights of colored people have been denied.

With the passage of this measure, the eyes of the whole Nation will be upon the officials and the people of the States affected. The power of public opinion should go a long way to help correct a situation that has long been unfair to our colored citizens. Every American citizen should be allowed to vote, no matter what his color, creed, or economic status may be. The Constitution guarantees this right to all citizens of this land of the free.

Next year is an election year. The Civil Rights Commission provided for in the bill should be in operation well ahead of that election. It should throw some needed light on conditions affecting voting rights. Colored people will more than ever be interested in voting, and I hope that their constitutional rights will be preserved, as President Eisenhower has so vigorously insisted.

The American people will be watching to see what the response will be to the first civil rights law in more than 80 years. I sincerely hope that the compromise remedy, worked out in lengthy and difficult consideration in the Congress, will prove effective.

Mr. President, I shall vote for the compromise.

Mr. BYRD. Mr. President, I have already spoken at length in opposition to this proposed legislation, but I wish again to make very clear my strong opposition to this so-called civil-rights bill now pending.

When this bill was before the Senate previously, I enumerated all of the rules which were broken in its highly unorthodox consideration, and predicted that nothing but bad legislation would come of such rule-breaking procedure as was being used to force the bill into law.

After the bill was passed by the Senate, and sent back to the House of Representatives, it was subjected again to more unusual treatment.

In the ordinary routine the House would have accepted the Senate amendments, or called for a conference. But, did this bill get the ordinary routine?

No. It was given a procedure unused in the House for years. It was submitted to the full House for amendment.

Personally, I believe the underlying purpose of this legislation was misguided and generally bad. The first House bill was greatly improved by Senate amendments, and the Senate is to be highly commended for the watering-down job it did under the harsh parliamentary circumstances which were forced upon it.

A victory for good government was won in knocking out the vicious part III which would have set up star-chamber proceedings for the very broad field of civil rights. In the Federal-election section of the Senate bill, we provided for jury trials in alleged criminal-contempt cases.

There is not adequate time for study of the provisions of the House amendments. But, I am advised that under the pending language a Federal judge, in his discretion, without trial by jury, may haul citizens before him on criminal-contempt charges, in civil-rights cases, and fine them up to \$300 or put them in jail for 6 weeks.

It is true that trial by jury in such cases can be granted by Federal judges, and I assume that many Federal judges will grant jury trial; but jury trials in all criminal proceedings should be the inalienable right of every citizen.

Where the penalty is more than \$300 fine, or jail sentence of a month and a half, the citizen is dealt with more magnanimously. He may request a trial by jury, at his own expense and before the same judge who has already prejudged his case and convicted him.

I have noted the majority leader's proposal for a thorough study of the question of trial by jury in criminal-contempt cases. I hope some good will come of it. I wish it had been made before the proposed procedure became such an important part of the pending bill.

The Senate cannot overlook the fact that the bill now before us would establish a snooping Commission authorized to go abroad in the land stirring up trouble; and provides, further, for a new Division in the Department of Justice, with a special Assistant Attorney General, fortified with all the investigation powers of the Department, for operations in this delicate field. It will be easy to foment strife through these activities in which allegations, supported and otherwise, will be made.

No good can come out of legislation characterized by the kind of consideration given this bill, and I am unwilling to carry acquiescence in any part of it on my conscience.

I can remember the reaction of shock which spread instantaneously across the country when the senior Senator from Georgia [Mr. RUSSELL] pointed out that the armed might of the military forces of the United States could be used under the infamous part III of the bill.

I remember the reaction of surprise, even by Members of Congress, when, during the previous Senate debate, equally iniquitous provisions were pointed out in other sections of the bill.

I am aware of a tremendous reaction at the moment to the so-called compromise adopted by the House.



What has been compromised is the right of an American to trial by jury in criminal cases.

I deny the publicized contention that this bill represents an improvement over the Senate bill. Nothing is improved under a statute which would allow innocent people to suffer severe punishment at the whim of a Federal judge without being able to submit proof of their innocence to a jury of their fellow citizens who owe no allegiance to a politically appointed Attorney General.

The Nation will regret enactment of this bill as it stands, just as it regrets the actions of a Supreme Court which hands down political-social decisions which undermine our fundamental principles of government, which preempts State laws, which lightly frees a felon guilty of horrible crime to roam the community, which opens up FBI confidential files, and which strikes down the will of a private citizen which has stood for decades.

I am opposed to this bill. It deserves the Senate's most vigorous rejection.

Mr. SMATHERS. Mr. President, I voted for the Senate version of the civil-rights bill when it passed the Senate on August 7. I am prepared now to vote for—and would like to vote for—that bill again. I thought the Senate bill was a sensible civil-rights bill. It embodied two basic principles. It protected the right of qualified citizens to vote regardless of race, color, or creed, and it reaffirmed and strengthened the basic right of trial by jury for all citizens who are charged with criminal contempt or crime.

The House of Representatives has now sent us a compromise version of that bill. It retains all the provisions with respect to voting rights, but, in my judgment, it effectively destroys the protection of trial by jury in criminal-contempt cases which we in the Senate had put into the bill. In my opinion, the basic civil right of trial by jury is as fundamental and precious as is the right to vote. The Constitution of the United States mentions specifically in four separate instances the importance of trial by jury. It mentions voting rights in only one section.

I do not believe that we, as responsible legislators adhering to basic democratic principles, should be willing to sacrifice the basic right of trial by jury, even to get a provision which has as its purpose the protection of voting rights. I do not believe we should exchange one fundamental civil right in order to try to strengthen or improve another. I do not believe that it is judicious, nor wise, nor fair to try to give to one group of citizens the full enjoyment of one civil right, by taking away from other groups of our citizens other more fundamental civil rights.

For these reasons, I shall not support this compromise version of the so-called civil-rights bill.

Mr. SCOTT. Mr. President, we have been through a long and laborious ordeal concerning the civil-rights bill that is now before us.

I will not dwell at any length, but there are 1 or 2 points that I would like to make concerning the bill.

Everybody, naturally, strives for the day when all sections of this Nation can come before the bar of public opinion with clean hands concerning their social, economic, and political problems.

I would be the last to say that there never has been a Negro in the South denied the right to vote, but the matter is not as serious and the problems are not as extensive as many people would try to lead the public to believe.

Of course, we have our soft spots in the South, and there are soft spots in the North, but we are fast reaching the day when demagogues dare not dabble in our race problems.

People everywhere are realizing that these are problems that must be settled man to man and neighbor to neighbor.

Once we realize this, once we face the facts about the workings of the social structure of democracy, then everyone will know that human relations is something the makers and molders of laws and orders had best leave to the hearts and minds of men.

With these thoughts as a background, I once again ask the Members of the Senate to search deep into their souls before casting a final vote on the bill before us. If this is done I think the Senate will defeat the bill.

There are a great many reasons why the Senate would be well advised to defeat the bill before it.

As I have said, the bill itself is not as harsh as it could be, but the important point is this: Its ultimate effect—be it damage or benefit—will depend upon how it is administered.

This, Mr. President, is the danger in this whole area of problems—in this whole business of the day-to-day relations between men.

If the bill becomes law, and is administered with restraint and reason, then that is one thing.

But if it is administered with the idea of getting mass blocks of votes in the big cities from minority groups, then those responsible will be guilty of the sorriest crime of our times.

This is the fear that is held in the hearts of the people of the South—this is the danger of this whole bill—because if it happens you will see violence and bloodshed.

Nobody will deny that we have made a great deal of progress in race relations in the South in the past generation. In recent years this progress has been frustrated to an extent by several decisions of the Supreme Court, but basically we are still people of good will and we want to keep it that way.

To pass this bill and have it administered by careless and reckless people would bring about complete chaos in the South. There is too much at stake to take such a chance.

The South, Mr. President, is on the move. We are rounding out our economy with industrial expansion and more diversified agriculture. We are building schools and hospitals and health centers and recreational facilities at a rate that is unbelievable under present conditions.

We of the South, Mr. President, are determined to continue our progress, and we resent the idea of outsiders trying to coach us from the sidelines.

I ask, therefore, that we not be hindered; that we not be interfered with; that we are left to solve our own problems.

Mr. HILL. Mr. President, I had concluded when the Senate adopted the jury-trial amendment on August 2 by the substantial vote of 51 to 42 that this body had acted with finality in rejecting the plea of advocates of civil-rights legislation that in the name of buttressing the right to vote it was necessary to deny the right to trial by jury. Today, however, we find ourselves once again fighting the same old battle for individual liberty. The most recent threat to personal freedom is presented to us under the banner of a compromise—a compromise that is held out to us as a constructive proposal, which comes halfway between the stand of the Senate in favor of jury trials and the insistence of the House of Representatives that this ancient bastion of human liberty be denied under this bill. I submit, Mr. President, that this proposal is not and cannot be regarded as a compromise. It is, rather, an abdication of principle.

I am categorically opposed to this strange proposal to give to the unfettered discretion of a Federal judge the power to determine whether a person shall or shall not be entitled to a trial by jury. I strongly believe that the proposal is unconstitutional, and if the proponents of the so-called compromise are successful in securing its enactment I should devoutly hope that the judiciary would strike the measure down. I am also opposed to the compromise because it would reverse a legislative history of 126 years' duration, in which the Congress has repeatedly expressed itself in favor of preserving and extending the right to trial by jury, as opposed to restricting it or abolishing it in the wake of powerful pressures arising out of the political issues of the day. The American people are innately contemptuous of despotic power whether it be exercised by king, dictator, or judge, and I believe that the arbitrary powers the compromise would grant to Federal judges might well bring the entire judiciary into disrepute.

In recent years the judiciary has evinced growing and thoughtful concern for the preservation and strengthening of the right to trial by jury. In the course of this debate there have been those who have argued that Congress has no legitimate concern to provide for jury trials in cases of criminal contempt. They have insisted that when we set a jury between an accused person in a contempt proceeding and summary punishment we question and affront the dignity of the court and the power of the court to vindicate its dignity. I submit, Mr. President, that in recent expressions of Justices of the Supreme Court of the United States there are voiced admonitions against those who would recklessly abandon such constitutional guaranties as the right to trial by jury in the name of preserving the dignity of the courts.

It certainly in no wise can be argued that the jury-trial amendment which the Senate adopted is either unconstitutional or an extension of statutory rights of

which the courts themselves would disapprove. In the case of *Michaelson v. United States* (266 U. S. 42), the Supreme Court of the United States clearly disposed of any doubts in this regard. Justice Sutherland, in delivering the opinion of the Court, said:

The simple question presented is whether Congress may require a trial by jury upon the demand of the accused in an independent proceeding at law for a criminal contempt which is also a crime. In criminal contempts, as in criminal cases, the presumption of innocence obtains. Proof of guilt must be beyond reasonable doubt and the defendant may not be compelled to be a witness against himself, *Gompers v. Bucks Stove and Range Co.* (221 U. S. 418). The fundamental characteristics of both are the same. Contempts of the kind within the terms of the statute partake of the nature of crimes in all essential particulars. "So truly are they crimes that it seems to be proved that in the early law they were punished only by the usual criminal procedure."

#### The Court further states:

The statutory extension of this constitutional right to a class of contempts which are properly described as criminal offenses does not, in our opinion, invade the powers of the courts as intended by the Constitution or violate that instrument in any other way.

In the case of *Sacher et al. v. United States* (343 U. S. 1 (1952)), two Justices took the position that even in cases of direct criminal contempt an accused person is constitutionally entitled to a trial by jury.

The *Sacher* case grew out of a turbulent 9-month trial of 11 Communist leaders on charges of violating the Smith Act. Defendants' counsel in the presence of the trial judge and in the face of repeated warnings from him that their conduct was regarded as contemptuous persisted in a course of conduct that was highly contemptuous and that tended to disrupt and delay the trial and possibly cause a mistrial. When the verdict of the jury had been returned the trial judge, without further notice or hearing immediately filed a certificate under rule 42 (a) of the Federal Rules of Criminal Procedure summarily finding such counsel guilty of direct criminal contempt and sentenced them to imprisonment. Although the majority of the Court upheld the power of the trial judge under rule 42 (a) to impose such punishment, Justices Black, Frankfurter, and Douglas dissented.

In his dissenting opinion, Justice Black listed the reasons why the conviction ought to have been reversed, among which was:

Petitioners were constitutionally entitled to have their guilt or innocence of criminal contempt decided by a jury.

#### The opinion further states:

I would reverse on the further ground that petitioners are entitled to all the constitutional safeguards provided to protect persons charged with crime, including a trial by jury.

Article III, section 2, of the Constitution provides that "the trial of all crimes . . . shall be by jury." Not satisfied with this single protection for jury trial, the founders reemphasized the guaranty by declaring in the sixth amendment that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury . . ." And the fifth amend-

ment provides that "no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury. . . ." These contempt proceedings are "criminal prosecutions" brought to avenge an alleged public wrong. Petitioners were imprisoned for terms up to 6 months, but these terms could have been longer. The Government's position in *United States v. United Mine Workers of America* (330 U. S. 258) was that the amount of punishment for the crime of contempt can be fixed at a judge's discretion, with no limit but the eighth amendment's prohibition against cruel and unusual punishment. Certainly, petitioners have been sentenced for crimes. Consequently, these lawyers have been wrongfully deprived of the jury benefits of the foregoing constitutional provisions unless they are inapplicable to the crime of contempt.

There are, undoubtedly, sayings in some past opinions of this Court broad enough to justify what was done here. Indeed, judges and perhaps lawyers pretty generally subscribe to the doctrine that judicial institutions would be imperiled if judges were without power summarily to convict and punish for courtroom offenses. Our recent decisions, however, have expressed more cautious views about the judicial authority to punish for contempt. Returning to the early views of this Court, we have marked the limits of that authority as being "the least possible power adequate to the end proposed." In *re Oliver* (333 U. S. 257, 274), and cases there cited. The end proposed is power adequate in the court to preserve order and decorum and to compel obedience to valid court orders. To achieve these ends—decorum and obedience to orders—courts must have power to act immediately, and upon this need the power of contempt rests. Concurring opinion, *United States v. United Mine Workers of America*, supra (330 U. S. 331-332). Measured by this test, as Judge Charles Clark's dissenting opinion pointed out, there was no necessity here for Judge Medina's summary action, because the trial was over and the danger of obstructing it was passed. For the same reason there was no longer need, so far as that trial was concerned, to try petitioners for their courtroom conduct without benefit of the Bill of Rights procedural safeguards.

A concurring judge in the court of appeals feared that it might bring about "demoralization of the court's authority" should any one other than Judge Medina try the case. The reason given was: "For instance, in all likelihood, at a trial of the lawyers, *Sacher* would introduce the testimony of himself and others in an effort to prove that he was not 'angrily shouting,' as charged in specification VII, and did not speak 'in an insolent manner,' as charged in specification VIII; Gladstein would similarly seek to prove there he did not 'angrily' advance 'toward the bench' or make remarks in a 'truculent manner,' as charged in specification VIII, and did not speak to the judge 'in a sarcastic and impertinent manner,' as charged in specification VI"; etc. (182 F. 2d 416, 461). What would be wrong with this? Are defendants accused by judges of being offensive to them to be conclusively presumed guilty on the theory that judges' observations and inferences must be accepted as infallible? There is always a possibility that a judge may be honestly mistaken. Unfortunately, history and the existence of our Bill of Rights indicate that judicial errors may be from worse causes.

The historic power of summary contempt grew out of the need for judicial enforcement of order and decorum in the courtroom and to compel obedience to court orders. I believe the idea of judges having unrestricted power to bypass the Bill of Rights in relation to criminal trials and punishments is an illegitimate offspring of this historic coercive contempt power. It has

been said that such a "summary process of the Star Chamber slipped into the common law courts," and that the alleged ancient history to support its existence is "fiction." With the specific reservation that I think summary contempt proceedings may be employed solely to enforce obedience and order, and not to impose unconditional criminal punishment, I agree with this statement by Mr. Justice Holmes: "I would go as far as any man in favor of the sharpest and most summary enforcement of order in Court and obedience to decrees, but when there is no need for immediate action, contempts are like any other breach of law and should be dealt with as the law deals with other illegal acts." (*Toledo Newspaper Co. v. United States* (247 U. S. 402, 425-426).)

I believe these petitioners were entitled to a jury trial. I believe a jury is all the more necessary to obtain a fair trial when the alleged offense relates to conduct that has personally affronted a judge. The majority here and the majority below appear to have affirmed these convictions on the assumption that appellate review so fully guarantees a fair trial that it is an adequate substitute for trial by jury. While I agree that the power of lawyer-judges to set aside convictions deemed prejudicial or erroneous is one vital safeguard of liberty, I cannot agree that it affords the full measure of security which the Constitution has provided against unjust convictions. Preference for trial by a jury of laymen over trial by lawyer-judges lies behind the constitutional guaranty of trial by jury. I am among those who still believe in trial by jury as one of the indispensable safeguards of liberty.

#### Justice Douglas also declared:

I also agree that petitioners were entitled by the Constitution to a trial by jury.

These opinions clearly reflect the growing emphasis in juridical thinking on the sanctity of the constitutional right of trial by jury in prosecutions for crimes and the insistence that a prosecution for a criminal contempt is a prosecution for a crime.

In a more recent case, *Offutt v. United States* (348 U. S. 11 (1954)), we find similar expressions of the Justices regarding the constitutional right to trial by jury in criminal contempt cases.

In the *Offutt* case during the course of a criminal trial in a United States district court the judge became personally embroiled with the defense counsel during which the judge displayed animosity and a lack of proper judicial restraint. At the close of the trial, acting under rule 42 (a) of the Federal Rules of Criminal Procedure, the judge summarily found the defense counsel guilty of criminal contempt for "contumacious, and unethical conduct during the trial" and ordered him imprisoned for 10 days. The court of appeals agreed that the counsel was guilty of reprehensible misconduct but found that "appellant's conduct cannot fairly be considered apart from that of the trial judge" and reduced the punishment to 48 hours.

The Supreme Court held that in the exercise of the Court's supervisory authority over the administration of criminal justice in the Federal court the contempt conviction should be set aside and the cause be remanded to the district court with a direction that the contempt charges be retried before a different judge, citing *Cooke v. United States* (267 U. S. 518).

Several Justices joined in the opinion of the Court and concurred in the re-



versal and remand of the case for hearing before another judge. They stated that "they would go further, however, and direct that petitioner be accorded a jury trial for reasons set out in the dissents in *Sacher v. United States* (343 U. S. 1, 14-23), and *Isserman v. Ethics Committee* (345 U. S. 927).

I wish to emphasize that these opinions go much further than the jury trial amendment the Senate adopted, first, because they state that an accused has a constitutional right to a jury trial in a criminal contempt proceeding, whereas the O'Mahoney amendment merely sought to provide a statutory right of trial by jury, and secondly, the opinions which I have quoted extend the constitutional right of trial by jury to cases of direct criminal contempt, whereas the O'Mahoney amendment would extend this cherished liberty only to cases involving indirect criminal contempt.

A recent expression of the Supreme Court of the United States was given in the jointly decided cases of *Reid* against *Covert* and *Kinsella* against *Krueger*, listed as Nos. 701 and 713 of the October term, 1955, decided on June 10, 1957. These were the famous cases involving the wives of servicemen who had been convicted by military tribunals of having murdered their husbands, who were serving in the armed services abroad. I need not recite all the facts in the cases but the Court had originally decided that the military trials of Mrs. Smith and Mrs. Covert were constitutional, 351st United States Reports, pages 470, 487. The majority in those cases held that the provisions of article III and the fifth and sixth amendments, which require that crimes be tried by a petit jury after indictment by a grand jury did not protect an American citizen when he was tried by the American Government in foreign lands for offenses committed there. The Supreme Court subsequently granted a petition for rehearing, 352d United States Reports, page 901.

I realize, of course, that these cases do not precisely involve the question of whether a person is constitutionally entitled to the right of trial by jury in a prosecution for criminal contempt. The decision in the combined cases, however, clearly shows the emphasis that the Supreme Court of the United States places upon the sanctity of the right to trial by jury and indicates that with the recently changed composition of the Court there was no hesitancy on the part of the majority of the members to upset even a recent case on the constitutional ground that the right to trial by jury had been denied.

Let us consider some of the passages from the majority opinion. The opinion declares:

The rights and liberties which citizens of our country enjoy are not protected by custom and tradition alone, they have been jealously preserved from the encroachments of Government by express provisions of our written Constitution.

Among those provisions, article III, section 2, and the fifth and sixth amendments are directly relevant to these cases. Article III, section 2, lays down the rule that:

"The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the

said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

The fifth amendment declares:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger."

And the sixth amendment provides:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The language of article III, section 2 manifests that constitutional protections for the individual were designed to restrict the United States Government when it acts outside of this country, as well as here at home. After declaring that all criminal trials must be by jury, the section states that when a crime is "not committed within any State, the trial shall be at such place or places as the Congress may by law have directed."

If this language is permitted to have its obvious meaning, section 2 is applicable to criminal trials outside of the States as a group without regard to where the offense is committed or the trial held. From the very first Congress, Federal statutes have implemented the provisions of section 2 by providing for trial of murder and other crimes committed outside the jurisdiction of any State "in the district where the offender is apprehended, or into which he may first be brought." The fifth and sixth amendments, like article III, section 2, are also all inclusive with their sweeping references to "no person" and to "all criminal prosecutions."

This Court and other Federal courts have held or asserted that various constitutional limitations apply to the Government when it acts outside the continental United States. While it has been suggested that only those constitutional rights which are "fundamental" protect Americans abroad, we can find no warrant, in logic or otherwise, for picking and choosing among the remarkable collection of "Thou shalt not" which were explicitly fastened on all departments and agencies of the Federal Government by the Constitution and its amendments. Moreover, in view of our heritage and the history of the adoption of the Constitution and the Bill of Rights, it seems peculiarly anomalous to say that trial before a civilian judge and by an independent jury picked from the common citizenry are not fundamental rights. As Blackstone wrote in his *Commentaries*:

"The trial by jury ever has been, and I trust ever will be, looked upon as the glory of the English law. And if it has so great an advantage over others in regulating civil property, how much must that advantage be heightened when it is applied to criminal cases. . . . It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected either in his property, his liberty, or his person, but by the unanimous consent of 12 of his neighbors and equals."

Trial by jury in a court of law and in accordance with traditional modes of procedure after an indictment by grand jury has served and remains one of our most vital barriers to governmental arbitrariness. These elemental procedural safeguards were embedded in our Constitution to secure their inviolateness and sanctity against the passing demands of expediency or convenience.

Then at another point the opinion declares:

Colonials had also seen the right to trial by jury subverted by acts of Parliament which authorized courts of admiralty to try

alleged violations of the unpopular *Molasses and Navigation Acts*. This gave the admiralty courts jurisdiction over offenses historically triable only by a jury in a court of law and aroused great resentment throughout the Colonies. As early as 1765 delegates from nine colonies meeting in New York asserted in a declaration of rights that trial by jury was the inherent and invaluable right of every citizen in the Colonies.

With this background it is not surprising that the Declaration of Independence protested that George III had "affected to render the military independent of and superior to the civil power" and that Americans had been deprived in many cases of "the benefits of trial by jury." And those who adopted the Constitution embodied their profound fear and distrust of military power, as well as their determination to protect trial by jury, in the Constitution and its amendments. Perhaps they were aware that memories fade and hoped that in this way they could keep the people of this Nation from having to fight again and again the same old battles for individual freedom.

Because of these and other Supreme Court opinions which could be cited, I assert that there is reason to believe that if we pass a law which gives to a Federal judge the authority to decide whether an accused person shall or shall not have the right to a trial by jury in cases of indirect criminal contempt the courts will strike the measure down and brand it as an unconstitutional infringement of the right guaranteed in article III, section 2 of the Constitution and in the sixth amendment.

Similarly, the adoption of the proposed compromise would reverse the 126-year history of public policy declared by Congress, which has been to extend rather than restrict the right to trial by jury. Following the impeachment trial of Judge Peck in 1831, Congress adopted the Buchanan-Webster amendment extending the jury trial right, which has been recodified as section 401 of title 18 of the Criminal Code. The long line of judicial abuses and aggressions in cases arising out of labor disputes lead to the enactment of a provision in the Clayton Act of 1914, which has been recodified as sections 402 and 3691 of title 18. These sections likewise extend rather than restrict the right to trial by jury. The Norris-La Guardia Act of 1932 was an additional recognition by Congress of the importance of extending the statutory right to jury trial. Even as late as 1948 a provision of the Norris-La Guardia Act was recodified and reenacted as section 3692 of title 18. There, again, it was declared by Congress to be the public policy of the United States to preserve and extend the right to trial by jury.

Despite these facts of legislative and judicial history of the United States, we are today told that in order to satisfy a majority in the House of Representatives we must compromise the constitutional principle guaranteed in article III, section 2 of the Constitution and in the sixth amendment. We are told that we must nullify and reverse the 126-year legislative history of extending the right to trial by jury. We are told that, despite the growing concern in modern juridical thinking in favor of broad extensions in the interpretation of the

constitutional right to trial by jury, that precious right should be freely given or freely taken away upon the whim and caprice of a single man.

In addition to the fact that the proposal now before us is clearly an abdication of the principles embodied in our constitutional and statutory laws and judicial decisions, the proposal otherwise is bound to be productive of great evil and may well bring the entire judiciary into scorn, ridicule, and disrepute.

In the first place, despite the fact that the so-called compromise has been modified since its original presentation last week, it still requires a Federal district judge to prejudge the facts in a case before he can make a determination as to whether or not an accused person shall be entitled to the right to a trial by jury. It would invite a judge to make his decision upon the basis of hearsay, newspaper articles, and insinuations and unsubstantiated assertions whispered into the ear of the judge. I agree with those who assert that any good judge would grant the right to trial by jury, but we cannot assume such beneficence or wisdom on the part of all men having life tenure of office when we are considering granting them such broad and unlimited authority. As Senator ERVIN has stated regarding so many other features of the pending measure, this proposal gives to a single official broad powers which no bad man ought to have and no good man ought to want.

In the second place, the so-called compromise injects, for the first time, into our Anglo-American jurisprudence the strange and alien philosophy that the fundamental democratic process of trial by jury is not a matter of right but is rather a privilege which can be granted or denied on the basis of considerations other than legal—on the basis of financial or fiscal considerations. Such a fiscal determination by an economy-minded judge might be a fine of exactly \$300, which means that the accused has been "\$300 bad" and that he shall be denied his right to a trial by jury. If, on the other hand, a more free-spending judge regards the defendant as having been "\$300.01 bad," then, lo and behold, 1 penny's difference assures him his constitutional right to trial by jury.

Under the so-called compromise, a judge with a bent more toward imposing imprisonment as punishment for criminal contempt, might order the defendant to be incarcerated. He might determine that the accused has been "45 days bad," to the very second, and thus there will be no jury trial for the likes of him. If, however, a judge should prescribe a sentence of 45 days and 1 minute, then the accused would be given his jury trial.

In other words, the strange and alien philosophy which prompted this latest proposal declares that if a man is a little bad he has no right to a jury trial, whereas if he is very bad he shall be given that right.

I contend, Mr. President, that it is patently ridiculous to assert that the safeguard of trial by jury should be granted or denied at the sufferance of a single man. It is ridiculous to assert

that the right of trial by jury should be granted or denied on the basis of 1 cent in fines. It is ridiculous to assert that our basic democratic process of trial by jury should be granted or denied on the basis of 1 day, 1 hour, 1 minute, as part of a defendant's sentence to jail. Is a paltry sum or a fleeting moment to determine the precious right to trial by jury?

The compromise proposal, on the pretense of doing away with that which has been so erroneously called second-class citizenship, is in fact providing for a second-class contempt—a contempt proceeding whereby the basic rights of a free people may arbitrarily be swept away and an accused person be left shorn of the basic safeguards that protect him from tyranny.

In the third place, in many instances it would strip from the Federal judge his right and duty to be a fair and impartial arbiter of the rights of an accused person. In cases where the judge decides to impose a fine in excess of \$300 or a jail sentence in excess of 45 days, the accused person could demand a trial *de novo* before a jury. We would then behold the incredible spectacle of the judge who previously had made the law the defendant was accused of violating, who had indicted the accused, who had tried the accused, who had found the accused to be guilty, and who had affixed the sentence, presiding at the jury trial in which the accused would theoretically have a fair and impartial judgment rendered. Such a strange and indefensible procedure, I submit, Mr. President, can only be calculated to engender contempt in the minds and hearts of a free people for any man who possesses such powers.

As I have previously emphasized, the Founding Fathers embodied in the Constitution and the Bill of Rights their determination to protect trial by jury. Thus they sought to avert the necessity of having to fight again and again the same old, hard-won battles for individual freedom. They would never have dreamed, I am sure, that despite their efforts to secure forever cherished liberties such as the right to trial by jury, in the Senate today we would find ourselves fighting the battle for individual freedom. We are fighting that battle against those who seem to regard trial by jury as a thing of another day, another year, another age; as a ragged, old relic of bygone years that perhaps has served its purpose well, but has no place in the fast-moving, dynamic, modern America. Perhaps they are willing to shed a tear at its passing, in loving memory of its past greatness in protecting against tyranny. But they are not willing to let affection for tried and true institutions quell the tempest generated by powerful pressures or misguided zeal. Thus, they are willing to say to the constitutionally ordained institution of trial by jury: "Up to a point, you did your job well, and we are grateful. We shall always have sweet memories of you, and pay you our tribute whenever the opportunity conveniently presents itself. But when you do not serve our purposes, you must hie thee off to other realms, where people still cherish this ancient bastion

of human liberty. And so we bid you a fond farewell."

Mr. President, the right to trial by jury in all criminal prosecutions is exactly what the Constitution says it is: It is a right—not a privilege, not special treatment, not an institution to be bargained away or to be granted or denied at the discretion of one man or any group of men. As Jeremiah Black said:

I prove my right to a trial by jury as I would prove my title to an estate if I held in my hand a solemn deed conveying it to me, coupled with undeniable evidence of long and undisturbed possession under and according to the deed. There is the charter by which we claim to hold it. It is called the Constitution of the United States. It is signed by the sacred name of George Washington, and by 39 other names only less illustrious than his. They represent every independent State then upon this continent, and each State afterwards ratified their work by a separate convention of its own people. Every State that subsequently came in acknowledged that this was the great standard by which their rights were to be measured. Every man that has ever held office in the country from that time to this, has taken an oath that he would support and sustain it through good report and through evil.

Mr. President, I reiterate, for all those who will listen, that the sixth amendment to the Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, \* \* \*.

As Jeremiah Black further declared:

Is there any ambiguity there? If that does not signify that a jury trial shall be the exclusive and only means of ascertaining guilt in criminal cases, then I demand to know what words or what collocation of words in the English language would have that effect? Does this mean that a fair, open, speedy, public trial by an impartial jury shall be given only to those persons against whom no special grudge is felt by the Attorney General, or the Judge Advocate, or the head of a department? Shall this inestimable privilege be extended only to men whom the administration does not care to convict? Is it confined to vulgar criminals, who commit ordinary crimes against society, and shall it be denied to men who are accused of other offences? \* \* \* No; the words of the Constitution are all embracing "As broad and general as the casing air."

Mr. President, the sanctity of the tradition and guaranty of trial by jury were enshrined in these immortal words:

I do not assert that the jury trial is an infallible mode of ascertaining truth. Like everything human, it has its imperfections. I only say, that it is the best protection for innocence and the surest mode of punishing guilt that has yet been discovered. It has borne the test of a longer experience, and borne it better, than any other legal institution that ever existed among men. England owes more of her freedom, her grandeur, and her prosperity, to that than to all other causes put together. It has had the approbation not only of those who lived under it, but of great thinkers who looked at it calmly from a distance, and judged it impartially \* \* \* and no people ever adopted it once and were afterward willing to part with it.

Mr. President, I want the record to be abundantly clear that I was never



counted among those who inherited that great safeguard of personal freedom, the institution of trial by jury, who enjoyed its benefits and its blessings, and who "were afterward willing to part with it."

In a moment of impatience for adjournment, let us not unadvisedly vote to have the Senate abdicate its historic role as the impregnable fortress of constitutional liberty. Let us strike this measure down, so that all the world shall know that the Senate will not compromise with principle, for compromise with principle is nothing more or less than surrender of principle. The Senate has already made its stand—I would hope, its irrevocable stand—in behalf of the principle of trial by jury. Let us neither retreat 1 inch nor surrender a single principle of justice where the rights and freedom of our people are at stake. Let us purge this legislation from the Halls of Congress, so that men may always say, "Here was the Senate in its finest hour, rendering its highest service to the American people."

Mr. President, some time ago, the Senator from Rhode Island [Mr. GREEN], the distinguished and able chairman of the Senate Foreign Relations Committee, requested the junior Senator from Alabama [Mr. SPARKMAN] to undertake for this committee the important assignment of visiting the countries of the Far East and of southeast Asia, and making to the committee recommendations regarding these vital areas. The junior Senator from Alabama agreed to the assignment, and a date was set well beyond what was expected to be the date for the sine die adjournment of Congress.

The assignment called for an extensive itinerary throughout these great and vital areas of the world. The assignment was of such a nature that details had to be worked out in advance of departure from this country. Schedules and appointments had to be arranged and transportation planned.

Plans in connection with the assignment were completed last week, and Senator SPARKMAN's departure was scheduled for last Saturday night.

Senator SPARKMAN met with the southern Senators of our group in Senator RUSSELL's office on Saturday morning, and would not consent to leave on the assignment until he was assured by Senator GREEN of a live pair in connection with the vote to be taken on the amendments of the House to the amendments of the Senate numbered 7 and 15 to House bill 6127.

The junior Senator from Alabama [Mr. SPARKMAN] has been a bulwark in the fight to kill this politically inspired and unnecessary legislative proposal, or, failing that, to eliminate from the bill its worst and most dangerous provisions. We are all indebted to him for his contribution in this momentous fight.

Were he here today, he would speak out in opposition to the passage of this proposed legislation. He prepared a statement to be used as part of his planned speech. I ask unanimous consent that this statement be printed in the RECORD immediately following the comments I have just made.

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

STATEMENT PREPARED BY SENATOR SPARKMAN  
IN OPPOSITION TO THE CIVIL RIGHTS BILL

We from the South have worked together from the very beginning in opposition to the so-called civil rights bill. We have felt completely justified in doing so because of the great harm the bill would do.

Many Democrats and Republicans outside the South agreed with us regarding some of the most vicious and most dangerous provisions of the original bill. With their help we have been able to eliminate many of the worst features of the bill.

It was clear to most Members of the Senate, to many Members of the House, and to Americans all over the Nation that the bill as originally drawn would have gone far toward destroying the authority of State and local governments, and also toward destroying the right of jury trial guaranteed by the Constitution. The results would have been calamitous.

The very foundations on which this country has grown to be great, and has become a beacon of democracy and individual freedom for all the nations of the world, would have been done irreparable harm. A sufficient number understood these dangers to help us from the South to make major changes in the bill and to remove much of its danger.

Now we have before us a compromise of the Senate version of the bill. We from the South—and I dare say the same is true of many outside the South—do not like this compromise. We recognize, though, the cold hard reality that majorities in both Houses of Congress are in a mood to pass the bill with the compromise, and to adjourn Congress. As strong as members of our southern group oppose this bill and as great as we believe the danger in the long run to be, we cannot but recognize and at the same time deplore the great odds against us.

I want to point out that none of us from the South who have opposed every word and every comma of this bill from the start was a party to working out the compromise.

The compromise goes far toward restoring to the bill one of the dangerous features removed in the Senate—the impairment of jury trials.

To me it came personally as a great surprise.

I have known all the Federal judges in Alabama for years. They are good friends of mine. They are all honorable men steeped deeply in the Constitution and in the desire to preserve the constitutional rights that have given to the people of this Nation the greatest protection ever accorded by any government to its people. I believe they recognize the importance of trial by jury. I have confidence in their acting to uphold and to preserve this great constitutional right.

Even should they do so, however, and even should the same be true of every judge in every state of this Nation, the compromise presented to the Senate is unwise.

Some, of course, will argue that where a man is to be imprisoned for 45 days or less and is not to be fined in excess of \$300 in criminal contempt cases, there is no justification for grave concern. Some will contend that the penalty is too small to cause concern, that right of jury trial in cases in excess of these penalties gives sufficient protection to the jury principle.

I disagree wholeheartedly with any such claims. People receiving such penalties will rightfully consider them severe, and they will want jury trials.

I submit that the denial of one's liberty under such circumstances for even 1 day without a trial by jury of his peers is abhorrent to freemen and does great damage to our judicial system.

The important thing to remember is that this compromise will take away the absolute right to trial by jury secured by the constitution to every citizen accused of crime.

This is the right that we fought on the Senate floor for a period of several weeks to retain. This is the right that Senators from all parts of the country fought shoulder to shoulder to write into this legislation. This is the right that our forefathers struggled for centuries to establish. It was the abuse of this right by the King of England that caused the colonies to revolt, and our Founding Fathers to write into the Constitution the guaranty of jury trial.

The compromise is clearly unconstitutional. I cannot conceive of the members of the Supreme Court, once the matter is before them, taking any action other than to declare it unconstitutional.

I realize that the bill, even with the compromise provision in it, is a much less vicious and a much less dangerous bill than that originally drawn by the Attorney General and sent to the Congress by the President of the United States. Even so, it is still a bad bill and it should be given a permanent burial.

This bill was conceived in political iniquity. It will do the Negro more harm than good. It will serve to drive further apart the leaders of both races in the South where the problem is the greatest. It will create disunity among our people at a time when unity is sorely needed.

The bill is completely unnecessary. The Negro has made tremendous gains in the South during the last 25 years. As the economy of the South has improved so have the living standards of both our Negro and white citizens. Along with better living standards and an improved economy have come improved race relations.

As the education level of the Negro has improved he has registered and voted. The Southern Regional Council reported recently that during the last 10 years the percentage of Negro voters in the South has increased by 500 percent.

Negro teachers with similar training and experience receive the same salaries as do white teachers. School facilities for Negroes are rapidly being equalized with those of whites and in many cases far excel those of whites.

Until the Supreme Court decision on school desegregation and the agitation from outside sources thereafter, racial relations between the Negroes and whites of the South were on a friendly basis.

Since the Supreme Court decision, race relations have deteriorated. The leaders of the two races are no longer able to sit down together and work out problems to the mutual satisfaction and advantage of both races. Our people have grown fearful and resentful.

This bill will simply serve to create more hard feelings and more distrust among our people. It will further impair the progress our people have made. I repeat, it is completely unnecessary and the ills it will create will plague us in the years ahead.

Mr. CASE of South Dakota. Mr. President, the House of Representatives has concurred in the amendments of the Senate with two amendments, which are amendments to Senate amendments Nos. 7 and 15.

The amendment of the House of Representatives to Senate amendment No. 15 modifies the so-called trial-by-jury provisions which were adopted by the Senate. That has been discussed by others.

The amendment of the House of Representatives to the amendment of the Senate No. 7 deals with the problem of protection for newspaper reporters, radio commentators, and others who might, without permission, publish

information developed by the proposed Commission in executive sessions. I rise to speak on this other amendment.

The problem sought to be met by means of that amendment was brought out in comments made on the bill after it had been passed by the Senate. I speak, therefore, for the benefit of the legislative history of the amendment.

Subsection (g) of section 102 of the bill, as originally passed by the House of Representatives, and also as passed by the Senate, read, and reads, as follows:

(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than 1 year.

Mr. President, some of the newspaper publishers of the country and members of the fourth estate generally feared that the last sentence of subsection (g) might imperil reporters who reported information, which they might obtain through their natural initiative, which paralleled or was identical to evidence developed in the executive sessions of the commission.

It will be noted that the subsection provides that—

Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than 1 year.

A parliamentary problem developed by reason of the fact that that language of the bill as passed by the House of Representatives was not disturbed by the amendments adopted in the Senate. The bill went back to the House with that paragraph untouched and hence not in disagreement. Under the rules pertaining to conferences, Mr. President, and under the House rules applicable to House bills returned from the Senate, sentences not disturbed or changed by amendment in Senate passage of a bill are not subject to direct change by conferees or by motions to concur with an amendment on the floor of the House.

Senate amendments may be accepted by the House or they may be accepted with a modification by concurrence with an amendment either on the floor or in connection with a conference report.

The problem of those concerned by the possible application of the penalty subsection to news reporters, however, was that paragraph (g), the penalty subsection of section 102, was not amended in any way—hence not in disagreement.

In thinking over that problem, after it developed, and in reading the amendments which had been adopted, however, it occurred to me that one of the amendments which was adopted by the Senate related to that subject matter, in a way, and that therefore, since that amendment which had been adopted by the Senate would be within the purview of conferees, it would also be within the power of the House to deal with by an amendment to the Senate amendment.

That is the course which has been followed in the bill as it is now before us for final action.

I now invite the attention of the Senate to amendment No. 7 of the Senate, which was a part of the amendment to section 105, offered by the distinguished minority leader, the Senator from California [Mr. KNOWLAND], dealing with the powers of the Commission.

Paragraph (b) of section 105, as it originally passed the House of Representatives, provided that the Commission could accept and utilize the services of voluntary and uncompensated personnel.

Objection was made to that by various Members of the Senate. I recall that the distinguished Senator from Georgia [Mr. RUSSELL], thought that would interfere with the proper functioning of the Commission, and, perhaps, make it a creature of some existing agency.

In any event, the Senator from California proposed an amendment to section (b) which struck out the language providing for the utilization of voluntary and uncompensated personnel, and proposed, instead, this amendment, which the Senate adopted:

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel.

In reading that amendment over, after the bill had passed the Senate, it occurred to me that it offered a way to meet the problem raised in the section to which I have previously alluded with regard to the unauthorized release of testimony.

Since the ban on the release or use of testimony was on testimony or evidence taken in executive session, it would naturally follow under the Knowland amendment that the only persons present in executive session would be members of the Commission or employees of the Commission, or persons employed or compensated by the United States to take the testimony, or transcribers of the testimony whose services would be compensated by the United States, or employees, perhaps, of the Government Printing Office whose services would also be compensated by the United States; and that news reporters would not be present in executive sessions of the Commission and would not be persons compensated by the United States.

Therefore on the 19th of August I made the suggestion on the floor of the Senate—and my remarks appear at pages 15131 and 15132 of the RECORD—that to the language of the Knowland amendment numbered 7 on page 7 of the bill, we could add certain words to define "whoever", as used in the section relating to the unauthorized use of evidence or testimony—

So I suggested that we add to the amendment offered by the Senator from California, and adopted by the Senate, certain language to define the word "whoever" as used in the section relating to the release or use of evidence or testimony without permission.

I suggested that the amendment might read, taking up the words of the Senator from California:

The Commission shall not accept or utilize services of voluntary or uncompensated personnel—

And adding these additional words—and the term "whoever" as used in section 2, subsection (g), hereof shall be construed to mean a person whose services are compensated by the United States.

In addition to bringing that to the attention of the Senate, in the morning hour, August 19, I supplied copies of it to the distinguished Senator from California, to the Senator from New Mexico [Mr. ANDERSON], and to others, and to some of the leaders or possible conferees on the part of the House of Representatives, if the bill should go to conference.

Mr. KNOWLAND. Mr. President, will the Senator yield at that point?

Mr. CASE of South Dakota. I yield to the Senator from California.

Mr. KNOWLAND. I wish to say that the Senator from South Dakota has made an accurate statement of the situation. He not only made on the floor the statement to which he refers, but he sent letters together with copies of certain suggested language to me and to the majority leader and to a number of other Senators, and, as he pointed out, also, to some of the possible House conferees.

When this bill got to the House and had been delayed for some time, and then finally there were suggestions being made of a way whereby acceptable language might be worked out, and the other problems had been solved, at informal meetings I discussed with the distinguished majority leader and with some of the leadership in the House the question of solving this problem which had caused some concern to the press of the country. The language which was suggested was the language which the Senator from South Dakota had previously proposed and of which advised a number of other Senators. That language, after having been gone over by the majority leader and the minority leader and the leadership of the House was found to be acceptable, and the fact that the Senate had amended the section to which the Senator has alluded made it possible to make this correction when the House concurred with amendments. The Senator is to be thanked for developing this record; he has made an excellent contribution toward solving the problem which had existed.

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

Mr. CASE of South Dakota. Mr. President, I deeply appreciate the remarks of the distinguished minority leader.

I yield to the Senator from New York.

Mr. JAVITS. I should like to join the majority leader in commendation of the Senator from South Dakota. I raised the question after the third reading of the bill. I stated that I could see no other way in which the correction could be made possible, although, if the Senate and the House had adopted the same language, a concurrent resolution might have been in order before the President signed any bill. The Senator from South Dakota made a very wise and a very resourceful suggestion. He solved that dilemma for all of us, and I think both the Senate and the press should



be very grateful to him for having made this excellent contribution.

Mr. CASE of South Dakota. I appreciate the remarks of the Senator from New York. I did think it would be better to handle it directly in the bill itself than to try to do it by concurrent resolution, which might or might not be adopted before the President signed the bill. To try to take care of a situation by the adoption of a concurrent resolution, in an attempt to amend a bill which has not been enacted, has always seemed to me of dubious quality if direct amendment was possible.

By making the direct amendment in the bill itself before it is finally passed, we have taken care of the situation beyond doubt or question.

Mr. President, I should like to incorporate in my remarks at this point the remarks I made on the 19th of August, together with a brief colloquy I had with the Senator from New Mexico [Mr. ANDERSON] and the Senator from New York [Mr. JAVITS], in order that the entire history of the amendment might appear in the RECORD.

There being no objection, the material will be printed in the RECORD, as follows:

#### THE CIVIL-RIGHTS BILL

Mr. CASE of South Dakota. Mr. President, there has been some reference in the press, and also some concern expressed, as to whether paragraph (g) of section 102 of the so-called civil-rights bill would imperil newspaper reporters who on their own initiative and by their own ability obtained information concerning evidence or testimony given at an executive session of the Civil Rights Commission. The difficulty arises under the rules of both the Senate and the House which provide that language in a bill which has not been changed by either House may not be altered by conferees.

I believe an answer can be found by an addition to the amendment which was adopted to section 105, relating to the powers of the Commission. That amendment of the Senate, which is numbered 7, struck out certain language and inserted the following:

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel.

The problem which arises with respect to paragraph (g), and the \$1,000 fine provided therein, to which fear is expressed that reporters may become liable, could be corrected by adding to the amendment numbered 7 which I have read, these words:

"And the term 'whoever' as used in paragraph (g) of section 102 hereof shall be construed to mean a person whose services are compensated by the United States."

Mr. President, the reason I believe that language would reach the problem is that paragraph (g) states:

"No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than 1 year."

Since it is proposed by the amendment already adopted by the Senate to provide that "the Commission shall not accept or utilize services of voluntary or uncompensated personnel," the only persons who would be present at an executive session would be employees compensated by the United States.

Secondly, if we add to paragraph (b), which reads "The Commission shall not accept or utilize services of voluntary or uncompensated personnel," the words "and the

term 'whoever' as used in paragraph (g) of section 102 hereof shall be construed to mean a person whose services are compensated by the United States," it would automatically exclude reporters of newspapers or radio or other media of public information.

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

Mr. CASE of South Dakota. I yield.

Mr. ANDERSON. I merely wish to say that I am very anxious to have this difficulty resolved. I am glad the Senator from South Dakota has devoted his time in trying to resolve it. I hope it may be resolved so that the section in the bill will clearly make it possible for a newspaper reporter to develop a story without being in danger because he does so.

Mr. CASE of South Dakota. Under a rule which the House sometimes adopts, the House takes a bill from the desk of the Speaker to the end—and the term "to the end" is used—that amendments of the Senate be concurred in, or that amendments of the Senate be agreed to with certain amendments.

The adoption of that rule takes the place of a conference. If it is a concurrence with an amendment, then the additional amendment would have to come to the Senate for concurrence in the modification.

That is why I am suggesting this procedure, since it has been suggested that the House is considering the possibility of a rule which would concur with certain amendments, presumably limiting the jury-trial provision to criminal contempt cases arising under the act itself.

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

Mr. CASE of South Dakota. I yield.

Mr. JAVITS. I am very glad to hear the suggestion made by the Senator from South Dakota. The Senator will remember that I called to the attention of the Senate this very grave problem. I hope it will be worked out in a way which will be permissible under the rules of the House. All of us should be very grateful to the Senator from South Dakota for making the suggestion, which is so obviously based on careful and considered judgment.

Mr. CASE of South Dakota. I thank the Senator from New York. He is familiar with the rules of the House and knows the parliamentary problem which exists.

Mr. CASE of South Dakota. In conclusion, I merely wish to say that there should be no doubt of any kind now that the press of the country and the reporters generally are exempted from any applicability of the penalty provided for unauthorized disclosure of evidence taken before the Commission in executive session. Members of the press could not be considered to be persons compensated by the United States, so that if they developed information in some way, they would not come under the penalty provisions.

In closing, I should like to recall, in essence, what I said earlier during the debate when the bill was before the Senate. That this Congress is to pass this civil-rights bill is due in large degree to the determined, unwavering, iron will of the distinguished minority leader, the senior Senator from California [Mr. KNOWLAND]. It was his action that kept the bill before the Senate when it came over from the House of Representatives. It was his motion that made it the pending business of the Senate. He resisted every effort to sidetrack it. He worked steadily to improve the bill and to preserve it when others might have given up. In this he was joined by the dis-

tinguished majority leader, the Senator from Texas [Mr. JOHNSON].

The cooperation of others and the spirit of trying honestly to serve our common country, exhibited by Members on both sides of the aisle and on both extremes of the issue, so to speak, must also be credited for the enactment of this legislation. There has been debate. There has been difference of opinion. But there has not been blind, stubborn, unreasoning bitterness. So we come to this point of final voting on the amended bill as modified by House amendments to Senate amendments.

This bill, when enacted into law, will be an outstanding piece of legislation so far as the Eisenhower administration is concerned. Civil-rights legislation has been a part of the Eisenhower program. It is the first major legislation of this character in some eighty-odd years.

This bill will be an effective piece of legislation, in my judgment.

It provides for a Civil Rights Commission with powers to investigate and recommend. If it did nothing more than that, it would represent a great social advance without question.

Then there is the provision for an additional Assistant Attorney General.

There are the specific provisions of part IV to protect the right to vote.

This is a well-rounded piece of legislation. Possibly, it is not entirely satisfactory to every Member of the Senate but it has worked its way through the procedures of the House of Representatives and of the Senate in the best parliamentary traditions.

Changes may come with experience in operation, but I predict that this Civil Rights Act of 1957 will be a landmark in the legislative history and the social and political history of the United States.

Mr. LONG. Mr. President, during the past 2 months my opposition to the so-called civil-rights bill has been made amply clear to the Senate and to the Nation. I urge the Senate to reject the so-called compromise bill.

The bill as it passed the Senate protected in his right to a jury trial every citizen who is charged with criminal contempt. That provision has been eliminated by the House. The bill before us makes it a matter of discretion with the judge. In other words, a citizen's right to a jury trial is made a matter of discretion at the whim of a Federal judge. A citizen's right in this Nation should not depend upon the caprice of a Federal judge appointed for life and beyond account to the electorate. If the measure is passed in its present form, Senators will live to regret voting for it. If it should pass, as I fear it will, I shall immediately start working to restore the right of citizens to a jury trial. I urge my southern friends as well as all Senators who voted for the jury-trial provision of the bill as passed by the Senate to join me at the beginning of the next session to stop and reverse the process of stripping citizens of their constitutional rights before it goes further.

Meanwhile, I expect to use my best efforts to persuade every judge in Louisiana to accord every citizen his right

to a jury trial, as a judge may do if he desires. In that way I hope to prevent the evil in the bill from injuring citizens in Louisiana, in the event the bill should pass.

It would be a serious mistake for Congress to eliminate the due process of justice which citizens enjoy under the Constitution and replace it with the contempt powers of a Federal court. Government by contempt will achieve little more than contempt for Government.

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

The PRESIDING OFFICER. The Secretary 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.

The question is on concurring in the amendments of the House to Senate amendments Nos. 7 and 15.

Mr. KNOWLAND and Mr. MANSFIELD asked for the yeas and nays.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, H. R. 6127 was passed by the House of Representatives and reached the floor of the United States Senate without any significant change from the iniquitous version submitted to Congress by Attorney General Brownell.

As taken up initially by the Senate, it was a force bill of the rankest order. It would have conferred upon the Attorney General of the United States unlimited power to harass, intimidate, and control the thoughts and actions of all Americans in all areas of human conduct. It would have empowered the President of the United States—or the Attorney General acting for him—to use the full armed might of the Nation to force integration of the races in every facet of life, public and private, in the South. It would have repealed the constitutional right of trial by jury.

Seventeen determined southern Senators—with all odds against them—set out to do what their counterparts in the House of Representatives were unable to do: to eliminate the more vicious provisions of this monstrous legislation. The success of their skillful, courageous efforts and the effectiveness of their persuasive, dignified arguments speak for themselves.

The measure as the Senate returned it to the House of Representatives was an emaciated shadow of its former brute self.

The Senate version struck out those provisions which would have restored bayonet rule and authorized the use of the Army, Navy, and Marine Corps to force racial integration in the South.

The Senate version eliminated those provisions which would have given the Attorney General dictatorial powers to regiment the thoughts and actions of the American people.

The Senate version contained an iron-clad guaranty that the constitutional right of trial by jury would be respected and upheld in all cases of criminal contempt arising under it.

The success of the southern Senators in pyramiding their 17 votes to win these herculean victories for constitutional government and individual liberty was beyond their fondest original expectation. As repugnant as are the remaining provisions to constitutional principle and States rights, it nevertheless had to be admitted, even by advocates of the measure, that southern Senators gained far more than they lost.

It had been hoped that the House of Representatives would sustain the full gains made by the Senate.

Unfortunately, however—through a so-called compromise which compromises at best principle and at worst the Constitution of the United States—the jury-trial guaranty was sacrificed.

After only an hour's delay, the House returned the bill to the Senate.

The problem then confronting southern Senators was how best to protect the interests of their constituents.

Certain Members of the House of Representatives presumed to advocate that we conduct a filibuster against the bill.

I do not know why these men arrogated unto themselves greater wisdom than the combined intellect of 16 southern Senators. It could not possibly be because they were more successful in eliminating the more vicious and iniquitous provisions of the bill.

To be sure, the fact that a grandstand of long-winded speeches would be immediately popular with our constituents—who, like us, are unalterably opposed to this bill in any form—was not lost upon us.

But reason dictated that, in determining our course of action, we should measure the gains we had made against the potential losses.

The facts we had to face were these:

First. It would be impossible for 17 Senators to conduct a filibuster until the convening of the 86th Congress in January 1959. Debate in the Senate can be limited by 64 votes, and with 79 Members of the Senate favoring a civil-rights bill, there exist 15 votes more than the number necessary to impose gag rule at will.

Second. There is pending in a subcommittee of the Rules Committee of which I am chairman 7 different resolutions—Senate Resolutions 17, 19, 21, 28, 29, 30, and 32—to liberalize the provisions of Senate rule XXII, under which debate in the Senate can be limited. Those resolutions contain an aggregate of 54 signatures—5 more than necessary to pass any one of them.

As chairman of that subcommittee, I have been successful in my insistence upon full hearings on, and thorough study of, these resolutions before any action is taken on them. Because of the present complexion of the Rules Committee, it is well known that any filibuster attempt would result in the reporting of one or more of these pending resolutions and the imposition of a much stronger cloture rule, which would further limit the ability of individual Senators to protect their constituents.

Third. The majority of the Members of the Senate—by at least 3 to 1—favors a stronger bill than the one presently under consideration. This is evidenced by the fact that, in voting on amend-

ments to parts III and IV of the bill, 12 to 15 Senators voted with the South on one amendment, only to vote against it on the other.

There is considerable sentiment on the part of the President and the majority of the Members of both Houses of Congress to add a new section III to this bill which would empower the Attorney General, without jury trial, to force complete integration of our society. During the course of prolonged debate, such action still could be taken.

Fourth. Next year is a Congressional election year. Both the Democratic and Republican Parties—aided and abetted by the White House and the Vice President—undoubtedly will demand next January that this same Congress pass a much stronger civil-rights bill, probably with FEPC provisions. These efforts will again require determined opposition on the part of southern Senators, and our success will depend in large measure upon the good will of Senators from other areas of our country.

Should we destroy what good will remains among independent Senators of this Congress, the passage of new, radical civil-rights legislation, with FEPC provisions, will be a foregone conclusion.

For these reasons, it was the unanimous opinion of the 16 dedicated southern Senators that no organized filibuster against the Brownell bill be conducted on the floor of the Senate.

Speaking for myself, Mr. President, I have represented, and will continue to represent, my constituents and our beloved State of Georgia to the best of my ability and according to the dictates of my conscience.

I have never compromised principle, and I never will.

But I declare to this Senate, the Nation, and the world, Mr. President, that neither will I allow those who are uninformed as to the facts and circumstances to stampede me into acts which I am convinced would, in the long run, wreak unspeakable havoc upon my people.

And it is to them, Mr. President, that I leave the judgment of my decision and action.

Mr. KNOWLAND. Mr. President, during the course of this debate, I have differed on numerous occasions with the distinguished junior Senator from Georgia [Mr. TALMADGE]. He has thought that this approach to the pending bill was wrong, and I have thought that it was right. I respect him for his opinions, and I believe he respects me and those who have differed with him for our opinions.

Anyone who knows the Senate of the United States is aware of the fact that the overwhelming majority of the Senate desires to pass a voting rights bill. There can be no question that had the majority desired to do so, cloture could have been invoked to pass the bill in its present form, with votes to spare.

As one who has served in the Senate for over 12 years, I honor the Senate of the United States and its great tradition. One of these traditions is that of free debate.

During the entire debate up until yesterday, the discussion was both germane and helpful. Up until then, the debate



had contributed to the working out of amendments and modification of the bill, some very substantial in character.

Because of the high standard of the general debate, the majority properly decided neither to circulate a cloture petition nor to attempt to invoke cloture. Had the Senate been blocked by dilatory tactics and obstructionism in debate, we would have had no other choice. That this condition did not come about is due to the restraint and the statesmanship of the opponents of the proposed legislation and to the reasonableness and the moderation of the proponents.

It has been a hard fight. I hope it leaves no scars that cannot be quickly healed.

We honor and we respect our colleagues from the South who have made an honorable and a determined fight against heavy odds. Their fight resulted in substantial amendments to the bill as it came to the Senate from the House of Representatives. I hope and believe that the Commission that will be appointed by the President of the United States under this bill will be a fair and moderate one in its approach to the great problems involved.

I make this final plea tonight particularly addressed to our colleagues from the South. Let no gulf divide us. Let us close ranks as Americans and try for just solutions to our common problems.

Mr. JOHNSON of Texas. Mr. President, there are times when men must take a long, hard look at practicalities. This is one of those occasions.

I agree with those of my colleagues who believe that the House amendment is inferior to the Senate's version of the jury trial. I do not agree with those who maintain that it is a compromise of principle which cannot be accepted.

In my view, the principles of the Senate's jury-trial amendment have been left intact. The deficiencies of the House version have been grossly exaggerated.

The House version is not a big bad wolf with sharpened fangs and steel-tipped claws ready to leap upon innocent people. The fears in this respect cannot, in my opinion, be justified.

Neither is the House amendment a plumed knight in shining armor ready to ride to the rescue of innocent maidens. The hopes of its backers, in my opinion, are somewhat premature.

Let us be frank with all our people. The House amendment is purely and simply compromise language—the price that must always be paid for the passage of effective legislation in a controversial field.

I am no lawyer. I am not going to make a constitutional argument. But I am capable of recognizing reason and practicality.

And the practicalities are that the chances of a criminal contempt trial without a jury under this amendment are extremely remote. When they occur, the offenses will be minor and petty—about on the level of a traffic court.

No prudent judge is going to undertake a case without a jury when he will probably have to try it twice. He will call for the jury the first time—and save

himself and the community some headaches.

Let us look at the other side of the coin.

This is the first civil-rights bill to pass this Congress in 82 years. It was passed solely because the Senate debated the issue in an atmosphere of reason.

If this bill is not approved, the next one will be debated in the heat of partisan politics. And neither our country nor any of its parts will benefit.

Our choice is clear.

We can pass reasonable legislation which applies to our whole country now. Or we will find punitive, vengeful legislation passed in the not too distant future.

The bill before us is a positive step forward—constructive and not punitive. The House amendment, even though I believe it is inferior to the Senate version, is a reasonable price to pay in order to remove this question from the debates in the Halls of Congress.

Let us close out this issue now and pass the bill.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. JAVITS. Mr. President, I shall not detain the Senate for more than a few minutes, but I think it is absolutely necessary that I make a brief statement. I do not believe an adequate record has been made as to the constitutionality of the new jury-trial provision.

I also believe it is necessary to say something on the other side of the coin, in view of the fact that there are some here who will endeavor to overturn what we hope will be done tonight.

For myself, Mr. President, I should like to say that the civil-rights bill does not live up to what I thought we would create in the way of our first civil-rights bill in 82 years, but it is an effective step forward in a key area, which is voting rights. The bill does contain a practical solution to the jury-trial amendment, which I consider to be constitutional.

However, I think it is only fair to say that in the days ahead, I shall seek other civil-rights legislation in company with other Senators who are similarly minded, which I believe is essential to our people and our time.

Certainly, I think the next step must encompass the civil rights given to our citizens under the equal protection clause of the Constitution. Whatever still remains to be done along that line, there should at least be full agreement on the bill before us.

This action tonight will represent an advance of law which we as a Nation should make at this time. This proposal to safeguard voting rights should meet all points of view except the point of view of those who would have no civil-rights legislation whatever on the Federal level, and even such persons have conceded the critical importance of protecting the sanctity of the voting right.

While this bill represents only the beginning, it is a good beginning. It is an historic step ahead to demonstrate the recognition by the Congress of a long-neglected duty to enact civil-rights legislation.

Mr. President, as to constitutionality, the bill which we have before us, with the House amendments to the Senate amendments 7 and 15, makes a distinction be-

tween civil and criminal contempt. That item has been pointed out as evidence of unconstitutionality, yet that very distinction is made in the *Gompers* against *Bucks Stove and Range* case, a leading Supreme Court case.

Second, it is said that a splitting point in the bill is on the ground of punishment or the amount of punishment, which would make the law unconstitutional. I do not believe that is so, because there is no constitutional right to a trial by jury in the Federal courts, and therefore we are considering, in effect, a right created by statute. The citation on that is *Eilenbecker v. Plymouth County* (134 U. S. 31).

Third, and very importantly, Mr. President, there has been much talk of double jeopardy. There is no double jeopardy involved in the acceptance of the House amendment, because a jury trial can come only on the request of the defendant himself. Only then can the defendant obtain a jury trial *de novo*. The fundamental Hornbook law is that double jeopardy is a personal privilege which can be waived. It will be waived when the jury trial is requested. I cite in this regard *Brewster v. Swope* (180 F. 2d 984), *Himmelfarb v. United States* (175 F. 2d 924), *Brady v. United States* (24 F. 2d 397, cert. den. 278 U. S. 603), and *United States v. Harri-man* (130 F. Supp. 198).

For these reasons, Mr. President, I believe if the bill is enacted into law it will be entirely constitutional, and I think those statements should appear of record in our deliberations.

Finally, Mr. President, as the lowest-ranking Member here, I think, except for the Member sworn in today, I should like to pay my tribute to the indefatigable courage and determination of my own leader, the minority leader on this side [Mr. KNOWLAND] who brought this bill to the calendar and, to use a very ordinary phrase, which is very true in his case, bulled it through to this day. I should like to pay my tribute to the majority leader [Mr. JOHNSON of Texas] who, by the exercise of tactical brilliance, I think rarely seen in the history of our country, brought together the necessary marshaling of forces actually to enact the bill into law. I think the country owes both of these men a debt of very deep gratitude.

I have always had the conviction that civil-rights legislation had to be bipartisan. The majority leader and minority leader have certainly proved it.

SEVERAL SENATORS. Vote! Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas that the Senate agree to the House amendments to Senate amendments Nos. 7 and 15 to H. R. 6127, an act to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States. On this question the yeas and nays have been ordered, and the Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORE (when his name was called). Mr. President, on this vote I have a pair with the senior Senator from North Carolina [Mr. ERVIN]. If he were

present he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. GREEN (when his name was called). On this vote, I have a pair with the Senator from Alabama [Mr. SPARKMAN]. As I have said before, I asked Senator SPARKMAN to undertake for the Senate Foreign Relations Committee an assignment essential to the welfare and defense of the Nation.

He did so with the understanding that I would give him a live pair.

Were he here he would vote "nay." Were I at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the senior Senator from Oregon [Mr. MORSE]. If the senior Senator from Oregon [Mr. MORSE] were present and voting, he would vote "nay." Were I at liberty to vote, I would vote "yea." I withhold my vote.

Mr. MURRAY (when his name was called). On this vote, I have a pair with the senior Senator from South Carolina [Mr. JOHNSTON]. If the senior Senator from South Carolina [Mr. JOHNSTON] were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

The vote was recapitulated.

Mr. DOUGLAS. Mr. President, let me ask whether the clerk announced that the Senator from South Carolina [Mr. JOHNSTON] voted in the affirmative.

The VICE PRESIDENT. The Chair will have the clerk examine the vote.

The Chair is informed that the Senator from South Carolina [Mr. JOHNSTON] is not recorded.

Mr. DOUGLAS. Mr. President, I understood the clerk to state, on the recapitulation of the vote, that the Senator from South Carolina [Mr. JOHNSTON] had voted in the affirmative. I realize that that was not the case and that if he had been present, he would have voted in the negative, although, of course, if the Senator from South Carolina had been present and had voted, I would wish that he had voted in the affirmative.

However, the fact is that the senior Senator from South Carolina did not vote, being absent.

Mr. MANSFIELD. I announce that the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVEZ], the Senator from North Carolina [Mr. ERVIN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN], are absent on official business.

I further announce that, if present and voting, the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVEZ] and the Senator from West Virginia [Mr. NEELY] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES] and the Senator from Maine [Mr. PAYNE] are absent because of illness.

The Senator from Ohio [Mr. BRICKER], the Senator from Kansas [Mr. CARLSON],

and the Senator from Indiana [Mr. JENNER] are necessarily absent.

The Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], and the Senator from Nevada [Mr. MALONE] are absent on official business.

The Senator from Kentucky [Mr. MORTON] is detained on official business.

If present and voting, the Senator from Ohio [Mr. BRICKER], the Senator from Maryland [Mr. BUTLER], the Senators from Indiana [Mr. CAPEHART and Mr. JENNER], the Senator from Nevada [Mr. MALONE], the Senator from Kentucky [Mr. MORTON], and the Senator from Maine [Mr. PAYNE] would each vote "yea."

The result was announced—yeas 60, nays 15, as follows:

#### YEAS—60

|               |               |              |
|---------------|---------------|--------------|
| Alken         | Goldwater     | Monroney     |
| Allott        | Hayden        | Mundt        |
| Barrett       | Hennings      | Neuberger    |
| Beall         | Hickenlooper  | O'Mahoney    |
| Bennett       | Hruska        | Pastore      |
| Bible         | Humphrey      | Potter       |
| Bush          | Ives          | Proxmire     |
| Carroll       | Jackson       | Purtell      |
| Case, N. J.   | Javits        | Revercomb    |
| Case, S. Dak. | Johnson, Tex. | Saltonstall  |
| Church        | Kefauver      | Schoeppel    |
| Clark         | Kennedy       | Smith, Maine |
| Cooper        | Knowland      | Smith, N. J. |
| Cotton        | Kuchel        | Symington    |
| Curtis        | Langer        | Thye         |
| Dirksen       | Lausche       | Watkins      |
| Douglas       | Magnuson      | Wiley        |
| Dworschak     | Martin, Iowa  | Williams     |
| Flanders      | Martin, Pa.   | Yarborough   |
| Frear         | McNamara      | Young        |

#### NAYS—15

|           |           |          |
|-----------|-----------|----------|
| Byrd      | Holland   | Scott    |
| Eastland  | Long      | Smathers |
| Ellender  | McClellan | Stennis  |
| Fulbright | Robertson | Talmadge |
| Hill      | Russell   | Thurmond |

#### NOT VOTING—21

|          |                 |           |
|----------|-----------------|-----------|
| Anderson | Ervin           | Mansfield |
| Bricker  | Gore            | Morse     |
| Bridges  | Green           | Morton    |
| Butler   | Jenner          | Murray    |
| Capehart | Johnston, S. C. | Neely     |
| Carlson  | Kerr            | Payne     |
| Chavez   | Malone          | Sparkman  |

So the motion that the Senate concur in the amendments of the House of Representatives to Senate amendments Nos. 7 and 15 to H. R. 6127 was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move that the vote by which the motion was agreed to be reconsidered.

Mr. KNOWLAND. Mr. President, I move that the motion to reconsider be laid on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from California to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. KNOWLAND. Mr. President, I ask unanimous consent that I may have inserted in the body of the RECORD a memorandum concerning the constitutionality of the provisions concerning trial with and without a jury contained in part V of the civil-rights bill.

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

MEMORANDUM CONCERNING THE CONSTITUTIONALITY OF THE PROVISIONS CONCERNING TRIAL WITH AND WITHOUT A JURY CONTAINED IN PART V OF THE CIVIL-RIGHTS BILL

The contention that the provisions contained in part V of the civil-rights bill now

embodied in House Resolution 410 relating to trial with and without a jury in cases of criminal contempt arising under its provisions conflict with the guaranties of the Federal Constitution are completely without merit. The questioned provisions of the bill read as follows:

"Provided further, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however,* That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of 45 days, the accused in said proceeding, upon demand therefor, shall be entitled to a trial de novo before a jury, which shall conform as nearly as may be to the practice in other criminal cases."

It has long been established in both Federal and State courts that criminal contempts may be tried by the court without a jury, without conflicting with any constitutional guaranty of the right to jury trial in criminal cases. *Ellenbecker v. Plymouth County* (134 U. S. 31, 1890); *Gompers v. Buck Stove and Range Company* (221 U. S. 418, 1911). Congress itself has repeatedly enacted laws authorizing the United States to seek injunctive relief from the Federal courts while at the same time providing that criminal contempts committed in violation of court orders under such statutes should be tried by the court without a jury, and all such statutes have been held constitutional. Among them are the following:

Title 7 U. S. C., section 216, Packers and Stockyards Act; section 292, Associations of Agricultural Producers Restraining Trade; section 499h (d), Perishable Agriculture Commodities Act, 1930; section 608a (6), Agricultural Adjustment Act.

Title 7 United States Code, section 1600, Federal Seed Act.

Title 12 United States Code, section 1731b, National Housing Act.

Title 15 United States Code, sections 4, 9, Sherman Act; section 25, Clayton Act; section 53, Federal Trade Commission re False Advertising; section 68e, Wool Products Labeling Act; section 69g, Fur Products Labeling Act; section 77t (b), Securities Act of 1933; section 77uuu, Trust Indenture Act; section 78u (e), Securities Exchange Act of 1934; section 79r (f), Public Utilities Holding Company Act; section 80a-34, 35, 51 (e), Investment Co. Act; section 80b-9 (e), Investment Advisors Act; section 522, Associations monopolizing trade in aquatic products; section 715i, Interstate Transportation of Petroleum Products; section 717s, Natural Gas Act; section 1195 (a), Flammable Fabrics Act.

Title 16, United States Code, section 825m, Federal Power Act.

Title 27, United States Code, section 207, Federal Alcohol Administration Act.

Title 29, United States Code, section 160 (j) (1), National Labor Relations Board orders; section 178, National Emergency Strikes; section 217, Fair Labor Standards Act.

Title 33, United States Code, section 519, Bridges Over Navigable Waters; section 921, Longshoremen's and Harbor Workers' Compensation Act.

Title 42, United States Code, section 2280, Atomic Energy Act.

Title 43, United States Code, section 1062, enclosures of public lands.

Title 47, United States Code, section 36, landing submarine cables; section 401 (b) Communications Act of 1934; section 5 (8), 16 (12), 43, Interstate Commerce Act.

Title 49, United States Code, section 322 (b), Federal Motor Carrier Act; section 647 (a), Civil Aeronautics Act; section 916 (b), Water Carriers Act; section 1011, 1017 (b), Freight Forwarders Act.



Title 50, United States Code Appendix 2156, Defense Production Act.

It is equally well established that minor criminal offenses may be tried without a jury. *Callan v. Wilson* (127 U. S. 540); *Schick v. United States* (195 U. S. 65); *District of Columbia v. Colts* (282 U. S. 63); *District of Columbia v. Claavans* (300 U. S. 617). *State Ex Rel. Sellars v. Parker* ((1924) 87 Fla. 181); *Loeb v. Jennings* (133 Ga. 797); *Ex Parte Wooten* ((1884) 62 Miss. 174); *Ex Parte Garner* (246 S. W. 371 (1922)), Texas Criminal Appeals.

Congress has provided for the trial of minor offenses without a jury in the District of Columbia by the enactment of section 11-616 of the District of Columbia Code, which provides: "where the accused would not by force of the Constitution of the United States, be entitled to a trial by jury, the trial shall be by the court without a jury, unless in such of said last-named cases wherein the fine or penalty may be more than \$300 on imprisonment or punishment for the offense may be more than 90 days, the accused shall demand a trial by jury, in which case the trial shall be by jury," and that section has been held to be constitutional. *District of Columbia v. Claavans* (300 U. S. 617).

Laws have been enacted in many States to provide for the trial of minor criminal offenses without a jury and none of these laws has been held unconstitutional. Among such States are Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, and Virginia.

The provision in the bill for a trial de novo before a jury upon demand of a defendant in the event the sentence after conviction by the court exceeds a fine of \$300 or imprisonment in excess of 45 days is a privilege for the benefit of a defendant and therefore could not violate his personal rights. Furthermore, such a provision for trial de novo before a jury on demand of a defendant has historical precedents, the constitutionality of which has not been questioned. Examples are found in the laws of the following States:

#### ALABAMA

The Code of Alabama (1940), title 13, sections 326 and 423, provides that a misdemeanor trial in the county court and before a justice of the peace shall be without a jury, and that after conviction the defendant may demand by way of an appeal to the county court and secure as a matter of right a trial de novo before the circuit court with a jury.

#### ARKANSAS

The Arkansas Statutes (1947) Annotated, sections 44-115 and 44-116, provide that all trials before the police court and the mayor's court "for violation of the bylaws or ordinances of any city or incorporated town shall be before the mayor [police judge] without the intervention of a jury." These sections also provide that after conviction the defendant may demand and secure a trial de novo before a jury in the circuit court.

The provisions of the bill with respect to trial are, therefore, entirely consistent with constitutional principles and with legislative and judicial precedent.

Mr. JOHNSON of Texas. Mr. President, we must have order. We are going to transact a lot of public business before we finish this evening, and if Senators will give their attention and the Senate will remain in order, we will be able to do so.

Mr. MANSFIELD. Mr. President—

Mr. JOHNSON of Texas. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, the vote this evening was epochal in the annals of the Senate and of the country. We have completed legislating on one of

the most important bills ever to come before the Senate of the United States. We have acted in a spirit of reason and logic. We have acted without rancor. We have acted with a minimum of emotion. I think the credit for the performance which this body has undertaken in the past two months should go to the distinguished minority leader, the senior Senator from California [Mr. KNOWLAND] a man of great integrity, a fair-minded man, a reasonable man. Also sharing in that credit is the distinguished majority leader, the senior Senator from Texas [Mr. JOHNSON], who has indicated, if there was ever any doubt in anyone's mind, that he is a political strategist of the highest order. He has been able to bring reason and understanding to divergent groups on this side, just as the minority leader has been able to do the same on the other side. In my opinion, the Senate of the United States and the United States of America can well be proud of the action which was taken in this body this evening; and I sincerely hope that the recognition, which is the just due of the distinguished minority leader and the distinguished majority leader, will be given to them not only in the press of the country today, but in the history books of the country in the future.

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

Mr. MANSFIELD. I yield to the distinguished senior Senator from Massachusetts.

Mr. SALTONSTALL. Mr. President, from this side of the aisle I want to join with the distinguished Senator from Montana in what he has just said. I have always been proud to be a Member of this body. I have been prouder than ever to have been a Member the past few weeks. During that period of time I have watched our colleagues debate a matter that means much to every citizen, particularly to those in certain sections of this country. Yet, at all times the debate has been conducted without rancor, with great sincerity, and with great care to discuss the main question, the settlement of which meant so much to all of us, without undertaking to bring into the debate extraneous issues. That has been possible because of the leadership on both sides of the aisle.

I do not know of a time since I have been a Member of this body when Members on both sides of the aisle have to a greater extent turned to their leaders to give them guidance and help wherever they could. So the majority leader and the minority leader both deserve much commendation for the way in which this debate has proceeded. At the same time, I think every Member of this body deserves commendation when we consider the depth of the problem, what its solution means to so many people, and the spirit in which it has been discussed during the past few weeks. I am proud to join with my colleague from Montana in his most appropriate expressions.

Mr. MANSFIELD. Mr. President, I may say that while the House spent 2 days in considering this measure, the Senate of the United States spent 2 months. The Senate refined this measure, removed from it the bugs and the

gimmicks, and brought into being a bill which is enforceable. There were great expectations that there would be a filibuster. There has been no filibuster. A record has been set. Every Senator has had an opportunity to speak freely and as long as he wanted to. I think that we have a right on this great evening in the history of our country to be proud of the record of the Senate of the United States.

Mr. SMITH of New Jersey. Mr. President, I should like to identify myself with the remarks just made by the Senator from Montana and the Senator from Massachusetts. I have been a Member of this body for 13 years, and I feel that what has happened tonight is the greatest event in the entire time I have been here. I go further than that: I feel that we are on the road to one of the biggest forward steps since the Civil War, in that after a long debate, marked by a spirit of amity and friendship and affection on both sides of the aisle, there has been evolved a measure of paramount importance to the future of our country. I want to do all I can to join with the others in saying that we owe that result to our two leaders, the majority leader, the Senator from Texas [Mr. JOHNSON] and the minority leader, the Senator from California [Mr. KNOWLAND]. It is a great event in my life to have them here at this time, since there have been previous occasions when we were unable to deal with such a matter because we did not have the spirit that has been shown at this time in this debate. It has been a wonderful debate. The passage of the bill is a great victory for civil rights in the United States of America.

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

Mr. SMITH of New Jersey. I yield. Mr. HUMPHREY. I should like to say this evening that the bill which has just been passed as a result of the vote of the Senate is a good, effective, meaningful piece of legislation. If its enforcement is conducted in the same spirit of reason and reasonableness that has characterized its consideration and passage, this legislation will mean a better America. I have read many press reports about the tactics and the strategy which have been used in bringing about the passage of this measure.

Mr. President, the truth is that it takes a good deal of legislative skill and procedural knowledge to guide any piece of proposed legislation so highly controversial as this through the two Houses of Congress. It also takes something else. It takes more than cleverness. It takes more than tactics. It takes more than being smart. It takes a sense of conviction, and a deep respect for one's fellow man.

When the history of this period is written, I hope it will be forgotten that skill and strategy, and cleverness and legislative maneuvering were required to put the measure through the two Houses of Congress. I hope it will be remembered that there were men and women in both Houses of Congress who deeply believed in the purposes for which the legislation is designed. Because of that belief and that conviction they found the perseverance and strength

to be able to see that the legislation was finally consummated.

As a Member of the Senate I have long looked forward to the day when we could say that Congress passed legislation which assures civil rights to all the people of this land. That day has arrived. I wish to say to my friends who were in opposition to the bill that those of us who supported it admire and respect the temperance and the reasonableness of their arguments. I know of many a Senator who restrained himself, and many a Senator who has literally taken his political life in his hands and placed it in jeopardy. I believe the future will underscore the fact that those Senators did what was right. By their reasonableness, by their good faith, in the days to come they will be enriched in spirit and in political strength because of the manner in which they conducted themselves. The Senate, during the weeks of debate on the bill, has fulfilled the promise of representative government. I am proud to have been a Member of the Senate during this historic period.

#### ESTABLISHING OF DATE OF 2D SESSION OF 85TH CONGRESS

Mr. JOHNSON of Texas. Mr. President, I ask the Chair to lay before the Senate House Joint Resolution 453.

The VICE PRESIDENT laid before the Senate the joint resolution (H. J. Res. 453) to establish the date of the 2d regular session of the 85th Congress, which was read the first time by its title, and the second time at length, as follows:

*Resolved, etc., That the 2d regular session of the 85th Congress shall begin at noon on Tuesday, January 7, 1958.*

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

#### LET US BUILD SCHOOLS

Mr. McNAMARA. Mr. President, I feel it necessary to end this session of Congress as I began it—with a few remarks on the vital need for Federal assistance for school construction.

On January 7, I introduced on this floor the first bill of the 85th Congress—a bill proposing a \$2 billion, 2-year emergency Federal program to assist States to build schools.

I said at the time, as I have since, that I was not insisting on my bill or my particular formula.

But I was insisting on Congressional action—already far too long delayed—to meet the shocking shortage of classrooms throughout the country.

Today, nearly 8 months later, the 1st session of the 85th Congress is about to end.

Before the final adjournment bell, we will have our usual few hours of self-

congratulation over our modest accomplishments—and then we will go home.

But next week, Mr. President, another bell will ring.

That is the bell summoning some 39 million children to the Nation's elementary schools.

Their ranks have been swelled by roughly a million since the same bell rang last year.

What will they find this year, Mr. President, as they embark on another year of schooling?

Will they find that during the summer months, the builders have been constructing new monuments to education in the form of modern, uncrowded schoolhouses?

In some areas they will find these new buildings—in areas where the school districts are moderately wealthy or where the tight-money market has not yet quite closed its stranglehold on the economy.

But in far too many areas, they will find the same antiquated facilities, firetraps, and outgrown structures where the children will be stacked like cordwood in the classrooms.

No matter how good the teachers—or how spirited the will to learn—the serious overcrowding of classrooms cannot fail to have a negative effect on the quality of education.

In a great many sections of the country, the children have been—and will be again—on half-day school sessions.

This is a very serious drawback to the quality of education at any school level.

But many of the children just beginning their education next week—in kindergarten and the first few grades—will start out going only half days.

This is the really criminal part of Congress' failure to meet the crisis.

These children just starting school are in their formative years. They are supposed to be learning study and social habits that will stay with them throughout their school years and into adult life beyond.

By launching them into education on an abbreviated and crippled schedule we are doing them a tremendous amount of harm that may never be undone.

As we leave for our recess, I hope that the thought of these crowded schools will plague every Member of this Congress—and give him many uneasy moments until we meet here again next year.

A few statistics to keep in mind while they are glad-handing constituents in the coming months ahead are these:

Our refusal to act in the field of Federal aid for school construction means that the new school year will begin with a shortage of 159,000 classrooms—at the very least.

The school population has grown 5½ million in the past 5 years and it is expected to rise another 6 million in the next 5 years.

At the current rate of building, the classroom deficit will have grown to at least 179,000 by that time. And this does not include replacing obsolescent and destroyed schools.

These are weighty figures to ponder.

But high figures are not strangers to the Senate.

Just a few days ago, we voted around \$3 billion for mutual security. We voted some \$34 billion for national defense and almost \$1 billion for public-works projects.

These are worthy undertakings. They will help us remain a strong and secure Nation.

Yes, we even voted nearly \$100 million so that the United States Information Agency can tell the rest of the world what a great Nation we are.

What will USIA tell the world about America's schools? I don't envy the propagandists the job of answering that question.

Will they tell the world that America is the richest nation on earth—yet it is content to let its children learn the three R's in overcrowded, antiquated, and understaffed classrooms?

Will they tell the world that America can pass out \$3 billion to other nations—and not spend one dollar to replace the firetraps that too often pass for schools?

Will USIA tell the world that we can spend nearly \$34 billion for defense—and not one penny on our potentially greatest weapon—the education of our children and proper development of their brainpower?

And how will USIA explain our underpaid force of teachers—a force now understaffed by 135,000?

Foreigners often believe that the American mind is a bit odd—and they may be right, at that.

The Senate leaders were content this year—as in 1956—to let the House take the initiative on the school program.

What happened this year in the House? The bill was defeated by a vote of 208 to 203. Just three votes meant the difference between victory for the children and defeat.

I do not intend to pass on the motives of the Members of the House who could easily have salvaged victory from defeat.

I can, however, comment on the man who has displayed such a shocking lack of leadership in this field—the man who easily could have provided the necessary three votes and many more.

That man is the President of the United States.

I think we have all learned a great deal about him this year as a result of his activities on the budget, civil rights—and Federal aid for school construction.

We have learned not to rely on anything he says because when the time comes for action he will say something different—or nothing at all.

But while we can heap some well-earned abuse on the President, we as the Senate cannot ignore our responsibility.

After all, Congress must pass the laws. Our lack of action should weigh heavily upon us.

It is growing late now, Mr. President, but it is not too late for the 85th Congress to meet its responsibility to the children of America.

We can do that when we meet here again next January—and I urge my colleagues to think about this during adjournment. We will not long continue to be the most powerful Nation in the world if we continue our neglect of our future leaders.



## WILLIAM HOWARD TAFT

Mr. LAUSCHE. Mr. President, in view of the fact that the Congress will not be in session on September 15, I wish to comment briefly on the career of one of Ohio's great citizens, William Howard Taft, who was born on September 15, 1857.

Ohio has been the birthplace of several Presidents and its citizens have pointed with pride to the contributions to our national history made by William Howard Taft, both during his term as 27th President of these United States and during his fine service on the Supreme Court of the United States.

Successfully following his chosen profession of law, Taft was early recognized as a capable and efficient lawyer. As the prosecuting attorney of Hamilton County, as a judge on the State supreme court at the age of 32, as Solicitor General of the United States, and as a Federal circuit judge, the recognition of his judicial abilities was ably demonstrated.

His readiness to serve his country, and his ability to grasp new responsibilities was shown by his appointment to be president of the Philippine Commission, under President Theodore Roosevelt. His successful leadership in establishing democratic principles in the Philippines brought him personal acclaim and the admiration of the citizens of the Philippines.

In recognition of his talents, President Roosevelt named Taft as Secretary of War in his Cabinet and in 1909, the people elected him to the highest office in the land, the Presidency.

As President, Taft gave the Nation a conservative and sound administration. Legislation to control monopolies was enacted and the Department of Labor was established. His administration was one of peace and prosperity.

In 1921, he again was called to serve his country as Chief Justice of the United States Supreme Court and in this office he found the climactic satisfaction of a mind devoted to the legal profession and dedicated to public service.

Citizens of Ohio, of all political persuasions are mindful of President Taft's life of service and along with the illustrious name of the late Senator Robert Taft, will long be remembered in Ohio as a name synonymous of public service and dedication to the common welfare of our beloved country.

It is my sincere hope that this centennial anniversary of President Taft's birth will be fittingly remembered by the citizens, not only of Ohio, but by all Americans.

## MUTUAL SECURITY APPROPRIATIONS, 1958—CONFERENCE REPORT

Mr. JOHNSON of Texas. Mr. President, the distinguished Senator from Arizona [Mr. HAYDEN] has waited for some time to call up the conference report on the mutual security appropriation bill. I wish to congratulate him on his diligence and great effort to produce effective appropriation bills, and to curtail expenditures in our Government. I hope the report may be considered at this time, and that it may be adopted.

Mr. HAYDEN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9302) making appropriations for mutual security for the fiscal year ending June 30, 1958, and for other purposes. I ask unanimous consent for the present consideration of the report.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of August 30, 1957, p. 16743, CONGRESSIONAL RECORD.)

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CASE of South Dakota. Mr. President, some weeks ago I watched with some interest the panel discussion by Mrs. Clare Boothe Luce and Edward R. Murrow following Mr. Murrow's television interview with Tito.

Having served in the House of Representatives with Mrs. Luce, I wrote her my opinion of what I thought was a brilliant analysis of the Tito interview. Subsequently she wrote me and enclosed a copy of a letter which she had sent to the New York Times. That letter was published in the New York Times of Sunday, July 28, 1957. It is a very scintillating analysis of the Tito interview. Because of its application to our foreign aid policy and our relations with Yugoslavia, I ask unanimous consent that the letter of Mrs. Luce be printed in the RECORD at this point as a part of my remarks.

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

## TITO'S POLICIES ASSESSED: THREAT TO SOVIET EMPIRE SEEN IN IDEOLOGICAL DIFFERENCES

(NOTE.—The writer of the following letter, playwright and former Member of Congress, served until recently as United States Ambassador to Italy.)

To the EDITOR OF THE NEW YORK TIMES:

On June 30 I participated in the panel discussion which followed Edward R. Murrow's televised interview with Tito.

Since that time a steady stream of letters has crossed my desk, many commending the points I sought to make in the interview, some contending that any optimistic view of Tito's regime or any attempt to justify United States policy toward Yugoslavia constituted a complete endorsement of his dictatorship.

Nothing I said was meant to justify the persecution of Roman Catholicism in Yugoslavia, and of such leaders as Cardinal Stepinac, or Tito's suppression of free speech and the imprisonment of Djilas, which continue throughout history to be very black marks against Tito.

Rather, I sought to isolate those elements in Tito's policies which can give all freemen some hope that the Soviet imperium is breaking up, and that communism itself as an ideology is doomed to failure for the very simple reason that, put into practice, it must continuously lose out, especially in economic competition with free countries.

## DIFFERENCES ABOUT COMMUNISM

As the interview unfolded, while Tito continued to play down the size of the ideologi-

cal differences between communism in Yugoslavia and in the Soviet Union, it became more and more evident that they are not only big, they are tremendous, and that if Tito himself did not play them down he might be inviting a serious rupture with Moscow on the grounds of ideological heresies. For they are not only differences of a practical order between two Communist nations. They are theoretical differences about communism itself.

It also became evident during the interview that Tito was equally aware that if his heresies were to be too openly embraced and too swiftly put into action by the eastern satellites they could lead Poland, Czechoslovakia, and Rumania into open conflict with the Soviet Union, a conflict which would result either in their sharing the tragic fate of Hungary or in opening a third world war.

In the panel discussion that followed the interview, I sought to define Tito's ideological heresies:

First, the right of a Communist country to national independence from Moscow. It is the exercise of this right by any nation under Kremlin control that has come to be called Titoism. Tito's contention, that Communist states should be equal and sovereign, flies, if not in the face of classic Marxism, certainly in the face of Lenin communism, as interpreted by the Kremlin's ideological exegetes.

## SATELLITES' INDEPENDENCE

Tito first raised it in 1948, when he insisted that he and the leaders he chose would run Yugoslavia and kicked all Russian stooges out of his country. Since that time Tito has been more or less continually raising the question not only of the independence of Yugoslavia but of all the satellites.

Speaking of recent events in Poland, Tito said, "I think Poland is striving to go along its own path. \* \* \* Since the time when Gomulka came into power, Poland has succeeded in settling its internal problem \* \* \* [this] has a positive influence on neighboring countries."

Tito then made it clear that what he feared during the Hungarian revolution was not that Hungary should acquire independence, but that the struggle if carried too far too fast (which happened) must result in Soviet armed intervention (which happened).

He repeatedly stressed that, while he was firmly for the independence of all the satellites, they must make haste slowly, since there was a real risk of a third world war if complete independence were sought too rapidly, and especially if the independence movement openly included the desire to get rid of not only the Soviet politicians but of communism as well, which happened in Hungary.

## AGREEMENT WITH MAO'S VIEWS

His insistence on his own independence and the eventual independence of his satellite neighbors is the first great heresy of Tito. This heresy threatens Moscow with the breakup of its western empire.

Moreover, the interview made it plain that Tito is encouraging and applauding expressions of this same heresy in the Far East. Referring to Mao Tse-tung's recent speech, which struck a distinctly Titoist note or two, Tito said, "Mao Tse-tung said many things which could be classed as new. \* \* \* I am pleased that our views \* \* \* are to a great extent identical."

The second heresy of Tito is the assertion of the theoretical right of an independent Communist nation to create not only its own foreign policies but its own political and economic institutions. This right is, of course, the inescapable corollary of the right to national independence. But it strikes at the very heart of the Marx-Lenin dogma that communism must develop everywhere, in every nation, according to the party line as given by Moscow.

Consequently Titoism threatens to disrupt not only the physical control of the Soviet Union over the satellites, but its ideological control over Communist parties within every nation, including the capitalist nations. The denial of the Kremlin's teaching and the Kremlin's authority to teach is, by the standards of all Communists up to now, a heresy of a major order.

The last, and perhaps in the long run the most dangerous, heresy of Tito is the new emphasis he is giving to the decentralization of economic and political processes within his country.

In the practical application of his theoretical right to develop socialism according to the specific needs of his country Tito has already created economic and political institutions unique in the Communist world.

Collectivization of the farms was abandoned some years ago. And, "already a few years ago," said Tito, "we have passed to a . . . wide decentralization of government in the economic as well as the administrative field. One of the most pronounced characteristics of our system is the handing over of the factories to the workers' self-government. Then the creation of the communes . . . a new internal administrative organization."

#### TENET OF DEMOCRACY

These processes Tito defends as a new form of socialism. But whatever name Tito chooses to call these processes of decentralization, the Kremlin itself cannot be deceived: decentralization of political and economic power is the major tenet of political and economic democracy in capitalist western countries.

Tito has far to go before he ranks as more than a very lukewarm fellow-traveler of capitalism. He will never, in his own time, willingly become less than a complete dictator.

But the real question decentralization raises is that Tito's present long-range aim, the diffusion of political power and economic wealth—is in fact if not in theory the very aim of what President Eisenhower calls "people's capitalism."

Both American idealism and American pragmatism should dictate to the United States to be patient with Tito when he insists on describing this slow Yugoslav evolution toward western-style sovereign political and economic democracy as communism. A rose by any other name will smell as sweet.

CLARE BOOTH LUCE,

RIDGEFIELD, CONN., July 19, 1957.

Mr. JOHNSON of Texas. Mr. President, I should like to appeal to Members of the Senate to let us complete action on the conference report on the mutual security appropriation bill. I should like to ask for the yeas and nays on the conference report, so that Members will know that we will vote on it very shortly. I now ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. JOHNSON of Texas. I yield to the Senator from Massachusetts.

Mr. SALTONSTALL. I wish to ask the Senator from Arizona a very brief question. Amendment No. 17 in the conference report on the mutual security appropriation bill refers to section 102 of the bill, having to do with publicity and propaganda. It is my understanding there was no intent on the part of the conferees in redrafting the section to change the basic law concerning publicity and propaganda in the mutual security program. Is that correct?

Mr. HAYDEN. That is correct. The basic law on this subject, known as the Dworshak amendment, was adopted to the Mutual Security Act of 1952.

The conference report which referred to the Dworshak amendment contained a paragraph which I ask unanimous consent to have placed in the RECORD at this point.

Without objection, the paragraph was ordered to be printed in the RECORD, as follows:

The committee of conference recognized the desirability of preventing any use of funds for propaganda in support of the mutual security program. At the same time there should not be any interference with the supplying of full information to the Congress and to the public concerning the operations of the mutual security program. The committee of conference believes that it is possible for those responsible for the administration of the Mutual Security Act to maintain a sharp distinction between propaganda and the supplying of information as to the results attained under the program, and that this section of the conference agreement should not interfere with the recognized procedures for keeping the public and the Congress informed.

Mr. HAYDEN. The new section 102 underlines the purpose of the Dworshak amendment that no funds shall be used for propaganda within the United States. It is not intended to prohibit and it does not prohibit the President or the International Cooperation Administration or the Departments of State and Defense from giving the American people information about the operations of those agencies or the uses to which they are putting the money appropriated for the mutual security program or what the American people are getting for their money.

Mr. SMATHERS. Mr. President, will the Senator from Texas yield?

Mr. JOHNSON of Texas. I yield to the Senator from Florida.

Mr. SMATHERS. I should like to ask the Senator from Arizona a question. I notice from the report, amendment No. 14 eliminates the appropriation of \$20 million by the Senate for the Latin American Economic Development Fund. As to amendment No. 12 it is stated, "The conferees are agreed that not less than \$20 million of this appropriation shall be for Latin America." Was it the feeling of the conferees that the \$20 million which was stricken in amendment No. 14 would be taken from the special assistance fund, as provided in section 400 (a)?

Mr. HAYDEN. Thereby even more than \$20 million would be available, whereas originally not more than \$20 million would be available.

Mr. SMATHERS. In view of the action of the conferees, is it the belief of the conferees and of the Senator that the \$20 million can be used in the same fashion as originally contemplated by the provisions of section 400 (b)?

Mr. HAYDEN. Yes.

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement I have prepared in connection with this amendment.

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

#### STATEMENT BY SENATOR SMATHERS

I cannot help but express a keen sense of disappointment over the conference report on the foreign aid appropriations bill, though I recognize that our Senate conferees fought valiantly for the measure as passed by the Senate.

In the mutual security authorization bill, I was successful in getting the Senate Foreign Relations Committee to recommend and the Senate to adopt an amendment which I proposed setting up a Special Economic Development Fund for Latin America in the amount of \$25 million. The Senate Appropriations Committee recommended an appropriation of \$20 million and the Senate agreed to the recommendation by giving it overwhelming support. The funds under this program were to be utilized for the purpose of promoting health, education, sanitation, and land resettlement projects in Latin America on a 90 percent loan basis. It was no give away or handout proposal. Last year the Congress provided \$15 million for this purpose and the good will engendered by the program which was started is inestimable. It was a program which the Latin Americans long sought from its good neighbor, the United States. It was a program which made it possible for our Latin American friends to maintain their own self-respect.

The House, on the other hand, though it accepted the authorization measure, failed to appropriate any funds for this worthwhile constructive program. Though recognizing that the House was operating under an atmosphere of economy, I cannot help but believe that they failed to fully realize the full beneficial effect of this program in our relations with Latin America. Knowing of the many friends which Latin America has in the House of Representatives, I am still hopeful that in a future supplemental appropriations bill they will see fit to correct what I believe to be an unintentional and harmful mistake with respect to our relations with our good neighbors to the south.

From my understanding of the conference report, some ground was held by our conferees. I would now like to ask the distinguished chairman if I am correct in the understanding that under the special assistance program, that the conferees were in full agreement that no less than \$20 million of the \$226 million appropriated are to be earmarked for Latin America?

With this understanding, though I have serious reservations with respect to other items in the foreign-aid program, I will reluctantly support the conference report.

Since hope springs eternal, I trust that I am not being too optimistic in entertaining the hope that at a later date when supplemental appropriations are being considered, that both the Senate and the House will see fit to appropriate sufficient moneys to continue the program which I proposed and had adopted last year designed solely for the purpose of further improving our good neighbor relations and increased trade with Latin America.

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

Mr. JOHNSON of Texas. I yield to the Senator from Pennsylvania.

Mr. CLARK. Will the Senator from Arizona agree with me that the colloquy between us with respect to section 102 yesterday still represents the legislative history with respect to section 102, having to do with the right of the ICA to continue to inform the American people with respect to their programs?



Mr. HAYDEN. I stated that yesterday. I repeated it this evening. That understanding is correct.

Mr. SMITH of New Jersey. Mr. President, in connection with the mutual security program, I want to take this opportunity to pay a tribute to my colleagues in the Senate. As my friends know, I have been deeply interested in our foreign policy ever since I came to the Senate 13 years ago and I have been particularly interested in helping as best I could, in the development of our so-called foreign aid program. I was one of those who worked continuously with the study we had made last year of the new approach to the mutual security program and was most hopeful that the reports of the investigators whom we chose from among the most expert in the country would be accepted as a basis for the new approach. The results of these studies and the independent studies that the President had made gave us what might be called a new look on our mutual security program. There was no difference of opinion by any of those who participated in the studies as to the need to continue the program and especially the need for the support of our military aid and defense assistance for our allies in various parts of the world.

Also it was felt that from the standpoint of the underdeveloped countries we

should provide for a long-range revolving loan fund to enable those countries to secure their economic stability and to aid them in developing their own freedom, independence, and self-determination so that they could remain among the nations dedicated to freedom. This is a critical issue of our foreign policy and I believe is the strongest supporting pillar of the President's whole program.

Reviewing the action of the Senate, I call attention to the fact that the President originally asked the \$3.8 billion. The Senate reported a bill authorizing \$3.6 billion. The Senate vote on this authorization bill was 57 to 25. The Senate brought the House appropriation bill in conference up to \$3.3 billion and finally in the Appropriations Committee, the Senate restored \$500 million of the House slash of \$800 million bringing the appropriation up to \$3.025 billion. The Senate vote on this appropriation was 62 to 25. We have now witnessed the most unfortunate development, namely the unwillingness of the House to go above \$2.7 billion for the final appropriation for fiscal 1958. This is a devastating defeat not only for the President but for the safety of America. However, I want to take this opportunity to pay a tribute to our Senate leadership—our majority leader, the Honorable LYNDON B. JOHNSON and our minority leader, the Honorable

WILLIAM F. KNOWLAND. Their work was one of the finest evidences of bipartisan teamwork and last ditch fighting in support of the administration and the security of our country.

The only conclusion I can possibly draw from this development is that there are those in the House and especially on the House Appropriations Committee who are determined to destroy the mutual security program. The matter needs our immediate attention and at the beginning of next year we must press the fight vigorously to present to the American people the issue involved in these unfortunate developments this year.

Mr. HAYDEN. Mr. President, I move that the Senate insist on its amendment numbered 15.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Arizona.

The motion was agreed to.

Mr. HAYDEN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table which reflects the action of the two Houses on the mutual security appropriation bill, as well as the final amounts agreed to in conference.

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

*Mutual security program, fiscal year 1958*

[In thousands of dollars]

|  | Appropriation,<br>1957 | 1958 authorization |           |           |            | 1958 appropriation |           |           |            | Final appropriation compared with— |               |          |          |
|--|------------------------|--------------------|-----------|-----------|------------|--------------------|-----------|-----------|------------|------------------------------------|---------------|----------|----------|
|  |                        | Request            | Senate    | House     | Conference | Estimate           | House     | Senate    | Conference | 1957 appropriation                 | 1958 estimate | House    | Senate   |
| MUTUAL DEFENSE ASSISTANCE                      |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Military assistance:                           |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation.....                             | 2,017,500              | 1,900,000          | 1,800,000 | 1,500,000 | 1,600,000  | 1,600,000          | 1,250,000 | 1,475,000 | 1,340,000  | -677,500                           | -260,000      | +90,000  | -135,000 |
| Unobligated and unreserved balance.....        | 195,500                | (?)                | (?)       | (?)       | (?)        | 538,800            | 538,800   | 538,800   | 538,800    | +343,300                           | -----         | -----    | -----    |
| Total, military assistance.....                | 2,213,000              | 1,900,000          | 1,800,000 | 1,500,000 | 1,600,000  | 2,138,800          | 1,788,800 | 2,013,800 | 1,878,800  | -334,200                           | -260,000      | +90,000  | -135,000 |
| Defense support:                               |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation.....                             | 1,161,700              | 900,000            | 800,000   | 600,000   | 750,000    | 750,000            | 585,000   | 689,000   | 689,000    | -472,700                           | -61,000       | +104,000 | -----    |
| Unobligated balance.....                       | -----                  | -----              | -----     | -----     | -----      | -----              | 36,000    | 36,000    | 36,000     | +36,000                            | +36,000       | -----    | -----    |
| Total, defense support.....                    | 1,161,700              | 900,000            | 800,000   | 600,000   | 750,000    | 750,000            | 621,000   | 725,000   | 725,000    | -436,700                           | -25,000       | +104,000 | -----    |
| Total, mutual defense assistance.....          | 3,374,700              | 2,800,000          | 2,600,000 | 2,100,000 | 2,350,000  | 2,888,800          | 2,409,800 | 2,738,800 | 2,603,800  | -770,900                           | -285,000      | +194,000 | +135,000 |
| ECONOMIC AND TECHNICAL COOPERATION             |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Development assistance:                        |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation.....                             | 250,000                | -----              | -----     | -----     | -----      | -----              | -----     | -----     | -----      | -250,000                           | -----         | -----    | -----    |
| Unobligated balance.....                       | -----                  | (?)                | (?)       | (?)       | (?)        | 52,000             | 52,000    | 52,000    | 52,000     | +52,000                            | -----         | -----    | -----    |
| Total, development assistance.....             | 250,000                | -----              | -----     | -----     | -----      | 52,000             | 52,000    | 52,000    | 52,000     | -198,000                           | -----         | -----    | -----    |
| Development loan fund.....                     | -----                  | 500,000            | 500,000   | 500,000   | 500,000    | 500,000            | 300,000   | 400,000   | 300,000    | +300,000                           | -200,000      | -----    | -100,000 |
| Technical cooperation:                         |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| General authorization:                         |                        |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation.....                             | 135,000                | 151,900            | 151,900   | 151,900   | 151,900    | 151,900            | 113,000   | 114,900   | 113,000    | -22,000                            | -38,900       | -----    | -1,900   |
| Unobligated balance.....                       | -----                  | -----              | -----     | -----     | -----      | -----              | 12,000    | 12,000    | 12,000     | +12,000                            | +12,000       | -----    | -----    |
| Total, general authorization.....              | 135,000                | 151,900            | 151,900   | 151,900   | 151,900    | 151,900            | 125,000   | 126,900   | 125,000    | -10,000                            | -26,900       | -----    | -1,900   |
| United Nations program.....                    | 15,500                 | 15,500             | 15,500    | 15,500    | 15,500     | 15,500             | 15,500    | 15,500    | 15,500     | -----                              | -----         | -----    | -----    |
| Organization of American States.....           | 1,500                  | 1,500              | 1,500     | 1,500     | 1,500      | 1,500              | 1,500     | 1,500     | 1,500      | -----                              | -----         | -----    | -----    |
| Total, technical cooperation.....              | 152,000                | 168,900            | 168,900   | 168,900   | 168,900    | 168,900            | 142,000   | 143,900   | 142,000    | -10,000                            | -26,900       | -----    | -1,900   |
| Total, economic and technical cooperation..... | 402,000                | 668,900            | 668,900   | 668,900   | 668,900    | 720,900            | 494,000   | 595,900   | 494,000    | +92,000                            | -226,900      | -----    | -101,900 |

<sup>1</sup> Also authorized \$1,500,000,000 for fiscal year 1959.

<sup>2</sup> Unobligated balances authorized to be continued available.

<sup>3</sup> Also authorized \$710,000,000 for fiscal year 1959.

<sup>4</sup> Also authorized additional \$750,000,000 borrowing authority for each of fiscal years 1959 and 1960.

<sup>5</sup> In addition, \$625,000,000 authorized in fiscal year 1959 on no-year basis.

<sup>6</sup> Authorized to remain available until expended.

## Mutual security program, fiscal year 1958—Continued

[In thousands of dollars]

|   | Appropriation, 1957 | 1958 authorization |           |           |            | 1958 appropriation |           |           |            | Final appropriation compared with— |               |          |          |
|---|---------------------|--------------------|-----------|-----------|------------|--------------------|-----------|-----------|------------|------------------------------------|---------------|----------|----------|
|   |                     | Request            | Senate    | House     | Conference | Estimate           | House     | Senate    | Conference | 1957 appropriation                 | 1958 estimate | House    | Senate   |
| OTHER PROGRAMS  |                     |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Special assistance, general authorization                   |                     | 300,000            | 250,000   | 250,000   | 250,000    | 250,000            | 175,000   | 225,000   | 225,000    | +225,000                           | -25,000       | +50,000  |          |
| Special assistance, Latin America                           |                     |                    | 25,000    | 25,000    | 25,000     | 25,000             |           | 20,000    |            |                                    | -25,000       |          | -20,000  |
| Special Presidential fund                                   | 100,000             |                    |           |           |            |                    |           |           |            | -100,000                           |               |          |          |
| Joint control areas   | 12,200              | 11,500             | 11,500    | 11,500    | 11,500     | 11,500             | 11,500    | 11,500    | 11,500     | -700                               |               |          |          |
| Intergovernmental Committee for European Migration          | 12,500              | (7)                | (7)       | (7)       | (7)        | 12,500             | 12,500    | 12,500    | 12,500     |                                    |               |          |          |
| United Nations refugee fund                                 | 1,900               | 2,233              | 2,233     | 2,233     | 2,233      | 2,233              | 2,233     | 2,233     | 2,233      | +333                               |               |          |          |
| Escapee program   | 6,000               | 5,500              | 5,500     | 5,500     | 5,500      | 5,500              | 5,500     | 5,500     | 5,500      | -500                               |               |          |          |
| United Nations Relief and Works Agency: Unobligated balance | 45,300              | (7)                | (7)       | (7)       | (7)        | 23,800             | 23,800    | 23,800    | 23,800     | -21,500                            |               |          |          |
| United Nations children's fund                              | 10,000              | 11,000             | 11,000    | 11,000    | 11,000     | 11,000             | 11,000    | 11,000    | 11,000     | +1,000                             |               |          |          |
| North Atlantic Treaty Organization                          |                     | (7)                | (7)       | (7)       | (7)        | 2,700              | 1,500     | 1,500     | 1,500      | +1,500                             | -1,200        |          |          |
| Ocean freight   | 2,500               | 2,200              | 2,200     | 2,200     | 2,200      | 2,200              | 2,200     | 2,200     | 2,200      | -300                               |               |          |          |
| Control Act expenses  | 1,175               | 1,300              | 1,000     | 1,000     | 1,000      | 1,000              | 1,000     | 1,000     | 1,000      | -175                               |               |          |          |
| Administrative expenses:                                    |                     |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| International Cooperation Administration                    | 29,018              | 35,000             | 33,000    | 32,500    | 32,750     | 32,750             | 32,750    | 32,750    | 32,750     | +3,732                             |               |          |          |
| State Department  | 4,577               | (7)                | (7)       | (7)       | (7)        | 4,577              | 4,577     | 4,577     | 4,577      |                                    |               |          |          |
| Atoms for peace:  |                     |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation   | 5,500               | 7,000              | 7,000     | 7,000     | 7,000      | 7,000              |           |           |            | -5,500                             | -7,000        |          |          |
| Unobligated balance   |                     |                    |           |           |            |                    | 4,450     | 4,450     | 4,450      | +4,450                             | +4,450        |          |          |
| Total, atoms for peace                                      | 5,500               | 7,000              | 7,000     | 7,000     | 7,000      | 7,000              | 4,450     | 4,450     | 4,450      | -1,050                             | -2,550        |          |          |
| Total, other programs                                       | 230,670             | 375,733            | 348,433   | 347,933   | 348,183    | 391,760            | 288,010   | 358,010   | 338,010    | +107,340                           | -53,750       | +50,000  | -20,000  |
| Total, mutual security:                                     |                     |                    |           |           |            |                    |           |           |            |                                    |               |          |          |
| Appropriation   | 3,766,570           | 3,844,633          | 3,617,333 | 3,116,833 | 3,367,083  | 3,386,860          | 2,524,760 | 3,025,660 | 2,768,760  | -997,810                           | -618,100      | +244,000 | -256,900 |
| Unobligated balances  | 240,800             | 614,600            | 614,600   | 614,600   | 614,600    | 614,600            | 667,050   | 667,050   | 667,050    | +426,250                           | +52,450       |          |          |
| Total   | 4,007,370           | 4,459,233          | 4,231,933 | 3,731,433 | 3,981,683  | 4,001,460          | 3,191,810 | 3,692,710 | 3,435,810  | -571,560                           | -565,650      | +244,000 | -256,900 |
| Add continuing authorizations                               |                     | 19,777             | 19,777    | 19,777    | 19,777     |                    |           |           |            |                                    |               |          |          |
| Comparable totals   |                     | 4,479,010          | 4,251,710 | 3,751,210 | 4,001,460  |                    |           |           |            |                                    |               |          |          |

\* Unobligated balances authorized to be continued available.

† Continuing authorizations already in law: For ICEM and NATO, unlimited; for State Department administrative expenses, not to exceed \$7,000,000 per annum.

Mr. HAYDEN. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a summary table showing the budget estimates for 1958, the amounts passed by the House, the amounts passed by the Senate, the amount provided by the public law finally enacted, and the differences be-

tween the budget estimates and the public law.

The budget estimates or appropriation requests total \$64 billion plus, the public law or the amount enacted total \$59 billion, a reduction from the estimates in the amount of approximately \$5 billion. This constitutes a reduction of 7.7 percent. There is also included a table

which is designed to reconcile the amounts in the January budget of new obligational authority with the budget estimates considered by the two Committees on Appropriations.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Table of appropriation bills, 1958—85th Cong., 1st sess.

|                                      | Budget estimate<br>(1) | Passed by House<br>(2) | Passed by Senate<br>(3) | Public law<br>(4) | Difference (col.<br>1 minus col. 4) | Percent of<br>reduction |
|--------------------------------------|------------------------|------------------------|-------------------------|-------------------|-------------------------------------|-------------------------|
| Agriculture                          | \$3,965,446,617        | \$3,692,889,757        | \$3,668,972,157         | \$3,666,543,757   | -\$298,902,860                      | 7.5                     |
| Commerce                             | 871,513,000            | 653,685,060            | 613,584,290             | 597,790,225       | -273,722,775                        | 31.4                    |
| Defense                              | 36,128,000,000         | 33,562,725,000         | 34,534,229,000          | 33,759,850,000    | -2,368,150,000                      | 6.6                     |
| District of Columbia                 | 25,504,450             | 22,504,450             | 23,004,450              | 22,504,450        | -3,000,000                          | 11.8                    |
| General Government                   | 20,921,870             | 16,021,370             | 16,010,370              | 16,010,370        | -4,911,500                          | 23.5                    |
| Independent offices                  | 5,923,195,000          | 5,385,201,700          | 5,378,594,800           | 5,373,877,800     | -549,317,200                        | 9.3                     |
| Interior                             | 515,189,700            | 454,395,700            | 457,152,600             | 456,189,600       | -59,000,100                         | 11.5                    |
| Labor-Health, Education, and Welfare | 2,981,277,581          | 2,846,831,581          | 2,885,290,781           | 2,871,182,781     | -110,094,800                        | 3.7                     |
| Legislative                          | 108,271,443            | 78,370,285             | 104,844,660             | 104,844,660       | -3,426,783                          | 3.2                     |
| Mutual security                      | 3,386,860,000          | 2,524,760,000          | 3,025,660,000           | 2,768,760,000     | -618,100,000                        | 18.2                    |
| Public works                         | 876,453,000            | 814,813,023            | 884,151,323             | 858,094,323       | -18,358,677                         | 2.1                     |
| State, Justice, Judiciary            | 665,649,802            | 563,799,793            | 563,085,293             | 562,891,293       | -102,758,509                        | 15.4                    |
| Treasury-Post Office                 | 3,965,291,000          | 3,884,927,000          | 3,884,927,000           | 3,884,927,000     | -80,364,000                         | 2.0                     |
| Additional Post Office, 1958         | 149,500,000            | 133,000,000            | 133,000,000             | 133,000,000       | -16,500,000                         | 11.0                    |
| Supplemental, 1958                   | 1,973,767,827          | 1,581,590,587          | 1,824,001,547           | 1,734,011,947     | -239,755,880                        | 12.1                    |
| Atomic Energy Commission             | 2,491,625,000          | 2,299,718,500          | 2,323,632,500           | 2,323,632,500     | -167,992,500                        | 6.7                     |
| Total                                | 64,048,466,290         | 58,515,233,806         | 60,320,140,771          | 59,134,110,706    | -4,914,355,584                      | 7.7                     |

NOTE.—Does not include permanent authorizations estimated in budget at \$8,028,790,630.



## FISCAL YEAR 1958

Reconciliation of January budget figure for new obligational authority of \$73.3 billion with budget estimates of appropriations of \$64 billion

[In billions]

| (1)  | (2)     | (3)     | (4)    |
|--|---------|---------|--------|
| Budget estimates for appropriations submitted to Appropriations Committees.....  |         |         | \$64.0 |
| Permanent appropriations requiring no action by Congress.....  |         |         | +8.0   |
| Items included in budget document for new obligational authority not submitted to Appropriations Committees for appropriations:      |         |         |        |
| Mutual Security Program:   |         |         |        |
| January budget.....  | \$4.400 |         |        |
| Message of Aug. 14.....  | -3.387  |         |        |
|  |         | \$1.013 |        |
| Department of Agriculture:   |         |         |        |
| Regular items.....   | .254    |         |        |
| Debt receipt items.....  | .509    |         |        |
|  |         | .763    |        |
| Housing legislation (debt receipt item).....   |         | 1.025   |        |
| Military public works.....   |         | .457    |        |
| School construction.....   |         | .451    |        |
| Defense Department.....  |         | .136    |        |
| Veterans' Administration.....  |         | .100    |        |
| St. Lawrence seaway (debt receipt item).....   |         | .035    |        |
| Allowance for contingencies and miscellaneous items not submitted (net).....   |         | .675    |        |
|  |         |         | +4.6   |
| Total.....   |         |         | 76.6   |
| Deduct: Post office amounts included in budget estimate of appropriations but not included in new obligational figure in budget..... |         |         | -3.3   |
| January budget figure of new obligational authority.....   |         |         | 73.3   |

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. RUSSELL. Mr. President, the yeas and nays have been ordered.

The VICE PRESIDENT. On this question the yeas and nays have been ordered, and the Secretary will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVEZ], the Senator from North Carolina [Mr. ERVIN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

On this vote, the Senator from New Mexico [Mr. CHAVEZ] is paired with the Senator from South Carolina [Mr. JOHNSTON]. If present and voting, the Senator from New Mexico would vote "yea" and the Senator from South Carolina would vote "nay."

The Senator from Oklahoma [Mr. KERR] is paired with the Senator from Alabama [Mr. SPARKMAN]. If present and voting, the Senator from Oklahoma would vote "nay" and the Senator from Alabama would vote "yea."

I further announce that if present and voting, the Senator from West Virginia [Mr. NEELY] would vote "yea."

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES] and the Senator from Maine [Mr. PAYNE] are absent because of illness.

The Senator from Ohio [Mr. BRICKER], the Senator from Kansas [Mr. CARLSON], and the Senator from Indiana [Mr. JENNER] are necessarily absent.

The Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr.

CAPEHART], and the Senator from Nevada [Mr. MALONE] are absent on official business.

The Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MORTON] are detained on official business.

If present and voting, the Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MORTON] would each vote "yea."

On this vote the Senator from Maryland [Mr. BUTLER] is paired with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Maryland would vote "yea" and the Senator from Ohio would vote "nay."

On this vote the Senator from Indiana [Mr. CAPEHART] is paired with the Senator from Nevada [Mr. MALONE]. If present and voting, the Senator from Indiana would vote "yea" and the Senator from Nevada would vote "nay."

Also, on this vote the Senator from Maine [Mr. PAYNE] is paired with the Senator from Indiana [Mr. JENNER]. If present and voting, the Senator from Maine would vote "yea" and the Senator from Indiana would vote "nay."

The result was announced—yeas 59, nays 19, as follows:

## YEAS—59

|               |               |              |
|---------------|---------------|--------------|
| Aiken         | Hill          | Neuberger    |
| Allott        | Holland       | O'Mahoney    |
| Beall         | Humphrey      | Pastore      |
| Bennett       | Ives          | Potter       |
| Bush          | Jackson       | Proxmire     |
| Carroll       | Javits        | Purtell      |
| Case, N. J.   | Johnson, Tex. | Revercomb    |
| Case, S. Dak. | Kefauver      | Saltonstall  |
| Church        | Kennedy       | Schoeppel    |
| Clark         | Knowland      | Scott        |
| Cooper        | Kuchel        | Smathers     |
| Cotton        | Lausche       | Smith, Maine |
| Dirksen       | Magnuson      | Smith, N. J. |
| Douglas       | Mansfield     | Symington    |
| Fulbright     | Martin, Iowa  | Thye         |
| Gore          | Martin, Pa.   | Watkins      |
| Green         | McNamara      | Wiley        |
| Hayden        | Monroney      | Williams     |
| Hennings      | Mundt         | Yarborough   |
| Hickenlooper  | Murray        |              |

## NAYS—19

|          |           |          |
|----------|-----------|----------|
| Barrett  | Frear     | Russell  |
| Bible    | Goldwater | Stennis  |
| Byrd     | Hruska    | Talmadge |
| Curtis   | Langer    | Thurmond |
| Dworshak | Long      | Young    |
| Eastland | McClellan |          |
| Ellender | Robertson |          |

## NOT VOTING—18

|          |                 |          |
|----------|-----------------|----------|
| Anderson | Chavez          | Malone   |
| Bricker  | Ervin           | Morse    |
| Bridges  | Flanders        | Morton   |
| Butler   | Jenner          | Neely    |
| Capehart | Johnston, S. C. | Payne    |
| Carlson  | Kerr            | Sparkman |

So the report was agreed to.

Mr. HAYDEN. Mr. President, I move that the Senate insist upon its amendment numbered 15.

The motion was agreed to.

Mr. THYE. Mr. President, this completes the consideration of the appropriation bill, and I should like to be recognized in order to pay tribute to the chairman, the Senator from Arizona [Mr. HAYDEN]. The chairman has been present at practically all the committee hearings and committee sessions. It is difficult to understand how he was able to devote so much time and to carry through in such a manner as he has during the lengthy hearings which were conducted and which were necessary in the development of the appropriation bills.

I simply want to invite attention of this Senate to the splendid service to his country the Senator from Arizona [Mr. HAYDEN], as chairman of the Appropriations Committee, has rendered.

## REDUCTION IN APPROPRIATION BELOW THE BUDGET REQUESTS

Mr. JOHNSON of Texas. Mr. President, now that the Senate has acted upon the last of the appropriation bills, it is possible to get a picture of the accomplishments this year.

All of us, I believe, recall the statement by the Secretary of Treasury concerning the budget. The then Secretary said it would have to be cut to avoid a hair-curling depression.

I have before me figures which have been prepared by my staff. They show that when all the bills are taken into account, this Congress has reduced the President's budget by \$5,927,495,584—9.1 percent.

I hope that is enough to avoid having our hair curled by former Secretary Humphrey. But in any event it is gratifying. It represents a substantial saving from the appropriations which were requested.

I ask unanimous consent that the table prepared by my staff be printed in the RECORD as part of my remarks.

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

|                               |                  |
|-------------------------------|------------------|
| Budget estimates:             |                  |
| Regular bills submitted.....  | \$56,046,713,463 |
| Post Office supplemental..... | 149,500,000      |
| Mutual security.....          | 4,400,000,000    |
| Supplemental.....             | 1,973,767,827    |
| Atomic energy.....            | 2,491,625,000    |
| Total.....                    | 65,061,606,290   |

|                                     |                  |
|-------------------------------------|------------------|
| Appropriations made:                |                  |
| Regular bills enacted.....          | \$52,174,706,259 |
| Post Office supplemental.....       | 135,000,000      |
| Mutual security.....                | 2,708,760,000    |
| Supplemental.....                   | 1,734,011,947    |
| Atomic energy.....                  | 2,323,632,500    |
| Total.....                          | 59,134,110,706   |
| Total reduction from estimates..... | 5,927,495,584    |
| Percentage reduction.....           | 9.1              |

### THE NEW AIR FORCE ACADEMY CHAPEL

Mr. FLANDERS. I have before me a drawing which shows the new chapel to be built at the Air Force Academy in Colorado Springs, Colo. It is a strange creation. I exhibit it to my colleagues.

I have written a letter to the Secretary of the Air Force on that subject, which I now read:

AUGUST 28, 1957.

HON. JAMES H. DOUGLAS,  
Secretary of the Air Force,  
Washington, D. C.

DEAR MR. SECRETARY: I have been astonished to find that the properly criticized design for the chapel at the Air Force Academy at Colorado Springs has been appropriated for in the supplemental appropriation bill. As a member of the Defense Subcommittee of the Appropriations Committee I had an opportunity to look over the designs for the Academy 2 years ago and in my judgment they seemed satisfactory for their purposes throughout except for this chapel.

A chapel building for the Air Force should inspire reverence and the spirit of worship. There isn't a scintilla of reverence or worship in this building. It is just something dreamed up by the architects to be as different as possible from any proper house of worship.

A chapel for worship does not have to be a classical structure. It does not have to be Romanesque. It does not have to be Gothic. It does not have to be Renaissance. It does not have to be Baroque. It does not have to be Georgian. It can be as plain and simple as a Quaker meetinghouse. It can be as modern as is the rest of the design of the Academy.

Any of these things it can be. But it cannot be the antithesis of reverence and worship. The proposed structure is a deliberate insult to God Almighty. I hope you will take a look at it yourself and pass judgment upon it.

Please stop it.

Sincerely yours,

RALPH E. FLANDERS.

Mr. ALLOTT. I should like to associate myself with the remarks of the Senator from Vermont [Mr. FLANDERS], on his letter to the Secretary of the Air Force respecting the Air Force Academy.

Despite the opinions of many Members of Congress, and many, many other people throughout the length and breadth of the United States, 2 years ago with respect to the construction of a chapel at the Air Force Academy, we are now faced with a design of that chapel which, I would say, in even modest language, is more atrocious than the first. I do not know what concept of worship the architects of the structure may have. I know that this chapel design resembles nothing that has ever been seen or dreamed of in the minds of sane men. It is my sincere hope that somewhere along the way the Secretary of the Air Force, and members of the Armed Services Committee and the Appropriations Committee will see fit to

take another look at the designs for the Air Force Academy near Colorado Springs, particularly the so-called chapel bearing in mind the need for an edifice for worship which will more nearly approximate the ideas, the ideals, the concepts and the customs of this country.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. ALLOTT. I am happy to yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I wish to commend the Senator from Colorado for the remarks he has made with reference to the Air Force Academy chapel which is being constructed in the Senator's home State. This afternoon I saw a representation of what the chapel will be if built. I served on the subcommittee of the Committee on Armed Services which approved the authorization for the chapel. We thought it would be more a cathedral than it would be a chapel, since they were asking \$3,000,000 to build it, as I recall.

I was so shocked when I saw the representation this afternoon that I intend to protest to the Air Force. If the Air Force does not withhold action and have new plans prepared, I shall feel compelled to introduce a resolution to cancel the authorization for the chapel until it can be further considered.

I thank the Senator.

Mr. ALLOTT. I appreciate the remarks of the Senator from Mississippi.

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

Mr. ALLOTT. I yield to the able Senator from Virginia.

Mr. ROBERTSON. Mr. President, I am quite familiar with the subject which has been discussed. We now have serving the third Secretary of the Air Force since this project was started.

When the project was begun the first Secretary of the Air Force to consider it assured me the chapel would not be built along the lines now indicated.

The second Secretary of the Air Force to serve assured me that the chapel would not be built in this manner.

We now have a report on the design, as the Senator from Colorado has said, which is worse than the array of wigwams, or whatever one might call the design, and it is planned to build the chapel along those lines. It is planned to build it of a combination of glass and aluminum.

As the Senator from Vermont [Mr. FLANDERS] has stated, never in this country or abroad in any civilized land has anybody ever attempted to worship any known God in a building of such a character.

In spite of all the protests we have made for 3 consecutive years, the Chicago architects have been determined to go ahead with this chapel, and the third Secretary of the Air Force to consider it, we understand, has now O. K.'d the design, although it is going to be the most expensive church in the most expensive school this Nation has ever built.

The entire project is going to cost about twice what we had contemplated, and the initial cost of the project is more than all we have spent in its entire his-

tory on the United States Military Academy at West Point.

Mr. O'MAHONEY and Mr. NEUBERGER addressed the chair.

Mr. ALLOTT. I yield first to the Senator from Wyoming.

Mr. O'MAHONEY. Mr. President, I ask the Senator from Colorado to yield to me for the purpose of presenting a conference report.

Mr. ALLOTT. I shall be glad to yield to the Senator from Wyoming, with the understanding that I may retain the floor after the conference report is acted upon.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield to me for a moment?

Mr. ALLOTT. I am happy to yield to the Senator from Texas.

Mr. JOHNSON of Texas. Mr. President, we have an important conference report to consider. We are going to ask for the yeas and nays as soon as the conference report is called up. I should like all Senators to be on notice that it is a conference report relating to S. 2377, the bill providing procedures for the production of Government records.

When we conclude action on the conference report, we shall take up S. 2792, the immigration bill which recently passed the Senate, and to which the House has added some amendments. We will wish to ask concurrence in the House amendments.

I hope we will be able to have the yeas and nays vote as soon as possible, so that Senators who may not be interested in participating in the other discussions can answer to their names when the roll is called, and afterward we can have consideration of some noncontroversial bills and discussion of other matters.

Mr. ALLOTT. Mr. President, I desire to conclude in 30 seconds, if I may, and then I shall yield for the presentation of the conference report.

I consider the design of the chapel offensive to the inherent religious beliefs of the American people. It is my sincere hope that enough pressure will be brought to get this whole matter reconsidered, so that all Americans may then feel that this chapel is really a house of God.

I yield the floor.

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

Mr. ALLOTT. I have yielded the floor.

### PROCEDURES FOR THE PRODUCTION OF GOVERNMENT RECORDS IN CRIMINAL CASES—CONFERENCE REPORT

Mr. O'MAHONEY. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2377) to amend chapter 223, title 18, United States Code, to provide for the production of statements and reports of witnesses. I ask unanimous consent for the present consideration of the report.

The VICE PRESIDENT. The report will be read for the information of the Senate.



The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2377) to amend chapter 223, title 18, United States Code, to provide for the production of statements and reports of witnesses, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That chapter 223 of title 18, United States Code, is amended by adding a new section 3500 which shall read as follows:

"§ 3500. Demands for production of statements and reports of witnesses

"(a) In any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) to an agent of the Government shall be the subject of subpoena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.

"(b) After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

"(c) If the United States claims that any statement ordered to be produced under this section contains matter which does not relate to the subject matter of the testimony of the witness, the court shall order the United States to deliver such statement for the inspection of the court in camera. Upon such delivery the court shall excise the portions of such statement which do not relate to the subject matter of the testimony of the witness. With such material excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to an adjudication of the guilt of the defendant, the entire text of such statement shall be preserved by the United States and, in the event the defendant appeals, shall be made available to the appellate court for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial.

"(d) If the United States elects not to comply with an order of the court under paragraph (b) or (c) hereof to deliver to the defendant any such statement, or such portion thereof as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared.

"(e) The term "statement", as used in subsections (b), (c), and (d) of this section

in relation to any witness called by the United States, means—

"(1) a written statement made by said witness and signed or otherwise adopted or approved by him; or

"(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement."

"The analysis of such chapter is amended by adding at the end thereof the following:

"3500. Demands for production of statements and reports of witnesses."

And the House agree to the same.

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. O'MAHONEY. Mr. President, the conference report has been unanimously signed. The conferees of the Senate and of the House all agreed to the report.

The purpose of the bill is to protect the files of the Government against unwarranted disclosure and at the same time to preserve due process of law for defendants in criminal cases. There was no objection to the measure in the conference. We completed the discussion in less than an hour. I believe this is a very excellent piece of legislation.

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays on agreeing to the conference report.

Mr. JOHNSON of Texas. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. The yeas and nays have been requested. Is there a sufficient second?

The yeas and nays were ordered.

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

Mr. JOHNSON of Texas. Mr. President, have the yeas and nays been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

Mr. O'MAHONEY. Mr. President, I yield to the Senator from West Virginia [Mr. REVERCOMB].

Mr. REVERCOMB. I appreciate the Senator's yielding to me so that I may ask a question.

Mr. O'MAHONEY. Mr. President, may we have order in the Chamber?

The VICE PRESIDENT. The Senate will be in order.

Mr. REVERCOMB. I thank the Senator very much.

It is extremely important, I believe, that we know, Mr. President, what changes were made in the conference relating to the bill which was passed by the Senate on this subject. I should appreciate it if the Senator from Wyoming would state what changes were made in the bill as it now comes back for consideration by the Senate.

Mr. O'MAHONEY. Mr. President, I am very happy to respond to that inquiry. The conference report is based upon the bill which was passed by the Senate. The House conferees agreed to substitute the principal text of the Senate report.

There were two views with respect to the language which was contained in the

Senate bill. There was some fear upon the part of the Department of Justice that the Senate bill would create a greater latitude for the examination of irrelevant reports of agents. The language which was devised by the conferees has cleared up the doubts of the Department of Justice and the doubts which were expressed upon the floor of the Senate during the debate last Monday night.

The second matter had to do with the definition of the statements that were involved in the procedures for production. Instead of reciting it in the body of the bill, we wrote a new subsection on definitions. Perhaps it would be well for me to read the subsection, which is very brief:

(e) The term "statement," as used in subsections (b), (c), and (d) of this section in relation to any witness called by the United States, means—

(1) a written statement made by said witness and signed or otherwise adopted or approved by him; or

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

That is the new language which was added in the definitions for the bill. In subsection (a) there was no reference at all to the Federal Rules of Criminal Procedure or to the contents of subsection (b), (c), and (d).

Mr. REVERCOMB. Mr. President, will the Senator from Wyoming yield for a question?

Mr. O'MAHONEY. I yield.

Mr. REVERCOMB. When the bill was before the Senate, quite a discussion occurred as to the difference between "records" and "recordings." Is the definition which has been read by the Senator from Wyoming sufficiently comprehensive to deal with the records of the Federal Bureau of Investigation?

Mr. O'MAHONEY. It deals only with those records which relate to the testimony of a Government witness, and when the subject matter is testimony in a particular case in which a motion is made for the production of such records. They must be relevant. They must be competent. If there is any doubt about that on the part of the Government, the Government may ask that the records be presented to the trial judge, for his examination in chambers.

Mr. REVERCOMB. Will the Senator from Wyoming yield for another question?

Mr. O'MAHONEY. Certainly.

Mr. REVERCOMB. Then I gather from the statement the Senator from Wyoming has made that the word "record", as used, means the record pertinent to the testimony of the witness.

Mr. O'MAHONEY. The word "record" appears in the title. In the definition we speak of—

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

Instead of the noun "record," we have the verb "record" in the past tense, namely, "recorded," and also in the present tense.

Mr. REVERCOMB. Mr. President, will the Senator from Wyoming yield further to me?

Mr. O'MAHONEY. I yield.

Mr. REVERCOMB. Does the definition of "records" which have been made or which must be produced, include memoranda made by an agent of the Government or any other statement which may have been obtained and signed?

Mr. O'MAHONEY. I think it would include a memorandum made by an agent of the Government of an oral statement made to him by a Government witness, but not by a third party.

Mr. JAVITS. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I am happy to yield to the junior Senator from New York.

Mr. JAVITS. As a practical matter, then, what has been done with the so-called records provision is to tie it down to those cases in which the agent actually purports to make a substantially verbatim recital of an oral statement that the witness has made to him—not the agent's own comments or a recording of his own ideas, but a substantially verbatim recital of an oral statement which the witness has made to him, and as transcribed by him; is that correct?

Mr. O'MAHONEY. Precisely.

Mr. JAVITS. I note from the report that the reference to the Rules of Criminal Procedure has been eliminated. Does that leave the matter as follows: That when the Government has the document defined as a statement, and when it is in its possession, and has been made by a Government agent, then, no matter how it is produced—whether produced pursuant to the Rules of Criminal Procedure or produced pursuant to the rather precise rule in the decision in the Jencks case, or for any other reason—if it is that kind of a statement, the court acquires, with respect to that statement, rights which are specified in this measure; is that correct?

Mr. O'MAHONEY. So long as it is a relevant and competent statement and deals with the testimony of the Government witness.

Mr. JAVITS. That is to say, in the case of a Government witness who has testified.

Mr. O'MAHONEY. Exactly.

Mr. JAVITS. Then the words, as the Senator from Wyoming has read them, must apply; is that correct?

Mr. O'MAHONEY. Yes; and I think it should be made clear that all the procedure must occur after the Government witness produced by the United States has testified, and not before.

Mr. JAVITS. Yes; but the amendment contains the safeguard provided by the amendment submitted by the Senator from Nebraska [Mr. HRUSKA], namely, that in the interests of justice, there may be an adjournment.

Mr. O'MAHONEY. I am happy to say that both the amendment proposed by

the Senator from Nebraska [Mr. HRUSKA] on the floor of the Senate—which I accepted during the debate—and the amendment submitted by the junior Senator from New York [Mr. JAVITS]—which I also accepted—are retained in the conference report.

Mr. JAVITS. One final question, which I think will button this up: If the Government chooses not to deliver the information, then the court has rather complete powers with respect to either declaring a mistrial or striking out the evidence, as the interests of justice may dictate, subject to appeals.

Mr. O'MAHONEY. That is correct.

Mr. JAVITS. All that is retained in the conference report.

Mr. O'MAHONEY. Yes; and all that goes up on appeal, if the defendant asks for it.

Mr. JAVITS. I thank the Senator from Wyoming.

Mr. MUNDT. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I yield.

Mr. MUNDT. I realize that the conference committee, operating under the pressure of time, has not had time to submit the report in the way in which it normally would be done—namely, by having a statement by the managers on the part of the House, and by having a printed report. I realize that there is a report, but that it was prepared on a duplicating machine.

I wonder whether the Senator from Wyoming intends to incorporate that copy of the report in the RECORD, preceding the taking of the vote this evening.

Mr. O'MAHONEY. If I correctly understand the question the Senator from South Dakota asks—and my doubt regarding it arises only because of the difficulty of hearing what the Senator from South Dakota has said, inasmuch as while he has been asking the question, other Senators have been talking—his question can be answered, I believe, by a brief reading of the provision.

Let it be understood that we are trying to define what is meant by the term "statement" in the body of the measure.

First, it is—

a written statement made by said witness and signed or otherwise adopted or approved by him.

In addition to such statements, we have oral statements; and the type of oral statements referred to is defined in the second clause, which reads as follows:

(2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement made by said witness to an agent of the Government and recorded contemporaneously with the making of such oral statement.

The VICE PRESIDENT. Will the Senator from South Dakota repeat his inquiry?

Mr. MUNDT. Yes, Mr. President. I do not think the Senator from Wyoming quite understood my inquiry, although I am grateful for the information provided in his reply.

My question is this: In view of the fact that the conference report has come to

us so late, so that the statement of the managers on the part of the House, which normally is printed, could not be sent to the Government Printing Office and printed in time for our inspection at this time, I believe the Senator from Wyoming has referred to a duplicated statement of the report, as signed by the conferees.

Mr. O'MAHONEY. The written statement by the managers on the part of the House was not in my hands. It was not presented to me. It was presented in the House of Representatives. It is not here.

But I am stating to the Senate the understanding of all the conferees, both those of the House and those of the Senate.

Mr. MUNDT. I think a statement by the managers on the part of the House will appear in today's issue of the CONGRESSIONAL RECORD, as a part of the action taken by the House. Is that correct?

Mr. O'MAHONEY. I think that is correct. I am expecting that to happen.

Mr. CLARK. Mr. President, will the Senator from Wyoming yield to me?

Mr. O'MAHONEY. I yield to the Senator from Pennsylvania.

Mr. CLARK. As I understand the conference report, as explained to the Senate by the able Senator from Wyoming, who has worked so hard and so long to get a satisfactory report in this situation—

Mr. O'MAHONEY. It was hammered out on the anvil of hard work.

Mr. CLARK. Yes. As I understand, the elimination of the reference to the Federal rules, in the redraft presented by the conference committee, does not indicate, and is not intended in any way to indicate, that this measure is intended to amount to a change in any way of the Federal Rules of Criminal Procedure.

Mr. O'MAHONEY. We are not dealing with the Federal Rules of Criminal Procedure. We are dealing only with the procedures to be followed in the production of these reports.

Mr. CLARK. As I understand, the Senate is to vote on the conference report without having the benefit of any managers' written report as to what was decided in the conference. Therefore, I, for one, at least—and I think all my colleagues, too, must do likewise—must vote on this measure without having studied such a conference report. Therefore, the legislative history as regards the vote to be taken in the Senate, when the Senate votes on the report—and let me say that I shall vote for the report—will show that when the Senate votes on it, it will do so without having adopted, approved, or in any way considered the statement of the managers on the part of the House, which will be filed later on.

I should like to state—

Mr. O'MAHONEY. Mr. President, let me say this to the Senator from Pennsylvania, in order to keep the record straight: It is not the custom of conferees on the part of the Senate to prepare a written report. It is the custom of the conferees on the part of the House



to file a statement of the views of the House managers.

Mr. CLARK. Will the Senator yield?

Mr. O'MAHONEY. Yes.

Mr. CLARK. I quite agree with the Senator from Wyoming. My only point is that those of us who are about to vote for this measure—and I shall vote for it—will vote for it on the understanding of what it contains, as stated by the distinguished Senator from Wyoming. For myself, I have some doubts as to whether this measure is constitutional; but I shall vote for it with the conviction that if it is unconstitutional, if it violates due process, we can leave that to the courts.

Mr. KEFAUVER. Will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. KEFAUVER. Let me inquire of the chairman of the subcommittee and the chairman of the conference committee whether the word "records" includes photostats of documents and pictures, all of which are very important in the presentation of a criminal case, and just where they fall within this definition?

Mr. O'MAHONEY. We are not dealing with records in the sense of the question asked by the Senator from Tennessee. We are dealing only with records which are included in the definition here, statements by the witness, which have been approved by him or signed by him or otherwise approved by him, and then oral statements which have been recorded—oral statements made by the witness to an agent of the Government. This is tied directly to statements made by a Government witness to an agent of the Government after the witness has testified, and not to any other records of the FBI or of any other Government bureau.

Mr. KEFAUVER. As I understood one part of Judge Brennan's opinion—and there is some language that might be considered in conflict—could be interpreted as justifying a requirement, for instance, that certain photostats of records or of pictures be submitted for examination by the defendant or his counsel. What happened in that regard?

Mr. O'MAHONEY. I do not recall any language in the decision of Justice Brennan that deals with that. If the pictures have anything to do with the statement of the witness—with either the written statement or the oral statement—of course that would be part of it; but whatever is produced must be related to the evidence of the witness who has testified before the court in the criminal case.

Mr. KEFAUVER. I did not mean that his opinion specified pictures or photostats; but I thought that the general, broad statements of his opinion might include that kind of documentary evidence.

Mr. O'MAHONEY. I will say to my friend from Tennessee that the language submitted by the conference report covers every statement that was made in the opinion.

Mr. KEFAUVER. Very well; I think that is sufficient. I thank the Senator from Wyoming.

Mr. DIRKSEN. Mr. President—

Mr. O'MAHONEY. I yield to the Senator from Illinois, who was one of the conferees.

Mr. DIRKSEN. Mr. President, I want to be recorded as being in support of the general conclusion of this matter, and, having heretofore ventilated the anxiety of the Department of Justice concerning it, to state that the revised text has the concurrence of the Department of Justice.

Mr. COOPER. Mr. President—

Mr. O'MAHONEY. I yield to the Senator from Kentucky.

Mr. COOPER. I do not desire to delay the vote on the conference report, but I want to say that the conference report does not say "due process." It will be remembered that when the Senate bill showed two lines of approach, there was an effort made by quite a number of courts to secure clarification. Yet, at the same time we were assured that a bill would be written or passed by the Senate which included "due process."

Mr. O'MAHONEY. Mr. President, I am confident that this bill does not invade "due process." I would not have signed the report if I had any conception that it had that effect.

Mr. COOPER. I am certain of that, but I should like to ask a specific question or two with relation to the legislative history, because in the debate on the floor other language was offered which was rejected by the Senate, upon the thesis that it did invade due process. Now there is new language in the bill regarding records which will be produced upon the request of a defendant, which differs from the language of the bill which was passed by the Senate. I have read the conference report, and it says, as I recall, that statements signed by the witness, and approved and adopted, or approved and adopted, shall be produced, and, second, that stenographic, mechanical, or electrical recordings—

Mr. O'MAHONEY. Or other recordings.

Mr. COOPER. Of statements made by a witness, which are in essence verbatim statements, and which are made contemporaneously at the time of the oral statement, shall be admitted. I want to ask the distinguished Senator if, in his opinion, the conference report limits or narrows in any way the holding of the Jencks case as to the totality of the statements of a witness which must be produced.

Mr. O'MAHONEY. In that part of the opinion of the majority of four of the Supreme Court in the Jencks case, which referred to the case of Gordon against the United States, and which defined the purpose of the production of the statements or the records, that part of the decision is completely sustained by this bill.

Mr. COOPER. I say that because I have great respect for the desire of the FBI to protect its records, and I said in the debate on the floor, when the Senate passed this bill, that we all wanted to

assist so far as possible in that purpose. But, I say, overriding that aim is the objective and the right of every defendant to have due process. Whether it is the FBI, whether it is any other law agency, we know that due process must be accorded a defendant. I accept the statement of the distinguished Senator that, in his opinion—and I know that he is familiar with the Jencks case from one end to the other—the conference report does not limit the production of the records in such a way as to invade due process to a defendant.

Mr. O'MAHONEY. I am confident that it does not.

The VICE PRESIDENT. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the Clerk will call the roll.

The Chief Clerk called the roll.

Mr. MANSFIELD. I announce that the Senators from New Mexico [Mr. ANDERSON and Mr. CHAVEZ], the Senator from North Carolina [Mr. ERVIN], the Senator from Rhode Island [Mr. GREEN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Oregon [Mr. MORSE], the Senator from Montana [Mr. MURRAY], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN] are absent on official business.

I further announce that if present and voting, the Senator from New Mexico [Mr. CHAVEZ], the Senator from North Carolina [Mr. ERVIN], the Senator from Rhode Island [Mr. GREEN], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Oklahoma [Mr. KERR], the Senator from Montana [Mr. MURRAY], the Senator from West Virginia [Mr. NEELY], and the Senator from Alabama [Mr. SPARKMAN] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from New Hampshire [Mr. BRIDGES] and the Senator from Maine [Mr. PAYNE] are absent because of illness.

The Senator from Ohio [Mr. BRICKER], the Senator from Kansas [Mr. CARLSON], and the Senator from Indiana [Mr. JENNER] are necessarily absent.

The Senator from Maryland [Mr. BUTLER], the Senator from Indiana [Mr. CAPEHART], and the Senator from Nevada [Mr. MALONE] are absent on official business.

The Senator from Vermont [Mr. FLANDERS] and the Senator from Kentucky [Mr. MARTIN] are absent on official business.

If present and voting, the Senator from Ohio [Mr. BRICKER], the Senator from Maryland [Mr. BUTLER], the Senators from Indiana [Mr. CAPEHART and Mr. JENNER], the Senator from Nevada [Mr. MALONE], the Senator from Vermont [Mr. FLANDERS], the Senator from Kentucky [Mr. MARTIN], and the Senator from Maine [Mr. PAYNE] would each vote "yea."

The result was announced—yeas 74, nays 2, as follows:

#### YEAS—74

|         |         |         |
|---------|---------|---------|
| Alken   | Beall   | Bush    |
| Allott  | Bennett | Byrd    |
| Barrett | Bible   | Carroll |

|               |               |              |
|---------------|---------------|--------------|
| Case, N. J.   | Humphrey      | Proxmire     |
| Case, S. Dak. | Ives          | Purtell      |
| Church        | Jackson       | Revercomb    |
| Clark         | Javits        | Robertson    |
| Cooper        | Johnson, Tex. | Russell      |
| Cotton        | Kennedy       | Saltonstall  |
| Curtis        | Knowland      | Schoeppel    |
| Dirksen       | Kuchel        | Scott        |
| Douglas       | Lausche       | Smathers     |
| Dworshak      | Long          | Smith, Maine |
| Eastland      | Magnuson      | Smith, N. J. |
| Ellender      | Mansfield     | Stennis      |
| Feare         | Martin, Iowa  | Symington    |
| Fulbright     | Martin, Pa.   | Talmadge     |
| Goldwater     | McClellan     | Thurmond     |
| Gore          | McNamara      | Thye         |
| Hayden        | Monroney      | Watkins      |
| Hennings      | Mundt         | Wiley        |
| Hickenlooper  | Neuberger     | Williams     |
| Hill          | O'Mahoney     | Yarborough   |
| Holland       | Pastore       | Young        |
| Hruska        | Potter        |              |

#### NAYS—2

Kefauver

Langer

#### NOT VOTING—20

|           |                 |          |
|-----------|-----------------|----------|
| Anderson  | Ervin           | Morse    |
| Bricker   | Flanders        | Morton   |
| Bridges   | Green           | Murray   |
| Butler    | Jenner          | Neely    |
| Capewhart | Johnston, S. C. | Payne    |
| Carlson   | Kerr            | Sparkman |
| Chavez    | Malone          |          |

So the report was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate reconsider the vote by which the conference report was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of executive business, to consider the nominations on the Executive Calendar.

The VICE PRESIDENT. Is there objection?

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

#### EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. MONRONEY, from the Committee on Post Office and Civil Service:

John W. Loughnane, to be postmaster at Belgrade, Mont.; and

R. Ray Heath, to be postmaster at Stillwater, Okla.

The VICE PRESIDENT. If there be no further reports of committees, the nominations on the calendar will be stated.

#### POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. JOHNSON of Texas. Mr. President, among the list of postmaster nominations, I ask unanimous consent that the nomination of Martin T. Southard to be postmaster at Stokesdale, N. C., be returned to the Committee on Post Office and Civil Service.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, in the case of all the other post-

master nominations, I ask that they be considered en bloc.

The VICE PRESIDENT. Without objection, the remaining postmaster nominations will be considered en bloc; and, without objection, they are confirmed.

#### IN THE ARMY

The Chief Clerk proceeded to read sundry nominations in the Army.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Army nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations in the Army will be considered en bloc; and, without objection, they are confirmed.

#### IN THE AIR FORCE

The Chief Clerk proceeded to read sundry nominations in the Air Force.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the nominations in the Air Force be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations will be considered en bloc; and, without objection, they are confirmed.

#### NOMINATIONS PLACED ON THE VICE PRESIDENT'S DESK

The Chief Clerk proceeded to read sundry Armed Services nominations placed on the Vice President's desk.

Mr. JOHNSON of Texas. I ask unanimous consent that these nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered en bloc; and, without objection, they are confirmed.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the President be notified forthwith of the confirmation of these nominations.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

#### LEGISLATIVE SESSION

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

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

#### TRANSFER OF AMERICAN SHIPPING TO FOREIGN REGISTRY

Mr. WILLIAMS. Mr. President on March 14, 1957, Congressman ZELENKO, of New York, raised a rather interesting question concerning the manner in which the Maritime Administration is permitting ships under American flags to be transferred to foreign registry, thereby resulting in a substantial windfall to the companies which had previously purchased these same ships at a greatly reduced price on the basis that they would be kept under the American flag.

The particular case to which he had reference on that date was their decision approving Mr. Onassis' transfer of 14 ships from American registry to foreign registry, thereby resulting in approximately \$20 million windfall profit, the net proceeds of which were then used to establish a trust fund for his children.

Later I shall ask to incorporate in the body of the Record the Maritime Administration's report on this transaction along with a chart showing the original cost of the 14 ships involved to the Government and the net price for which they were sold by the Government at the end of the war.

This report will show the average price received by the Government for the tankers as being about \$1½ million each and about \$470,000 each for the two cargo ships.

The Maritime Administration in the same report confirms that the value of these ships when transferred to a foreign flag automatically increases based upon today's valuations to \$3,400,000 each for the tankers and \$1,500,000 each for the Liberty dry-cargo vessels.

This means that the permission granted by the Maritime Administration to Mr. Onassis to transfer these ships from American flag to foreign registry resulted in more than doubling their valuation as compared to the original cost of 10 years ago, or a windfall of approximately \$20 million.

The Maritime Administration points out that in turn for this favorable concession the Onassis group have agreed to have constructed in this country three new tankers of not less than 198,450 deadweight tons with the proviso that should they not live up to this latter contract to construct these three ships they would pay a forfeit of approximately \$8 million.

Even if they forfeit this last agreement the company still stands to win \$12 million by the agreement. The company cannot lose; the American taxpayers can.

Last year Congress rejected the request of certain companies for permission to transfer their ships from American registry to foreign registry on the basis that the resulting windfall profits were not warranted. The ships had been sold at a greatly reduced price in order to keep them under American flag and the whole purpose of this policy would be defeated by making exemptions. If the ships were to be sold promiscuously under foreign registry then the American taxpayers should have reaped the benefits resulting from the greater world valuation. The Maritime Administration by executive decisions is granting these requests which were denied by Congressional action. Congress should give this new policy of the Maritime Administration their careful scrutiny.

At this point I ask unanimous consent to have incorporated in the Record as a part of my remarks the report of the Maritime Administration which shows how Mr. Onassis, the Greek shipowner, created a trust fund for his children with the \$20 million windfall profit resulting from these maritime rulings.



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

DEPARTMENT OF COMMERCE,  
MARITIME ADMINISTRATION,  
Washington, D. C., April 9, 1957.

HON. JOHN J. WILLIAMS,  
United States Senate,  
Washington, D. C.

DEAR SENATOR WILLIAMS: The receipt is acknowledged of your letter of March 25, 1957 enclosing a copy of an article which appeared in the Wilmington Morning News of March 15, 1957, concerning a proposed arrangement between the Maritime Administration and Mr. Aristoteles Onassis involving the construction of new tankers. In connection therewith you request a complete report on the transaction, with particular reference to certain phases thereof, as listed in your letter.

On December 10, 1956, the Maritime Administrator granted approval in principle, pursuant to sections 9 and 37 of the Shipping Act, 1916, as amended of the transfer to Panamanian or Liberian ownership and Panamanian or Liberian registry and flag of 11 United States flag T-2 tankers, the tanker *Olympic Games*, and 2 Liberty dry-cargo ships, in consideration for the construction in the United States by United States Petroleum Carriers, Inc., or any United States affiliate or subsidiary thereof, for United States documentation and operation, of 3 new tankers aggregating not less than 198,450 deadweight tons, as follows: One to be 100,000 deadweight tons or more, with trial speed of 18.5 knots and service speed of 17.5 knots; and two of the *World Glory* type to be of 46,000 deadweight tons or more, with speed of 16.9 knots or more.

The above approval in principle was subject to the terms and conditions set forth in part I, paragraph B and part III, paragraph A of the notice of policy setting forth the Maritime Administration's foreign transfer policy, effective November 5, 1956 (copy attached).

On January 25, 1957, the Maritime Administration formalized the approval granted in principle on December 10, 1956, of the trade-out-and-build proposal described above, by the execution of appropriate contracts with respect to the new ships, and also with respect to the vessels to be transferred to Liberian registry and flag. The Maritime Administration's transfer orders, in evidence of its approval pursuant to sections 9 and 37 of the Shipping Act, 1916, as amended, have been issued for 12 of the vessels—the remaining 2 orders, covering 2 Liberty dry-cargo vessels, are to be issued upon payment of the mortgage indebtedness due the Maritime Administration with respect to each ship. Attached is copy of executed contract No. MA-1439 dated January 25, 1957, between the Department of Commerce, Maritime Administration, and Victory Carriers, Inc., with respect to the construction of the three new tankers, namely builder's hulls Nos. 1671, 1672 and 1681. This contract contains the essence of the Maritime Administration's approval of the trade-out-and-build program of Victory Carriers, Inc. Your attention is called to paragraph 2 of said contract, which provides for the payment of liquidated damages to the Maritime Administration, in the event the new ships are not constructed and documented under United States laws within the time limit prescribed.

Listed hereunder are the answers to your specific points of inquiry concerning the subject proposal:

1. The name of the company, a list of the officers or directors, and the amount of actual paid-in capital by the stockholders.

A. The name of the corporation which has agreed to construct the three new vessels for United States documentation is Victory

Carriers, Inc., which is a Delaware corporation with an authorized capital of 2,000 shares of no par value stock, all of which has been issued and is presently outstanding and is owned by United States Petroleum Carriers, Inc. The officers and directors of Victory Carriers, Inc., are: Granville Conway, president and director; Nicolas Cokkinis, vice president and director; Peter Spalding, vice president; Thomas R. Lincoln, vice president; Charles S. Cunningham, director; John C. Griswold, director; Edmond J. Moran, director.

United States Petroleum Carriers, Inc., is a Delaware corporation with an authorized capital of 1,000 shares of no par value stock, all of which has been issued and is presently outstanding. Seven hundred and fifty shares of the stock are held by Grace National Bank of New York, as trustee of the trust established under agreement dated August 10, 1956, between Aristoteles S. Onassis, an Argentine citizen, and said bank (referred to as the trustee of the Onassis trust). The remaining 250 shares are owned by Sociedad Industrial Maritima Financiera Ariona, Panama, S. A., a Panamanian corporation. The latter corporation is owned or controlled by Mr. Aristoteles S. Onassis and Messrs. N. Konialides, an Argentine citizen, and C. Konialides, a Uruguyan citizen.

2. The total expected cost of the tankers, broken down per ship:

A. On December 28, 1956, the Maritime Administration was furnished with an executed copy of construction contract dated December 13, 1956, by and between Bethlehem Steel Co. and Victory Carriers, Inc., which provides for the construction at Quincy, Mass., of 2 steel, single screw, steam turbine propelled, bulk oil tankers, builder's hulls Nos. 1671 and 1672, and 1 steel, twin screw, steam turbine propelled, bulk oil tanker, builder's hull No. 1681, the total of maximum designed deadweights of such vessels to be about 198,450 tons.

As of March 8, 1957, Victory Carriers, Inc., had already paid \$1,795,500 on account of the construction of these ships.

Under the construction contract the construction cost is \$51,300,000, the contract price for the three vessels to be constructed. The construction contract also provides for the completion and delivery of the vessels as follows:

Hull No. 1671, on or before August 31, 1959.

Hull No. 1672, on or before January 31, 1960.

Hull No. 1681, on or before June 30, 1960, which dates are subject to the force majeure clause.

3. The extent of the Government financing, either in the form of construction differential, subsidy, or Government guarantees of mortgages.

(a) The interest rate involved in the guaranteed mortgage and the terms of payment.

A. There has been no financial assistance granted by the Maritime Administration in connection with the construction of the three new tankers by Victory Carriers, Inc., either in the form of construction differential, subsidy, or insured mortgage guaranty, or other forms of Government aid.

4. The name of each tanker, Liberty ship, or other ship which the Maritime Administration has authorized transferred from American flag to foreign flag.

A. The names, owners, and types of United States-flag vessels approved for transfer to Liberian registry and flag without change in United States citizen ownership, in connection with the new construction, are as follows:

United States, Petroleum Carriers, Inc., *Arickaree*, T-2 tanker; *Battle Rock*, T-2

tanker; *Camp Namanu*, T-2 tanker; *Fort Bridger*, T-2 tanker; *Lake George*, T-2 tanker; *Stony Point*, T-2 tanker.

Victory Carriers, Inc., *Heywood Brown*, Liberty cargo; *Lewis Emery Jr.*, Liberty cargo.

Western Tankers, Inc., *McKittrick Hills*, T-2 tanker; *Montebello Hills*, T-2 tanker; *William A. M. Burden*, T-2 tanker; *Olympic Games*, tanker.

Trafalgar Steamship Corp., *Federal*, T-2 tanker; *Republic*, T-2 tanker.

4a. With the name of each tanker or other type of ship include information as to the date this ship was constructed, the total construction cost, the date the ship was sold to Mr. Onassis or his company, and the net amount after all allowances received by the Government for such ship.

A. See attachment 2.

4b. The estimated valuation of each of these ships if placed under foreign flag and eligible for resale in world markets.

A. Under foreign registry the estimated valuation on a restricted basis, of the 14 vessels will be: \$3,400,000 for each T-2 tanker, and the *Olympic Games*, and \$1,500,000 for each of the Liberty dry cargo vessels. However, these ships are not eligible for resale except with prior Maritime Administration approval.

5. If Mr. Onassis is merely transferring these tankers and Liberty ships to a foreign flag company of his own, then I want this information:

A. On January 29, 1957, the Maritime Administrator approved, in principle only, the transfer of the above-listed vessels, after their documentation under Liberian flag, to a Liberian corporation or corporations to be formed. The Maritime Administrator's approval in principle contemplated that the president and a majority of the directors of the said corporation or corporations would be citizens of the United States, that 75 percent of the stock in said corporation or corporations would be owned by a trustee for the benefit of the children (United States citizens) of Mr. A. S. Onassis, and that the trustee so appointed for the children would be an individual or corporation acceptable to the Maritime Administration.

5a. The amount of money involved in the transfer and the names of the companies being transferred from and to.

A. The approval granted in principle on January 29, 1957, as referred to above, has not yet been formalized and the amount of purchase price or other monetary consideration involved in the proposed transfer of ownership, as well as the name or names of the Liberian purchasers or transferees, has not yet been filed with the Maritime Administration.

5b. After being transferred to one of his foreign flag companies would he need any further permission from the Maritime Administration if he desired to sell them in the world market?

A. The Maritime Administration has statutory control, under section 37 of the Shipping Act, 1916, as amended, so long as the present emergency exists, of the transfer to foreign ownership of the Liberian vessels. Pursuant to the terms of its formal approval of any transfer of these vessels to Liberian ownership, the Maritime Administration has contractual control over any subsequent changes in ownership of the vessels involved for the balance of the 20-year life of the ships, or for the duration of the national emergency, whichever is the longer period.

5c. The same information as to world market valuation as indicated in question 4b.

A. The answer to your question 5c would appear to be the same as the answer given to your question 4b.

Sincerely yours,

CLARENCE G. MORSE,  
Maritime Administrator.

Statement showing date of construction, construction cost, sales price, and other data with respect to certain vessels now owned by United States Petroleum Carriers or Victory Carriers, Inc., or United States affiliated companies

| Name of ship and company to which sold by USMC                            | Type                             | Date of construction | Construction cost | Date of title transfer | Statutory sales price | Class allowance | Net sales price |
|---|----------------------------------|----------------------|-------------------|------------------------|-----------------------|-----------------|-----------------|
| American Marine Corp.: <sup>1</sup>                                       |                                  |                      |                   |                        |                       |                 |                 |
| Battle Rock   | T-2 tanker                       | Mar. 30, 1944        | \$3,210,851       | Mar. 29, 1948          | \$1,601,211.86        | \$23,218.00     | \$1,577,993.86  |
| Camp Namanu   | do.                              | May 26, 1944         | 2,819,618         | Mar. 26, 1948          | 1,617,822.50          | 39,538.00       | 1,578,284.50    |
| Stony Point   | do.                              | Apr. 18, 1943        | 4,065,683         | Apr. 14, 1948          | 1,505,352.00          | 23,150.00       | 1,482,202.00    |
| (Now owned by U. S. Petroleum Carriers.)                                  |                                  |                      |                   |                        |                       |                 |                 |
| American Republics Corp.: <sup>2</sup>                                    |                                  |                      |                   |                        |                       |                 |                 |
| Federal Republic  | do.                              | Dec. 10, 1944        | 3,132,554         | May 4, 1948            | 1,674,701.24          | 95,051.18       | 1,579,650.06    |
| (Now owned by Trafalgar Steamship Corp.)                                  | do.                              | July 31, 1944        | 3,325,139         | Apr. 30, 1948          | 1,626,404.85          | 58,306.00       | 1,568,098.85    |
| Pacific Tankers, Inc. (now Western Tankers, Inc.):                        |                                  |                      |                   |                        |                       |                 |                 |
| McKittrick Hills  | do.                              | Dec. 15, 1944        | 3,083,473         | Mar. 16, 1948          | 1,660,094.67          | 38,140.00       | 1,651,954.67    |
| Montebello Hills  | do.                              | Nov. 22, 1944        | 3,170,005         | Feb. 27, 1948          | 1,687,692.28          | 26,770.00       | 1,660,922.28    |
| United States Petroleum Carriers:   |                                  |                      |                   |                        |                       |                 |                 |
| Arickaree   | do.                              | Mar. 11, 1943        | 4,770,279         | Apr. 2, 1948           | 1,505,352.00          | 66,474.00       | 1,438,878.00    |
| Port Bridger  | do.                              | July 29, 1944        | 4,083,653         | Feb. 26, 1948          | 1,601,490.36          | 19,080.25       | 1,582,409.11    |
| Lake George   | do.                              | Sept. 18, 1943       | 2,778,490         | Mar. 18, 1948          | 1,550,549.35          | 116,978.00      | 1,433,571.35    |
| Victory Carriers, Inc.:   |                                  |                      |                   |                        |                       |                 |                 |
| Lewis Emery, Jr.  | Liberty dry-cargo (EC2-S-C1)     | Oct. 25, 1943        | 1,685,682         | Feb. 26, 1951          | 544,506.00            | 74,725.00       | 469,781.00      |
| Haywood Brown   | do.                              | Sept. 15, 1943       | 1,642,115         | Feb. 24, 1951          | 544,506.00            | 73,474.00       | 471,032.00      |
| Union Sulphur Co. (Wm. A. M. Furden (now owned by Western Tankers, Inc.)) | T-2 tanker                       | May 7, 1943          | 4,019,376         | Mar. 2, 1948           | 1,505,352.00          | 86,238.50       | 1,419,113.50    |
| Western Tankers, Inc.: <sup>3</sup> Olympic Games                         | Tanker of 18,151 deadweight tons | ( <sup>4</sup> )     | ( <sup>4</sup> )  |                        |                       |                 |                 |

<sup>1</sup> These companies not affiliated with any of the so-called Onassis companies.  
<sup>2</sup> This vessel was built in the United States for foreign-flag ownership, operation, for 1 of the foreign corporations of the Onassis group. In 1950, this vessel was documented under United States laws, pursuant to a condition of the approval granted

by the Maritime Administration of the transfer to foreign ownership and registry of the damaged T-2 tanker *Herman F. Whiton*.

<sup>3</sup> 1948, Sparrows Point, Md.

<sup>4</sup> No data, see footnote 2.

## LET THE LADY HOLD UP HER HEAD

Mr. NEUBERGER. Mr. President, on the day that we are scheduled to act on the conference report which reflects the enlightened immigration proposals of the junior Senator from Massachusetts [Mr. KENNEDY], I should like to make available to my colleagues an eminent address on our national immigration policies which Senator KENNEDY delivered to the Washington chapter of the American Jewish Committee on June 4, 1957. The title of this able essay is "Let the Lady Hold Up Her Head," which symbolizes the desire of the Senator from Massachusetts to bring into living reality the great humanitarian promise inherent in the Statue of Liberty, which commands the entrance to New York Harbor. I am pleased to be a cosponsor of Senator KENNEDY's bill (S. 2792).

I believe that any openminded citizen reading this address by Senator KENNEDY will come to realize that every one of us, except for fullblooded American Indians, is either an immigrant or the descendant of immigrants. Therefore, as the Senator from Massachusetts emphasizes, "our policy should be generous; it should be fair; it should be flexible." I ask unanimous consent that the address by Senator KENNEDY be printed in the body of the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows.

### LET THE LADY HOLD UP HER HEAD—REFLECTIONS ON AMERICAN IMMIGRATION POLICY (By Senator JOHN F. KENNEDY, of Massachusetts)

I've heard it said that one of the reasons Queen Isabella of Spain was so eager to support Columbus' voyage was to make certain that all the heathens beyond the horizon were converted to her own religion.

The story has it that Luis Santangel, Chancellor of the Spanish Exchequer, was having much difficulty persuading Ferdinand to finance Columbus' explorations, because the King's advisers had told him no gold would be found beyond the seas. So Santangel decided to appeal to other motives. Within earshot of the Queen, who was a devout

Catholic, he asked the King: "Does your Grace feel no responsibility to convert the inhabitants beyond the sea of darkness to the true faith?"

"Madre de Dios," exclaimed the Queen. "I had never thought of that. If My Lord, the King, will not give the Italian the money he needs to save those poor lost souls, I will pawn my jewels and finance him myself."

The King who could not bear the thought of the royal jewels in a pawnshop, quickly agreed to advance the money.

Queen Isabella was not alone in her desire. In the years that followed, Sir Walter Raleigh, and later Governor Winthrop, also wanted these shores kept virgin for their own kind of people. But luckily for all of us, history decided differently. Columbus and the English were followed by waves of Germans, Irish, Italians, Slavs. And far from remaining a nation of one creed, this new land became an amalgamation such as had never before been created.

Each wave disliked and distrusted the next. The English said the Irish "kept the Sabbath and everything else they could lay their hands on." The English and the Irish distrusted the German who "worked too hard." The English and the Irish and the Germans disliked the Italians; and the Italians joined their predecessors in disparaging the Slavs. By the time Robert Louis Stevenson made his journey across the new land he found Americans united in only one thing—their distrust of the heathen Chinese whom he himself looked upon with wonder and awe, because "their forefathers," as he pointed out, "watched the stars before mine had begun to keep pigs."

#### E PLURIBUS UNUM

Fortunately for America, a few pioneers saw the value of accepting all races and faiths. When Roger Williams was expelled from the Puritan colonies, he founded Rhode Island as a polyglot refuge. William Penn made a point of welcoming all comers. In 1654 the first group of Jewish settlers landed in New Amsterdam. And by 1737 the Irish were already celebrating St. Patrick's Day in Boston.

The assimilation of this heterogeneous tide was not an easy accomplishment. As early as the Presidency of John Adams, the alien and sedition laws were passed. The Know-Nothing Party flourished before the Civil War; and for several generations thereafter the Ku Klux Klan rode furiously in the night. But today the Klan is more laughed at than

feared. In 1916, one Madison Grant, official of the American Museum of Natural History, wrote a pseudoscientific, violently anti-immigrant book entitled "The Passing of the Great Race." But in 1952, a group of world renowned anthropologists reported unequivocally to UNESCO that there is no basis for ideas of racial purity or superiority.

Today, some few may try to maintain the fiction that they are of purer stock or superior breed, but their pretense is transparent. The Nation got a hearty chuckle when FDR addressed the Daughters of the American Revolution as "fellow immigrants." And Sinclair Lewis described Martin Arrowsmith as "a typical purebred Anglo-Saxon American—which means that he was a union of German, French, Scotch-Irish, perhaps a little Spanish, conceivably a little of the strains lumped together as Jewish, and a great deal of English, which is itself a combination of primitive Britain, Celt, Phoenician, Roman, German, Dane, and Swede."

America today is a product of its immigrants—and a product that is the envy of the world. We recognize that the new amalgamated man, a strictly made-in-America product, is the stronger and fresher because he has borrowed the best strains of many lands.

#### A STEP BACKWARD

But in spite of this knowledge, our Nation's attitude toward immigrants has changed considerably. If Emma Lazarus were writing today, her famous lines "give me your tired, your poor" would have to be amended to read "as long as they come from northern Europe, are not too tired or too poor or slightly ill, and can document all their activities for the past 2 years."

Our present immigration laws furnish a quota system of national origins with indefensible overtones of racial preference. The laws impose a ridiculous superstructure of regulations that lead to what Dostoevsky cunningly described as "administrative ecstasy." Walt Whitman's songs of the open gate have given way to the mournful strains of Gian Carlo Menotti's The Consul.

President Truman warned when he vetoed the McCarran Act that "the idea behind the discriminatory policy was, to put it baldly, that Americans with English or Irish names were better people and better citizens than Americans with Italian or Greek or Polish names. . . . Such a concept is utterly unworthy of our traditions and our ideals." And yet, as we well know, despite the veto,



the law went into effect—ironically on Christmas Eve.

The inequities of this legislation have raised the number of private immigration bills from 100 in the 78th Congress to 2,000 in the 84th. Private immigration bills make up about half of our legislation today.

In my own office I have interceded on behalf of innumerable immigrants who bumped their heads against our barrier of regulations. An Italian immigrant, living with his small children in Massachusetts, could not bring his wife to the United States because she had stolen a pair of shoes in 1913, and a bundle of sticks for her fire in 1939. It took an act of Congress to reunite this family.

#### IMMIGRATION AND FOREIGN POLICY

As a member of the Foreign Relations Committee I am deeply disturbed by the frustrations and resentments created abroad by our immigration laws. Immigration policy, I maintain, is as integral a part of foreign policy as economic aid or propaganda broadcasts. Nothing is more personal, or translated more easily into terms of human understanding or misunderstanding. The alien rebuffed, the relative of an American citizen sweating out a quota, the refugee languishing in camp—all belie the picture we try to create of America. The foreign observer whom we hope to win to our way of thinking is likely to tell us that what we do speaks so loudly, he cannot hear what we say.

When the restrictive immigration laws of 1924 were drawn up, with their provisions for Japanese exclusion, the Japanese Ambassador warned they would create resentment in that country. Japanese intellectuals, in particular, were sensitive to the implication of racial inferiority inherent in such legislation. Twenty-eight years later, after a brutal, bitter war, a number of experts informed the President's Commission on Immigration and Naturalization that the exclusion clause had indeed contributed to the growth of anti-American feeling in Japan and helped create the climate leading to Pearl Harbor.

On the other hand, immigration policy can also be used as a positive instrument of foreign affairs. The absence of quotas within the Western Hemisphere is an invaluable adjunct to the good-neighbor policy.

Whether we identify immigration policy with foreign policy or not, our friends do—including some of our own partners in NATO, against whom we discriminate. And our enemies so identify it also. In 1948 a number of Italian Americans wrote to relatives in Italy, urging them to vote against the Communists, and describing the American way as the route to abundance. The Reds countered with propaganda blasts pointing out that the Americans were not very willing to share their abundance. In a recent Korean broadcast, Radio Moscow emphasized that the McCarran Act was based on the Nazi theory of racial superiority. It pointed out that a person born of a Japanese mother and a British father was held by the United States to be Japanese for immigration purposes, regardless of where he was born—and that this was true only for orientals.

Consider that the Asia-Pacific Triangle, as it is called, contains 50 percent of the world's population, and America 6 percent. Is it wise foreign policy for 6 percent to hold 50 percent in contempt?

#### NEEDED: A NEW LOOK AT IMMIGRATION POLICY

In recent years we have undertaken a new look in military policy. I suggest that we also need a new look in immigration policy. In the 84th Congress I introduced a bill to establish a sort of Hoover Commission on immigration and naturalization policy, and I still think some such unemotional, nonpolitical study is necessary. Our immigration laws have devolved into such a tangled mess that nobody quite knows what

they are. Yet the inequities and preference quotas they perpetuate are a national disgrace and a handicap abroad.

There are some immediate remedies which could be applied. For instance, the quotas should be based on the 1950 census instead of the 1920 census. This would allow 65,000 more immigrants per year. But we also need immediate revision of the quota system itself—under which England's quota is never filled while that of Greece is mortgaged into the 21st century. These mortgages should be wiped out, and the unused quotas of one country should be available for redistribution to other countries.

With respect to the specific problem of refugees, I am introducing legislation to admit some 89,000 emergency immigration cases. They include wives and children of refugees already admitted under the Refugee Relief Act of 1953. They include a number of aliens who secured assurances of jobs and homes under that act but were caught in the squeeze when the act expired. There is also provision for 20,000 refugees and escapees from communism now residing in Austria and the NATO countries; 4,000 orphans and 5,000 refugees—Jews, Italians, and Greeks expelled from Egypt. I do not pose this as a solution to all the problems of immigration, but only as a quick answer to the most urgent needs. I still hope that Congress in the near future will reexamine our whole immigration policy to adapt it to our role of world leadership.

This new policy should not only amend the unreasoned restrictions of the present law, it should shape immigration to foreign policy. It should provide, for instance, for some measure of flexibility to take care of sudden developments like the expulsion of Jews from Egypt or the revolt in Hungary.

The executive branch, it is true, does have a legal measure of flexibility now in the parole provision; but this was not designed to take care of the kind of emergency situation I have in mind. It has been used only in the case of the Hungarian escapees, and the Attorney General has declined to apply it equally to the Middle East.

A new, enlightened policy of immigration need not throw open the floodgates to a wave of immigrants we could not absorb or would not want for some valid reason of national interest. But we must avoid what the Massachusetts poet John Boyle O'Reilly once called, "organized charity, scrimped and iced, in the name of a cautious, statistical Christ."

Our policy should be generous; it should be fair; it should be flexible. With such a policy we could take up the other problems of the world with clean hands and a clean conscience. And the lady in the harbor could hold up her head as well as her lamp.

#### OREGON ECONOMIC PROBLEMS— EDITORIAL BY SENATOR NEUBERGER FROM PORTLAND JOURNAL

Mr. NEUBERGER. Mr. President, the Oregon Daily Journal in my home city of Portland has been performing a public service in presenting a wide range of viewpoints and opinions as to how the economic difficulties confronting the State of Oregon may best be corrected and resolved.

Many statistics—as well as actual hardship among numerous people—have demonstrated that Oregon has not been sharing in the so-called nationwide prosperity. For example, average incomes in Oregon were \$202 higher than the national average during 1947, but \$10 below the national average in 1956.

In keeping with other brief Senate speeches which I have made to call to

the attention of my colleagues some of the Federal policies which are urgently needed by our State of Oregon, I ask unanimous consent to have printed in the body of the RECORD a guest editorial which I contributed to the Oregon Daily Journal of August 24, 1957, as one of a series, on this vital topic. The title of this guest editorial is "Oregon Must Let Mind Be Bold, Seek Industries."

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

#### OREGON MUST LET MIND BE BOLD, SEEK INDUSTRIES

(By RICHARD L. NEUBERGER, U. S. Senator from Oregon)

Every American region heavily reliant on lumber has had to produce some new form of permanent payrolls to take up the slack in saw-timber employment. This happened in New England, in the lake States and in the South. It explains why, for the last 4 years, I have been talking and writing about the growing crisis confronting our State. It tells why average incomes in Oregon were \$202 above the national average in 1947 but \$10 below in 1956.

Let me emphasize that Oregon is not gripped by depression. The whole country still responds to the vast \$44 billion which the Government is pumping into the economy for armaments. But Oregon is a long way from sharing in the nationwide boom.

I should like to describe some of the things which a number of us have been attempting to do about this grave and urgent situation:

The administration's tight-credit policy has choked off new housing starts. Oregon lumber is geared to the housing market. After all, a home buyer must pay \$8,760 in interest alone if he purchases a \$15,000 house at 5 percent. To try to stimulate housing production, I joined with nine other Senators in a bipartisan plea directly to the President to lower FHA downpayments. We also have opposed the constant increase in interest rates.

Pulp mills could assure greater stability of employment in timber communities. That is why I risked political criticism to urge, as early as 1955, that subalpine stumpage be made available for this purpose. In British Columbia, for example, lumber production has risen 38 percent since 1939, but pulp has soared 180 percent. I have asked the Forest Service to determine the feasibility of small, community-financed pulp plants. Its technicians have informed me that mills with a daily capacity as small as 25 tons might be operated successfully in Oregon.

Low-cost power is the key to payrolls. That explains why we have fought for projects like John Day, Hells Canyon, and the Canadian storage. I have favored Federal dams not for political reasons, but because the Bonneville industrial rate of 2.1 mills a kilowatt-hour has never been matched by private utilities. With modern steam plants generating for 3.5 mills in the Ohio Valley, how can 6-mill private power bring new factories to distant Oregon?

If we develop further supplies of low-cost Columbia River power, much of that energy should be used primarily to create new industrial payrolls. That is why I have introduced an amendment to the preference clause to give industry a higher priority than household use when new power comes on the line.

High freight rates are throttling our ability to sell Oregon goods and produce in the major markets of the East. We have introduced legislation to repeal the 3 percent Federal freight tax. We also are seeking abandonment of the Pittsburgh-plus system of ratemaking, which discourages

processing of raw materials in the Western States.

Only a small segment of Oregon agriculture qualifies for Federal price-support payments. We have worked for the two-price plan for wheat, for broadening of Public Law 480 to sell surplus Oregon fruits and grain abroad, for including row crops in soil-bank benefits, and for a basin account to underwrite irrigation projects like that on the Crooked River with a portion of power revenues. This would help to give Oregon farmers a measure of equality with those who raise favored commodities such as corn or tobacco.

There are other avenues of encouragement too numerous to cite here. Oregon, I think, must heed the vigorous wisdom of Justices Holmes and Brandeis when together they wrote: "If we would guide by the light of reason, we must let the mind be bold."

#### AMENDMENTS OF IMMIGRATION AND NATIONALITY ACT

Mr. JOHNSON of Texas. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives on Senate bill 2792.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2792) to amend the Immigration and Nationality Act, and for other purposes, which were, on page 2, line 10, strike out "years." and insert "years: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this act."; on page 3, line 22, strike out "this" and insert "the Immigration and Nationality"; on page 3, after line 22, insert:

(c) Any visa which has been or shall be issued to an eligible orphan under this section or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business.

(d) The Attorney General may, pursuant to such terms and conditions as he may by regulations prescribe, adjust the status to that of an alien lawfully admitted for permanent residence, as of the date of his arrival in the United States, in the case of an alien who was paroled into the United States under section 212 (d) (5) of the Immigration and Nationality Act if such alien at the time of his arrival in the United States was an eligible orphan as defined in section 5 of the Refugee Relief Act of 1953, as amended, and was, or thereafter has been, adopted by a United States citizen and spouse in a court of proper jurisdiction.

On page 4, line 7, after "residence" insert "(1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2)"; on page 4, line 25, strike out "prescribe." and insert "prescribe: *Provided*, That the Attorney General shall promptly make a

detailed report to the Congress in any case in which the provisions of this section are applied: *Provided further*, That no visa shall be issued under the authority of this section after June 30, 1959."; on page 7, line 1, strike out "sections" and insert "section"; on page 7, line 15, strike out "(241)." and insert "(241)", nor shall any person acquiring exchange visitor status subsequent to the enactment of that Act, and who has not received a waiver pursuant thereto, be eligible for adjustment of status under this section."; on page 8, line 2, strike out all after "are" down through and including "Act—" in line 3, and insert "terminated effective July 1, 1957—"; on page 9, line 1, strike out "adopted" and insert "adoptive"; on page 10, line 5, strike out all after "provisions," down through and including "Act," in line 8; on page 10, line 11, after "If" insert "after consultation with the Secretary of State,"; on page 10, line 13, after "character," insert "that he is admissible for permanent residence under the Immigration and Nationality Act,"; on page 12, line 4, strike out "allotted" and insert "allotted,"; on page 12, line 6, strike out "Act" and insert "Act,"; on page 12, strike out lines 13 and 14; on page 12, line 15, strike out "(4)" and insert "(3)"; on page 12, line 23, after "alien" insert "as described in this section,"; and on page 14, after line 3, insert:

SEC. 16. In the administration of section 301 (b) of the Immigration and Nationality Act, absences from the United States of less than twelve months in the aggregate, during the period for which continuous physical presence in the United States is required, shall not be considered to break the continuity of such physical presence.

Mr. JOHNSON of Texas. Mr. President, this is the immigration bill, which recently was passed by the Senate. It is an important piece of legislation in which I am deeply interested, and to which I have given much time and attention.

I call the message to the attention of the Senator from Massachusetts [Mr. KENNEDY], who has been handling the bill.

Mr. KENNEDY. Mr. President, the amendments which the House added improve the bill. They are all of a technical and clarifying nature. All of them improve the bill. I believe that is the opinion also of the Senator from Mississippi [Mr. EASTLAND], the chairman of the committee.

I am hopeful that the Senate will concur in the House amendments. I so move.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate reconsider the vote by which the report was agreed to.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana.

The motion to lay on the table was agreed to.

#### ORDER FOR CALL OF THE CALENDAR TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that it be in order on tomorrow, after the morning business, at a time to be announced, to call up bills on the calendar which are cleared for action but which have not been called up by motion.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

#### INVESTIGATION OF ANTITRUST AND ANTIMONOPOLY LAWS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Order No. 1095, Senate Resolution 166.

I will say to Senators, so far as I am aware, there will be no rollcalls tonight. If anything controversial comes up, I will ask that it go over until tomorrow. There are 8 or 10 bills we would like to call. We have had them cleared by the majority and the minority policy groups. If a controversy develops, I will ask that they go over until tomorrow. Any Senator who desires may retire from the Chamber. I thank them for their cooperation.

The VICE PRESIDENT. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 166) amending Senate Resolution 57, 85th Congress, authorizing an investigation of antitrust and antimonopoly laws and their administration.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. JOHNSON of Texas. Mr. President, I should like to inform the Senate that this is a resolution to continue the investigation of antitrust and antimonopoly laws. The minority leader has approved taking up the resolution by motion. It was held up on the last calendar call. Since then a study of the resolution has been made, and it has been included for action. I hope the Senate will adopt it.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution (S. Res. 166) was agreed to, as follows:

*Resolved*, That Senate Resolution 57, 85th Congress, agreed to January 30, 1957 (authorizing an investigation of antitrust and antimonopoly laws and their administration), is hereby amended by striking out "\$225,000" and inserting in lieu thereof "\$275,000."

#### ELECTION OF TWO COUNTY COMMITTEES IN CERTAIN COUNTIES UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to consideration of Calendar No. 1063, H. R. 8508.

The VICE PRESIDENT. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 8508) to provide that there shall be two



county committees elected under the Soil Conservation and Domestic Allotment Act for certain counties.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a brief explanation of the bill.

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

The Soil Conservation and Domestic Allotment Act provides for the election of one county committee in each county, to be utilized in administering that act and other agricultural programs. For many years, without any apparent authority, two county committees have been elected in each of the four counties named in the bill. Due to geographic location, number of farms, and other factors, other agricultural agencies and the county governments, as well as the committees here concerned, have operated two offices in each of these counties; and this method of administration has worked out very well. Recently it was brought to the attention of the Department that this method was not in accordance with law, and the State committees have now been notified that only one committee should be elected.

This bill would provide for two county committees in each of the four counties and thereby maintain the existing arrangement, which is the result of a need for two offices and which has worked very well.

The VICE PRESIDENT. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### ADDITIONAL OFFICE SPACE IN HOME DISTRICTS FOR CONGRESSMEN, DELEGATES, AND RESIDENT COMMISSIONERS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1147.

The VICE PRESIDENT. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 9282) to provide additional office space in home districts of Congressmen, Delegates, and Resident Commissioners.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### TELEPHONE AND TELEGRAPH SERVICE FURNISHED MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to

the consideration of Calendar No. 1148, H. R. 9406.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 9406) to amend the act of June 23, 1949, to provide that telephone and telegraph service furnished Members of the House of Representatives shall be computed on a biennial rather than an annual basis.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### PRINTING AS HOUSE DOCUMENT MATERIAL RELATING TO CENTRAL VALLEY PROJECT, CALIF.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1149, House Concurrent Resolution 176.

The VICE PRESIDENT. The concurrent resolution will be stated.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 176) authorizing the printing as a House document of certain material relating to the Central Valley project of California, and providing for additional copies.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the concurrent resolution was considered and agreed to.

#### PRINTING OF HOUSE DOCUMENT

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1150, House Concurrent Resolution 188.

The VICE PRESIDENT. The concurrent resolution will be stated.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 188) authorizing the printing as a House document of the document entitled "Congress and the Monopoly Problem: 56 Years of Antitrust Development, 1900-1956."

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the concurrent resolution was considered and agreed to.

#### SUBSISTENCE ALLOWANCE FOR GRAND AND PETIT JURORS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1152, H. R. 3370.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 3370) to amend section 1871 of title 28, United States Code, to increase the

mileage and subsistence allowances of grand and petit jurors.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to, and the Senate proceeded to consider the bill.

The VICE PRESIDENT. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### TARIFF TREATMENT OF ISTLE OR TAMPICO FIBER

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 882, H. R. 7096.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 7096) to amend paragraph 1684 of the Tariff Act of 1930 with respect to istle or Tampico fiber.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

Mr. BEALL. Mr. President, I have an amendment—

Mr. CASE of South Dakota. Mr. President, reserving the right to object, may I ask that the amendments be read?

Mr. BEALL. I ask the clerk to read the amendment.

The VICE PRESIDENT. The clerk will state the committee amendments.

Mr. JOHNSON of Texas. Mr. President, may we have order in the Chamber?

The VICE PRESIDENT. The committee amendments will be stated.

Mr. CASE of South Dakota. Mr. President, reserving the right to object to the consideration of the bill, and not knowing what the amendment—

Mr. JOHNSON of Texas. Mr. President, I ask that the bill go over. I ask the Senator from Maryland to confer with the Senator from South Dakota to see if he can clear the bill.

The VICE PRESIDENT. The bill will go over.

Mr. CASE of South Dakota subsequently said: Mr. President, I wish to say I had objected to the consideration of Calendar No. 882 for the reason that it dealt with the tariff. I had heard that there was a possibility that an amendment would be offered to put mica on the free list. I do not know whether that was a committee amendment or not. I understand the amendment proposed to be offered by the Senator from Maryland [Mr. BEALL] referred to putting wool on the free list. I would have objected to the consideration if it meant putting wool on the free list. Therefore, I respectfully request that Order No. 882, dealing with the Tariff Act, not be passed on a consent call.

Mr. JOHNSON of Texas. We are not passing anything on the Consent Calendar. Bills are being called up by motion. The fact that the Senator from South Dakota wants time to study it is sufficient to have the bill go over. I ask that the

bill go over so that the Senator from South Dakota may discuss it with the Senator from Maryland.

The VICE PRESIDENT. The bill will be passed over.

#### INCREASE IN SALARIES OF CERTAIN EXECUTIVES OF THE ATOMIC ENERGY COMMISSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1185, H. R. 8994.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 8994) to amend the Atomic Energy Act of 1954, as amended, to increase the salaries of certain executives of the Atomic Energy Commission, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, the Senator from Washington [Mr. JACKSON] has a brief explanation to make of the bill.

Mr. JACKSON. Mr. President, the bill has the unanimous approval of the Joint Committee on Atomic Energy. It passed the House of Representatives unanimously. It will equalize salaries of all officials and top executives of the Atomic Energy Commission with those of other executives in the executive branch and in the independent agencies.

I ask unanimous consent that I may include in the RECORD at this point a statement on the bill.

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

##### STATEMENT BY SENATOR JACKSON

The purpose of this bill, as set forth in the report of the Joint Committee on Atomic Energy (S. Rept. No. 790) is to equalize the salaries of the Commissioners and top executives of the Atomic Energy Commission with those of other executives in the executive branch and in the independent agencies.

Last year Congress enacted the Federal Executive Pay Act of 1956. That act raised the salaries of executives generally in the executive branch and in the independent agencies, and it is the purpose of this bill to provide equal treatment for the executives of the Atomic Energy Commission.

The background of this bill is set forth in the committee report, Senate Report No. 790.

Last year the Joint Committee unanimously recommended a salary bill for AEC executives, contingent upon passage of the Federal Executive Pay Act, but that act passed late in the session, and the AEC salary bill was not considered by the Congress. This year the Joint Committee again considered the question and has recommended unanimously this legislation to bring the AEC executives up to the same salary levels as those of other executives.

This bill raises the salary of the Chairman of the Commission from \$20,000 per annum to \$22,500 per annum, which is on the same level as the Under Secretary of State and the Deputy Secretary of Defense. Prior to the Federal Executive Pay Act of 1956, the Chairman of the Commission was on the same level with those other offices, but he is now receiving a lesser salary. The

purpose of this bill is to equalize this situation.

Other salaries of AEC executives are raised as follows:

The other four Commissioners of the Atomic Energy Commission, from \$18,000 to \$22,000; the General Manager, who is the chief executive officer, from \$20,000 to \$22,000; the division directors from \$16,000 to \$19,000; and the General Counsel from \$16,000 to \$19,500. The bill also establishes the position of Deputy General Manager at a maximum salary of \$20,500; three Assistant General Managers or their equivalent at maximum salary of \$20,000; and a maximum of six other Executive Manager positions at a salary not to exceed \$19,000 per annum.

Thus the bill affects only the Commissioners and top executives in the AEC. The Joint Committee has studied this bill carefully, and all of these increases are consistent with the provisions of the Federal Executive Pay Act as applicable to other agencies, and are only intended to provide fair and equal treatment to AEC executives.

The executives of the Atomic Energy Commission are responsible for administering our entire atomic-energy program for both military and peaceful purposes. Just last week, the Congress authorized and appropriated more than \$2 billion to run this program during the next fiscal year. If we are to have a well-run program, I think it is important that we have good executives to direct that program. The total investment of the taxpayers of our country in atomic energy is now more than \$17 billion.

Only this month Dr. Tom Johnson, Director of the Division of Research, left the AEC to go with private industry. I am sure that many other executives in the Commission have received similar attractive financial offers to leave the AEC and go with private industry.

Also, late this year or early in 1958 the Commission will move to a new headquarters building near Germantown, Md., about 30 miles outside of Washington, D. C. It is a real possibility that they will lose many of their employees, including some of the top executives. In order to try to prevent this loss, and to equalize the salaries of AEC executives with executives in other agencies of the Federal Government, I urge the Senate to enact S. 2672, in accordance with the unanimous recommendation of the members of the Joint Committee.

The VICE PRESIDENT. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### CONVEYANCE OF LAKE OR BAYOU TO CITY OF COUNCIL BLUFFS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of H. R. 8928, and that the Senate proceed to its consideration.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 8928) to amend the act of June 9, 1880, entitled "An act to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city."

The VICE PRESIDENT. Is there objection to the request of the Senator from Texas?

Mr. PURTELL. Mr. President, what is the calendar number?

Mr. JOHNSON of Texas. It is not on the calendar. The bill just came over from the House.

The VICE PRESIDENT. Without objection, the Committee on Interior and Insular Affairs is discharged from the further consideration of the bill.

Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

#### CONTINUATION OF PROVISIONS OF TITLE II OF THE FIRST WAR POWERS ACT OF 1941

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1186, H. R. 7536. I announce that this will be the last bill we shall take up tonight.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 7536) to amend the act of January 12, 1951, as amended, to continue in effect the provisions of title II of the First War Powers Act of 1941.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. WATKINS. Mr. President, reserving the right to object—

Mr. JOHNSON of Texas. Mr. President, I moved that the Senate proceed to the consideration of Calendar 1186, H. R. 7539. It was a motion, not a unanimous consent request.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. O'MAHONEY. Mr. President, this bill has been unanimously approved by the Committee on the Judiciary. It is an essential bill. The act which it extends expired on the 30th of June 1957. The Defense Department needs an extension of the act, as set forth in the report. Otherwise, there would be large claims against the United States if this relief were not granted.

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

Mr. O'MAHONEY. I yield.

Mr. THYE. I wish to say the bill has been approved by the Calendar Committee, and I believe that every objection to and every question about the bill have been cleared.

Mr. O'MAHONEY. Mr. President, I ask unanimous consent that there may be printed in the RECORD a statement explaining the bill, together with letters from various departments affected, setting forth their interpretations.

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

This bill extends authority first conferred upon the President by the Congress at the outset of World War II. It was reactivated during the Korean conflict. It is essentially emergency legislation which has survived the periods of its creation and re-creation. The authority which it confers has been rede-



gated by the President to several agencies of the Government, among them the Departments of Defense, Army, Navy, Air Force, commerce, Agriculture and Interior, the Atomic Energy Commission, the Government Printing Office, the General Services Administration, the Tennessee Valley Authority, the Federal Civil Defense Administrator, and the National Advisory Committee for Aeronautics. Under this authority these executive departments and agencies are empowered to amend or modify Government contracts without additional consideration, where, for example, an actual or threatened loss on a defense contract will impair the productive capacity of a contractor whose continued existence is necessary to the national defense. Officials likewise may make advance payments on contracts to be executed in the future or to extend delivery or completion dates in certain cases. Mistakes and ambiguities in contracts may be rectified and indemnity payments may be guaranteed for otherwise noninsurable risks. Oral agreements may be formalized. These are certainly extraordinary powers and their extension at a time when the United States is not engaged in any conflict should be permitted only upon a detailed showing of their necessity. Time, and the press of other matters, however, has not permitted such a detailed examination. However, the committee has secured certain commitments from the principal departments and agencies engaged in the use of this authority with respect to its use. It has been agreed, for example, that it will not be used for the purpose of avoiding competitive bidding. It has also been agreed that it will not be used as authorization for the waiver of any bid, payment, performance, or other bonds required by law. It is further agreed that it would not be used as authorization for the making of any progress payments, nor for the formalization of any informal commitment except where exigencies of time have made immediate formalization of the agreement impracticable. It also has been agreed that this authority shall not be used to increase the contract price beyond the lowest competitive bid previously submitted where the competitive bids were disregarded and contracts entered into by negotiation. These commitments do not, by all means, cover all the adverse possibilities which are inherent in the continued extension of this authority. However, such adverse possibilities as remain must be balanced against the need of the departments of Government to make arrangements vital to the national defense in periods of international uncertainty.

The committee sought to bring as nearly into balance, as possible, in the time remaining, the needs of the executive departments and the necessity for protection against possible abuses of authority.

While I would have preferred to examine this authority in detail by full and complete hearings, I recognize, as did the committee, that such a procedure late in the Congressional session was simply not possible. Consequently, the committee has chosen this course of extending the authority with certain commitments as the best avenue remaining by which to accomplish the desired ends of both the Senate and the executive departments.

#### UNITED STATES

##### ATOMIC ENERGY COMMISSION,

Washington, D. C., August 27, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate.

DEAR SENATOR EASTLAND: In your letter of August 26, 1957, you explained that if the Senate Judiciary Committee reported H. R. 7536, a bill to extend title II of the First War Powers Act, with an amendment, the bill might not be enacted this year. You

also stated that if the principal agencies exercising the authority granted by this act agreed to apply such authority only to contracts entered into on or before June 30, 1957, the committee would report the bill without amendment.

The proposed limitation on the application of this authority would have the effect of preventing the Commission from using the authority of title II of the First War Powers Act when entering into contracts after June 30, 1957; in amending or modifying such contracts; and in making advances under such contracts.

This authority has been exercised only in a limited number of situations by the Commission because of other special authority available to the Commission. For example, the President may, pursuant to section 162 of the Atomic Energy Act of 1954, exempt the Commission from the provisions of law relating to contracts when he has determined that such action is essential in the interest of the common defense and security. In addition, authority to make advance payments under many contracts is provided in the Atomic Energy Act of 1954, and additional authority to indemnify contractors against nuclear hazards is contained in H. R. 7383, which has been enacted by the Congress and sent to the President.

In view of the fact that the other authority mentioned above that is available to the Commission appears adequate for most of the contingencies that may arise, we have no objection to limiting the application of title II of the First War Powers Act as desired by the Senate Committee on the Judiciary.

The Bureau of the Budget has informed us that there is no objection to the submission of these comments.

Sincerely yours,

K. E. FIELDS,  
General Manager.

#### TENNESSEE VALLEY AUTHORITY,

Knoxville, Tenn., August 27, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate, Wash-  
ington, D. C.

DEAR SENATOR EASTLAND: This is to advise you in response to your letter of August 26, that in the event H. R. 7536, to extend the authority of title II of the First War Powers Act, is approved in the present session of Congress, the Tennessee Valley Authority will use the authority granted thereunder only with respect to contracts entered into on or before June 30, 1957.

Sincerely yours,

HERBERT D. VOGEL,  
Chairman of the Board.

#### GENERAL SERVICES ADMINISTRATION,

Washington, D. C., August 28, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate, Wash-  
ington, D. C.

DEAR SENATOR EASTLAND: Your letter of August 26, 1957, advised us that your committee had voted to report H. R. 7536, a bill to extend the authority of title II of the First War Powers Act, on condition that the principal departments and agencies to which this authority has been delegated would agree in writing to restrict their use of that authority.

If H. R. 7536 is passed, this agency will not use title II of the First War Powers Act as authority for (1) negotiating contracts in order to avoid competitive bidding; (2) making progress payments; (3) waiving performance, payment, bid, or other bonds; (4) entering into informal commitments to be finalized at a subsequent date, except when a transaction is of such extreme urgency that there is not time for preparation of the formal contract; or (5) amending without consideration contracts entered into by ne-

gotiation after rejection of all bids (under section 302 (c) (13) of the Federal Property and Administrative Services Act of 1949) so as to increase the contract price above the amount of the low bid received.

We will also be prepared to report to your committee at the next session of Congress concerning all contracts entered into pursuant to the authority provided in title II.

I hope that these commitments will be satisfactory, and that H. R. 7536 may be enacted before the adjournment of the Congress, as we consider it most important that the title II authority be available for use in a limited number of cases arising out of our defense activities.

Sincerely yours,

FRANKLIN G. FLOETE,  
Administrator.

#### NATIONAL ADVISORY COMMITTEE

##### FOR AERONAUTICS,

Washington, D. C., August 27, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate, Wash-  
ington, D. C.

DEAR SENATOR EASTLAND: In accordance with your letter dated August 26, 1957, the National Advisory Committee for Aeronautics agrees that the authority of title II of the First War Powers Act, delegated to NACA by Executive Orders No. 10210 and 10216, dated February 2, 1951, and February 23, 1951, respectively, will be applied only to contracts entered into on or before June 30, 1957.

The authority under title II was last used by NACA on July 30, 1956.

Sincerely yours,

J. F. VICTORY, Acting Director.

#### DEPARTMENT OF AGRICULTURE,

Washington, August 27, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate.

DEAR SENATOR EASTLAND: This is in reference to your letter of August 26, regarding H. R. 7536, a bill to extend the authority of title II of the First War Powers Act and the committee's agreement to report this bill upon the express condition that the principal departments and agencies to whom this authority has been delegated agree in writing to apply such authority only to contracts entered into on or before June 30, 1957.

This Department agrees to apply the authority of title II of the First War Powers Act only to contracts entered into on or before June 30, 1957.

Sincerely yours,

E. T. BENSON, Secretary.

#### UNITED STATES GOVERNMENT

##### PRINTING OFFICE,

Washington, D. C., August 28, 1957.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,  
United States Senate, Wash-  
ington, D. C.

DEAR SENATOR EASTLAND: Receipt is acknowledged of your August 26 letter concerning the action of the Committee on the Judiciary on H. R. 7536.

I have been hopeful that the War Powers Act would be extended allowing the Government Printing Office to negotiate contracts when and if necessary subject, of course, to the review of the Congressional Joint Committee on Printing which approves all of our contracts.

Our use of the authority was under stringent control and has been held to the barest minimum to meet needs of the Government which could not be otherwise satisfied.

We have no contracts in force on or before June 30, 1957, which would require an extension of the authority.

In view of the presentation made by you in your August 26 letter, we agree to not use

the authority for contracting after June 30, 1957.

Very truly yours,  
RAYMOND BLATTENBERGER,  
Public Printer.

GENERAL COUNSEL,  
DEPARTMENT OF DEFENSE,  
August 27, 1957.

HON. JAMES O. EASTLAND,  
Senate Office Building,  
Washington, D. C.

DEAR SENATOR EASTLAND: This letter is written in reply to yours of August 26, 1957, with respect to H. R. 7536, in which you stated that your committee at its meeting August 26, 1957, agreed to report favorably H. R. 7536 upon certain conditions.

The Secretary of Defense has requested that I advise you that the Department of Defense undertakes that the military departments will not use title II of the First War Powers Act, if extended by H. R. 7536, as the authority for any of the following actions:

1. For negotiation of contracts without formal competitive bidding or for the elimination of formal advertising requirements in connection with the letting of contracts;
2. For authorizing the waiver of any bid, payment, performance, or other bonds required by other laws;
3. For authorizing the making of any progress payment;
4. For increasing (in case after rejection of all competitive bids a contract has been entered into by negotiation under the authority of 10 U. S. C. 2304 (a) (15)) the amount of the contract price in such a case to a figure higher than the lowest competitive bid among those rejected;
5. For the formalization of informal commitments made hereafter, except in the case where exigencies of time requirements make formalization at the time impracticable.

I am sure you understand that in making the above undertakings we do not mean to indicate that the Department of Defense has in fact been following these practices, but we understand the desire of your committee to have these positive assurances.

We greatly appreciate the willingness of your committee to consider this means of meeting the situation created by the imminent adjournment of Congress. We shall, of course, keep careful records of any use at all of the authority under title II in the event that H. R. 7536 is passed and shall be prepared to report to you fully at the next session of Congress as to such use.

We shall send you for the information of yourself and your associates a separate memorandum which will indicate some of the most important situations which occasionally arise and which can be dealt with in the interests of defense under title II but which otherwise may be impossible to meet under other authority.

Sincerely,

ROBERT DECHERT,  
General Counsel, Department of Defense.

The VICE PRESIDENT. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

#### JOINT COMMITTEE TO INVESTIGATE MATTERS PERTAINING TO GROWTH AND EXPANSION OF THE DISTRICT OF COLUMBIA

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the amendment of the Senate numbered 1 to the concurrent resolution (H. Con. Res. 172) to estab-

lish a joint Congressional committee to investigate matters pertaining to the growth and expansion of the District of Columbia and its metropolitan area, which was, in line 3 of the Senate matter, strike out all after the word "Senate," and insert "to be appointed by the chairman of such committee, and three members of the Committee on the District of Columbia of the House of Representatives, to be appointed by the Speaker of the House of Representatives.

Mr. BIBLE. Mr. President, I move that the Senate agree to the amendment of the House to the amendment of the Senate numbered 1.

The VICE PRESIDENT. The question is on agreement to the motion of the Senator from Nevada.

The motion was agreed to.

#### ORDER FOR ADJOURNMENT TO 9 A. M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today it stand in adjournment until 9 o'clock tomorrow morning.

Mr. WATKINS. Mr. President, reserving the right to object—

Mr. JOHNSON of Texas. I am not making a motion. I am asking that the order be entered.

Mr. WATKINS. I hope the Senator will, because I would like to get home and get cleaned up. Why not make the hour 10 o'clock?

Mr. JOHNSON of Texas. I may say to the Senator from Utah that when the Senate convenes at 9 o'clock, there will be a morning hour, and he may come in at his convenience.

Mr. WATKINS. There is certain proposed legislation in which I am interested, and which I should like to have taken care of.

Mr. JOHNSON of Texas. The Senator from Utah always takes care of legislation he is interested in. I do not know of any Senator who does a better job in the Senate in doing that. When the Senate convenes there will be a prayer, then there will be a morning hour. The Senator from Utah rarely occupies much of the Senate's time in the morning hour. There will be a number of insertions in the RECORD, a number of brief speeches, some for world consumption, some for national consumption, and some for home consumption. By the time that is completed, the Senator from Utah may get here and join us, so we may complete our business and go home.

Mr. President, I will revise my request. The Senator from Utah has made a good suggestion. I ask unanimous consent that when the Senate adjourns today, it adjourn to convene at 9 o'clock today. [Laughter.]

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

#### CONVEYANCE OF CERTAIN LAND BY THE SECRETARY OF THE ARMY TO THE COUNTY OF LOS ANGELES, CALIF.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to

the consideration of Calendar No. 1135, H. R. 230. This is a very important bill and it concerns the State of California, from which the Vice President and the minority leader come, and I am vitally interested in it myself. I should like to have the minority leader give a brief explanation of the bill.

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

The LEGISLATIVE CLERK. A bill (H. R. 230) to require the Secretary of the Army to convey to the county of Los Angeles, Calif., certain portions of a tract of land heretofore conditionally conveyed to such county.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. KNOWLAND. Mr. President, this bill was unanimously reported from the Committee on Armed Services. The purpose of the bill is to require the Secretary of the Army to convey to the county of Los Angeles, Calif., all right, title, and interest of the United States in and to certain portions of a tract of land heretofore conditionally conveyed to such county. This is one of a series of relinquishments of residual rights of the United States in portions of this property.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. KNOWLAND. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. WATKINS. I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Utah to lay on the table the motion of the Senator from California.

The motion to lay on the table was agreed to.

#### CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1179, S. 77.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 77) to establish the Chesapeake and Ohio Canal National Historical Park and to provide for the administration and maintenance of a parkway in the State of Maryland, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 3, line 3, after the words "in the", to insert "provisions of the"; on page 4, line 9, after the word "parkway", to strike out "connection, by way of" and insert "approximately twenty-five miles, traversing generally"; in line 11, after the word "Hill" to strike out "Ridge"; in line 12, after the numerals "51", to strike out "and"; in line 13, after the word "and", to insert "extending to", and on page 5, line 13, after



the word "thereof", to insert a colon and "And provided further, That designation of lands for Chesapeake and Ohio Canal National Historical Park purposes shall not debar, or limit, or abridge its use for such works as Congress may in the future authorize for improvement and extension of navigation, or for flood control, or irrigation, or drainage, or for the development of hydroelectric power or other purposes."

So as to make the bill read:

*Be it enacted, etc.,* That (a) there is hereby established the Chesapeake and Ohio Canal National Historical Park, for the purpose of preserving and interpreting certain property in the State of Maryland for the benefit and inspiration of the people. The park, as initially established, shall comprise that particular property in Federal ownership containing not to exceed 4,800 acres, and situated along the line of the Chesapeake and Ohio Canal between the terminus of the George Washington Memorial Parkway, above the Great Falls of the Potomac River and a point within or in the vicinity of the city of Cumberland, Md., as may be determined by the Secretary of the Interior. The park may comprise such additional lands as may be acquired pursuant to subsection (b) hereof: *Provided*, That the total area of such park, including land already in Federal ownership, shall not exceed 15,000 acres.

(b) The Secretary of the Interior is hereby authorized to acquire in such manner as he may consider to be in the public interest such lands and interests in lands in the State of Maryland in the vicinity of the canal and existing Government canal property as he deems desirable for the purposes of the said park.

(c) Subject to the purposes and general requirements of this act, the Secretary of the Interior is authorized to cooperate with the State of Maryland, with its political subdivisions and with other Federal agencies, in promoting such land use or development programs, through cooperative agreements or leases for terms not to exceed 50 years, as will further the objectives for the park and of the State of Maryland concerning wildlife propagation, wilderness conservation, public recreation, and related purposes.

(d) The authority granted in the act of September 22, 1950 (64 Stat. 905), to effect land exchanges for the purposes of the proposed Chesapeake and Ohio Canal Parkway and in the provisions of the act of August 1, 1953 (67 Stat. 359), to grant easements for rights-of-way through, over, or under lands along the line of the Chesapeake and Ohio Canal is hereby continued and may hereafter be exercised by the Secretary of the Interior with respect to lands included in the Chesapeake and Ohio Canal National Historical Park. The Secretary is authorized also to convey such Chesapeake and Ohio Canal lands within and in the vicinity of Cumberland, Md., which are not included in the Chesapeake and Ohio Canal National Historical Park in exchange for other land or interests therein of approximately equal value that are authorized by this act to be acquired for the park.

Notwithstanding section 1 (a) of the act of May 29, 1930 (46 Stat. 482, 483), that portion of the Chesapeake and Ohio Canal between the terminus of the George Washington Memorial Parkway above Great Falls and Point of Rocks, in the State of Maryland, shall hereafter be part of the Chesapeake and Ohio Canal National Historical Park.

(e) Any funds that may be available for purposes of administration of the Chesapeake and Ohio Canal property above the Great Falls terminus of the George Washington Memorial Parkway may hereafter be used by the Secretary for the purposes of the Chesapeake and Ohio Canal National Historical Park.

Sec. 2. (a) In accordance with the purposes of this act and to facilitate access to and enjoyment by the public of the scenic and recreational values of the Chesapeake and Ohio Canal National Historical Park and the Potomac River Valley, there is hereby authorized to be established, without regard to the maximum acreage limitation prescribed in section 1, of this act, a scenic parkway approximately 25 miles, traversing generally Town Hill and other suitable terrain, between Maryland Route 51 in the general vicinity of Paw Paw, W. Va., and extending to the existing Long Ridge Road near Woodmont, Md., such parkway connection to be a part of the aforesaid Chesapeake and Ohio Canal National Historical Park.

(b) The Secretary of the Interior is authorized to accept on behalf of the United States, donations of land and interests in lands for purposes of the parkway provided for in section 2 (a) of this act. The right-of-way for such parkway shall be of such width as to comprise not more than an average of 100 acres per mile for its length.

Sec. 3. (a) Within 5 years after the approval of this act, the Secretary of the Interior shall file with the National Archives a map showing the lands within the maximum authorized acreages prescribed in subsections 1 (a) and 2 (b) of this act which are to comprise the Chesapeake and Ohio Canal National Historical Park and Parkway, respectively: *Provided*, That the filing of such map shall not affect the authority of the Secretary subsequently to acquire, in accordance with subsections 1 (b) and 2 (b), non-Federal lands within the boundaries of the park and parkway as depicted on said map. Such historical park and parkway shall be administered under the general laws and requirements governing areas of the national park system in such manner as to preserve the historic, scenic, and recreational values and features thereof: *And provided further*, That designation of lands for Chesapeake and Ohio Canal National Historical Park purposes shall not debar, or limit, or abridge its use for such works as Congress may in the future authorize for improvement and extension of navigation, or for flood control, or irrigation, or drainage, or for the development of hydroelectric power or other purposes.

(b) The enactment of this act shall not affect adversely any valid rights heretofore existing within the areas hereby established as the Chesapeake and Ohio Canal National Historical Park and Parkway.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### STATEMENT BY SENATOR RUSSELL

Mr. RUSSELL. Mr. President, sometimes I make mistakes of which I never have knowledge, but when I do make them and have them called to my attention, I am always glad to correct them.

On Tuesday, August 27, I made a lapsus lingua which caused me to be rather critical of my distinguished friend from Illinois [Mr. DIRKSEN]. I found I was entirely at fault. I arise for the purpose of correcting my mistake and apologizing to the Senator from Illinois. In undertaking to withdraw a quorum call, which already had been withdrawn, I inadvertently said I asked to withdraw the call for the yeas and nays. It was purely a slip of the tongue. I was not undertaking to withdraw the yeas and nays, which had been requested by the Senator from California and sufficiently seconded. If I had been aware of the fact that I had made the error, I cer-

tainly should not have spoken in the same sharpness to my distinguished friend from Illinois.

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

Mr. RUSSELL. I yield.

Mr. DIRKSEN. The statement of the Senator is only further testimony of the graciousness, spirit of fairness, and the honorable dealing of my distinguished friend from Georgia. I am deeply grateful to him.

Mr. RUSSELL. I do not deserve the compliment.

#### MARTIN WUNDERLICH CO.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1187, H. R. 2654, a bill for the relief of the Martin Wunderlich Co.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 2654) for the relief of the Martin Wunderlich Co.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of purpose of the bill.

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

The purpose of the proposed legislation is to pay the Martin Wunderlich Co., a partnership, of Omaha, Nebr., the sum of \$111,539.59 in full settlement of all claims against the United States arising out of the company's contract with the Bureau of Reclamation for the construction of the Vallecito Dam on the Pine River in Colorado.

It is understood that this sum is not to be added to the costs allocable to water users, in accordance with the desires of the Department of Interior.

The Martin Wunderlich Co., a partnership, entered into a contract with the Bureau of Reclamation on March 14, 1938, for the construction of the Vallecito Dam on the Pine River in Colorado and completed this work to the satisfaction of the Bureau in 1941. During performance various disputes arose, the principal one concerning the amount of equitable adjustment due on account of a change under the contract known as change order No. 3. The contracting officer and, on appeal, the Department head, allowed an increase of \$44,208.85 on account of the said change.

The contract contained an article which provided that all disputes involving questions of fact were to be decided by the contracting officer with a right of appeal to the head of the Department whose decision was stated to be final and conclusive upon the parties. The language of that article was as follows:

"Article 15. Disputes: Except as otherwise specifically provided in this contract, all disputes concerning questions of fact arising under this contract shall be decided by the contracting officer subject to written appeal by the contractor within 30 days to the head of the Department concerned or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime the contractor shall diligently proceed with the work as directed."

The company would not accept this amount because it would not reimburse the company for its costs. (Ultimately the claimant did accept that amount when it was clear that acceptance would not prejudice its claim for a larger amount awarded it in a Court of Claims judgment.)

The case was promptly filed in the Court of Claims which held that the decision of the contract officer and the head of the Department was arbitrary, capricious, and grossly erroneous. Thus it was found that the Wunderlich claim was soundly based and in its judgment entered on June 5, 1950, the Court of Claims ruled that the plaintiff was entitled to recover \$164,760.83 on the contested claim and \$7,541.40 on the uncontested claim. The Government appealed to the Supreme Court which granted certiorari, and on November 26, 1951, reversed the decision of the Court of Claims, not upon the merits of the claim but upon the ground that the ruling of the Department could not be rejected "in the absence of fraud or such gross mistake as would necessarily imply bad faith, or a failure to exercise an honest judgment."

The issue, therefore, is whether the Wunderlich claimant should be denied its extra costs because, although the Court of Claims held that the action of the Department was "arbitrary, capricious, and grossly erroneous" it was not asserted to be fraudulent or in bad faith. This committee is of the opinion that in these circumstances, since Congress promptly amended the law so as to eliminate fraud or bad faith as a necessary element in a claim for an award, the effect upon the claimant is unduly harsh.

Shortly after the Supreme Court rendered its decision in 1951, several bills were introduced in both Houses of Congress to overcome the effect of the decision and cure the manifestly unjust situation. One bill, S. 2487, passed the Senate during the 82d Congress, but reached the House too late for action during that session. During the 83d Congress S. 24 was passed by both Houses and became Public Law 356. This law restored the earlier standards of judicial review, and permits the Court of Claims to set aside administrative decisions on the ground of fraud, including arbitrary or capricious action, and requires that administrative decisions must also be supported by substantial evidence. In the report of the House committee on S. 24, House Report 1380, 83d Congress, second session, the following observation was made concerning the need for corrective legislation:

"After extensive hearings it has been concluded that it is neither to the interests of the Government nor to the interests of any of the industry groups that are engaged in the performance of Government contracts to repose in Government officials such unbridled power of finally determining either disputed questions of law or disputed questions of fact arising under Government contracts, nor is the situation presently created by the Wunderlich decision consonant with tradition that everyone should have his day in court and that contracts should be mutually enforceable."

In the majority opinion of the Supreme Court reversing the decision of the Court of Claims in the Wunderlich case it was stated that "if the standard of fraud that we adhere to is too limited, that is a matter for Congress."

It is, therefore, apparent that the Supreme Court was well aware of the inflexibility of the narrowness of the grounds for review which were fixed by its decision.

It is contended that the Wunderlich Co. should not be entitled to the relief which H. R. 3274 asks, for the reason that its case has been finally disposed of by the decision of the Supreme Court in reversing the findings of the Court of Claims in its favor, prior to the passage of Public Law 356,

which was approved on May 11, 1954 (68 Stat. 81); and further, because this law covered only "any suit now filed or to be filed."

It is noted that inasmuch as the language of Public Law 356 reads exactly upon the decision reached by the Court of Claims in the Wunderlich case, the claimant's problem falls squarely within that area of difficulty which the said public law sought to remedy.

In the aforementioned House report on S. 24, the House committee states:

"Many of the contracts upon which present disputes are pending were entered into prior to the time that the Wunderlich case was decided, and at a time when the persons involved therein understood that judicial review was available to them on a less restricted basis than that of fraud. The committee believes that all such persons should receive the protection which would be afforded by this proposed legislation, but it does not believe that it would be practicable to reopen cases which have heretofore been decided by the courts."

The reason for this limitation against retroactivity was apparently based upon the fear that if the bill were made retroactive it would bring about a flood of cases. The attorneys who represented the Wunderlich Co. in the courts testified at hearings held in connection with Public Law 356 but made no attempt to have the bill made retroactive so as to apply to the Wunderlich claim. Specifically, one of the attorneys testified that he was aware that the proposed legislation would not apply to the Wunderlich Co. and stated "I think possibly Mr. Wunderlich should ask for specific relief later."

The committee notes that in the legislative history of S. 24, the House committee struck all after the enacting clause and rewrote the bill, specifically using the language "any suit now filed or to be filed." The committee further notes that the House Judiciary Committee has, in this session of Congress, approved this and one other bill directly relating to the circumstances disclosed in the Wunderlich decision, and two other bills indirectly bearing upon this decision. The committee draws the following conclusions from this situation: (1) that although the House committee originally insisted upon having no retroactive provision in Public Law 356, that the House committee now feels that the equities involved in these cases are sufficient to warrant private relief; (2) the fear, that passage of S. 24 with a retroactive provision would bring about a large number of like claims, was groundless, in view of the limited number of private claim bills of this type filed in this and the preceding Congresses.

The Department of the Interior is opposed to the enactment of this bill unless the Congress decides first that the standards laid down by Public Law 356 shall be applied in a case which had been finally adjudicated before it became law, and, secondly, that those standards, including the burden of proof which they impliedly require a claimant to bear, are met in this case.

The Department of Justice is opposed to the enactment of this bill.

The amount of this claim is for the moneys determined by the Court of Claims to be due the claimant less the money which the claimant has already received from the Government.

After careful consideration of the foregoing facts, particularly in view of the fact that the Court of Claims found the moneys to be due the claimant on the precise grounds set out in Public Law 356, and further in view of the obvious inequity of this situation with regard to the claimant and the very limited number of other persons similarly situated, the committee recommends that this bill be favorably considered.

Attached hereto and made a part hereof is the report of the Department of the Interior, the Justice Department, House Report No. 1380, of the 83d Congress, and other pertinent material.

The VICE PRESIDENT. The question is on the third reading and passage of the bill.

The bill (H. R. 2654) was ordered to a third reading, read the third time, and passed.

Mr. JOHNSON of Texas. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Montana to lay on the table the motion of the Senator from Texas to reconsider.

The motion to lay on the table was agreed to.

#### LEASING OF SPACE FOR FEDERAL AGENCIES

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1180, S. 2533.

The VICE PRESIDENT. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2533) to amend the Federal Property and Administrative Services Act of 1949, to authorize the Administrator of General Services to lease space for Federal agencies for periods not exceeding 15 years, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, I desire to have this bill the unfinished business. We shall not act on it tonight. We shall call the calendar tomorrow and attempt to clear up all bills on it.

#### PROPOSED LEGISLATION TO INCREASE ANNUITIES FOR CIVIL SERVICE RETIREES AND WIDOWS

Mr. SMATHERS. Mr. President, there is pending on the Senate Calendar proposed legislation to provide an increase in the annuities for our civil-service retirees and their widows. Proposed legislation is also pending on the House side, and though not as liberal as the proposed legislation reported out by the Senate Post Office and Civil Service Committee, would grant a 10-percent increase.

I strongly urge that action be taken to bring one or the other of the measures up for consideration, for I sincerely hope to be able to vote for an increase in benefits for those deserving senior citizens before the session ends.

We in the Congress have, in my opinion, a moral responsibility to these retirees who have spent the best part of their lives faithfully serving their Government. We know that they purchased their annuities with 100-cent dollars and that they are now being paid back in dollars which have decreased to 49 cents



in value. Today many of them are finding it difficult to even exist due to the high cost of living. They were the victims of galloping inflation, and continue to be the victims of creeping inflation. Now, in their advanced years, many of them are sick and disabled and look to the Government which they have served well to render justice in the twilight years of their lives.

The economic plight in which many of these retirees now find themselves is a desperate one indeed. It is one which we in the Congress cannot and should not ignore. I am hopeful, therefore, that there is yet time to work out the parliamentary situation so that this Congress can adjourn sine die with a feeling of satisfaction and comfort that justice has been done to this deserving class of our citizens.

#### SUMMARY OF PROGRESS MADE IN HEARINGS BY SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

Mr. KEFAUVER. Mr. President, I wish to make at this time a limited summary of the progress made in the hearings on the steel industry which have been conducted by the Subcommittee on Antitrust and Monopoly. At the very outset I wish to make it clear that what I have to say here represents my own personal interpretation and is not in the nature of a committee report, which will come later when the hearings on the steel industry have been completed. Owing to the press of business in the closing days of this session, it has not been possible for us to fulfill our original objective, which was to complete the hearings on the steel industry before Congress adjourned. It is our intention to resume the hearings some time early in October. Following the completion of our hearings on the steel industry it is our intention to make an inquiry into administered prices in the farm machinery industry.

In our hearings on the steel industry we have been concerned with three principal issues:

First. What is the cost of the recent price increases?

Second. Have these price increases exceeded the wage increase?

Third. How effective is competition in the steel industry in protecting the public interest?

As to the first, it is important to distinguish between the cost of the price increase to the steel-consuming industries from the ultimate cost to the consumer. The representative of the United Steelworkers Union pointed out that by the time an increase in the price of steel reaches the consumer in the form of consumer goods, it has been pyramided by the markups of successive manufacturers and distributors so that the ultimate cost to the consumer is substantially greater than the immediate cost to steel buyers.

But leaving this consideration aside, we have made a detailed, product-by-product, market-by-market tabulation of just the cost of the price increase to direct buyers of steel. To put it another way, this represents the increased gross revenue received by the steel industry

as a result of the price increase. Our estimate of the annual cost of the \$6-a-ton increase in the price of carbon steel on July 1 of this year is \$460 million. This is an underestimate, however, since it does not include alloy steel—which was also increased in price—or tinplate—which had its price increased 2 months earlier. When allowance is made for alloy steel and tinplate, the total is increased to \$540 million.

But this estimate is limited to the price increase occurring last month. There have been other price increases in the steel industry during the last 12 months. In August 1956, following the strike, the price was increased by \$8.50 a ton. Then throughout the year there has been a series of increases in the so-called extras, which are charges for particular specifications as to size, dimensions, quality, and so forth. In its issue of July 8 of this year, the trade journal, *Steel*, estimated that the cost of these increases during the period December 1956 to March 1957, together with a few increases in base prices amounted to an average of \$5 a ton. Thus, if we add to the \$6 increase of last July, the \$8.50 increase of the previous August and this \$5 increase in extras, we arrive at a total average increase in the price of steel during the last 12 months of \$19.50 a ton. If a \$6-a-ton increase represents an increase in total costs to steel buyers of around \$500 million, a price increase of \$19.50 means a total increased cost of \$1.6 billion. Inasmuch as the United States Steel Corp. accounts for approximately 30 percent of the industry, its increased revenues as a result of these price increases should be in the neighborhood of \$500 million per year.

The arithmetic employed by both the United States Steel Corp. and the United Steelworkers Union is extremely simple. What is involved is a multiplication of the number of man-hours required to produce a ton of finished steel times the amount by which wages per man-hour were increased under the provisions of the second year of the wage contract. As to the former, three separate methods of estimation all arrive at roughly the same figure of around 15½ man-hours per ton of finished steel for the first half of 1957. These estimates are based upon figures issued by the American Iron and Steel Institute or supplied by the corporation itself. However, there is substantial disagreement on the other factor, the amount of the wage increase per man-hour. United States Steel holds that the figure is 21 cents; the union that it is only 16.4 cents. When each is multiplied by the factor of 15.5 man-hours per ton of finished steel, the increase in costs range from \$3.25 per ton—according to the company's wage estimate—to \$2.54 per ton—according to the union's estimate.

But whether one uses the steel company's estimate or that of the union, it is obvious that there is a substantial gap between the \$6 price increase and the amount by which its wage costs were increased—the gap ranging from \$2.75 to \$3.50 per ton.

United States Steel contends that in addition to the wage increase, increases

in prices were also necessitated by increases in materials, equipment and services which it has to purchase. This the union questions, pointing to the recent decreases in the price of steel scrap and other materials used by the steel industry.

This whole matter of costs and prices requires further investigation. But at this point I wish to make it clear that the extent to which the subcommittee will be able to get at the facts is limited by the refusal of the United States Steel Corp. to provide the subcommittee with its unit cost figures, broken down into materials, labor and the other principal elements of costs. Even though the subcommittee offered to combine these figures with those of other firms so that there would be no disclosure of any single firm, United States Steel persisted in its refusal.

The conclusion that the price increase of July 1957 is substantially in excess of the increase in costs resulting from the wage increase is supported by an analysis of what happened after the price increase of last year, as reflected in profit rates for the first half of this year. Charts were put into the record which indicate that the rate of profit on stockholders' investments, after taxes, for the first 6 months of 1957 was substantially above the levels that would have been anticipated on the basis of the historical relationship between percent of capacity operated and rate of profit. This was true of both the industry as a whole and the United States Steel Corporation alone. These showings strongly suggest that the increase in price following the wage settlement in August 1956 was substantially greater than the increase in costs.

The third and perhaps the most important question of concern to the subcommittee is whether competition in the steel industry is sufficiently effective to constitute an adequate protector of the public interest. The evidence which we have received on this issue bears on concentration and price identity. With respect to the former, the evidence indicates that not only is the steel industry highly concentrated but that the level of concentration has been rising during recent years. Between 1947 and 1954 the four largest companies increased their share of value added by manufacture from 50 to 55 percent in the blast furnace, steel works and rolling mills industry. Perhaps of even greater significance is the commanding position which United States Steel holds among the largest companies. Of the 33 steel products for which total capacity exceeds 500,000 tons, United States Steel has the largest capacity for 25 and the second largest capacity for 6. United States Steel has more than 40 percent of the capacity for 10 products, and more than 30 percent for 17. Moreover, there are 13 products for which United States Steel has both 33 percent or more of the total industry capacity and a lead of at least 10 percentage points over its nearest rival.

As to price identity, evidence was put into the record showing that the price increases made by the other major producers following the lead of United

States Steel on July 1, 1957, were, with few exceptions, exactly the same as the increase by United States Steel.

In addition, the record includes instances of identical bidding in which United States Steel and at least one other major steel producer quoted prices to a Government purchasing agency which were precisely identical. For example, on November 19, 1954, the Springfield Armory at Springfield, Mass., opened bids on alloy steel bars, general purpose. One of the items for which bids were requested bore these specifications: alloy steel bars, FS-8620, HR, as rolled 7/16-inch diameter resulph. .035-.050 grain size 5-8ASTM, shall cold shear without cracking, in 10-12-foot lengths. Pricing on a delivered basis, that is, all transportation charges prepaid to destination—Springfield Armory—the bid of United States Steel per pound was 0.09305 cent. The bid of Bethlehem Steel was 0.09305 cent per pound.

When asked to explain how these identical bids occurred, Mr. Roger Blough, chairman of the board of United States Steel, replied:

My concept is that a price that matches another price is a competitive price. If you don't choose to accept that concept, then, of course, you don't accept it. In the steel industry we know it is so.

Referring to a city where the price of a certain steel product was \$5 a ton higher than the price of United States Steel, Mr. Blough stated:

I would say that the buyer \* \* \* in that situation has this choice. He chooses to buy from one company at \$5 higher. He chooses to buy from our company at \$5 lower. Now if you call that competition and a desirable form of competition, you may have it your way. I say that the buyer has more choice when the other's fellow's price matches our price" (tr., p. 778).

On this question of competition in the steel industry, the central fact is that when United States Steel raises its price, it does so with the almost certain knowledge, based on years of experience, that its so-called competitors will make the same increase. This raises the further question of whether there is any conceivable increase that United States Steel might put into effect which the other producers would not follow. And, if so, how much is it? How high can United States Steel raise its price and be reasonably certain that the other producers will follow along with identical increases?

During the investigation of the steel industry conducted by the Temporary National Economic Committee under the chairmanship of the Senator from Wyoming [Mr. O'MAHONEY], Mr. Eugene Grace, the longtime president of the Bethlehem Steel Corp. was asked, "Do you remember any instances where you didn't follow them—United States Steel—up?" Mr. Grace's answer was "No"—hearings before the TNEC, 76th Congress, 2d session, page 10603.

It is this issue of price leadership by United States Steel to which the subcommittee will devote its principal attention when hearings are resumed in October, at which time the first witness will be the Bethlehem Steel Corp.

In closing, I want to say that the hearings have thus far evoked a widespread response from people throughout the country. Letters have been received from persons in all walks of life—housewives, retired people on pensions, farmers, small businessmen, lawyers, members of the clergy, doctors, professors, schoolteachers, and others. They represent a virtual cross-section of the American populace at the grassroots level.

The majority of these letters are handwritten, and range from angry denunciations of the steel industry to reasoned refutations of its principal arguments. Many contain a moral overtone to the effect that it is simply not right for the managers of big business to raise their prices when by so doing they work such hardship on so many people. There is displayed here a mood and a sense of injustice which corporate managers will do well not to ignore when they are considering the extent of their next price increase.

With the thought that the views which they express might be of general interest to the various committees of Congress that are struggling to cope with this problem of inflation, I now ask unanimous consent to have printed in the RECORD excerpts from a more or less representative group of these letters.

There being no objection, the excerpts from the letters were ordered to be printed in the RECORD, as follows:

From Mr. John S. Campbell, Slater, Mo.: "Chairman Blough says that you do not understand competitive enterprise and it must be a deep dark mystery. Ask him if he understands why United States Steel stocks are selling for 10 times the 1947 price, while No. 2 corn in Chicago is selling for two-thirds of the 1947 price. Ask him why farmers who produce 60 percent of the Nation's raw material are receiving less than 4 percent of the national income. Ask him what part of the remaining 40 percent is pig iron. There is much about competitive enterprise that the American consumer cannot understand."

From Mr. Fred Sondheim, Forest Hills, Long Island:

"United States Steel has split 6 for 1 in the last 10 years so that the old stock, which used to sell at 100 is equal to 420 at present price of 70. The per share earnings which were \$5 to \$8 per share on the old stock, are now at the rate of \$36 to \$40 per share on the old basis. In view of this terrific success, why must United States Steel raise prices continually? Surely they have beat the inflation, better than most of us."

From Dr. Arthur A. Calix, Decatur, Ala.: "Thank you very much for instigating an investigation of the new price hike in steel prices. We cannot stand any more shrinkage of our dollar."

From Mr. I. Kremen, Palo Alto, Calif.:

"I applaud the intention of the Senate Anti-Monopoly Subcommittee to investigate the recent price increases instituted by the steel industry. I feel this investigation might also well be extended to other industries where, in my opinion, conditions approaching monopoly exist. These lead to suppression of competition and unwarranted and inflationary price increases."

"I feel the dangers of inflation are reaching the critical point and are a serious menace to our country. It seems to me that the causes of inflation are threefold: (1) excessive pricing by some business (2) excessive Federal spending (3) annual wage demands by labor."

"I wish your committee godspeed and good luck in your endeavors."

From Dean Fred J. Holly, department of economics, University of Tennessee, Knoxville, Tenn.:

"I hope that you will give some emphasis in your investigation of the steel industry to the use of 'plow-backs' for financing expansions. As you know, the steel industry uses plow-backs to the almost complete exclusion of external capital sources. Then, the industry stresses the need for price increases to permit further increases in earnings for plow-back purpose. This is a far cry from the theoretical workings of a private enterprise economy. It should be a fruitful field for investigation."

From Mr. H. H. McIntyre, Billings, Mont.: "Just a word to thank you for the excellent work you are doing in your investigation in connection with the terrible inflation we are all experiencing."

"I firmly believe in this highly mechanized age where we are all dependent on the products of steel, that the price of steel alone can materially affect the cost of nearly everything that we use. If this industry could be thoroughly investigated and made to show exactly where they are rigging prices, and such prices could be adjusted properly, we could all get along much better."

"I might cite for example a few years back when the average man made \$10 a day, he could buy a very good car for \$1,000. All right now that same man makes \$20 per day, so he should be able to buy a good car for \$2,000, but such is not the case, he must pay at least \$3,000 and to buy the same quality he used to buy for \$1,000, he must pay \$4,000. This difference is too much and I firmly believe if properly investigated, they cannot prove to anyone's satisfaction where it is going except into excessive profits, labor and taxes notwithstanding."

From Mr. Logan B. English, Paris, Ky.:

"Allow me to voice my unreserved approval of the proposed investigation of the steel price raise. I know nothing of the ramifications of the causes and effects attending this hike. But I have a very definite feeling that there is a lot in this matter that is unspeakably reprehensible. Mr. Hood as a representative of United States Steel, has shown a scornful disregard of the President's courteous but urgent request that both management and unions assist in halting inflation. Apparently Mr. Hood has not only done nothing, and intends doing nothing, to help in this matter but will show a callous unconcern in the future of the catastrophic consequences most certainly precipitated. By accepting a huge salary for himself \* \* \* and for his many fellow executives he has inspired and encouraged the union to come and get 'its take.' \* \* \* I am toughly committed to free enterprise but when management of any sort whatsoever uses free enterprise as a license to injure and jeopardize our whole economy I feel that something very decisive needs to be done."

"Mr. KEFAUVER, I am just a dirt farmer. I have done all right until the last 3 years of these 25 years. Even now we can stand the low prices we get for our products. But we cannot stand these spiraling costs together with low prices. In this respect conditions are worsening rather than improving. What is happening to the farmer most surely will happen to every segment of our economy as grass roots troubles gradually creep through and up our national welfare. So I want to wish you Godspeed as you undertake this difficult job in our national interest."

From Mr. H. A. Lomax, Jr., Orlando, Fla.:

"In your forthcoming investigation of the steel industry I hope you let the chips fall where they may and give them hell. The steel industry deserves a good investigation as they are flagrantly disregarding the public



good and feeding the fires of inflation. This last \$6 a ton raise was unnecessary. I hope you recommend wage and price controls.

"We the public (not the union members) are being viciously squeezed between higher prices and higher taxes. I hope you have the backbone to recommend price and wage controls for a period of time until we can stabilize inflation."

From Mr. A. W. Owens, Sr., Rock Hall, Md.:

"You will remember the I. G. Farben cartel that through secret agreements set prices that robbed the people. This is just what the steel companies and oil interests are doing to the Nation today. I am convinced there is collusion and secret agreement in the steel industry and also the oil companies.

"These companies have defied the Government, as witness a short time ago when the Government would not allow a quick writeoff for expansion, they said, if no quick writeoff we will raise the price of steel. Which they did.

"I also think there is collusion between these companies and labor. Labor has defied the antitrust laws."

From Mr. Joseph A. Kondash, Madison, N. J.:

"It was with great interest \* \* \* to discover that the Senate Antimonopoly Committee is considering investigating price fixing and price rigging in the steel industry. Such a timely action is in the public interest and cannot be called partisan in nature since it was only a matter of a few days previous thereto that President Eisenhower had asked business to curb prices to stall any inflationary trend. Said action on the part of United States Steel discloses the monopolistic and dictatorial strata upon which such mammoth corporations operate in utter disregard for the public welfare and demonstrates a purely selfish interest of nest-feathering, in my opinion.

"Come what may, the monopolistic tendencies and mergers that have been taking place must be curbed and large industries must be forced, if they do not acquiesce, to allow competition, whether the industry be heavy or light, large in size or small."

From Mr. R. R. White, Detroit, Mich.:

"Note with interest you are going to investigate steel and copper. It's surely not only high time to investigate, but also to do something definite about it.

"Whenever there is a price change, firms are all the same to a fraction of a cent, and companies cannot guess identical prices."

From Mr. R. V. Zahner, Sewickley, Pa.:

"Though not in the habit of letter writing, I can't resist sending you a note of thanks for what you are doing for the millions in my state of life in investigating the arbitrary and needless increases in the cost of commodities and utilities such as metals, oils, natural gas, etc.

"From such of Blough's remarks as have reached the papers, either he never took any economics courses higher than grammar school, or thinks the public never did. Has he no conception of the vast ramifications of his business, not only with respect to consumers' goods, but also how it affects the cost of capital goods, new plants, etc., in every other industry, hence pyramids and doubles back into consumer prices almost ad infinitum, and is he really naive enough to think that we poor installment buyers will pay only the ton rate of increase for each ounce of steel that is in our paltry purchases?"

From the Reverend Hinson V. Howlett, South Dartmouth, Mass.:

"A release from President Walter P. Reuther, of the UAW, tells of deep satisfaction concerning your plans and those of your Antitrust and Monopoly Subcommittee of the Judiciary Committee of the Senate, to investigate 'price increases in 'administered

price' industries' including 'petroleum, steel, newsprint, many types of food, automobiles, and farm machinery.'

"Let us, too, rejoice.

"We are grateful for this promised undertaking, that, in our judgment, is so timely. And, we are grateful to President Reuther, and the UAW, for having us on the mailing list—and sending us the glad tidings.

"Would you be so kind as to have your office put us on the mailing list for any releases on the progress of the investigation, and copies of the proceedings of the hearings? (We shall always be grateful to you for the material on the juvenile delinquency investigations.) We should, also, be grateful for references to the CONGRESSIONAL RECORD, where there are speeches that you have made concerning this 'price investigation,' or speeches by others, and any account of the progress of the undertaking.

"Glad that you are so good as to represent so many of us in the Congress, outside of your immediate constituency."

From Mr. Wayne Ulbrecht, Rockford, Ill.:

"Read where you are checking price fixing. Thank God, it's about time someone started checking those companies to protect the buying public.

"Price fixing is all over. Just get someone to start enforcing the law."

From Miss Agnes Morris, Portland, Oreg.:

"Just last week I heard that you are the chairman of the committee to investigate means of halting this inflation. It is heartening that, at least, there is a beginning to attack this destroyer of our economic status.

"Here is the personal angle which we are facing, namely the pensioners and fixed-income groups. We are getting panicky when we shop for food. Here in a Nation where there is surplus, some people do not have enough of proper foods to eat. For no reason at all, except greed, prices rise from anywhere from a cent to 5 and 10 cents on an article. Is this reasonable and patriotic?"

"Please do something."

From Mr. Harold Kumm, Vienna, Va.:

"I notice that you intend to look into the operation of administered price industries. In this connection, I believe that you would find a most interesting example in the conduct of the ——— company and its so-called competitors.

"But what does this company do when the President asks industry and labor to hold the price line? Their contribution is a price increase of 14 percent in the price of their leading product.

"This price increase is not presented openly. It is brought about by packing 2 pounds and 10 ounces in a 3-pound box. The price remains the same, but the amount is reduced. This device offers great success with the unwary. This was illustrated yesterday when we asked some friends whether they had noticed the change in weight. They had not. They certainly were surprised when they dug out some of the old boxes and compared them with the new and found that the weight had been changed."

From Mr. Alex Staber, Braddock, Pa.:

"I'm sure you have many facts and much information to show that the steel companies continue to increase their profits by constantly increasing the price of steel.

"I am including some information about the cost of producing steel that may have been overlooked by your committee. I am referring to the price of the scrap that is used in making steel.

"At the present moment the price of scrap is between \$10 and \$20 less a ton than it was a year ago.

"It has been stated that the steel industry would use 40,000,000 tons of scrap in 1957. Of this amount the steel industry itself would return 40 to 50 percent of that amount from its own operations. But the other 20,000,000 tons bought at a saving of at least \$10 a ton compared to 1956 would be an extra profit of at least \$200,000,000.

"In addition the steel process uses large amounts of copper and aluminum. Copper a year ago was somewhere in the neighborhood of 45 cents a pound and today it is 28 cents a pound. The price of aluminum has also dropped.

"Despite these drops in the price of its raw materials the price of steel has not been cut.

"I am sure your committee can produce excellent results in proving that the steel companies contribute immensely to the inflation through their terrific profits."

From Miss Mary Boyd Ayer, Coronado, Calif.:

"Locally, prices increased immediately after it was announced that the price of steel was going to increase; no one waits until after the price of steel increases to raise prices.

"The steel representative appears to distort the truth as much as Hitler and the Russian leaders. I know what steel has done to inflation and have been personally affected by it since the early 1940's and steel prices have caused my savings to dwindle in value. Naturally the steel representatives would seek to justify his prices.

"Everyone knows that we have another round of inflation ever time there is an increase in steel prices; the steel representative knows it.

"Inflation is a disease, and price raising has become a habit. When is it going to stop?"

From Dr. Robert W. Rosen, market research director of Metalworking magazine:

"Enclosed is a special analysis of the relation between steel wage and price increases which would be of interest to you and Mr. Blair.

"Analysis of the data published by industry spokesmen clearly indicates that—

"1. Rising labor costs exerted only a modest upward push on steel prices;

"2. Increases in steel prices between 1940 and 1956 were 3.6 times larger than that required to cover wage increases;

"3. Labor has benefited far less from price increases than have other factors of production."

From Rabbi Elihu Kasten, Oceanside, N. Y.:

"My warmest congratulations to you on the pertinent facts your committee has revealed.

"I thought you would be interested in the enclosed which has been sent to all clergymen and religious institutions."

(NOTE.—The enclosure to which he refers is a printed copy of Mr. Roger Blough's opening statement to the subcommittee, sent out over the name of Phelps A. Adams, executive director, public relations department, United States Steel Corp.)

## INFLATIONARY PRESSURES

Mr. MARTIN of Pennsylvania. Mr. President, in the course of his testimony during the recent hearings before the Finance Committee, William McChesney Martin, Jr., Chairman of the Federal Reserve Board, made a statement which I think deserves the serious attention of every American.

Mr. Martin stated:

We must never forget that the worst kind of slavery is the slavery under borrowed money.

At this point the distinguished chairman of the Finance Committee, the Senator from Virginia [Mr. BYRD], observed:

You have just made one of the wisest statements I have ever heard.

Mr. President, I am in complete agreement with the statement of Mr. Martin and the comment of the Senator from Virginia [Mr. BYRD].

Excessive debt is one of the great dangers confronting our Nation, whether contracted by individuals, corporations, or Government. Debt is particularly damaging to Government. Money borrowed by individuals or corporations for investment in the expansion of productive capacity under private enterprise can earn money, but borrowing to support government spending is lost, so far as earning power is concerned. In addition, governmental debt increases the inflationary pressures which threaten our economic stability.

We are all aware that inflation is sweeping the world. It is stimulated when people feel that their medium of exchange will be lower in value in the future than at present, and that they had better convert their money into articles they can use.

A table prepared by U. S. News & World Report shows the drop in purchasing power of money from 1947 to 1957, in various countries of the world. I ask unanimous consent that it be printed, at this point, as a part of my remarks.

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

*Drop in purchasing power of money from 1947 to 1957*

|                    | Down<br>(percent) |
|--------------------|-------------------|
| Switzerland.....   | 11                |
| India.....         | 18                |
| United States..... | 20                |
| Belgium.....       | 22                |
| West Germany.....  | 24                |
| Italy.....         | 27                |
| Ireland.....       | 29                |
| Canada.....        | 29                |
| Denmark.....       | 30                |
| Netherlands.....   | 32                |
| Norway.....        | 33                |
| Sweden.....        | 34                |
| Spain.....         | 38                |
| Britain.....       | 38                |
| Mexico.....        | 47                |
| Australia.....     | 53                |
| Finland.....       | 59                |
| France.....        | 63                |
| Greece.....        | 65                |
| Japan.....         | 65                |
| Brazil.....        | 72                |
| Chile.....         | 94                |

Mr. MARTIN of Pennsylvania. Mr. President, a share of the blame for the current inflation can be placed on the great expansion that has taken place in the money supply, particularly in the 16 years since 1940.

On June 30, 1892, the money supply per capita was \$59.32. At that time currency outside of banks was about 40 percent of the total money supply. Forty years later, or June 30, 1932, the per capita money supply was \$161.99, but the currency outside of banks was only 30 percent of the total money supply. On June 29, 1940, the money supply per capita was \$292.61, but the currency outside of banks was only about 20 percent

of the total money supply. On June 30, 1956, the per capita money supply was \$791.40. The demand deposits in 16 years had risen from \$31 billion to \$104 billion and the currency outside of banks had risen from \$6,699,000,000 to \$28,284,000,000. The per capita supply of dollars had increased more in 16 years than in the 38 years preceding 1940.

Mr. President, the figures I have given appear in a table furnished by the Board of Governors of the Federal Reserve System, and I ask unanimous consent that this table be printed in the RECORD as a part of my remarks.

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

*Money supply*

|               | Total demand deposits (not including U. S. Government deposits) | Currency outside banks | Total money supply | Money supply per capita | Population     |
|---------------|---|------------------------|--------------------|-------------------------|----------------|
|               | Mil-<br>lions   | Mil-<br>lions          | Mil-<br>lions      |                         | Thou-<br>sands |
| June 30, 1892 | \$2,880   | \$1,015                | \$3,895            | \$59.32                 | 65,666         |
| June 30, 1900 | 4,420   | 1,331                  | 5,751              | 75.58                   | 76,094         |
| June 30, 1932 | 15,625  | 4,616                  | 20,241             | 161.99                  | 124,949        |
| June 29, 1940 | 31,962  | 6,699                  | 38,661             | 292.61                  | 132,122        |
| June 30, 1956 | 104,744   | 28,284                 | 133,028            | 791.40                  | 168,091        |

Mr. MARTIN of Pennsylvania. Mr. President, right now we should be using everything within our means to check the inflationary spiral. Inflation can destroy the strongest government. It inflicts, severe hardship upon everyone who has savings or a fixed income.

In a recent issue of my hometown newspaper, the Washington, Pa., Observer, there was published a fine editorial entitled "Only This Nation Can End Inflation." I ask unanimous consent that this article be printed in the body of the RECORD at this point in my remarks.

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

#### ONLY THIS NATION CAN END INFLATION

The dispute over inflation grows with every rise in the price of products.

Just now officials of big steel companies are defending their price increases as necessary and compelled by wage increases.

Labor and some other agencies dispute the claim, saying that the raises are not justified to their full extent by increased costs due to wage increases, or that they are not justified for the reason that the increased wages are balanced by increased production.

Robert C. Tyson, chairman of the finance committee of United States Steel, rejects arguments that the company's profits are big enough to absorb increased costs. He says:

"The records of United States Steel cumulatively and convincingly show that as long as nationwide wage inflation continued at rates exceeding the increases in productivity, price inflation will be compelled."

The public's interest is not so much whether price inflations are justified by wage inflation as in the fact that we have inflation and that it has reached the point where it constantly races ahead of wages and salaries. Americans want to find a way to keep up with inflation.

They do not object to such forms of inflation as raise the cost of living if their incomes are raised to balance inflationary increases in costs. In other words, if bene-

fits are greater than the cost, inflation will not hurt.

But American inflation, as reflected in living costs for many months now, has reached the point where it does not bring proportionately increased buying income. Where it will go from there is something a bit uncertain, but all economists fear that it will lead to sudden deflation. Even Russia is in danger from inflation, but she could control deflation by enslavement of people.

The situation is not peculiar to the United States, but the dangers here are made worse by what is happening in other countries. Virtually all nations are in the throes of over-inflation. France has had to devalue her franc again. American money is less inflated than that of other countries.

And the world economic situation is such that a breakdown in the economy of any of a half dozen or more nations could bring a breakdown the world over.

Perhaps the cure for inflation is to be found in other parts of the world. Perhaps if the economy of France, or Britain, or Italy, Peru, or Argentina, or any of several others, could be straightened out it would help ours and that of the rest of the world.

But this Nation is still the world's economic leader. Other nations base their economy on ours; their money gains or loses its exchange value in relation to ours. We have it in our power to destroy almost any government in the world by manipulations of its monetary values.

Inflationary evils serious enough to wreck the world may come elsewhere, but it would seem that only this Nation has the power to end that inflation. That is, if we do have it.

And this Nation does not have that power unless labor and capital can come to some kind of agreement to end the wage-price-increase spiral which is steadily lifting inflation to the point that each increase in wages and each boost in prices simply adds danger.

This Nation has to find the cure for the cause, and thus end the inflation spiral. Otherwise the entire world may feel the effects of deflation someday.

#### PANAMA CANAL: TERMINAL LAKE MODERNIZATION PROGRAM DERIVED FROM WORLD WAR II EXPERIENCE

Mr. MARTIN of Iowa. Mr. President, I present, for appropriate reference, and ask unanimous consent to have printed at this point in the RECORD, a special report of the General Board of the Navy to the Secretary of the Navy dated September 30, 1943, which summarizes preliminary naval studies on the terminal lake-third locks plan for the major operational improvement of the Panama Canal and gives its recommendation, together with a preliminary statement of my own.

The VICE PRESIDENT. Without objection, the statement and the report will be appropriately referred and printed in the RECORD.

There being no objection, both the statement and indicated General Board report were referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the RECORD, as follows:

#### PRELIMINARY STATEMENT BY SENATOR MARTIN OF IOWA

In my statement to the Senate in the CONGRESSIONAL RECORD of June 21, 1956, I quoted a previously classified preliminary report prepared at the request of the Secretary of War by Gov. Glen E. Edgerton of the



Panama Canal dated January 17, 1944, relative to proposals for the elimination of the Pedro Miguel locks, which report was supplied at my request by the Assistant Secretary of the Army, Hon. George H. Roderick.

The report of Governor Edgerton approved in principle and recommended to the Secretary of War for thorough investigation a proposal for the major operational improvement of the Panama Canal known as the terminal lake-third locks plan, which had been developed during 1942 and 1943 in the Department of Operation and Maintenance of the Panama Canal as the result of experience in World War II. It warned, however, that sea-level advocates would oppose unjustifiably any expensive change in the present plans on the grounds that it would defer the time when conversion of the existing canal to a sea-level waterway might otherwise be authorized. Moreover, it revealed that the terminal-lake proposal had been transmitted to the Secretary of War by the Secretary of the Navy on September 7, 1943, with a request for study of the subject so that the practicability and advisability of the program might be discussed jointly and the President advised in the premises. The Secretary of the Navy at the same time also submitted the plan to the President.

The 1944 Edgerton report lists some of the key documents concerning the conception and study of the plan in the canal organization and its review in the Department of the Navy.

On my request to the Secretary of the Navy, Hon. Thomas S. Gates, Jr., the Department of the Navy on July 3, 1957, transmitted to me copies of the principal 1943-44 naval documents concerning its initial review and study of terminal lake proposal, which have had their security classification removed.

The essentials of those naval views were summarized in a report by the Chairman of the General Board of the Navy to the Secretary of the Navy dated September 30, 1943, submitted after a visitation in the Canal Zone by a member of the Board and extensive consultations with Panama Canal and naval officials, and experienced canal pilots.

The indicated documents start with submission of the plan on June 17, 1943, to the Department of the Navy and end with an analysis of the indicated Edgerton report under the date of March 18, 1944. Notwithstanding their advisory and preliminary nature, certain information and principles concerning canal problems developed in these documents are fundamental. To that extent, they represent the considered opinions of some of the most distinguished naval officers of the 20th century, who, as members of the General Board or in administrative capacities in the Department of the Navy, participated in the naval review.

Based primarily on practical considerations of navigation and marine operations, the reports fully favored modification of the authorized third locks project to provide a summit-level terminal lake anchorage in the Pacific sector of the canal to serve as a traffic mobilization basin corresponding with that at Gatun in the Atlantic end. The General Board, in its report to the Secretary of the Navy on September 30, 1943, recommended that the Navy Department "strongly endorse the subject plan at the appropriate time."

Furthermore, after considering the relative merits of the types of canal, which has always been a subject of keen controversy for reasons not remotely related to navigation, the report expressed the following conclusion: "The General Board is much impressed by the great preponderance of evidence in favor of the lock type and considers that the opinions presented, supported as they are by experience, fully justify the abandonment of the idea of a sea-level canal across the Isthmus of Panama."

After receipt of the 1944 Edgerton report to the Secretary of War on elimination of the Pedro Miguel locks, previously mentioned, the Secretary of the Navy referred it to the General Board, where it was studied and summarized in a report to the Chairman of the Board dated March 18, 1944. This report reiterated the September 30, 1943, General Board recommendation that the Navy Department strongly support the terminal lake proposal at the appropriate time, which, it prophetically estimated would be "well into the future."

These 1943 and 1944 naval recommendations, it should be emphasized, were made prior to the advent of the atomic bomb, when the controlling considerations in canal planning were capacity, operational, engineering, and economic. Thus, the repeated suggestions by its advocates that the sea level project has had unqualified support in the past of the General Board is not only erroneous but definitely misleading.

Following the military use of the atomic bomb, Panama Canal officials, through administrative channels, sought and secured enactment of Public Law 280, 79th Congress, approved December 28, 1945, authorizing the Governor of the Panama Canal to make a comprehensive review and study of the means for increasing the capacity and security of the Panama Canal to meet the future needs of interoceanic commerce and national defense, including consideration of canals at other locations and a restudy of the authorized third lock project. It is, I believe, significant that this legislation was enacted after the death of President Franklin D. Roosevelt to whom the terminal lake proposal had been submitted in 1943 and who is reported to have been favorably disposed thereto.

The original third lock project, it should be noted, had been suspended in May 1942 after expenditure of \$75 million mostly on lock site excavations at Gatun and Miraflores. These excavations, in event of resumption of construction, would be substantial contributions toward completion of the authorized project as improved through adaptation to the principles of the terminal lake proposal.

The hearings prior to the enactment of Public Law 280, 79th Congress, were held on November 15, 1945, in executive session; and maritime interests, including the Navy, were not represented. The only witness was the Governor of the Panama Canal (J. C. Mehahey), who, it is noted, did not inform the Committee on Merchant Marine and Fisheries about the official views of the Navy.

When questioned by a member of the committee as to whether he approved the terminal lake proposal in principle, Governor Mehahey stated: "In general, yes; if the third locks were constructed, I believe we would recommend a modification of the original project to include the terminal lake." (See Executive Hearings on Panama Canal Facilities before Committee on Merchant Marine and Fisheries, November 15, 1945, p. 9.) This was the second formal approval of the terminal lake proposal by a Governor of the Panama Canal for the major modification of the existing waterway.

Under an extreme interpretation of the security and national defense factors of the statute as paramount and controlling, the report of this governor's inquiry, which was transmitted to the Congress on December 1, 1947, and significantly, without Presidential approval, comment, or recommendation, advocated only the sea-level project for major construction at Panama.

Regardless of the official concurrences in the main premises of the report, security and national defense, that may have been made by certain executive agencies, the extensive and rigorous clarifications of these and other vitally important phases of the canal problem since its submission to the

Congress and the subsequent tremendous advances in the destructive powers of modern weapons culminating in the H-bomb, have, in the opinion of many distinguished independent physicists, nuclear warfare engineering, and other experts, served to restore the canal situation to what it was in 1943, when the terminal lake-third locks plan, developed as the result of war experience, was first supported in principle by both Panama Canal and naval authorities and submitted to the President. Thus, the Panama Canal problem consists of a combination of capacity, engineering, marine operational, and constructional planning to secure the best operational canal for the transit of vessels practicable of economic attainment.

Hence, the views of the Department of the Navy, as developed in the September 30, 1943, report of the General Board, constitute a state paper of primary importance.

When judged by its consequences, which have been far reaching, the development of the terminal lake-third locks proposal was one of the great constructive projects to grow out of World War II. Its story forms an important chapter in Isthmian history which emphasizes further that questions of major interoceanic canal policy are not proper matters for exclusive control by ex parte or routine administrative groups, which, in the normal course of events, would expect to benefit from their own recommendations. The United States has had enough of organized drives for predetermined objectives at Panama that have disregarded costs and consequences.

As previously expressed in my statement to the Senate of June 21, 1956, all of these facts add up to indicate the absolute importance for prompt authorization by the Congress to secure an independent inquiry of the entire interoceanic canals problem along the line contemplated in the bipartisan measures now pending in both Houses. A series of crises affecting the operation of the canal, the latest of which are a shortage of water in the summit level coupled with the highest traffic volume in history, stress the necessity for timely legislation before an overwhelming crisis forces hasty action.

#### REPORT BY THE GENERAL BOARD OF THE NAVY ON THE TERMINAL LAKE-THIRD LOCKS PLAN, SEPTEMBER 30, 1943

From Chairman General Board.

To the Secretary of the Navy.

Subject: Panama Canal, Plan for improvement.

Reference: (a) ComFifteen letter 15 ND/HG/(03) of 17 June 1943, and enclosures.

1. By the fifth endorsement of the reference, the Secretary of the Navy has directed the General Board to study a proposed plan for the improvement of the operating features of the Panama Canal and to make recommendation. The plan and several alternative schemes for its accomplishment are now being considered by the Governor of the Panama Canal and until his investigations are completed neither the Secretary of War nor the Secretary of the Navy will have the benefit of the Governor's expert engineering and operating advice. Therefore, the Board assumes that studies of the subject by the Navy Department are now of a preliminary nature, with the view primarily of determining the Navy's special interest in the project as a whole, to be presented to the War Department when appropriate.

2. It is to be noted that there is now in existence an approved plan for the improvement of the canal, authorized by Congress and referred to hereinafter as the third lock program. The purpose of this program is to increase the capacity of the canal, to permit transit of large naval vessels, and to attain greater security from bombing attack. Work on this program was actually begun in 1940 but was suspended in 1942 in favor

of projects deemed more essential to the successful prosecution of the war.

3. The controlling feature of the subject plan is the creation of a summit level anchorage in Miraflores Lake in order to provide a traffic expansion chamber at the Pacific terminal. By making provision for safe summit level anchorages for vessels as they emerge from the Gaillard Cut, the transit of the cut becomes independent of Pedro Miguel locks which now constitute the bottleneck of the canal. The purpose of the plan is to improve marine operating conditions, reduce accidents, reduce the time of transit, and reduce the wear on piloting personnel. Essential to its accomplishment are the removal of the Pedro Miguel locks and the construction of one or more sets of triple-lift locks on the general site of the Pacific entrance to the canal.

4. This plan is not a new concept but is, rather, an old one backed by the force of operating experience gained during the 29 years that the canal has been in operation. The need for capacious summit-level anchorages at both ends was early recognized but the canal, as it stands today, meets that need at Gatun only. Colonel Sibert, the builder of Gatun locks, wanted to place all Pacific locks in one structure as at Gatun but the Pacific locks had already been started and the change would have involved a delay in the opening of the canal. The President decided against the proposal because a change in plans might have been construed, by the proponents of a sea-level canal, as evidence of the weakness of a lock canal. Prior to this, in 1906, Mr. Stevens had recommended to Congress the combination of all Pacific locks into one structure. Going as far back as 1879, the French Engineer de Lepinay had proposed the creation of a large artificial summit-level lake at each terminal, to be connected with sea level by locks. Years later his proposal was adopted at the Atlantic terminal and took the form of Gatun Lake. But there is no equivalent at the Pacific terminal.

5. The present anchorage space at Gatun supplies a stopover station for both north and southbound vessels and permits unrestricted operation of Gatun locks. At Pedro Miguel there is no comparable anchorage space for ships as they emerge from Gaillard Cut. The Pedro Miguel locks are located squarely in the south end of the cut and they restrict passage through the cut to the capacity of the locks. While northbound traffic can and does enter the cut at lockage intervals, southbound vessels cannot arrive in the cut any faster than they can be received at the Pacific locks. Vessels have to approach the latter locks in a relatively narrow passage; they cannot anchor for they would swing into a rocky bank; they cannot slow too much or they will lose steerageway and drift ashore. The resulting dispatching problem causes delays, at times endangers the canal and ships, and wears out piloting personnel. The situation is aggravated because the canal between Pedro Miguel and Bohio is subject to dense fog. When there is fog in the cut, vessels, after leaving the locks, can only tie up to the north wall at Pedro Miguel. When the north wall is filled to capacity all northbound traffic must stop and Pedro Miguel lockages and Miraflores lockages must cease.

6. The facts presented in the preceding paragraphs have been extracted from the enclosures to the reference. The latter were prepared by the present port captain at Balboa, Comdr. Miles P. DuVal, United States Navy, as a result of his own experience and study, and in collaboration with other canal authorities as well as with the commandant, 15th Naval District. These enclosures present a well-rounded picture of present operating conditions, and their difficulties, together with alternative schemes for solving the major problems. Included therewith is an exhaustive discussion, ably presented, of the marine features of the sea-level type

of canal, as compared with the lock type. The General Board is much impressed by the great preponderance of evidence in favor of the lock type an considers that the opinions presented, supported as they are by experience, fully justify the abandonment of the idea of a sea-level canal across the Isthmus of Panama.

7. That part of the third-lock program which has to do with the Pacific terminal locks is closely related to the subject under discussion. Adopted when war began to threaten, the third-lock program is, in principle, an acceptance of the present arrangement of the Pacific locks. Under this program the new and larger locks would be placed at a distance from the present locks in order to disperse the lock structures and lessen the chances of danger from bombing attack. There would be 1 new triple-lift lock at Gatun, 1 new two-lift lock at Miraflores, and a new single-lift lock at Pedro Miguel, the last named located on a new channel which, passing Cerro Paraiso on its south and west sides would connect Miraflores Lake with the entrance to the Gaillard Cut.

8. Suspension of work on this program has taken place at a stage in its completion that affords an opportunity to reexamine its features, some of which appear to introduce additional dangers and complications and others to continue present difficulties. If the program were to be carried through, the bottleneck of Pedro Miguel would be perpetuated and any chance of providing an essential traffic reservoir at Miraflores would be lost. The turns in the new channel (one of which amounts to 47°17'), and its intersection with Gaillard Cut, would become new foci of accidents. It has also been developed that the proposed new Pedro Miguel Lock would be on the worst foundation of all locks. But, fortunately, there has been no excavation along the line of the proposed new channel around Cerro Paraiso and the subject plan does not, therefore, call for the abandonment of any work already completed under the third-lock program. On the other hand, the excavation which has already been accomplished in anticipation of the erection of the new (third) Miraflores two-lift lock is available for use in connection with a set or sets of triple-lift locks as contemplated in the subject plan.

9. All of the schemes suggested as suitable for making effective the subject plan, include provision for maintaining traffic during the reconstruction period. Of the three schemes suggested by Commander DuVal, the papers submitted to the Board indicate preference for scheme C, an arrangement in which the present Miraflores Locks are abandoned, three new sets of triple-lift locks placed near the third lock site, and dispersion obtained by increasing the spacing between the locks. The Bureau of Yards and Docks in its (second) endorsement on the reference presents a fourth scheme which proposes the construction of a single set of triple-lift locks on the present Miraflores site and of two new sets of triple-lift locks near the third lock site. This plan offers advantages from the standpoint of maintenance of canal traffic at the expense of longer time to complete. Both of these latter schemes utilize the cut already excavated, although neither suggests the extent to which the new sets of locks should be separated from each other in order to attain greater security from bombing attacks.

10. Disability of the canal may be from damage at a single point, or from damage at several points through a large-scale attack. The extent of damage to a group of locks from a single hit is increased when one set of that group has any part of its structure, or operating equipment, in common with another set; this is the present situation, all existing locks being in pairs. It does not follow, however, that immunity from damage can be secured merely by increasing the space between the several sets of locks, or by

separating the groups. Each set may be attacked separately and, if not successfully defended, all sets, even though widely separated, may be destroyed by a single large-scale attack. The breaching of all the gates (including the emergency gates), of only one upper lock, regardless of its location with respect to another set, would disable the entire canal by lowering the water level. The Pedro Miguel Locks provide a case in point; although they are located at some distance from Miraflores, the destruction of the gates of one set would render the Gaillard Cut unnavigable. When the restrictions imposed by the size and topography of the Canal Zone are taken fully into account, it seems apparent that the greatest dispersion possible does not render the canal secure against large-scale bombing attacks. The present locks are not dispersed; their security lies in their degree of invulnerability, their defense, and in the precautions taken to prevent surprise.

11. For these fundamental reasons the General Board, although not competent to base its opinions on technical grounds, believes that sound engineering, and safety and facility of marine operation, are the primary considerations to be balanced against questions of dispersion or separation of the locks. Above all, the latter should not be allowed to obscure the necessity for a traffic expansion chamber at the Pacific terminal, the controlling feature of the subject plan. The cut already excavated under the third-lock program establishes the distance between the new and the present Miraflores Lock sites. Assuming that this cut will be utilized, whatever plan is finally adopted, the Board believes that further questions of vulnerability and security from bombing attack should be left to those responsible for the design of the locks, and those charged with the defense of the canal.

12. Appendix A, attached hereto, summarizes the marine advantages claimed for the subject plan, regardless of the particular scheme adopted for its accomplishment. All of these advantages will accrue to the Navy in moving its ships quickly and in large numbers from one ocean to the other as strategic and tactical considerations may dictate. The General Board, itself strongly in favor of the basic idea, has been unable to detect, either in any correspondence, or in conversation, any opposition thereto. A member of the Board, during a recent visit to the Canal Zone, noted the same favorable reaction during all discussions, including those he had with Governor Edgerton. With the canal authorities, including experienced pilots, and the commandant, 15th Naval District, all favorably disposed, the project at present resolves itself into a question of practical ways and means which, as noted earlier herein, are being investigated by the Governor.

13. As a result of its study, the General Board recommends that the Navy Department strongly endorse the subject plan at the appropriate time.

A. J. HEPBURN.

#### APPENDIX A

##### MARINE ADVANTAGES OF PROPOSED PLAN FOR IMPROVEMENT OF PANAMA CANAL

Provides safe summit level anchorage for vessels as they emerge from the cut.

Eliminates Pedro Miguel Locks as the bottleneck of the canal.

Makes transit of cut independent of Pedro Miguel Locks.

Simplifies problem of dispatching.

Reduces time of transit.

Increases safety of transit.

Makes operation of Miraflores Locks independent of fog in Gaillard Cut.

Increases traffic capacity.

Eliminates lockage surges from cut as a navigational hazard.

Increases usable dry season storage in summit level.



## CIVIL RIGHTS

Mr. CLARK. Mr. President, now that the civil rights bill has been passed and is on its way to the President, some of us are concerned as to how the Commission and the additional Assistant Attorney General will be financed.

I wonder if the distinguished minority leader would be able to give us some assurance that appropriations will be available from which the Commission, as well as the Assistant Attorney General, can be adequately financed, so that we can go home with a conviction that the members of the Commission can be appointed soon and go to work, without there being the necessity for any other appropriation.

Mr. KNOWLAND. Mr. President, I will say to the Senator from Pennsylvania that I cannot give a complete and categorical answer to his inquiry. I believe, however, that there are sufficient funds in the Department of Justice appropriations, in the case of the Assistant Attorney General. In the case of the Commission, if necessary there are sufficient funds in the President's special emergency funds at least to get the Commission started on its work.

Mr. CLARK. I thank the Senator from California.

Mr. JAVITS. Mr. President, will the Senator inform us as to whether he thinks the work will be impeded by the need for getting confirmation of the Director of the Commission?

Mr. KNOWLAND. I will say to the Senator, again I would not want to give a categorical answer to the Senator in that regard, but I hope, in the same spirit that the legislation was passed, that when the names are sent to the Senate and we have reconvened, there will be no unnecessary delay in having confirmation of the nominations.

Mr. JAVITS. Does the Senator believe these positions are subject to recess appointments?

Mr. KNOWLAND. I believe they are.

Mr. JAVITS. I thank the Senator.

## ADDRESS BY LEWIS A. LAPHAM, PRESIDENT OF GRACE LINE, INC.

Mr. BEALL. Mr. President, in connection with the most recent developments in our maritime history, Mr. Lewis A. Lapham, president of Grace Line, Inc., delivered a constructive and interesting address which justifies the attention and reading of Members of the Congress and of the public generally. The speech was delivered at the christening of the steamship *Santa Rosa* on August 28, when interested supporters of the American merchant marine journeyed to Newport News to see two ships of the same name—one a replacement of the other, floating side by side. The modern ship just off the ways will replace the steamship *Santa Rosa* which for 25 years has transported thousands of Americans between our ports and ports of South America.

Mr. Lapham is one of the outstanding shipping officials of our country and has maintained the highest standards to which the Grace Line has adhered over decades of successful operations. In view of the importance of this ceremony and of the appropriateness of Mr. Lapham's

remarks, I ask unanimous consent that the text of his address be printed in the CONGRESSIONAL RECORD.

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

REMARKS OF LEWIS A. LAPHAM, PRESIDENT, GRACE LINE, INC.

It goes without saying that this day is a marvelously pleasant and memorable one for the Grace Line. Traditionally, I suspect, I should speak about the new ship, the new *Santa Rosa*, which looms above us. But like most ships, this one will speak for herself, and if you will forgive a certain prejudice, I think she will speak better than most, as has her predecessor, the old *Santa Rosa*, laying off in the James River before you and getting ready even now to whistle her name-sake here and farewell.

But I would rather speak, briefly, of what is behind the ship and how she came to be.

She will be the first passenger vessel built and launched in the shipping industry's overall replacement program, and she marks as well the first building of the Grace Line's own construction program, the largest by far the line has undertaken in its hundred years of existence. But her building has not just happened in this year of 1957. Far from it.

She is part of a program that began, in essence, in 1936 with the passage of the Merchant Marine Act in that year. It is an act that has been most faithfully and intelligently administered by the responsible Government agency, and at no time, incidentally, better administered than under its present leadership. And it is an act that has been equally faithfully and intelligently complied with by the industry it serves.

This ship is the first of a program that will send down the ways some 300 United States flag vessels over the next 12 years or so, a fleet of the finest, safest, and most effective ships afloat. It is a joint program of the industry and the Government, planned to provide an oceangoing transportation service for the overseas trade and support of a nation that demands and should have, the best.

All these things can be planned, of course, and talked about, but someone has to transmit the plans to paper and the paper to ships, and that just doesn't happen either. And I go no further with these remarks before expressing the Grace Line's warm and deep appreciation to Mr. William Francis Gibbs, who designed this ship, and to Newport News, who built it. The superb talents and craftsmanship that have gone into this new *Santa Rosa* make themselves manifest without any added comment from me, or anyone else. The performance is even more impressive when you consider that it was a bare 7½ months ago that some of us were here to see the keel plate for this same ship swung into place.

As for our sponsor today, she bears the most famous name in United States shipping history and we are delighted to have her. And a special touch of history is additionally with us in the person of the young maid of honor, Miss Carolyn Flint, a descendant of one of the families whose firm, Chapman & Flint, many years ago in Bath, Maine, built the clipper ship forerunners of the present Grace Line fleet.

The line has a host of other friends here, from the Federal Maritime Administration and other Government agencies, from the shipping world and its related industries, and to them all may I say, many, many thanks—we are complimented by your presence and are happy to have you with us, I promise you.

But nothing perhaps more significantly emphasizes the continuity of the program I have been talking about, of this lengthy maritime tradition, past, present and fu-

ture, than the presence out there in the James River of the old *Santa Rosa*. She has had a long, proud service, in peace and in war, under her country's flag. And this occasion, unique, I suspect in seagoing history, is a fine climax for her honorable career.

## REPORT ON 85TH CONGRESS, 1ST SESSION

Mr. JAVITS. Mr. President, under the heading of "85th Congress, 1st session, Final Report," I ask unanimous consent to have printed in the RECORD a report of the happenings of this session of the Congress.

There being no objection, the report was ordered to be printed in the RECORD, and will appear hereafter.

## DEATH OF PETER K. MORSE, DEPUTY GENERAL COUNSEL, INTERNATIONAL COOPERATION ADMINISTRATION

Mr. MANSFIELD. Mr. President, it was with profound regret that I learned of the untimely death of Peter K. Morse, Deputy General Counsel of the International Cooperation Administration. Mr. Morse was killed in an automobile accident on Monday near Sharon, Mass. Mr. Morse was well and favorably known to many members of the Committee on Foreign Relations because of his work during the past several years in the presentation of the executive branch position on the foreign-aid programs.

Mr. Morse, who was 38 years of age at the time of his death, was a native of Detroit, Mich. He had served in the United States Navy from 1942 to 1946. He was a graduate of the University of Michigan and the Harvard Law School, where he was case editor of the Harvard Law Review. After having been associated for 3 years with a New York law firm he joined the legal staff of the Economic Cooperation Administration in August 1949. He had been given progressively increasing responsibility in the administration of the mutual-security program in the 8 years since that time. He became Deputy General Counsel of ICA in 1956 and he had been serving as Acting General Counsel during the past 6 months.

The Government of the United States has lost a devoted public servant. It is my hope that Peter Morse's family and friends can take comfort from the widespread appreciation of this fact.

## TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

## RESOLUTIONS OF AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD three resolutions adopted by the delegates to the convention of the American Federation of Government Employees at the Hotel Statler, Boston,

Mass., August 5-9, 1957, concerning Federal employees and employment conditions.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

**RESOLUTION 15, INCREASED BENEFITS FOR FEDERAL EMPLOYEES IN HAZARDOUS OCCUPATIONS**

Whereas employees of United States naval and VA hospitals and United States penal and mental institutions are engaged in hazardous work; and

Whereas these Federal employees are engaged in hazardous occupations such as all types of employment involving the custody, care, and/or treatment of fellow humans and the protection of public properties are not receiving adequate compensation or retirement benefits; and

Whereas determination by Federal administrative officials is overly restrictive in allowing recognition of hazardous-type employment; Therefore, be it

*Resolved*, That the Massachusetts State Federation of Labor urge the Congress of the United States of America to increase the compensation and retirement benefits of these Federal employees and provide for a more liberal interpretation of hazardous-type occupations.

Submitted by Delegate John S. Gannon, Lodge 1088, American Federation of Government Employees, Boston, Mass.

Resolution 15 adopted by delegates in convention at Hotel Statler, Boston, Mass., August 5 to 9, 1957.

**RESOLUTION 16, MAINTAINING WATERTOWN AND SPRINGFIELD ARSENALS**

Whereas the Watertown Arsenal and the Springfield Armory are Federal field establishments that have greatly contributed to the defense needs of the nation and the prosperity of the Commonwealth over the past century; and

Whereas both these traditional defense activities have been subjected to a series of adverse administrative actions which have curtailed their scope of operations; and

Whereas such curtailment of operation has unduly hurt the economic well-being of the Commonwealth and the defense readiness of the Nation; Therefore be it

*Resolved*, That the Massachusetts State Federation of Labor in Convention go on record and urge the Congress of the United States of America to provide for and insure the continued operation of the Watertown Arsenal and the Springfield Armory at a higher plain and wider scope of operations as an aid to bolster the economy of the Commonwealth of Massachusetts and improve the defense preparedness of the Nation.

Submitted by delegate John S. Gannon, Lodge 1088, American Federation of Government Employees, Boston, Mass.

Resolution 16 adopted by delegates in convention at Hotel Statler, Boston, Mass., August 5 to 9, 1957.

**RESOLUTION 54, MAINTAINING EMPLOYMENT LEVELS AT BOSTON NAVAL SHIPYARD**

Whereas the Boston Naval Shipyard draws its employees from every part of the Commonwealth more particularly within a radius of 60 miles from the city of Boston; and

Whereas each city and town therein is greatly affected by the financial stability of these employees; and

Whereas any proposed layoff which will affect every trade and occupation and result in many professional and technical men and skilled mechanics seeking work in other States; and

Whereas the Navy has announced an economy cut of several fighting ships from the

active fleet, that could mean diverting Boston repair work to other shipyards; and

Whereas any reduction in the appropriation for the Boston Naval Shipyard and any further cutback in work would increase unemployment in this area to an untenable degree; Therefore be it

*Resolved*, That the Massachusetts State Federation of Labor delegates in convention urge the Congress of the United States to take action as may be necessary to compel the Department of Defense to maintain the present standard of employment and work at the Boston Naval Shipyard; and be it further

*Resolved*, That copies of these resolutions be transmitted to the President of the United States, to each Member of the Massachusetts Congressional delegation, to the Secretary of Defense, to the Secretary of the Navy.

Submitted by delegate John S. Gannon, Lodge 1088, American Federation of Government Employees, Boston Naval Shipyard.

Resolution 54 adopted by delegates in convention at Hotel Statler, Boston, Mass., August 5-9, 1957.

**REPORT ENTITLED "OPERATION OF ARTICLE VII, NATO STATUS OF FORCES TREATY" (S. REPT. NO. 1162)**

Mr. FLANDERS. Mr. President, the full Committee on Armed Services on August 22 approved the report of the Armed Services Subcommittee on the Operation of Article VII of the NATO Status of Forces Treaty and other foreign jurisdictional arrangements. This report covers a review of these arrangements from December 1, 1955, through November 30, 1956. Separate comment is also made on the Girard case.

Mr. President, I submit this report from the Committee on Armed Services and request unanimous consent that it be printed, with illustrations.

The VICE PRESIDENT. The report will be received and printed, as requested by the Senator from Vermont.

**STATEHOOD FOR ALASKA AND HAWAII—REPORTS OF A COMMITTEE—MINORITY VIEWS (S. REPTS. NO. 1163 and 1164)**

Mr. JACKSON. Mr. President, by direction of the Committee on Interior and Insular Affairs, I submit a report on the bill (S. 49) to provide for the admission of the State of Alaska into the Union, and also the bill (S. 50) to provide for the admission of the State of Hawaii into the Union. I ask unanimous consent that the minority may file a report during the present session of the Congress or during the adjournment of the Congress.

The VICE PRESIDENT. The reports will be received, and the bills will be placed on the calendar; and, without objection, the reports will be printed, and the request of the Senator from Washington is granted.

**ADDITIONAL BILLS INTRODUCED**

By unanimous consent, Mr. YARBOROUGH introduced the following bills, which were read twice by their titles and referred as indicated:

S. 2886. A bill to authorize continuing studies of the biology, propagation, catch,

and abundance of species of fish and shrimp that are of interest to sport and commercial fishermen in waters adjacent to certain areas in the State of Texas so that appropriate measures for protecting the environment and increasing the abundance of such species of fish and shrimp may be taken; to protect the whooping crane and the lands upon which it is dependent by the establishment of a wildlife sanctuary in the State of Texas, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YARBOROUGH (for himself and Mr. BYRD):

S. 2887. A bill to amend title I of the Federal-Aid Highway Act of 1956 to provide that the Secretary of the Interior shall approve the acquisition of certain lands of national historical significance, or interests therein, for highway purposes; to the Committee on Public Works.

**CONSERVATION OF FISH AND WILDLIFE IN THE STATE OF TEXAS**

Mr. YARBOROUGH. Mr. President, there is a great need in the State of Texas and in the country to enlarge our program of fish and wildlife conservation. The extinction of the passenger pigeon, heath hen, Labrador duck, and numerous other American native birds of great economic and cultural value are pointed examples of our wastefulness with our natural resources in the past and our need for conservation now. The land is filling up with people and there is less and less natural habitat and unpolluted waters for our native animals and birds to rest upon, feed in, and drink.

We must move fast if we are to save many species of our beautiful wildlife. Many are threatened with extinction.

The fishermen of the gulf coast are interested in a program which will preserve and propagate the marine life that contribute to their livelihood.

All Americans and all Canadians have followed with close interest as the whooping crane population of the world dwindled. Only a handful of these beautiful birds are alive today, and unless further steps are taken to preserve and protect this species of fowl, we are likely soon to be without these fine and lovely creatures. They are the tallest wild birds in America today.

Mr. President, we also need additional study of the fish and marine life resources of this country.

Mr. President, I introduce, for appropriate reference, a bill that would not only provide for protecting the environment and increasing the abundance of marine life, but would also establish a wildlife sanctuary in the State of Texas for whooping cranes and other wildlife.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2886) to authorize continuing studies of the biology, propagation, catch, and abundance of species of fish and shrimp that are of interest to sport and commercial fishermen in waters adjacent to certain areas in the State of Texas so that appropriate measures for protecting the environment and increasing the abundance of such species of fish and shrimp may be taken; to protect the whooping crane and the lands upon which it is dependent by the establishment of a wildlife



sanctuary in the State of Texas, and for other purposes, introduced by the Senator from Texas [Mr. YARBOROUGH] was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

#### PRESERVATION OF CERTAIN LANDS OF NATIONAL HISTORICAL INTEREST

Mr. YARBOROUGH. Mr. President, under the Federal interstate road program, certain historical shrines and monuments are in grave danger of being destroyed by the routing of Federal highways, and doubtless in the future, many other shrines of great cultural and historic value to our people will be destroyed unless laws are enacted to preserve them.

One such historic shrine which has been placed in jeopardy by the recently announced routing of an interstate highway in New Jersey is the Morristown National Historical Park and the Revolutionary War headquarters of Gen. George Washington. The National Park Service has protested the proposed new route for the highway.

In 1949 the Congress chartered the National Trust for Historic Preservation to further the national policy of preserving cultural or historic monuments and shrines, set forth in the Historic Sites Act of 1935, which act was sponsored by the Senator from Virginia [Mr. BYRD] and Representative Maury Maverick. The Senator from Virginia [Mr. BYRD] has joined me in sponsoring a bill to amend the Federal Highway Act of 1956, to provide that the Secretary of the Interior shall give his written opinion that land sought for a highway right-of-way and paid for with Federal funds, will not adversely affect the national policy of preserving for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States, before the land can be bought.

Therefore, on behalf of myself, and the Senator from Virginia [Mr. BYRD], I introduce, for appropriate reference, a bill to amend title I of the Federal Aid Highway Act of 1956 to provide that the Secretary of the Interior shall approve the acquisition of certain lands of national historical significance, or interests therein, for highway purposes, and ask that it be appropriately referred.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 2887) to amend title I of the Federal-Aid Highway Act of 1956 to provide that the Secretary of the Interior shall approve the acquisition of certain lands of national historical significance, or interests therein, for highway purposes, introduced by Mr. YARBOROUGH (for himself and Mr. BYRD), was received, read twice by its title, and referred to the Committee on Public Works.

#### CREATION OF A COAL RESEARCH AND DEVELOPMENT COMMISSION—ADDITIONAL COSPONSOR OF BILL

Mr. MARTIN of Pennsylvania. Mr. President, I ask unanimous consent that

the name of the Senator from Kentucky [Mr. COOPER] may be added as a cosponsor of the bill (S. 2877) to encourage and stimulate the production and conservation of coal in the United States through research and development by creating a Coal Research and Development Commission and for other purposes, introduced by me, for myself and my colleague, the junior Senator from Pennsylvania [Mr. CLARK].

The VICE PRESIDENT. Without objection, it is so ordered.

#### TRIAL OF MEMBERS OF THE ARMED FORCES FOR CRIMINAL OFFENSES COMMITTED IN FOREIGN COUNTRIES—ADDITIONAL COSPONSORS OF RESOLUTION

Mr. SMATHERS. Mr. President, I wish to announce that Senators BIBLE, BRIDGES, BUTLER, CURTIS, EASTLAND, GOLDWATER, HOLLAND, JOHNSTON of South Carolina, MALONE, MCCLELLAN, MUNDT, POTTER, ROBERTSON, STENNIS, TALMADGE, YOUNG, and ERVIN have indicated their desire to join me as cosponsors of the resolution (S. Res. 163) favoring trial by the United States, where primary jurisdiction is conferred upon it by treaty, of members of the Armed Forces for criminal offenses committed in foreign countries, submitted by me on July 15, 1957. I ask unanimous consent that their names be added as cosponsors of the resolution the next time it is printed.

The VICE PRESIDENT. Without objection, it is so ordered.

#### ADJOURNMENT TO 9 A. M. TODAY

Mr. MANSFIELD. Mr. President, in accordance with the order previously entered, I now move that the Senate be in adjournment until 9 o'clock this morning.

The motion was agreed to; and (at 12 o'clock and 59 minutes a. m. on Friday, August 30) the Senate adjourned, the adjournment being, under the order previously entered, until 9 o'clock a. m. the same day.

#### A NOMINATION

Executive nomination received by the Senate August 29, 1957:

##### UNITED STATES MARSHAL

Edward L. McCarthy, of Rhode Island, to be United States marshal for a term of 4 years for the district of Rhode Island, vice Howard S. Proctor, retired.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate August 29, 1957:

##### IN THE ARMY

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

##### To be major generals

Brig. Gen. Theodore Scott Riggs, O17076.  
Brig. Gen. Garrison Barkley Coverdale, O17148.  
Brig. Gen. Hugh Mackintosh, O17716.

##### To be brigadier generals

Col. Herbert Volvenelle Mitchell, O18073.  
Col. Willis Almeron Perry, O18131.  
Col. Harrison Alan Gerhardt, O18697.  
Col. Charles John Timmes, O29777.  
Col. Richard John Meyer, O19147.  
Col. Samuel Edward Gee, O19251.

The nominations of Col. John R. Jannarone and 154 other officers for appointment in the Regular Army of the United States, which were confirmed today, were received by the Senate on August 16, 1957, and appear in full in the Senate proceedings of the CONGRESSIONAL RECORD for that date beginning with the name of Col. John R. Jannarone which is shown on page 15060, and ending with the name of Edward L. Witzell, which is shown on the said page.

##### IN THE AIR FORCE

The following officers under the provisions of section 8066, title 10, United States Code, to be assigned to positions of importance and responsibility in the United States Air Force, designated by the President in rank as follows:

##### To be general

Lt. Gen. Leon William Johnson, 88A (major general, Regular Air Force).

##### To be lieutenant generals

Maj. Gen. Francis Hopkins Griswold, 94A, Regular Air Force.

Maj. Gen. William Fulton McKee, 467A, Regular Air Force.

Maj. Gen. William Dole Eckert, 560A, Regular Air Force.

##### IN THE NAVY AND IN THE MARINE CORPS

The nominations of James S. Webb, Jr., and 717 other officers for appointment in the Navy and Marine Corps, which were received by the Senate on August 16, 1957, and which were confirmed today, may be found in full in the Senate proceedings of the CONGRESSIONAL RECORD of August 16, 1957, under the caption "Nominations," beginning with name of James S. Webb, Jr., which is shown on page 15060, and ending with the name of Richard C. Yessi, which is shown on page 15063.

The nominations of Edward G. Goodman and 44 other officers for temporary or permanent promotion in the Navy or the Marine Corps, which were received by the Senate on August 21, 1957, were confirmed today, and may be found in full in the Senate proceedings of the CONGRESSIONAL RECORD for that date, beginning with the name of Edward G. Goodman, appearing under the caption "Nominations" on page 15502.

##### POSTMASTERS

##### ALABAMA

Henry L. Mullins, Andalusia.  
Grady J. Taylor, Spruce Pine.  
Hughie J. McInnish, Union Springs.

##### ARIZONA

Ruth M. Despain, Bagdad.  
Opal V. Chambers, Cashion.

##### ARKANSAS

Bart M. Price, Cove.  
Mitchell A. McCoy, Kingsland.  
Dillard H. Collins, Salem.  
Elbert R. Upshaw, Turrell.  
Vernoy V. Godwin, Warren.  
Lewis A. J. Booth, Williford.

##### CALIFORNIA

Jay C. Andes, Biggs.  
Alfred E. Rider, Burney.  
Eldrude E. Case, Butte City.  
Marguerite I. Wilson, Dutch Flat.  
Richard L. Bernard, Gonzales.  
Arthur M. Webb, Mammoth Lakes.  
Evelyn O. Pedroia, Monte Rio.  
Berniece K. Williams, Rheem.

##### COLORADO

Ben H. Cox, Springfield.

## CONNECTICUT

John Shanaghan, East Haddam.  
Raffaele A. DePanfilis, South Norwalk.  
Helen L. Clough, Tolland.  
Dorothy B. Tuller, West Simsbury.

## FLORIDA

Charles Wyland, Fort Myers Beach.  
William C. Davis, Leesburg.  
Virginia D. Welch, Waldo.  
Carl David Lippincott, Jr., Zephyrhills.

## GEORGIA

Martha W. Sanders, Jeffersonville.  
Mittie F. Jones, Lavonia.  
William Avery Bryant, Lexington.  
Mary M. Pitts, Rabun Gap.  
Edward J. Snow, Sr., Rebecca.  
Dennis R. DeLoach, Statesboro.  
Bertha C. Taylor, Tallulah Falls.  
John Clyde Twiggs, Sr., Young Harris.

## ILLINOIS

James S. Rutter, Addison.  
Inez F. Smith, Brookport.  
Melvin V. Mader, Forest Park.  
Harry C. Bunting, Fowler.  
Alden L. McCaw, Leaf River.  
Robert C. Peterson, Lynn Center.  
John Paul Smothers, Marion.  
Mary E. Ayres, Moro.  
Carroll D. Barnes, Mount Auburn.  
Darwin E. Porterfield, Mount Erie.  
William V. Martin, Odell.  
Roy George Fraser, Roxana.  
Emery E. Tipsord, Saybrook.  
Josephine C. Hanfelder, South Roxana.  
Hugh H. Holsapple, Toledo.  
Charles R. Simmons, Venice.

## INDIANA

Lela E. Neptune, Brooklyn.  
Leonard E. Taylor, Fairland.  
Virgil R. McVay, Fortville.  
John S. Solomon, Manilla.  
Orlyn J. Clawson, San Pierre.  
Max E. Martin, Windfall.

## IOWA

Francis Darwin Smith, Cleghorn.  
Bryce L. Bremser, Dow City.  
William L. Talbot, Keokuk.  
Robert W. Grote, Portsmouth.  
Kenneth D. Cunningham, Rippey.  
Richard A. Chancellor, St. Ansgar.  
LeRoy E. Larson, St. Olaf.  
Ross G. Hauser, Union.  
Ernest K. Woods, Woodburn.

## KANSAS

John K. Wells, Coffeyville.  
Velma M. Peters, Lorraine.  
James W. Brown, Strong City.

## KENTUCKY

William T. Brooks, Jr., Buffalo.  
Glenn House, East Bernstadt.  
John C. Hicks, Hindman.  
Acton R. Anderson, Mayfield.  
Eleanor R. Mills, Russell.

## LOUISIANA

Clarence A. Rousse, Sr., Buras.  
Louise M. Gibbs, Longstreet.  
Ralph J. Treuil, Sr., Port Sulphur.  
Katherine M. Boucher, Springhill.  
Christine R. Anderson, Venice.

## MARYLAND

Reginald E. Wolfe, Freeland.  
Richard R. Sinnisen, Keedysville.

## MASSACHUSETTS

John S. Conway, Nantucket.  
Dorothy E. Strong, Stow.

## MICHIGAN

Marian G. Decker, Auburn Heights.  
Gordon Arthur Young, Coloma.  
Albert V. Morgan, Crosswell.  
Woodrow C. Rowell, Kalkaska.  
Ellie D. Wood, Lacota.  
Norman F. Smith, Marlette.  
Chauncey A. Gulette, Pearl Beach.  
Chester J. Orr, Standish.  
Harold George Weller, Whitmore Lake.

## MINNESOTA

Gustav A. Marohn, Annadale.  
Raymond O. Halvorson, Ceylon.  
William A. Larson, Crookston.  
Bertha H. Swenson, Dawson.  
Julian V. Dalum, Hoffman.  
Miles O. Olson, Isle.  
Stanley F. Drips, Rochester.  
Vernon R. Flint, St. Charles.

## MISSISSIPPI

Henry W. Jones, Brandon.  
Cecil R. Dubuisson, Long Beach.  
Emma J. Cummings, Pheba.  
Harvey C. Mitchell, Jr., Plantersville.  
John H. Hobdy, Waynesboro.  
L. Jones Hand, West.

## MISSOURI

J. B. Gregory, Amsterdam.  
Samuel K. Bartlett, Bogard.  
Virginia L. Ward, Bonne Terre.  
Otto W. Buescher, Columbia.  
Theodore R. Shell, De Soto.  
Tony E. Cates, Ellsinore.  
Curtis M. Cook, Festus.  
Harold G. McLeland, Gorin.  
Lena V. McMurry, Moscow Mills.  
Clyde R. Muller, Sweet Springs.

## NEBRASKA

Arthur G. Pohl, Hampton.  
Donald S. Wightman, Wayne.

## NEW HAMPSHIRE

Warren F. Metcalf, Tilton.

## NEW JERSEY

Alice M. Dwyer, Hopatcong.  
Holger G. Holm, Metuchen.  
George C. Koepfel, Pennington.  
M. Elizabeth Mathis, Rancocas.  
George W. Stader, South Amboy.  
Gerard G. Eisson, Whippany.

## NEW MEXICO

Otto Klaudt, Deming.  
Solomon G. Alvarez, Las Cruces.

## NEW YORK

Alton G. Snyder, Atlanta.  
Alta P. Johnson, Blue Mountain Lake.  
Bernard J. Davis, Bouckville.  
Alden Francis Matt, Canajoharie.  
Robert J. Gardner, Croghan.  
Francis B. Crowley, East Rockaway.  
Leo J. Morgan, Farmingdale.  
Francis W. Robinson, Fort Edward.  
Harold E. Coyne, Remsen.  
Dorothy E. Forsman, Rhinecliff.  
Glenn E. Bock, Sherman.  
Margaret M. Cutler, Upper Jay.  
Harry C. Hager, Watertown.  
Raymond P. Cary, West Coxsackie.  
Charles J. Ryemiller, Jr., West Sand Lake.  
Howard V. Galer, Worcester.  
Dalton H. Newton, Yorkshire.

## NORTH CAROLINA

Ruth A. Farrior, Calypso.  
William T. Stokes III, Graham.  
Annie B. Smith, Gullford.  
Calvin Turner Draper, Jackson.  
Grady S. Tucker, Locust.  
Mary R. Titman, Lowell.  
Steven Andrew Gaydek, Maury.  
James J. Lee, Jr., Mebane.  
Jake H. Wright, Jr., Middlesex.  
James H. Canipe, Morven.  
William K. Delbridge, Norlina.  
Lola A. Woody, Saxapahaw.  
Alice H. Graves, Seagrove.  
Robert W. Sharpe, Sharpsburg.  
Robert W. Loflin, Trinity.

## NORTH DAKOTA

Robert M. Otterson, Aneta.  
George J. Dietz, Belfield.  
Maurice A. Ellingrud, Buxton.  
Donald C. Ditch, Douglas.  
Gertrude E. Anderson, Epping.  
Charles S. Moores, Finley.  
Donald C. Hawley, Hope.  
Myron Halstenson, Niagara.  
Mons K. Ohnstad, Jr., Sharon.

## OHIO

Robert C. Anderson, Clarksburg.  
Kenneth W. Folsom, Columbia Station.  
Frank A. Kitts, Kitts Hill.  
Fern L. Graver, Lindsey.  
Ned J. Reynolds, Sterling.  
Vera Gail Slater, The Plains.

## OKLAHOMA

Frances L. McFadyen, Anadarko.  
Martin M. Cassity, Ardmore.  
Hobart F. R. Higdon, Avant.  
Rae R. Toney, Bennington.  
Thornton J. Lucado, Jr., Blanchard.  
Buster E. Barker, Boswell.  
Hershell S. Harper, Broken Arrow.  
William A. Craig, Miami.  
Carson Scott, Okmulgee.  
Wayne Coffman, Pauls Valley.  
W. Galen Dunn, Shawnee.  
John D. Jordan, South Coffeyville.  
Leonard W. Booker, Stroud.

## OREGON

Kenneth V. Richards, Cottage Grove.

## PENNSYLVANIA

Mark D. Reber, Centerport.  
William E. Miller, Chadds Ford.  
Fernando J. Perott, Emeigh.  
William J. Hlavats, Glassport.  
Elmer E. Mower, Marcus Hook.  
Harold J. Niemeyer, Newtown Square.

## SOUTH CAROLINA

Linder Lee Ray, St. Matthews.  
James T. Claffy, Eastover.

## TENNESSEE

Daniel E. Porter, Adams.  
Dale L. Marion, Blountville.  
Vance T. Tankersley, Cornersville.  
Dan L. Clapp, Coryton.  
Jim N. Bone, Cumberland Furnace.  
Ralph B. Gilliland, Harriman.  
Frank Melson, Lutts.  
Evelyn E. Roach, New Market.  
David A. Weaver, Persia.  
Irene A. Roblin, Pressmen's Home.  
Della G. Henard, Russellville.  
John E. Carter, Sparta.  
William Raymon Kea, Waynesboro.

## TEXAS

Roland W. Davie, Grand Prairie.  
Neil O. Clute, Jewett.  
Jeffie M. Griffith, Lockney.  
Birdie L. Lindsey, Simms.  
Frances E. Renfro, West Columbia.  
John L. Pevey, Woodson.

## UTAH

John B. Nelson, Goshen.

## VERMONT

Ralph W. Reiriden, Richford.

## VIRGINIA

C. Ronald Woodrum, Staunton.

## WASHINGTON

Ernest R. Meier, Arlington.  
Howard W. Grending, Benton City.  
Herbert L. Coon, Bremerton.  
Ann M. Ingraham, Burton.  
John C. Nowadnick, Chehalis.  
Melvin LaHammer, Darrington.  
Otis K. Hill, Goldendale.  
Lawrence V. Grape, Ione.  
Roy E. Rettig, Kenmore.  
Mary Elizabeth Morrow, Lacey.  
Theodore H. Biermann, Lind.  
Genevieve K. Simm, Metaline Falls.  
Pauline G. Stewart, Milton.  
Arthur J. Freeborg, Moses Lake.  
August E. Tornow, Mossyrock.  
Richard H. Vaughn, Mountlake Terrace.  
Mayme C. Ross, Mukilteo.  
Marguerite T. Christie, Nahcotta.  
Homer A. Smithson, Jr., Peshastin.  
Paul E. McMahan, Randle.  
Chauncey F. Arnold, Silverdale.  
Eleanor G. Monson, Silvana.  
Emil E. Bruno, South Cle Elum.  
Harlan M. Shepardson, Toledo.



Chesla D. Williams, Tonasket.  
Calvin M. Langfield, Trout Lake.  
Wanda G. Wyatt, Union.  
Albert J. Ricard, Uniontown.  
Ivan K. Keve, Waitsburg.

## WEST VIRGINIA

Verla O. Eary, Fayetteville.  
Ruth J. Cochran, Mona.

## WISCONSIN

Joseph A. Battalio, Clinton.  
Charles A. Hall, Gresham.  
Frederick M. Griswold, Lakemills.  
Warren R. Erdmann, Oakfield.  
Arthur G. Mehrling, Port Washington.  
Roger W. Most, Prescott.  
William R. Barnard, Reedsville.  
Chester J. Kuroski, Schofield.  
Roy H. Andrews, Sharon.  
Norbert F. Schumert, West De Pere.

## HOUSE OF REPRESENTATIVES

THURSDAY, AUGUST 29, 1957

The House met at 12 o'clock noon.  
The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Almighty God, may we begin each new day with the unshakable confidence that our lives are in Thy divine keeping and control.

We thank Thee for the glad and glorious assurance that no needed blessing wilt Thou withhold from us if we do justly, love mercy, and walk humbly with the Lord.

Inspire us with a strong and steadfast faith as we seek and strive continuously to achieve for ourselves and all mankind a larger measure of the more abundant life.

May we never become weary in well-doing and allow our energies to be depleted by fear and worry.

Grant that when we falter and fail we may not lose heart or hope for Thou art always ready to restore and rehabilitate us if we are willing to try again.

In Christ's name we offer our prayer. Amen.

The Journal of the proceedings of yesterday was read and approved.

## MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, informing the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On August 21, 1957:

H. R. 1672. An act for the relief of the legal guardian of Frederick Redmond;  
H. R. 1861. An act for the relief of George W. Arnold;

H. R. 2045. An act for the relief of Robert D. Miller, of Juneau, Alaska;

H. R. 2264. An act for the relief of Donald F. Thompson;

H. R. 2460. An act to improve the career opportunities of nurses and medical specialists of the Army, Navy, and Air Force;

H. R. 2674. An act for the relief of Morris B. Wallach;

H. R. 2740. An act for the relief of Mrs. Harriet Sakayo Hamamoto Dewa;

H. R. 2950. An act for the relief of Lt. Col. Emery A. Cook;

H. R. 2985. An act for the relief of Alton B. York;

H. R. 3440. An act for the relief of Mr. and Mrs. Allan Schlossberg;

H. R. 3473. An act to authorize and direct the Secretary of the Interior to sell certain public lands in the State of California;

H. R. 4630. An act to authorize revision of the tribal roll of the Eastern Band of Cherokee Indians, North Carolina, and for other purposes;

H. R. 5492. An act to amend the act of August 31, 1954 (68 Stat. 1044) to extend the time during which the Secretary of the Interior may enter into amendatory repayment contracts under the Federal reclamation laws, and for other purposes;

H. R. 5679. An act to authorize amendment of the irrigation repayment contract of December 28, 1950, between the United States and the Mirage Flats Irrigation District, Nebr.;

H. R. 6517. An act to provide for the retirement of officers and members of the Metropolitan Police force, the Fire Department of the District of Columbia, the United States Park Police force, the White House Police force, and of certain officers and members of the United States Secret Service, and for other purposes;

H. R. 7540. An act to amend Public Law 815, 81st Congress, relating to school construction in federally affected areas, to make its provisions applicable to Wake Island;

H. R. 8643. An act to authorize the construction of certain works of improvement in the Niagara River for power, and for other purposes;

H. R. 8996. An act to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; and

H. J. Res. 275. Joint resolution transferring to the Commonwealth of Puerto Rico certain archives and records in possession of the National Archives.

On August 22, 1957:

H. R. 1058. An act to preserve the key deer and other wildlife resources in the Florida Keys by the establishment of a National Key Deer Refuge in the State of Florida;

H. R. 1460. An act for the relief of Tom R. Hickman and others;

H. R. 1562. An act for the relief of Maj. John P. Ruppert;

H. R. 1682. An act for the relief of Edward J. Moskot;

H. R. 1864. An act for the relief of Mrs. Lidie Kammauf;

H. R. 2049. An act for the relief of Mrs. Blanche Houser;

H. R. 2937. An act for the relief of Clarence L. Harris;

H. R. 3723. An act for the relief of Maj. Gen. Julius Klein;

H. R. 4023. An act for the relief of Oswald N. Smith;

H. R. 5627. An act for the relief of Mrs. Emma Hankel; and

H. R. 6527. An act for the relief of Horace Collier.

On August 23, 1957:

H. R. 1473. An act for the relief of Richardson Corp.

On August 26, 1957:

H. R. 232. An act to amend the Internal Revenue Code of 1954 with respect to the readjustment of tax in the case of certain amounts received for breach of contract, and to restrict the issuance of certificates for rapid amortization of emergency facilities;

H. R. 2928. An act for the relief of Harry and Sadie Wooneller;

H. R. 3281. An act for the relief of Howard S. Gay;

H. R. 4154. An act for the relief of the legal guardian of Thomas Brainard, a minor;

H. R. 4520. An act to amend section 401 (e) of the Civil Aeronautics Act of 1938 in order to authorize permanent certification

for certain air carriers operating between the United States and Alaska;

H. R. 8090. An act making appropriations for civil functions administered by the Department of the Army and certain agencies of the Department of the Interior, for the fiscal year ending June 30, 1958, and for other purposes; and

H. J. Res. 323. Joint resolution to facilitate the admission into the United States of certain aliens.

On August 27, 1957:

H. R. 52. An act to provide increases in service-connected disability compensation and to increase dependency allowances.

On August 28, 1957:

H. R. 787. An act to authorize the exchange of certain lands between the United States of America and the State of California;

H. R. 993. An act to provide for the conveyance of certain land by the United States to the Cape Flattery School District in the State of Washington;

H. R. 1259. An act to clear the title to certain Indian land;

H. R. 1349. An act for the relief of John J. Fedor;

H. R. 1365. An act for the relief of Elmer L. Henderson;

H. R. 1424. An act for the relief of Sylvia Ottila Tenyi;

H. R. 1595. An act for the relief of Vanja Stipicic;

H. R. 1652. An act for the relief of Rajka Markovic and Krunoslav Markovic;

H. R. 1678. An act to provide for the quitclaiming of the title of the United States to the real property known as the Barcelona Lighthouse site, Portland, N. Y.;

H. R. 1797. An act for the relief of Maria Sausa and Gregorio Sausa;

H. R. 1826. An act to authorize the sale of certain lands of the United States in Wyoming to Bud E. Burnaugh;

H. R. 1851. An act for the relief of Dezrin Boswell (also known as Dezrin Boswell Johnson);

H. R. 1953. An act to provide that checks for benefits provided by laws administered by the Administrator of Veterans' Affairs may be forwarded to the addressee in certain cases;

H. R. 2058. An act for the relief of Franklin Institute of the State of Pennsylvania;

H. R. 2237. An act authorizing the transfer of certain property of the Veterans' Administration (in Johnson City, Tenn.) to Johnson City National Farm Loan Association and the East Tennessee Production Credit Association, local units of the Farm Credit Administration;

H. R. 2354. An act for the relief of the estate of Leatha Horn;

H. R. 2741. An act to authorize and direct the Administrator of Veterans' Affairs to convey certain lands of the United States to the Hermann Hospital Estate, Houston, Tex.;

H. R. 2816. An act to provide for the conveyance of Esler Field, La., to the parish of Rapides in the State of Louisiana, and for other purposes;

H. R. 2973. An act for the relief of the estate of William V. Stepp, Jr.;

H. R. 2979. An act for the relief of Mary Hummel;

H. R. 3025. An act to authorize the Secretary of the Navy to surrender and convey to the city of New York certain rights of access in and to Marshall, John, and Little Streets adjacent to the New York Naval Shipyard, Brooklyn, N. Y., and for other purposes;

H. R. 3184. An act for the relief of Gordon Broderick;

H. R. 3246. An act to authorize the exchange of lands at the United States Naval Station, San Juan, P. R., between the Commonwealth of Puerto Rico and the United States of America;

H. R. 3658. An act to liberalize certain criteria for determining eligibility of widows for benefits;

H. R. 3819. An act to amend section 331 of title 28, United States Code, to provide representation of district judges on the Judicial Conference of the United States;

H. R. 4344. An act for the relief of Malone Hsia;

H. R. 4447. An act for the relief of W. R. Zanes & Co., of Louisiana, Inc.;

H. R. 5168. An act for the relief of William Henry Diment, Mrs. Mary Ellen Diment, and Mrs. Gladys Everingham;

H. R. 5288. An act for the relief of Orville G. Everett and Mrs. Agnes H. Everett;

H. R. 5707. An act for the relief of the A. C. Israel Commodity Co., Inc.;

H. R. 5757. An act to increase the maximum amount payable by the Veterans' Administration for mailing or shipping charges of personal property left by any deceased veteran on Veterans' Administration property;

H. R. 5924. An act relating to the International Convention To Facilitate the Importation of Commercial Samples and Advertising Matter;

H. R. 6080. An act to provide for the conveyance of certain property of the United States in Gulfport, Miss., to the Gulfport Municipal Separate School District;

H. R. 6166. An act for the relief of Michael S. Tillimon;

H. R. 6521. An act to modify section 3 of the act of June 30, 1945 (59 Stat. 265);

H. R. 7051. An act to stimulate industrial development near Indian reservations;

H. R. 7467. An act to amend the act of March 3, 1901, with respect to the citizenship and residence qualifications of the directors or trustees of certain companies in the District of Columbia;

H. R. 7825. An act to exempt from taxation certain property of the B'nai B'rith Henry Monsky Foundation, in the District of Columbia;

H. R. 7914. An act to amend the Career Compensation Act of 1949 to provide incentive pay for human test subjects;

H. R. 8005. An act to provide for the conveyance of interests of the United States in and to fissionable materials in certain tracts of land situated in Cook County, Ill., and in Buffalo County, Nebr.;

H. R. 8076. An act to provide for the termination of the Veterans' Education Appeals Board established to review certain determinations and actions of the Administrator of Veterans' Affairs in connection with education and training for World War II veterans;

H. R. 8079. An act to amend the Act of June 20, 1910, by deleting therefrom certain provisions relating to the establishment, deposit, and investment of funds derived from land grants to the States of New Mexico and Arizona;

H. R. 8429. An act to amend the Vocational Rehabilitation Act;

H. R. 8531. An act to provide an interim system for appointment of cadets to the United States Air Force Academy for an additional period of 4 years;

H. R. 8586. An act for the relief of Pasquale Pratola;

H. R. 8705. An act to permit articles imported from foreign countries for the purpose of exhibition at the Saint Lawrence Seaway Celebration, to be held at Chicago, Ill., to be admitted without payment of tariff, and for other purposes;

H. R. 8929. An act to amend the act of August 27, 1935, as amended, to permit the disposal of lands and interests in lands by the Secretary of State to aliens;

H. R. 8992. An act to provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes;

H. R. 9131. An act making supplemental appropriations for the fiscal year ending June 30, 1958, and for other purposes;

H. R. 9188. An act to amend the act to authorize the Secretary of the Navy to transfer to the Commonwealth of Massachusetts certain lands and improvements comprising the Castle Island Terminal Facility at South Boston in exchange for certain other lands;

H. R. 9379. An act making appropriations for the Atomic Energy Commission for the fiscal year ending June 30, 1958, and for other purposes;

H. J. Res. 339. Joint resolution to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens;

H. J. Res. 367. Joint resolution to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain aliens;

H. J. Res. 393. Joint resolution to waive certain provisions of section 212 (a) of the Immigration and Nationality Act in behalf of certain persons; and

H. J. Res. 410. Joint resolution to facilitate the admission into the United States of certain aliens.

#### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. McBride, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 8918. An act to further amend the act of August 7, 1946 (60 Stat. 896), as amended by the act of October 25, 1951 (65 Stat. 657), to provide for the exchange of lands of the United States as a site for the new Sibley Memorial Hospital; to provide for the transfer of the property of the Hahnemann Hospital of the District of Columbia, formerly the National Homeopathic Association, a corporation organized under the laws of the District of Columbia, to the Lucy Webb Hayes National Training School for Deaconesses and Missionaries, including Sibley Memorial Hospital, a corporation organized under the laws of the District of Columbia, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2080. An act relating to the computation of annual income for the purpose of payment of pension for non-service-connected disability or death in certain cases.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H. R. 6258) entitled "An act to amend the act entitled 'An act to provide additional revenue for the District of Columbia, and for other purposes', approved August 17, 1937, as amended."

The message also announced that the Senate disagrees to the amendments of the House to the joint resolution (S. J. Res. 35) entitled "Joint resolution to provide for the observance and commemoration of the 50th anniversary of the first conference of State governors for the protection, in the public interest, of the natural resources of the United States," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MURRAY, Mr. NEUBERGER, Mr. CARROLL, Mr. MALONE, and Mr. KUCHEL to be the conferees on the part of the Senate.

#### HON. STERLING COLE

Mr. HESS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HESS. Mr. Speaker, I, like most—perhaps all—of the Members on the floor today, have had the good fortune to know many good men—many kind men—and even perhaps a few great men.

In my own case, I have known few who have had all of these qualities at the same time. I have, however, been fortunate enough to know at least one man like this.

I am speaking of the gentleman who represents the 37th District of New York, STERLING COLE—Stub to most of us.

Stub and his lovely wife and his three sons have been close and dear friends of me and my family for many, many years. I have always thought that my feelings for Stub have been returned by him. I feel that this is so.

We all know that Stub will be the undoubted choice as Director General of the newly created International Atomic Energy Agency. His choice for this most important international position is one of the wisest selections made within my own personal memory, and that, in the Congress alone, goes back almost 30 years.

There is no need to review Stub's career. All of us are familiar with his long service on the Naval Affairs Committee and on its successor, the Armed Services Committee. We all know of his service since its creation on the Joint Committee on Atomic Energy, of which he was chairman during the 83d Congress.

To my mind—and I do not expect any disagreement from any Member of the House—STUB COLE possesses a peculiar genius for legislation. He has a precise and analytical mind which in many ways reminds us of philosophers of days gone by, who in their teachings and writings have formed the basis for the best things in the thinking of civilized peoples today.

But his genius is one that is tempered by a deep warmth, and a deep understanding of other men and of their problems. It is tempered also by a kindness which is almost inconsistent with his other great qualities.

Most of us can recall the days when the amendments to the Atomic Energy Act were on the floor, about 3 years ago. Most of us here in the House are not learned in the technology of atomic energy. Many of us are even unfamiliar with the terms which are used by the scientists in describing what they have done and what they hope to do. But can any one of us say that when STUB COLE completed his explanation of those amendments, and how they would affect the then Atomic Energy Act, he did not feel that he had had presented to him in the clearest and most understandable fashion one of the most complicated pieces of legislation which has ever been presented on the floor of this House?

While there is argument and disagreement among many Americans today as



to what our role should be in international affairs, there can be no disagreement that we are irrevocably committed to a most important role in these affairs. If we must be so involved—and I am making no judgment at this time as to whether we should or not—must we not then arm ourselves in our international relations with the best minds, the broadest visions—and the most experienced people we can find?

The United States has done this in the selection of STUB COLE for Director General for the International Atomic Energy Agency. He will bring to that position the same qualities that have made him a great Member of Congress—and he will bring more than that. He will bring a broad culture, a wide and intelligent view of the atom in international affairs. And more than that, a sound technical background of our own and foreign nuclear energy programs.

The House of Representatives is losing STUB COLE. The country—and, indeed, the world—is gaining a leader of vision and courage.

He has my best wishes, and I am certain, the best wishes of all of the Members of the House of Representatives for success and happiness in his new undertaking.

Mr. HEBERT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. HEBERT. Mr. Speaker, I want to join my good friend, the gentleman from Ohio, in pausing at this moment to pay tribute to the gentleman from New York, STERLING COLE. I feel certain that elaborate phrases and multiple superlatives would add little to the record which STERLING COLE has made as a Member of this body. The record which he himself has written and the affection which he holds in our hearts is beyond description.

Personally I have enjoyed a close friendship with STERLING COLE since I came to this body. It is refreshing to know that he will be back with us in 4 years, because it is merely a leave of absence he is taking. I think when he leaves us for that 4 years he will go with the knowledge that he has the good wishes and well meaning of every Member of this House on both sides of the aisle.

To STERLING COLE may I say, continue to serve your country well, but come back as soon as you can.

Mr. COLMER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COLMER. Mr. Speaker, I have just learned of this development in connection with our friend, the gentleman from New York [Mr. COLE]. I want to add my word of appreciation for the outstanding service of an outstanding Member of this House, whom I have had the privilege to serve with these many years.

STUB COLE, as he is affectionately known to his friends, can well retire from

this body with the knowledge and the consciousness of having well performed his duties to his constituency and to his country as a Member of this body. I along with other Members have long observed with approval the sterling conduct of our colleague.

While I am sure that like a limited number of others of us he leaves this Chamber with some misgivings as to his accomplishments during the years of his service for the perpetuation of this splendid Republic and its institutions, he may be assured that he leaves with the respect and confidence of all of us. Mr. Speaker, I join with my colleagues in wishing him much success in his new field of endeavor, a job for which he is eminently qualified.

Mr. ARENDS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ARENDS. Mr. Speaker, I have mixed emotions on our colleague, STERLING COLE, leaving the Congress. I rejoice in the fact that he will be Director General of the International Atomic Energy Agency. It is a recognition of the man he is: One of character and great ability. He has few, if any, equals; and certainly no one is better qualified than he for the tremendously important work he will be undertaking.

At the same time, I have a feeling of deep distress that he is leaving the Congress. It stems, at least in part, from a personal selfishness, a realization that I will not have this more or less fraternal association with someone for whom I have such an affectionate regard as I have for STERLING COLE. I will miss him personally.

The Congress will miss him. He came here in the 74th Congress when I did. Over the years I have been privileged to sit next to him as a member of our Committee on Armed Services. His contribution to the work of our committee, and to the work of the Congress as a whole, is beyond measure. Without the slightest fanfare, but in his quiet, painstaking manner he applied the keen, analytical mind with which he is endowed to the problems to be solved and questions to be resolved.

And he did likewise as a member of the Joint Committee on Atomic Energy. When that committee brought matters before us we all listened with respect to his views, well knowing his conclusions were based on facts, and they were facts that he gathered from painstaking study.

Yes, I rejoice in knowledge that such a competent man will head up such an important agency. I am also distressed that this Congress will be without him. I do not know how he can possibly be replaced. As a personal friend, I will miss my close association with him. As Members of Congress, we will miss him in our deliberations.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and also ask unanimous consent that all Members may be permitted to extend their remarks at this point in the Record with regard to STERLING COLE.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. JENKINS. Mr. Speaker, I want to join with the other Members who have heretofore spoken with reference to my good friend Hon. STERLING COLE.

I am a member of the Joint Committee on Atomic Energy of the House of Representatives. This is the committee upon which Mr. COLE has served for several years and this is the committee upon which he has demonstrated his great ability as a scholar and as a legislator.

I think that Mr. COLE knows more about atomic energy and its development than any man in America.

I am sorry to see him leave this Congress but he will enter a new field and I daresay that he will soon be considered as one of the most capable men in the world. We will always be proud of his ability and his accomplishments.

#### MUTUAL SECURITY APPROPRIATION ACT, 1958

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. PASSMAN. Mr. Speaker, there have been some erroneous figures reported in the press as to what happened yesterday in the conference between the House and Senate on the foreign-aid appropriation bill. The House had reduced the authorizing legislation by \$809,650,000. We changed only 3 items in the conference, those items totaling \$244 million. The House receded on that amount. The Senate receded on \$256,900,000. It was suggested that in order not to reflect unfavorably upon the prestige of the Senate, their conferees would like to indicate a higher figure, but we did not yield to the suggestion. However, the press indicated this morning that the Senate had yielded only on \$225,900,000. This was either because an influential Member of the other body had misstated facts, or else because of erroneous reporting, which resulted in that inaccurate figure being published. I certainly hope the press will check into what actually happened and correct their earlier figures, which did not accurately reflect the factual results of the conference.

#### REDUCTION IN GOVERNMENT SPENDING

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. ABERNETHY. Mr. Speaker, I hope that in the months between now and reconvening of the Congress in January the administration will take to

heart some of the lessons it should have learned during the present session.

I hope it has learned that the people of the United States and the Members of the Congress who reflect the will of the people want a Federal budget which is not a dollar larger than prudence and efficiency will bear.

The Budget Bureau and every department of the Government are now at work on the 1959 budget to be submitted to us next January. The administration has plenty of time between now and then to strip off all the fat and give us a budget of bone and muscle—and no more.

During this session this Congress has been engaged in a great struggle to reduce the swollen budget sent to us last January. With the Government so big it is difficult for Congress, in the time it has, to find all the places in which an excessive budget can prudently be cut. Actually, the reductions should be made in the agencies and departments. The cutting of the Federal budget for 1959 should be done right now—while it is in the making. It should be done by the administration itself.

I earnestly hope that President Eisenhower has given, or will now give, all the would-be spenders in the Government stern instructions to keep requests at the minimum. I also hope that news of the public demand for economy has seeped down into the agencies and that future requests for appropriations will contain no frills and no furbelows.

One thing can be promised for sure: If next January the Congress receives another inflated budget, the hue and cry which will be aroused from one end of this Nation to the other will be such that the budget-cutting efforts we have been forced to make this year will seem pale by comparison.

When the Eisenhower administration assumed power in 1953 it immediately set about reducing the budget which had been bequeathed it by President Truman. I was in sympathy with the Eisenhower administration's early efforts to get the cost of Government down. In fact, I supported the effort.

Since then a case of the creeps has infested the administration. It lost its desire for economical Government. From every department comes demands for more and more money. On every hand the demands have been creeping upward. The result, as we all know, was the highest peacetime budget in the history of this Nation.

I say again, Mr. Speaker, that the time to cut the 1959 budget is not next year. The time to cut it is right now while it is being put together in the departments and in the Bureau of the Budget.

I cannot say now to what level the fiscal 1959 spending bill can be reduced. I cannot give a figure and perhaps no man can. But I do know this, the reduction which the Nation is demanding will not be satisfied with a reduction measured in millions. It must be in billions.

The time to do it is right now, while the budget is in the making.

#### CIVIL FUNCTIONS APPROPRIATIONS

Mr. PORTER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Oregon.

There was no objection.

Mr. PORTER. Mr. Speaker, the President's apparent determination to block unbudgeted new starts for the Corps of Engineers is more than a threat to the welfare of the Congressional Districts where such starts are now slated by law. It is an affront to Congress and to our system of government by law.

The President is not above the law. His sworn duty is to obey and carry out our laws.

The American Law Division of the Library of Congress has advised me that impounding such appropriations has no lawful basis. Indeed, this is obvious. Congress authorizes and makes the appropriations. The President signs the bills. He is not allowed to veto particular items, yet that is what we have reason to believe he will again try to do, indirectly, by orders to the Bureau of the Budget.

In my Congressional District only one unbudgeted new start is provided in the civil functions appropriations bill which just became law; namely, Fall Creek Reservoir, for which \$150,000 has been appropriated to begin planning. This is an \$18,800,000 flood control project, the need for which has been well established. The million dollars appropriated to start the great John Day Dam on the Columbia may also be held up, to the lasting detriment of the Pacific Northwest.

Is the President above the law? I do not believe he is.

#### THE TEXTILE INDUSTRY

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent that the gentleman from Maine [Mr. COFFIN] may extend his remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COFFIN. Mr. Speaker, I want to acquaint the House with a problem of deepening intensity and widening scope which should occupy its most serious efforts as soon as the next session convenes. I want also to spell out the parliamentary hurdles that prevent this matter from being acted on during this session.

The problem relates to the textile industry. It is a problem for both North and South, for cotton grower and consumer, for the broker, the manufacturer, the merchant, and the exchanges.

Recognizing the emergency facing our cotton mills, some of us sought to face one of these problems by introducing legislation which would make cotton available to our own mills at such prices as would enable them to regain their share of the world market.

This legislation, introduced by Senator SMITH of Maine, passed in the other body last Friday. Knowing the desper-

ate need for immediate help, I and my colleagues from Maine have explored every possible means of gaining consideration of the bill, even at this late date. Congressman MCINTIRE and I canvassed the leadership on both sides, including Speaker RAYBURN, Majority Leader McCORMACK, and Minority Leader MARTIN. We found that under the practice of the House, S. 314 could not legitimately be placed on the calendar under suspension of the rules, since we could not guarantee that the legislation was of noncontroversial character. Moreover, S. 314 had not been considered by the committee, which had in fact tabled all cotton legislation until January 1958.

We then conferred at length with the chairman of the Agriculture Committee, the gentleman from North Carolina [Mr. COOLEY]. We found that it was, from a realistic viewpoint, impossible to convene the committee and expect quick agreement on S. 314, even if such agreement could bring the matter to the floor. In talking with the gentleman from North Carolina [Mr. COOLEY] and with members of the cotton subcommittee, we were assured that this matter would be again most seriously considered early in January with the objective of securing legislation which would end the present threat to our textile industry.

Therefore, Mr. Speaker, I urge that the distinguished Committee on Agriculture place the ever more serious cotton and textile problem first on its agenda next January.

#### RICE ACREAGE ALLOTMENTS

Mr. THOMPSON of Texas. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 8490) to amend the Agricultural Adjustment Act of 1938, as amended, with respect to rice acreage allotments.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That section 353 (b) of the Agricultural Adjustment Act of 1938, as amended, be amended (1) by inserting in the first sentence thereof the words "in the State" immediately following the words "persons who have produced rice", (2) by inserting in the second sentence thereof the words "in the State" immediately following the words "persons who will produce rice" and immediately following the words "but who have not produced rice", and (3) by adding at the end of subsection (b) a new sentence reading as follows: "The planting of rice in 1957 or any subsequent year on a farm for which no rice acreage allotment was established shall not make the farm eligible for an allotment as an old farm or the producers on the farm eligible for allotments as old producers under this section: *Provided, however,* That by reason of such planting the farm or the producers, as the case may be, shall not be considered as ineligible for a new farm allotment or new producer allotment, as the case may be, under the preceding sentence of this subsection."

SEC. 2. Section 353 of the Agricultural Adjustment Act of 1938, as amended, is amended by adding at the end thereof a new subsection (f) reading as follows: "(f) Notwithstanding any other provision of this



section, the acreage allotment established, or which would have been established, for a farm or any part thereof which is removed from agricultural production because of acquisition in 1955 or thereafter by any Federal, State, or other agency having a right of eminent domain shall be placed in an allotment pool and shall be used only to establish allotments for other farms owned or acquired by the owner of the farm or any part thereof so acquired by such agency: *Provided*, That such owner must make application therefor within 3 years after the end of the calendar year in which such farm or any part thereof was removed from agricultural production: *Provided further*, That the allotment so made for any farm, including a farm on which rice has not been planted to any of the five crops of rice preceding the crop for which the allotment is made, after taking into consideration the allotment acreage which was placed in the pool from the farm or any part thereof acquired from the applicant, shall be comparable with the allotments established for other farms in the same area which are similar except for the past acreage of rice."

Sec. 3. Section 356 of the Agricultural Adjustment Act of 1938, as amended, is amended (1) by adding at the end of subsection (a) a new sentence reading as follows: "Effective beginning with the 1958 crop, the rate of penalty on rice shall be 65 percent of the parity price per pound for rice as of June 15 of the calendar year in which the crop is produced," and (2) by adding at the end of such section a new subsection (h) reading as follows: "(h) Whenever, in any marketing year, marketing quotas are not in effect with respect to the crop of rice produced in the calendar year in which such marketing year begins, all marketing quotas applicable to previous crops of rice shall be terminated, effective as of the first day of such marketing year. Such termination shall not abate any penalty previously incurred by a producer or relieve any buyer of the duty to remit penalties previously collected by him."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### POSTAL RATE INCREASE

Mr. ALLEN of Illinois. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to include a telegram.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ALLEN of Illinois. Mr. Speaker, I have here a telegram sent by the Postmaster General to the majority leader of the United States Senate, Senator LYNDON JOHNSON, which reads as follows:

AUGUST 28, 1957.

Hon. LYNDON JOHNSON,  
Majority Leader, United States Senate,  
Washington, D. C.:

In the public interest, I respectfully appeal to you and all Members of the United States Senate to take such measures as are necessary to secure the passage by the Senate at this session the postal rate increase bill that will yield approximately half a billion dollars a year in new revenues, thereby providing revenues to reduce the current \$2 million a day operating loss to the Post Office Department. The anticipated \$686 million postal deficit for this fiscal year will bring the total losses of the 12 postwar years to more than \$6 billion. This amount, in most part, is an unconscionable subsidy

to the large users of the mails at the expense of the American taxpayer. This legislation was passed by the House of Representatives weeks ago by the overwhelming vote of 256 to 129. Hearings have been held again and again and representatives of all affected groups have been heard in recent days. I respectfully urge the Congress to enact at this session this legislation, thereby contributing to the maintenance of a balanced Federal budget, providing an added safeguard against the necessity of an increase in the national debt ceiling and helping to bring about eventual tax relief for millions of taxpayers.

This telegram is signed by Arthur E. Summerfield, Postmaster General.

The SPEAKER. The time of the gentleman has expired.

#### EXTENSION OF REMARKS

Mr. BURDICK. Mr. Speaker, for 20 years I have done very little quoting in my extensions of remarks. But this session has kept up so long I am entirely out of ideas of my own and I, therefore, ask unanimous consent to extend in three instances quotations.

The SPEAKER. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

#### RESOLUTIONS OF KANSAS DEPARTMENT OF AMERICAN LEGION

Mr. REES of Kansas. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks and include two resolutions.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. REES of Kansas. Mr. Speaker, I believe Members of the House will be interested in reading two resolutions adopted by the Kansas Department of the American Legion at its State convention held at Hutchinson, Kans., August 23-25, 1957. Here is what they say:

Whereas the Armed Forces of the United States are continuing to discharge or release thousands of war veterans, many of whom are disabled and will need counseling, and employment assistance; and

Whereas a majority of these war veterans are young and had no civilian employment experience before their service with the Armed Forces, and many of them will seek the help of the Veterans Employment Service to obtain gainful employment: Now, therefore, be it

*Resolved*, That the Department of Kansas of the American Legion in regular convention in the city of Hutchinson, August 23-25, 1957, endorse this essential service and urge the Congress to appropriate sufficient funds to enable the Veterans Employment Service to do adequately the job so necessary to the security and welfare of the veterans; and be it further

*Resolved*, That a copy of this resolution be forwarded to the national adjutant, the director of the economic commission of the American Legion, for appropriate action at the national convention in Atlantic City, N. J., September 16-19, 1957, and that copies be forwarded to our delegation in Congress, and to our United States Senators, urging them to give this resolution appropriate consideration.

Whereas we are shocked by the announcement made by the United States Far East Command in Tokyo that Sp3c. William Girard of the United States Army will be surrendered to Japanese authorities for prosecution on a homicide charge while on duty on a military reservation occupied by the United States forces, and while discharging an assignment given him by his superior officers; and

Whereas the ratification on July 15, 1953, of the Status of Forces Treaty of the North Atlantic Treaty Organization, and similar agreements with other nations, has deprived our servicemen of the traditional protection extended by our Constitution and enjoyed by United States servicemen on foreign soil, and now subjects our men to trial, imprisonment, and even the death penalty under foreign laws in foreign courts and prisons: Now, therefore, be it

*Resolved*, That the American Legion, Department of Kansas, petition our representatives in the Congress of the United States to support legislation which will nullify that part of the NATO treaty and similar agreements referring to the status of forces and which deprives American servicemen of the protection of the United States Constitution, when serving in more than 50 countries in the world; and be it further

*Resolved*, That a copy of this resolution be sent the Honorable ANDREW F. SCHOEPEL and the Honorable FRANK CARLSON, our United States Senators, and our Representatives in Congress.

#### HON. STERLING COLE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, since our colleague, STERLING COLE, first came to the Congress I have watched his career with the greatest of interest. I know of his tremendous work in the Committee on Naval Affairs and at the time of unification how he helped save the naval station and how he saved and kept intact the Marine Corps. I have watched his most marvelous work in the atomic-energy field. I know everyone here rejoices that he has become such an outstanding expert in that field, and he will do much, I believe, to save the world from annihilation, and to develop industry and help in that field. I wish him Godspeed. I am grateful to him and to his wonderful family for what they have contributed to us here in Washington. He will take to his new international position a brilliant mind and dedicated service.

#### PERSONAL ANNOUNCEMENT

Mr. CURTIS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CURTIS of Massachusetts. Mr. Speaker, I desire to state that I was necessarily absent at the time of the following four rollcall votes, and that had I

been present I would have voted as follows:

Rollcall No. 202 of August 21, 1957, relating to the conference report on the supplemental appropriation bill for 1958. On a motion that the House recede and concur on Senate amendment No. 6, striking out funds for an additional airport in or near Washington, D. C., had I been present my vote would have been "nay."

Rollcall No. 203 of August 21, 1957, relating to the same conference report. On a motion that the House recede and concur with Senate amendment No. 54, providing an additional \$475,000 for general construction under civil functions, Department of Defense, had I been present my vote would have been "nay."

Rollcall No. 204 of August 21, 1957, relating to the appropriation bill, 1958, for the Atomic Energy Commission. On final passage of the bill with an amendment, had I been present my vote would have been "yea."

Rollcall No. 205 of August 22, 1957, relating to a resolve for the printing of 500,000 additional copies of House Document No. 232, 84th Congress, known as The Capitol; the question was on agreeing to the resolution. Had I been present my vote would have been "nay."

#### OLIVER AGAINST HALE CONTESTED-ELECTION CASE (H. DOC. NO. 237)

The SPEAKER laid before the House the following communication from the Clerk of the House, which was read and referred to the Committee on House Administration and ordered printed:

AUGUST 29, 1957.

The honorable the SPEAKER,  
House of Representatives.

SIR: I have the honor to lay before the House of Representatives the contest for a seat in the House of Representatives from the First Congressional District of Maine, James C. Oliver against Robert Hale, notice of which has been filed in the office of the Clerk of the House; and also transmit herewith original testimony, papers, and documents relating thereto.

In compliance with the act approved March 2, 1887, entitled "An act relating to contested-election cases," the Clerk has opened and printed the testimony in the above case, and such portions of the testimony as the parties in interest agreed upon or as seemed proper to the Clerk, after giving the requisite notices, have been printed and indexed together with notice of contest, and the answer thereto and original papers and exhibits have been sealed up and are ready to be laid before the Committee on House Administration.

Two copies of the printed testimony in the aforesaid case have been mailed to the contestant, and the same number to the contestee, which, together with the briefs of the parties, when received, will be laid before the Committee on House Administration, to which the case shall be referred.

Very truly yours,

RALPH R. ROBERTS,  
Clerk, United States House of Representatives.

#### THE PRIVATE CALENDAR

The SPEAKER. Under the previous order of the House, the calling of bills on the Private Calendar is now in order. The Clerk will call the calendar.

#### GLADYS ARBUTUS JOEL

The Clerk called the bill (H. R. 5222) for the relief of Gladys Arbutus Joel.

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that this bill may be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? There was no objection.

#### WOLFGANG JOCHIM HERMAN SCHMIEDCHEN

The Clerk called the bill (S. 1414) for the relief of Wolfgang Jochim Herman Schmiedchen.

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

#### ACME RAG & BURLAP CO. ET AL.

The Clerk called the bill (S. 1805) for the relief of persons and firms for the direct expenses incurred by them for fumigation of premises in the control and eradication of the khapra beetle.

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

#### MRS. CATHERINE POCHON DIKE

The Clerk called the bill (H. R. 8139) for the relief of Mrs. Catherine Pochon Dike.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That Mrs. Catherine Pochon Dike, who lost United States citizenship under the provisions of section 407 of the act of October 14, 1940, may be naturalized by taking prior to 1 year after the effective date of this act, before any court referred to in subsection (a) of section 310 of the Immigration and Nationality Act or before any diplomatic or consular officer of the United States abroad, the oaths prescribed by section 337 of the said act. From and after naturalization under this act, the said Mrs. Catherine Pochon Dike shall have the same citizenship status as that which existed immediately prior to its loss.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### JAFFA KAM

The Clerk called the bill (S. 281) for the relief of Jaffa Kam.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Jaffa Kam shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State

shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### ILSE STRIEGAN BACON

The Clerk called the bill (S. 684) for the relief of Ilse Striegan Bacon.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Ilse Striegan Bacon shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act upon payment of the required visa fee, under such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare may deem necessary to impose: *Provided*, That if the said Ilse Striegan Bacon is not entitled to medical care under the Dependents' Medical Care Act (70 Stat. 250), a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the Immigration and Nationality Act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### NECMETTIN CENGIZ

The Clerk called the bill (S. 880) for the relief of Necmettin Cengiz.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Necmettin Cengiz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### PAULINE ETHEL ANGUS

The Clerk called the bill (S. 882) for the relief of Pauline Ethel Angus.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, notwithstanding the provision of section 212 (a) (6) of the Immigration and Nationality Act, the alien, Pauline Ethel Angus, may be granted a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act and upon compliance with such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare, may deem necessary to impose: *Provided*, That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act: *Provided further*, That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.



The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### REFUGIO GUERRERO-MONJE

The Clerk called the bill (S. 1456) for the relief of Refugio Guerrero-Monje.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Refugio Guerrero-Monje shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### ITSUMI KASAHARA

The Clerk called the bill (S. 1467) for the relief of Itsumi Kasahara.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Itsumi Kasahara shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### HELEN DEMOUCHIKOUS

The Clerk called the bill (S. 1582) for the relief of Helen Demouchikous.

Mr. AVERY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

#### MARIA TALIOURA BOISOT

The Clerk called the bill (S. 1635) for the relief of Maria Talioura Boisot.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the minor child, Maria Talioura Boisot, shall be held and considered to be the natural-born alien child of Pauline Boisot, a citizen of the United States.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### DELFINA CINCO DE LOPEZ

The Clerk called the bill (S. 1636) for the relief of Delfina Cinco de Lopez.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, notwithstanding the provisions of subsection (a) of section 201 and subsection (b) of section 202 of the Immigration and Nationality Act, Delfina Cinco de Lopez shall be classified as an immigrant under the provisions of section 101 (a) (27) (C) of that act.

With the following committee amendment:

On page 1, line 3, after the word "of", insert "subsection (a) of section 201 and."

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### MARIA DOMENICA RICCI

The Clerk called the bill (S. 1835) for the relief of Maria Domenica Ricci.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of sections 101 (a) (27) (A) and 205 of the Immigration and Nationality Act, the minor child, Maria Domenica Ricci, shall be held and considered to be the natural-born alien child of Luciano Ricci, a citizen of the United States.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### MARIA GOLDET

The Clerk called the bill (S. 1921) for the relief of Maria Goldet.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Maria Goldet shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### SHERWOOD LLOYD PIERCE

The Clerk called the bill (S. 2028) for the relief of Sherwood Lloyd Pierce.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, for the purposes of the Immigration and Nationality Act, Sherwood Lloyd Pierce shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this act, upon payment of the required visa fee: *Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### SALA WEISSBARD

The Clerk called the bill (S. 2041) for the relief of Sala Weissbard.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, notwithstanding the provision of section 212 (a) (6) of the Immigration and Nationality Act, Sala Weissbard may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act under such conditions and controls which the Attorney General, after consultation with the Surgeon General of the United States Public Health Service, Department of Health, Education, and Welfare may deem necessary to impose: *Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of the said act: *Provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### MARGARET E. CULLOTY

The Clerk called the bill (S. 2204) for the relief of Margaret E. Culloty.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted, etc.,* That, notwithstanding the provision of section 212 (a) (1) of the Immigration and Nationality Act, Margaret E. Culloty may be granted a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that act: *Provided,* That a suitable and proper bond or undertaking, approved by the Attorney General, be deposited as prescribed by section 213 of said act: *Provided further,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice has knowledge prior to the enactment of this act.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### ANTIDUMPING ACT, 1921

Mr. COOPER. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 6006) to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes.

The Clerk read as follows:

*Be it enacted, etc.,* That section 201 of the Antidumping Act, 1921 (19 U. S. C. 160), is amended as follows:

(1) By striking out "he shall forthwith authorize" in subsection (b) and inserting in lieu thereof "he shall forthwith publish notice of that fact in the Federal Register and shall authorize."

(2) By adding at the end of such section the following new subsection:

"(c) The Secretary, upon determining whether foreign merchandise is being, or is

likely to be, sold in the United States at less than its fair value, and the United States Tariff Commission, upon making its determination under subsection (a) of this section, shall each publish such determination in the Federal Register, with a statement of the reasons therefor, whether such determination is in the affirmative or in the negative."

SEC. 2. Subsections (b) and (c) of section 202 of the Antidumping Act, 1921 (19 U. S. C. 161 (b) and (c)), are amended to read as follows:

"(b) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States).

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

"(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

"(1) the fact that the wholesale quantities in which such a similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

"(2) other differences in circumstances of sale, or

"(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor."

SEC. 3. The heading and text of section 205 of the Antidumping Act, 1921 (19 U. S. C. 164), are amended to read as follows:

#### "FOREIGN MARKET VALUE

"SEC. 205. For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to coun-

tries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value."

SEC. 4. (a) The heading and text of section 203 of the Antidumping Act, 1921 (19 U. S. C. 165), are amended to read as follows:

#### "CONSTRUCTED VALUE

"SEC. 206. (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

"(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

"(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 percent of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

"(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c.).

"(c) The persons referred to in subsection (b) are:

"(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

"(2) Any officer or director of an organization and such organization;

"(3) Partners;

"(4) Employer and employee;

"(5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

"(6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person."

(b) Sections 201 (b), 202 (a), 209, and 210 of the Antidumping Act, 1921 (19 U. S. C., secs. 160 (b), 161 (a), 168, and 169), are amended by striking out "cost of production" each place it appears and inserting in lieu thereof "constructed value."

SEC. 5. Section 212 of the Antidumping Act, 1921 (19 U. S. C. 171), is renumbered as section 213, and such act is amended by inserting after section 211 the following:

#### "DEFINITIONS

"SEC. 212. For the purposes of this title—  
"(1) The term 'sold or, in the absence of sales, offered for sale' means sold or, in the absence of sales, offered—

"(A) to all purchasers at wholesale, or

"(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

"(2) The term 'ordinary course of trade' means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

"(3) The term 'such or similar merchandise' means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

"(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

"(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise under consideration.

"(C) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

"(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

"(E) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.



"(F) Merchandise which satisfies all the requirements of subdivision (E) except that it was produced by another person.

"(4) The term 'usual wholesale quantities,' in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity."

SEC. 6. The amendments made by this act shall apply with respect to all merchandise as to which no appraisal report has been made on or before the date of the enactment of this act; except that such amendments shall not apply with respect to any merchandise which—

(1) was exported from the country of exportation before the date of the enactment of this act, and

(2) is subject to a finding under the Antidumping Act, 1921, which (A) is outstanding on the date of enactment of this act, or (B) was revoked on or before the date of the enactment of this act, but is still applicable to such merchandise.

The SPEAKER. Is a second demanded?

Mr. REED. Mr. Speaker, I demand a second.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COOPER. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, H. R. 6006 is designed to amend the Antidumping Act so as to provide for greater certainty, speed, and efficiency in its enforcement. The bill was drafted by the Treasury Department in accordance with the directive of Congress contained in section 5 of the Customs Simplification Act of 1956—Public Law 927, 84th Congress—which called for a review of the operation and effectiveness of the Antidumping Act by the Secretary of the Treasury. A report was made pursuant to this provision of the law and was submitted on February 1, 1957. The Committee on Ways and Means recently conducted public hearings on the Treasury recommendations and other proposals to amend the Antidumping Act. The recommendations of the Treasury Department for amendment of the Antidumping Act, as further amended by your committee, constitute the bill now before the House.

H. R. 6006 has three principal features:

First. Assessment of dumping duties: Assessment of dumping duties is provided for in the present law if there are (a) sales at less than fair value of imported merchandise, and (b) injury to an industry in the United States resulting therefrom. Due to the wording of section 205 of the present law defining "foreign market value," and to Treasury rulings and court decisions construing this wording, it is possible to have situations arise where sales at less than fair value and injury are found, but where no duties can be collected. The bill

would revise this wording and is thus designed to put an end to this type of situation which can now arise.

Second. Definitions: The new definitions of certain terms enacted in the Customs Simplification Act of 1956—Public Law 927, 84th Congress—would be incorporated into the Antidumping Act by the bill, with occasional modifications necessitated by the differences between the process of valuation for ordinary duties and the calculations of dumping duties. Customs officials would thereby be enabled in large measure to apply a similar set of definitions both in the calculations of ordinary duties and of dumping duties.

Third. Public notice and reports: Provision is made by the bill, as amended, for mandatory public notice when there is reason to believe or suspect sales of imported merchandise at a dumping price, and mandatory public notice by the Treasury Department and the Tariff Commission of their decisions in dumping cases, whether affirmative or negative, and the publication of reports containing the reasons therefor.

The present bill embodies all the amendments which the Treasury Department is prepared to recommend at the present time. The Treasury Department feels that no further amendment of the act is called for in the light of its experience in the administration of the act and that further amendment of the act should be made, if at all, at a future time when its probable results can be more clearly analyzed.

The Committee on Ways and Means received testimony and has had bills referred to it which would involve more extensive amendment to the Antidumping Act than is provided for in the present bill. Suggestions have been advanced for the amendment of the Antidumping Act to provide for a statutory definition of fair value, definition of the terms injury and industry to shift the burden of proof, for judicial review of the determinations of the Treasury Department and the Tariff Commission, Presidential review of dumping findings, and so forth. Consideration of these aspects of the act would involve reexamination of the basic policy issues involved in antidumping legislation. There is a wide divergence of views as to what the appropriate policy objectives of antidumping legislation should be and how they may best be implemented. Indeed, the views expressed to the Committee on Ways and Means on these matters were often diametrically opposed. Your committee is of the opinion that these matters require careful and detailed study and that amendment of the act in these respects at this time would be premature. The amendments to the Antidumping Act contained in H. R. 6006 are of a technical nature and do not involve any change in the basic policy of the act.

Mr. Speaker, I urge adoption of the bill by the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I yield to the gentleman.

Mr. GROSS. What possible effect would this legislation have upon the

dumping of Polish hams in this country?

Mr. COOPER. The same effect it would have on any other merchandise.

Mr. GROSS. Who determines whether a product is being dumped? Is that within the province of the Secretary of Commerce, the President, or whom?

Mr. COOPER. The Secretary of the Treasury. There are two important elements to bear in mind under the antidumping law which was enacted in 1921. The first is that the Secretary of the Treasury must find that there is dumping and the Tariff Commission must find injury to some American industry.

Mr. GROSS. Then is it discretionary with the Secretary of the Treasury?

Mr. COOPER. It is discretionary with the Secretary of the Treasury within the limits set out in the law.

Mr. GROSS. What is this language in the report which apparently gives discretion on the basis of "other circumstances of sale?" Is there wide discretionary power to take in other elements such as foreign policy?

Mr. COOPER. It is discretionary with the Secretary of the Treasury to impose the dumping duties in proper cases. The present bill does not change existing law except to try to make it clearer and to add speed and efficiency to the administration of the present law.

Mr. GROSS. Is this language new—other circumstances of sale—or is that the present law?

Mr. COOPER. My recollection is that that is to conform the antidumping law to language in the customs provisions in the present law.

Mr. EBERHARTER. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Pennsylvania.

Mr. EBERHARTER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EBERHARTER. Mr. Speaker, I wish to express my objection to the enactment of H. R. 6006. To my mind it represents legislation advanced by the Treasury Department on the basis of inadequate consideration of the issues involved in the Antidumping Act. The Committee on Ways and Means acted in good faith in reporting out this legislation in an effort to accommodate the needs of the Treasury Department as these needs were expressed to the committee by that Department. The committee reports that the amendments to the Antidumping Act incorporated in H. R. 6006 simply constitute technical amendments to the act and do not represent an expression of opinion on the part of the committee as to the policy reflected in the administration of the act by the Treasury Department. I regard that as commendable caution on the part of the committee. Certainly the Treasury Department in its report on the administration of the Antidumping Act made pursuant to a provision of the Customs Simplification Act of 1956 did not provide any reasoned analysis of the Antidumping Act and the problems that

have arisen in its administration. It construed its instructions in the Customs Simplification Act very narrowly. In the face of the controversy that has arisen over the Antidumping Act, it is entirely appropriate for the committee to reserve its judgment on any of the elements of this controversy.

I agree that the whole question of the policy represented by the Antidumping Act and the way in which it is to be implemented deserves the most careful and detailed study. The Treasury Department has not given the matter such study and our committee was not able to give the matter such study under the pressure of business of the first session and in the light of the complexities in the legislation that became apparent during the public hearings which our committee conducted in the last 3 days of July.

I would go further and say that it is even ill advised to enact the present legislation and to put into effect the amendments to the Antidumping Act contained in it. The amendments to the act contained in H. R. 6006 were not, I believe, adequately considered in terms of all their implications and ramifications. The Treasury Department contends that the major amendment contained in H. R. 6006—that is, the change in the definition of the term foreign market value—is required to correct an anomaly in the act. It is quite clear, and the Treasury does not deny it, that this so-called anomaly is of the Treasury Department's own creation and could be rectified by the Treasury Department on its own initiative. Moreover, this anomaly which has been in existence over 2 years as a result of certain Treasury regulations has not embarrassed the Treasury Department at all in the administration of the act to date and the Treasury Department admits that in the foreseeable future its correction will only serve the interest of one small segment of American industry. In this respect this bill constitutes special-interest legislation of the most narrow sort.

Let me say a word about this so-called anomaly that has arisen. It must be understood that in order to find dumping such as to warrant the imposition of dumping duties, the law provides that a class or kind of merchandise must be sold in the United States at less than its fair value and that such sales should be injurious to American industry. If such findings are made then dumping duties can be assessed equal to the difference between the foreign market value of the dumped goods and the price at which they are sold in the United States. The term fair value is nowhere defined in the act. For 34 years—from 1921 when the act was first enacted until early in 1955—the Treasury Department by regulation defined the term fair value as being identical with the term foreign market value as defined in the act. This definition was affirmed by the courts in several cases. Suddenly, in 1955, the Treasury Department decided to revise substantially the definition of fair value. To have done so after 34 years of established administration of the Act constituted an ar-

rogation of legislative power on the part of the Treasury Department.

In order to bring the definition of foreign market value into conformity with the Treasury Department's definition of fair value the Congress is asked to amend the definition of foreign market value as it is presently and clearly defined in the law. This is what the Treasury asks us to do in H. R. 6006. It is in effect asking the Congress implicitly to approve of the Treasury Department's action in 1955 in redefining, by regulation, the term fair value. The Treasury Department has contended insistently that foreign market value had to be redefined by law to remove this anomalous situation. But since the anomaly arose because of the unilateral decision of the Treasury Department, why did not the Treasury Department remove this fictitious anomaly by withdrawing its redefinition of fair value? Cannot the situation arise again in the future where the Treasury Department will again, on its own discretion, revise the basic policy of the Antidumping Act by amending the definition of fair value once again and then come to Congress and ask that this anomalous situation be corrected once again?

Mr. Speaker, can the Congress be in a position of continually accommodating the legislation to the changes in policy in the administration of the Antidumping Act that the Secretary of the Treasury may wish to make at any time in the future? Can it do so without giving regard and attention and study to the question of what the appropriate policy for the Antidumping Act should be? Can it leave that to the Treasury Department and merely perform a cleanup function for that Department? I say it cannot and it should not. I say that the Congress must give careful attention to all the issues involved in the Antidumping Act and its administration and resolve these issues clearly and intelligently by legislation. We should not act on H. R. 6006 until we have done so. We should not accommodate the Treasury's so-called needs in the administration of the Antidumping Act until we have had an opportunity to assess and evaluate the administration of the act by the Treasury. Let me make myself clear. We need an Antidumping Act that will be effective in counteracting unfair and injurious price practices in international trade. But this basic policy objective is not spelled out in the act and the Treasury's administration of the act shows no clear and unambiguous recognition of what the basic policy of the act should be.

The Treasury Department has not been particularly helpful or constructive in identifying and evaluating the policy issues in this act. There are many features of this act about which the Committee on Ways and Means has received detailed comment and detailed suggestions. I am much disturbed, for example, by the absence of any provisions for judicial review of the findings of the Treasury Department and the Tariff Commission under this act. I do not think that it is good procedure to permit the administrative agencies to exercise wide discretion in the administration of

an act and to make decisions that can have far-reaching effects on American citizens and American business without the requirement that these decisions shall be subject to judicial review. I am disturbed that there is no provision in the act such as that contained in the Trade Agreements Act with respect to other procedures for Presidential review of dumping findings. The administration of the Antidumping Act can have far-reaching effects on our international commerce and on our foreign trade relations with many countries. It is an important part of our foreign trade policy and therefore actions recommended under it are properly the subject for Presidential review.

Mr. Speaker, I do not believe that enactment of H. R. 6006 will reflect credit on the Congress. This legislation is not necessary. What is needed is a thoroughgoing review and study of the whole subject of our antidumping legislation and pending such a study no action would be the preferred and desirable course.

Mr. REED. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the Customs Simplification Act of 1956 directed the Secretary of the Treasury after consultation with the United States Tariff Commission to conduct a review of the operation and effectiveness of the Antidumping Act of 1921, as amended, and report to the Congress with respect to his recommendations for amendments to the act which he considered desirable to provide for greater certainty, speed, and efficiency in the enforcement of the act. The legislation before this distinguished body today had its genesis in that study and essentially embodies the legislative recommendations of the Department of the Treasury. The Committee on Ways and Means has considered the legislation in public hearings and of course in executive session.

Mr. Speaker, before commenting on the legislation I would like to commend the Treasury Department for its work on this legislation and particularly commend the distinguished Assistant Secretary of the Treasury, the Honorable David W. Kendall, who directed the effective work done in the preparation of this legislation. Mr. Kendall and his associates who have worked to achieve this distinguished accomplishment can take justifiable pride in the development of this legislation.

The purpose of the Antidumping Act is to protect domestic producers from the injurious effects of the dumping of foreign merchandise in this country. Since its enactment the Antidumping Act has been the subject of little change until 1954 when it was amended to transfer some of the responsibility for the administration of the act to the Tariff Commission. Previous to that time the act had been administered under the exclusive jurisdiction of the Department of the Treasury.

The legislation before the House today can generally be said to make four principal changes in the basic law. These may be briefly enumerated as follows: First, the definition of the term foreign market value which is the basis for cal-



culating the special dumping duty, would be amended so as to conform that definition to the definition of fair value set forth in the Treasury Department's regulation of April 8, 1957; second, the definition of certain terms contained in the Antidumping Act are changed so as to conform with the new definitions for these same terms which were provided for in the Customs Simplification Act of 1956; third, the adjustment allowed in the foreign market value taking account of quantity discounts would be changed so that considerations could be given to any difference in price due to differences in the quantities sold in the home and United States markets; and fourth, public notice and reports would be required by the Department of the Treasury and by the Tariff Commission of their decisions rendered with respect to dumping cases.

Mr. Speaker, during the work on this legislation by the Committee on Ways and Means in executive session two of the distinguished Republican members of the committee expressed an interest in offering further amendments to the legislation to improve the protection afforded domestic industry against dumping practices. My friends and colleagues, the gentleman from Pennsylvania [Mr. SIMPSON] and the gentleman from Wisconsin [Mr. BYRNES], worked diligently and effectively to accomplish this purpose. Unfortunately time considerations were thought to preclude a thorough consideration of the amendments in which these members were interested. The Treasury Department has been made aware of the nature of these amendments and it is my hope and expectation that the Treasury Department in consultation with the United States Tariff Commission will make a careful study of these amendments during the adjournment period so that the Congress may receive the benefits of such a review when it next convenes.

In its broadest sense dumping is an operation in which a foreign producer temporarily offers his product well below the average market price. This may be done by a foreign producer to relieve him of a large inventory or it may be a planned program the purpose of which is to demoralize the market in a local area by selling below cost to drive out a competitor.

Experience demonstrates that even though the consumer may get a much lower price for an article dumped on our market this is only temporary until our domestic producer is destroyed, then the foreign price is advanced far higher than the domestic price. Many of our domestic industries are suffering destructive competition from abroad as a result of dumping. There are countries that resort to cartels as a means of dumping to kill competition. Tariffs are only partially effective in meeting the cartel threat to our domestic market. To really protect our market from the dumping of foreign goods requires an effective antidumping law, which I think we have before this House today.

Mr. Speaker, before I close I want to say this: I have been here about 40 years. In the First World War we tried to build up our chemical industry in this coun-

try. We did succeed in building it up. Then Germany, after it became rehabilitated after the war, started dumping chemicals here, with the result that it absolutely destroyed every chemical industry in this country. Then we had to start all over again. The result is that now we have a fine chemical industry all through the South and the North, yet we still have a threat from that and some other source. This act is to prevent anything happening such as did happen before.

You will find that that is true of your textiles, too. You will have dumping here in spite of the arrangements that have already been made with other countries. The textile mills of the South are going to be ruined by dumping unless legislation of this nature and some supplemental legislation is enacted to protect this country.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the distinguished gentleman from West Virginia briefly for a question.

Mr. BAILEY. Is it not true that the weakness in this legislation is that it fails to define injury and fails to provide any responsible department or individual to determine injury?

Mr. REED. I do not consider this or any other law that we enact as perfect law. It is about the best that could be worked out at the present time. It is something that will have to be studied all the time with changing conditions in the world and depending on what the countries do with their currencies and many other factors, of course. The other countries want to get into this market, the greatest market in the world. I want to say right here and now that our domestic market is the very heart of this Nation. When we surrender our domestic market, we throw our people out of employment. That is what brings on depressions. And it is bound to happen if we surrender our domestic market. These people have been rehabilitated at the expense of billions of dollars. Their machinery has been set up to compete with us and to cut our own throat. The time has come now when we must protect this market or we are going to go down under competition from abroad.

Mr. BAILEY. I agree with the gentleman's desire to protect our small American producers, but I fail to see anything in this legislation which will do that very thing. It does not do it and this legislation is not any better than the existing law.

Mr. REED. Well, I can only say to the gentleman that some people are natural pessimists and do not believe in anything. I do appreciate that my colleague is a strong protectionist.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mr. GROSS. I, too, agree with the gentleman from New York in his desire to protect American industry and American production. At the moment, I am very much concerned with this trade deal that has been started with Poland. What are we going to get dumped on us from Communist Poland now by virtue of this

\$90 million to \$100 million trade deal that the executive department is just embarking on?

Mr. REED. So far as that is concerned, we are going to have trouble from every country where they have cheaper labor than we have and where they have all this machinery which we have financed in those countries. This is only a step in the right direction to see if we cannot stop this. This will take care of your Polish ham situation.

Mr. GROSS. I am glad to take the gentleman's word for it. I regret that I am not better informed on the provisions of this bill, but I am glad to take the gentleman's word for it, that this is a step in the right direction. My concern is whether it even begins to go far enough to meet the situation that is presently before us, and the potential dangers of the situation.

Mr. REED. I agree with the gentleman that there is a dangerous situation developing all the time in this country. We have to protect this market. I have been in the Congress a long time. I have seen what has happened to industries in this country. I know what is happening to some of our industries now and not confined to any special part of the country, but all over the country. What we are trying to do is to protect our American industry. I have worked for protection here in the Congress for the full 40 years that I have been here. I have worked for protection every minute that I have been here. I have always worked to protect our markets.

Mr. GROSS. For instance, in this Polish trade deal, as I understand it, we ship the Poles machine tools, electronic equipment, and other products of our highly skilled industries. Apparently machine tools are no longer considered to be strategic. And in return for that, we get Polish hams and textiles and a long list of other products already in adequate or surplus supply from our own farms, industry, and labor.

Mr. REED. Well, I know that we have somebody to blame in this country for that. I remember in Italy seeing our tractors there which they could not use because the gasoline to run most of the tractors was about a dollar a gallon and they could not afford to use them. The tractors were rusting away and rotting away. That is what has been happening right along. I saw \$10 million worth of machinery in a warehouse in Greece which they could not use. They bought back this machinery at a nominal sum and it was sold at a low price to people and it just sends the price up for our people here at home. I know something about these things that are going on.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mr. BROWN of Ohio. I have asked the gentleman from New York to yield simply because I want to say that having had the pleasure of serving with the gentleman from New York for 20 years, I have never seen a Member of this House who has worked more diligently throughout his career in the Congress to protect American labor and industry from unfair foreign competition. The gentleman from New York is the dean

of Republicans in this House. He has served ably and well and I, as one Member of the Congress, am willing to accept the statements he has made here on the floor of the House with reference to this legislation being the best that we could get under the circumstances. I am happy to note that the gentleman from New York says there is still much to be done, and that he will be on the alert as usual to do whatever he can to protect us from foreign competition.

Mr. REED. I thank the distinguished gentleman from Ohio for his kind remarks.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield.

Mrs. ROGERS of Massachusetts. I say amen, amen, and amen to the observation of the gentleman from Ohio. The work of the gentleman from New York [Mr. REED] has been outstanding. He has worked ceaselessly. Not only for the protection of industry and labor in the United States but for the general welfare of the country. He is a great American and patriot, a man of great ability and integrity. The Congress can point with great pride that he is one of our Members.

Mr. REED. I thank the gentlewoman. I cannot plead guilty to all of these fine compliments, but they do sound pleasing to me.

Mr. Speaker, in closing I would like to express before the membership of the House of Representatives my compliments to the distinguished chairman of the House Committee on Ways and Means, the gentleman from Tennessee [Mr. COOPER], on the manner in which he guided the committee's work on this subject and on the fairness and effectiveness which he has served as chairman during the 84th Congress and the 1st session of the 85th Congress. I am confident that I speak for the entire membership of the committee when I state that the leadership of the gentleman from Tennessee has been an inspiration to us all.

Mr. COOPER. Mr. Speaker, I yield myself 1 minute simply in order to express my sincere appreciation to my distinguished colleague, the gentleman from New York, for his very kind and generous remarks.

Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks at this point in the Record on the pending bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COOPER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to extend their remarks in the Record on the pending bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. REED. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Wisconsin [Mr. BYRNES].

Mr. BYRNES of Wisconsin. Mr. Speaker, as has just been said by the gentleman from New York [Mr. REED], this bill is a step in the right direction. I voted for the bill in the committee, and

it is my intention to vote to suspend the rules and pass it at this time.

I believe the bill will aid somewhat in the making of determinations as to whether or not commodities are being offered for sale in this country at less than fair value. I believe it may speed up some of the determinations in that area as made by the Treasury Department.

But even though it is a step in the right direction, Mr. Speaker, it is a very small step, and there are some real long steps that should be taken if we are really going to afford American industry protection against discriminatory practices.

This bill does not have anything to do with the normal problems of the import and export trade, the problems that we normally try to correct by tariffs, such as the low cost of production in other countries as opposed to cost of production here; this bill deals with the subject of discriminatory prices. The antidumping law is supposed to protect domestic industry from the unfair practice of a foreign competitor offering a commodity for sale in this country at a price lower than he offers it in the markets of the world or in his home markets. This results in unfair competition with domestic industry. At times foreign-produced items are even offered for sale here below their cost of production.

That is the type of thing the antidumping act is supposed to attack and give protection against. But, Mr. Speaker, I say that even with this bill we are not going to give the industry of this country the protection it needs against discrimination of this kind and against unfair trade practices.

We are not asking in this bill, nor is anybody who asks for a stronger antidumping bill, seeking to have an advantage given to our domestic producers, even though we feel they are entitled to a certain advantage over foreign producers; we are just asking that by and large in the market place they be treated fairly and squarely, and that we protect them against unfair practices, one of which certainly is discriminatory prices.

Under present law there first must be a determination by the Treasury Department as to whether there is a sale at less than fair value. That in itself, however, does not give anybody any protection; they still have to go to the Tariff Commission and get a determination that an industry in this country is being injured. There is the crux of the matter, the difficulty of proving in many of these cases that injury actually is resulting or is likely to result. It is my view, Mr. Speaker, that corrective action must be taken in that area.

In the committee I offered an amendment to this bill to provide that dumping duties shall be applied unless there is a finding by the Tariff Commission that nobody would be injured. At the present time you start out with the assumption that even though a sale is being made below fair value, even though there is price discrimination, that no injury will result. The law requires that the matter must be referred to the Tariff Commission and no protection is afforded unless the commission makes an affirmative

finding that an industry is being injured by the discriminatory practice. That is where you get into trouble.

I would suggest Mr. Speaker, that starting with the premise that price discrimination, sales here of foreign commodities at less than fair value, is bad, we should provide that antidumping duties should be imposed unless there is a showing that nobody is likely to be injured by the price discrimination. There is no purpose to be served in applying an antidumping duty if no domestic producer is likely to be injured by it. However, if we assume, as we certainly should, that the practice of offering foreign-made goods for sale here in competition with domestic producers at less than fair value is unfair and practices that should be frowned upon, why should not corrective action be automatic rather than to be dependent upon the difficulties that result under the present law which requires a positive finding by the Tariff Commission that some industry is going to suffer injury.

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from West Virginia.

Mr. BAILEY. I would like to commend the gentleman from Wisconsin for his views. He has done much to enlighten the Members of the House on this legislation and I believe if his amendment had been adopted it would have been wholesome legislation.

Mr. BYRNES of Wisconsin. I thank the gentleman. I hope that we pass this bill today and I trust that the other body will try to attack this matter of making the injury test effective in the protection of our industries. Unless something is done in this regard the law will never be administered so as to carry out the basic intent of Congress which is that domestic industry shall not be injured by unfair practices.

Mr. COOPER. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

#### MODIFICATION AND EXTENSION OF PROGRAM OF GRANTS-IN-AID TO THE REPUBLIC OF THE PHILIPPINES FOR THE HOSPITALIZATION OF CERTAIN VETERANS

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 6908) to authorize modification and extension of the program of grants-in-aid to the Republic of the Philippines for the hospitalization of certain veterans, to restore eligibility for hospital and medical care to certain veterans of the Armed Forces of the United States residing in the Philippines, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to assist by grants-in-aid the Republic of the Philippines in providing medical care and treatment for certain veterans", approved July 1, 1948 (50 App. U. S. C., secs.



1991-1996), is amended by striking out the first four sections therein and inserting in lieu thereof the following: "That the President is authorized to assist the Republic of the Philippines in providing medical care and treatment for veterans in need of such care and treatment for service-connected disabilities through grants for a period of not more than 10 consecutive years, beginning with the year 1950, to reimburse the Republic of the Philippines for expenditures incident to the hospitalization of veterans in need thereof for service-connected disabilities. The total of such grants for any 1 calendar year shall not exceed the following amounts: For any year before 1955, \$3,285,000; for 1955, \$3 million; for 1956, \$2,500,000; for 1957, \$2 million; for 1958, \$1,500,000; and for 1959, \$1 million. If agreement is reached to modify the plan of assistance as provided for in paragraph (1) of section 2 of this act, the grants covering the first half of 1958 may be as much as \$1 million.

"Sec. 2. The President, with the concurrence of the Republic of the Philippines, is authorized to modify the existing agreement between the United States and the Republic of the Philippines entered into to effectuate this act in either or both of the following respects:

"(1) To provide that in lieu of any grants being made after July 1, 1958, under section 1 of this act, the Administrator of Veterans' Affairs may enter into a contract with the Veterans' Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines under which the United States will pay for hospital care in the Republic of the Philippines of veterans determined by the Veterans' Administration to need such hospital care for service-connected disabilities. Such contract must be entered into before July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2 million for any one fiscal year. In addition, such modified agreement may provide that, during the period covered by such contract, outpatient treatment for veterans determined by the Veterans' Administration to be in need thereof for service-connected disabilities shall be provided by the Veterans' Administration under the conditions and subject to the limitations on outpatient treatment applicable generally to beneficiaries under Veterans Regulation No. 7 (a). In addition, such agreement may provide for the payment of travel expenses pursuant to the first section of the act of March 14, 1940 (54 Stat. 49; 48 U. S. C. 76), in connection with hospital care or outpatient treatment furnished them.

"(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for the hospitalization of veterans for service-connected disabilities, for the hospitalization of persons at the discretion of the Republic of the Philippines. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded veterans needing hospitalization for service-connected disabilities, and (B) shall not preclude the use of available facilities in the hospital on a contract basis for the hospitalization, examination, or outpatient treatment of persons eligible therefor from the Veterans' Administration.

"Sec. 3. The Veterans' Administration is authorized to provide the outpatient treatment specified in paragraph (1) of section 2 either through facilities maintained by the Veterans' Administration in the Republic of

the Philippines or by contracting for such outpatient care.

"Sec. 4. For the purposes of this act the term—

"(1) 'veterans' means persons who served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President of the United States, dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable;

"(2) 'service-connected disabilities' means disabilities determined by the Veterans' Administration under laws which it administers to be connected with the service described in paragraph (1) of this section."

Sec. 2. Such act is further amended by adding at the end thereof the following new section:

"Sec. 7. The amendments made to the first four sections of this act by the act enacting this section shall not affect the availability and use of appropriations made before the date of enactment of this section for the purposes of this act as it then existed."

Sec. 3. (a) Paragraph IV of Veterans Regulation No. 6 (a), as amended (38 U. S. C. Ch. 12A), is hereby amended by inserting after "Provided, That" the following: "the Administrator of Veterans' Affairs may, in his discretion, furnish medical or hospital care, including treatment in the Republic of the Philippines for disabilities due to service in the Armed Forces of the United States to otherwise eligible veterans, irrespective of citizenship status or nature of residence: And provided further, That."

(b) Section 524 of the Veterans' Benefits Act of 1957 is amended to read as follows:

"Hospital care and medical services abroad

"Sec. 524. (a) Except as provided in subsections (b) and (c), the Administrator shall not furnish hospital or domiciliary care or medical services outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States.

"(b) The Administrator may furnish necessary hospital care and medical services for any service-connected disability—

"(1) if incurred during a period of war, to any veteran who is a citizen of the United States temporarily sojourning or residing abroad except in the Republic of the Philippines; or

"(2) whenever incurred, to any otherwise eligible veteran in the Republic of the Philippines."

"(c) Within the limits of those facilities of the Veterans Memorial Hospital at Manila, Republic of the Philippines, for which the Administrator may contract, he may furnish necessary hospital care to a veteran of any war for any non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care. The Administrator may enter into contracts to carry out this section."

(c) Section 521 of the Veterans' Benefits Act of 1957 is amended by striking out "section 510 (a) (1) and section 510 (b) (2)" and inserting "sections 510 (a) (1), 510 (b) (2), and 524 (c)."

Sec. 4. (a) Title V of the Veterans' Benefits Act of 1957 is amended by adding at the end thereof the following new part:

"PART D—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

"Grants to the Republic of the Philippines

"Sec. 531. The President is authorized to assist the Republic of the Philippines in

providing medical care and treatment for Commonwealth Army veterans in need of such care and treatment for service-connected disabilities through grants to reimburse the Republic of the Philippines for expenditures incident to hospital care of Commonwealth Army veterans in need thereof for such disabilities. The total of such grants shall not exceed \$1,500,000 for the calendar year 1958, and \$1,000,000 for the calendar year 1959. If agreement is reached to modify the plan of assistance as provided for in paragraph (1) of section 532, the total of grants for 1958 up to July 1 may be as much as \$1,000,000.

"Modification of agreement with the Republic of the Philippines effectuating the act of July 1, 1948

"Sec. 532. The President, with the concurrence of the Republic of the Philippines, is authorized to modify the agreement between the United States and the Republic of the Philippines respecting hospitals and medical care for Commonwealth Army veterans (63 Stat. 2593) in either or both of the following respect:

"(1) To provide that in lieu of any grants being made after July 1, 1958, under section 531, the Administrator may enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, under which the United States will pay for hospital care in the Republic of the Philippines of Commonwealth Army veterans determined by the administrator to need such hospital care for service-connected disabilities. Such contract must be entered into before July 1, 1958, may be for a period of not more than five consecutive fiscal years beginning July 1, 1958, and shall provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two governments to be fair and reasonable; but the total of such payments plus any payments for authorized travel expenses in connection with such hospital care shall not exceed \$2,000,000 for any 1 fiscal year. In addition, such modified agreement may provide that, during the period covered by such contract, medical services for Commonwealth Army veterans determined by the administrator to be in need thereof for service-connected disabilities shall be provided either in Veterans' Administration facilities, or by contract, or otherwise, by the administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 512.

"(2) To provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines. If such agreement is modified in accordance with this paragraph, such agreement (A) shall specify that priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans needing hospital care for service-connected disabilities, and (B) shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

In addition, such agreement may provide for the payment of travel expenses pursuant to section 2101 for Commonwealth Army veterans in connection with hospital care or medical services furnished them.

"Supervision of program by the President

"Sec. 533. The President, or any officer of the United States to whom he may delegate his authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this part.

*"Definitions"*

"SEC. 534. For the purposes of this part—

"(1) The term 'Commonwealth Army veterans' means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

"(2) The term 'service-connected disabilities' means disabilities determined by the administrator under laws administered by the Veterans' Administration to have been incurred in or aggravated by the service described in paragraph (1) in line of duty."

SEC. 5. Section 2105 (a) of the Veterans' Benefits Act of 1957 is amended by inserting immediately after "1941," the following: "including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific area, or other competent authority in the Army of the United States,".

SEC. 6. Section 2306 of the Veterans' Benefits Act of 1957 is amended by inserting "(a)" immediately after "Sec. 2306." and by adding at the end thereof the following new subsection:

"(b) The availability and use of appropriations heretofore made for the purposes of the act of July 1, 1948 (60 Stat. 1210; 50 App. U. S. C., secs. 1991-1996), shall not be affected by the repeal of such act."

SEC. 7. Paragraph (203) of section 2202 of the Veterans' Benefits Act of 1957 is amended (1) by inserting "(A)" immediately after "(203)"; (2) by striking out "1938" and inserting "1948"; and (3) by adding at the end thereof the following:

"(B) The act of July 1, 1948 (62 Stat. 1210; 50 App. U. S. C., secs. 1991-1996)."

SEC. 8. The table of contents in the first section of the Veterans' Benefits Act of 1957 is amended by inserting immediately below:

"SEC. 527. Persons eligible under prior law." the following:

"PART D—HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS

"SEC. 531. Grants to the Republic of the Philippines.

"SEC. 532. Modification of agreement with the Republic of the Philippines effectuating the act of July 1, 1948.

"SEC. 533. Supervision of program by the President.

"SEC. 534. Definitions."

The SPEAKER. Is a second demanded?

Mrs. ROGERS of Massachusetts. Mr. Speaker, I demand a second.

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, in the 80th Congress, Public Law 865 was enacted to provide medical care for veterans who served in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pur-

suant to the military order of the President on July 26, 1941. This law authorized an appropriation of \$22,500,000 for the construction and equipping of a hospital in the Philippines to be known as the Veterans' Memorial Hospital. It was opened on November 20, 1955, and the construction cost was approximately \$9,400,000.

The same act provided for an appropriation of not more than \$3,285,000 as grants-in-aid during each of the ensuing 5 fiscal years for the operation of the hospital and the treatment of service-connected disabled veterans.

This hospital has operated well and has met a real need of these people who fought in behalf of the United States. In addition, it has served as a teaching hospital in a limited fashion for medical personnel in Southeast Asia. It is considered one of the best, if not the best, hospitals in that entire area.

While the American Government has a continuing responsibility in this field, the Philippine Government in fact and in theory controls this hospital and this is as it should be. The present bill is an effort to make the fact more abundantly clear by providing:

First. That the Veterans' Memorial Hospital may be used for cases other than those involving service-connected disabilities.

Second. Authorizing treatment of service-connected veterans on an outpatient basis.

Third. Extending the period of assistance from December 31, 1959, to June 30, 1963.

Fourth. Placing overall ceiling of \$2 million for this purpose in any 1 year.

The bill also authorizes the treatment of American veterans who are in need of hospital care and who are residing, either temporarily or permanently, in the Philippines. Formerly such care was provided only for those residing there on a temporary basis. In this connection, the separate amendment which I have offered at the direction of the committee, provides that veterans suffering from non-service-connected disabilities who need medical care and who reside there shall be treated the same as veterans residing in the United States insofar as non-service-connected hospital care is concerned.

The bill is recommended by the Veterans Administration, as well as the Department of State and it is estimated that the maximum net cost of this bill will be approximately \$8,500,000 over a 5-year period.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of Texas. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Speaker, I think this is a good bill and I shall support it, but I want to call the attention of the distinguished gentleman from Texas to the fact that we in these United States need some hospitals, too. I am sure he is well aware of the critical situation that we have in the State of Florida. I have had a bill before the committee for a long time providing for the building of a thousand-bed hospital in Florida. May I ask the chairman of the Committee on Veterans' Affairs if he can give me

any indication of what might happen to some of our servicemen who so badly need facilities of this kind?

Mr. TEAGUE of Texas. The gentleman from Florida knows that the Administration today has the authority to build this hospital in Florida and I do not think any useful purpose could be gained by passing a bill to further authorize the construction when today the Administration has the authority to construct the hospital.

Mr. HALEY. The gentleman is well aware of the critical need for this facility in Florida. We need this hospital and I believe we are entitled to some consideration in this Congress for that hospital.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this is a most excellent bill. It will help the United States, and it will also help our very best ally and our very best friend in all the world.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from Indiana [Mr. ADAIR].

Mr. ADAIR. Mr. Speaker, I agree with what the previous speakers have said about the value and validity of this legislation. I have visited this hospital in the Philippines and I know its size and its qualities.

I think we are all anxious to see the utmost use made of it. Here is an institution which is designed for medical, beneficial use. It should be made as productive as possible. Therefore, Mr. Speaker, I think this is good legislation. I believe it will accomplish the ends outlined by the gentleman from Texas [Mr. TEAGUE], and I recommend its passage.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I should like to add to that, that had we had such an institution heretofore, we could have saved a great many lives, because there were no suitable and adequate facilities for the veterans when they suffered so much for us. I am delighted that it is about to pass, Mr. Speaker.

A significant feature of this bill is the increased control the VA would have over admissions. At present VA determines service connection, but the Philippine Government determines medical need and actually admits. Under H. R. 6908, VA would make all determinations.

Some of those now hospitalized likely could have their medical needs met by outpatient treatment at a lesser expense if such were available. This would be provided for 5 years by H. R. 6908 for Philippine Army and guerrilla veterans.

Philippine Scouts—except those recruited under Public Law 190, 79th Congress for occupation duty—and other United States veterans with World War II service would be provided hospitalization and outpatient treatment for service-connected disabilities regardless of nature of residence or citizenship. The Scouts in this group served in Regular United States Army by voluntary enlistment while the Philippines were a possession of the United States. They suffered heavy casualties on Bataan in 1942, and only about 7,500 of the 12,000 serving in 1941 survived the fighting and the Japanese occupation.



The provision of medical care for the Scouts and other United States veterans residing in the Philippines would only restore benefits available before 1946 when the Philippines became independent and provisions restricting care in foreign countries to United States citizens temporarily residing there for service-connected disabilities applied.

A further significant feature of the bill is that the Philippine Government would be permitted to use for other purposes, at their expense, those beds in the veterans' hospital not required for the service-connected disability cases. Admission of such patients would afford a wider variety of clinical material and such utilization of the presently vacant beds should improve medical care through attraction of the best medical talent.

The bill contains a limitation of \$2 million a year for hospitalization of the Philippine veterans presently eligible for treatment. The cost of this part of the bill for the first year and a half would be partially offset by the present authorization of \$1,750,000 for reimbursement of the Philippine Government between July 1, 1958, and December 31, 1959.

As the New York Times says, in an editorial June 3, 1957, and I agree with every word they say, "most important, this Philippine memorial hospital could be made an invaluable place for research and training in the field of tropical medicine. The possibilities presented are enormous and the hospital and medical center could become the greatest and most useful memorial to the fruitful Philippine-American association. The background for such a project is almost ideal. The Philippines have been a magnificent laboratory in the field of tropical medicine for almost three generations. In addition to this scientific background, however, is the geographical background. Manila could become a training point for young men from Thailand, Vietnam, Cambodia, Laos, and even Indonesia and Malaya. It could become a truly Asian health center. This is not an idle dream. It is a practical possibility."

The SPEAKER. The question is, Will the House suspend the rules and pass the bill, H. R. 6908, as amended?

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### PENSIONS FOR SERVICE IN MORO PROVINCE

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H. J. Res. 73) placing certain individuals who served in the Armed Forces of the United States in the Moro Province, including Mindanao, and in the islands of Leyte and Samar after July 4, 1902, and their survivors, in the same status as those who served in the Armed Forces during the Philippine Insurrection and their survivors, as amended.

The Clerk read as follows:

Whereas the Philippine Insurrection was ended by the Presidential proclamation of July 4, 1902, in all parts of the Philippine Archipelago except in the country inhabited by the Moro tribes to which the proclamation did not apply; and

Whereas it was necessary for the Government of the United States to employ its Armed Forces, including insular forces, against numerous inhabitants of the country inhabited by the Moro tribes who were in armed insurrection against the authority of the United States and/or political subdivisions thereof until in the year of 1913; and

Whereas notwithstanding the aforementioned proclamation, armed hostilities did continue in the islands of Leyte and Samar after July 4, 1902, necessitating the employment of the Armed Forces of the United States, including insular forces, against numerous inhabitants of the said islands who were also in armed insurrection against the authority of the United States and/or political subdivisions thereof; and

Whereas it has ever been the policy of the Congress to enact uniform and all-inclusive pension legislation for the relief of former members of the Armed Forces who were employed in upholding and/or enforcing the authority of the United States and its political subdivisions in the States, Territories, and insular possessions, thereof: Now, therefore, be it

Resolved, etc., That (a) section 401 of the Veterans' Benefits Act of 1957 is amended to read as follows:

#### "DEFINITIONS

"SEC. 401. For the purposes of this title—

"(1) The term 'Spanish-American War' includes, in the case of any veteran, any period of service performed by him after July 15, 1903, and before January 1, 1914, if during such period of service such veteran served in the active military or naval service in the Moro Province, including Mindanao, and the islands of Leyte and Samar, before the first day following the last armed engagement between the military or naval forces of the United States and inhabitants of the Philippine Islands in the province or island in which he served.

"(2) The term 'World War I' includes, in the case of any veteran, any period of service performed by him after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918."

(b) The table of contents in the first section of such act is amended by striking out—

"SEC. 401. Definition."

and inserting in lieu thereof:

"SEC. 401. Definitions."

The SPEAKER. Is a second demanded?

Mrs. ROGERS of Massachusetts. Mr. Speaker, I demand a second.

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, this bill seeks to provide pension at Spanish American War rates to veterans and their dependents who served in the Moro Province, including Mindanao and the islands of Leyte and Samar after July 4, 1902, and prior to January 1, 1914.

The rates of pension payable to Spanish American War veterans today vary from \$68.73 to \$135.45 per month. For

widows the general pension is \$54.18 monthly, or \$67.73 if the widow was the wife of the veteran during his period of service.

This resolution is similar in purpose to bills which have been considered several times by the Congress in recent years. The last time that this legislation, or legislation similar to it, was reported was in the 84th Congress but it failed of final passage as was the case in the 83d Congress. The same situation prevailed during the 80th Congress. A slightly different proposal was passed by both Houses of the Congress in the 78th Congress and was vetoed by the President.

The bill will cover very few. The best estimate which the committee has been able to obtain is that approximately 500 veterans and 300 widows are involved. This is indeed a small group and in view of the average age of the veteran being estimated at 78, it is readily apparent that the legislation will have limited application.

The period of service is one in which there were considerable hostilities and over 15 Congressional Medals of Honor were awarded for service during this period.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. O'HARA] the author of the resolution.

Mr. O'HARA of Illinois. Mr. Speaker, in explanation of the fact that House Joint Resolution 73 was introduced by the gentleman from Illinois, I wish to say that this comes only from the circumstance that I am the last veteran of the war with Spain in this body. I deeply appreciate the warm friendship accorded by the chairman and the members of the Committee on Veterans' Affairs and by my colleagues on both sides of the aisle.

I am filled with emotion for the understanding and the recognition in comradeship that so often in this body, composed of many veterans of later and larger wars, have been accorded to the just causes of a war so long ago and of which the gentleman from Illinois is the sole survivor in this chamber.

This bill is one of 10 measures of similar character. The authors of the other 9 all have worked diligently and devotedly and are jointly responsible, with the gracious approval of the leadership of both the majority and the minority, for bringing up this proposed legislation under suspension of the rules and before the final days of the 1st session of the 85th Congress have ended.

House Joint Resolution 73, while it bears the name of the gentleman from Illinois for the reason given, is equally the bill of the gentleman from Iowa [Mr. CUNNINGHAM], the gentleman from Indiana [Mr. DENTON], the gentleman from Alabama [Mr. ELLIOTT], the gentleman from Louisiana [Mr. LONG], the gentleman from Washington [Mr. MACK], the gentlewoman from Massachusetts [Mrs. ROGERS], the gentleman from Kentucky [Mr. SILER], the gentleman from Wisconsin [Mr. VAN PELT], and the gentleman from Minnesota [Mr. WIER].

It is a most representative array. Some are Democrats, some are Republicans. The East, the West, the North

and the South all are represented. For all my comrades of the war with Spain, their families and their friends, from the bottom of my heart I voice our thanks.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. O'HARA of Illinois. I am happy to yield to the distinguished majority leader.

Mr. McCORMACK. Mr. Speaker, I think it is only fair that the record should show that the gentleman from Illinois [Mr. O'HARA] has devoted himself untiringly to get this resolution out of committee and bring it into the House today. The gentleman has been most pleasantly and persuasively persistent and I might say that it would be most difficult for the leadership on both sides to resist not only the personality, but the charm and the logic of my friend from Illinois. It is only right that those who benefit from the passage of this resolution know of the great services rendered by my friend from Illinois [Mr. O'HARA].

Mr. O'HARA of Illinois. Mr. Speaker, I deeply appreciate the sentiment of the majority leader. The gentleman from Massachusetts has been a tower of strength in times of need, blending the qualities of wise and firm leadership with the qualities of sweet and understanding friendship. I am deeply grateful to the leadership on both sides, to our beloved Speaker, and our beloved former Speaker, Minority Leader MARTIN, for the help that so unfailingly and with such gracious generosity they have extended not merely to me, but through me to my comrades in a war of more than half a century ago. I am deeply grateful, too, to the great and outstanding veteran of World War II, who is chairman of the Committee on Veterans' Affairs [Mr. TEAGUE], to the gentlewoman from Massachusetts [Mrs. ROGERS], and to each and every member of the committee.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. O'HARA of Illinois. I gladly yield to the gentlewoman from Massachusetts, whose labors in many Congresses have enthroned her in the hearts of America's veterans.

Mrs. ROGERS of Massachusetts. Mr. Speaker, the Spanish-American War veterans owe the gentleman from Illinois a debt of gratitude for getting this bill and a similar bill out of the committee and onto the floor and passed. As the gentleman knows, this same bill, practically, has passed the Congress several times. I know how hard the gentleman has worked for his colleagues, the veterans of the Spanish-American War, and for their widows. We hope the bill will pass the House and that it will pass the other body also.

Mr. O'HARA of Illinois. May I say to the gentlewoman from Massachusetts that I was deeply moved the other day when in the closing days of this session she took the well of the House to prod the other body into following our example in voting relief to the widows of the veterans of the Spanish-American War, who are struggling along on very little money and are greatly in need.

The House in its generosity passed the bill early in the session giving this relief. We hope that in the remaining hours or days of the session favorable action will be taken in the other body.

Mrs. ROGERS of Massachusetts. May I ask the gentleman if 15 of the men covered by this bill were not Congressional Medal of Honor men?

Mr. O'HARA of Illinois. That is the fact. Fifteen Congressional Medals of Honor were issued to American soldiers serving in the Philippines in the Moro Provinces after the 4th day of July 1902.

This bill should have been enacted a long, long time ago.

Many things happened in the period of the War With Spain that are difficult for later generations to grasp. It all came from our state of total unpreparedness. There were no records, except the scantiest, very little medicine, unfit food. Missions were executed without the formality of authorizing orders. Ships of war put to sea, and in some instances were actually in combat before members of their crews had been sworn in, the actual mustering in being delayed until the immediate emergency was over, a circumstance that has operated to deny to some of the naval veterans of the War With Spain the pension rights that they unquestionably had earned but which could not be shown by the records. I hope that this injustice can be corrected while the last Spanish-American War veteran yet remains in the Halls of Congress.

The bill now under consideration corrects the injustice from which the veterans of certain campaigns in the Philippines long have suffered. I will explain it briefly.

The Philippine Insurrection was officially ended July 4, 1902, by proclamation. But it actually continued very much longer in the Moro Province and on the islands of Leyte and Samar. From February 1903 to January 27, 1913, there were no less than 105 battles in which American troops were engaged. There were 1,514 deaths from battle wounds and disease. These are from the figures furnished by the Archivist of the United States.

If any further proof were necessary of the intense nature of this fighting, the conditions under which it was waged, and the sublime manner in which our troops met the challenge, it is furnished by the fact mentioned by Mr. ROGERS that a total of 15 Congressional Medals of Honor were conferred upon its participants.

Yet, all during the years since the Congress voted pensions to the veterans of the war with Spain, the expedition into China, and the campaigns in the Philippines, the veterans in the Moro Province and on the islands of Leyte and Samar, who stood the brunt of 105 battles, suffered death casualties of 1,514, and won 15 Congressional Medals of Honor, have been left out in the cold. It is unthinkable that this should continue.

It must be borne in mind that the Spanish War pension list is intended to cover not only those who fought against Spain but, as well, those who were engaged in the resultant insurrection in the Philippines and in the Boxer Expe-

dition. The plain fact is that the arbitrary fixing of July 4, 1902, in an official proclamation, by inadvertence cut out the veterans in that area of events and years who had done the hardest fighting sustained over a longer period of time when certainly the fighting and the dying went on, regardless of what the official proclamation said.

How did it happen? The answer is simple. The troops that remained in the Moro Province and on the islands of Leyte and Samar were regulars. The pay for a private was something like \$14 a month, as I recall. The volunteers had gone home. Everyone of course was rejoicing at their return. No one was thinking of the regulars back in the Moro Province and in the islands of Leyte and Samar fighting and dying. When July 4, 1902, was set as the shut-off date they were so engrossed in the job at hand that they could do nothing about it. The fact is they were so busy in the job of fighting and dying that they did not even know that someone was issuing a proclamation that the fighting and dying had ended.

Now they are old men, those who survived the campaigns, and only a few are left. That which they earned by their service, their sacrifice, and their suffering, too long has been withheld. I hope and pray that before the last of the little band that remains has passed to his reward, a great injustice, springing from an inadvertence and the muddled conditions of the times, will have its remedy in the enactment of House Joint Resolution 73.

Mr. TEAGUE of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. DENTON].

Mr. DENTON. Mr. Speaker, I am wholeheartedly in favor of House Joint Resolution 73, introduced by the gentleman from Illinois. I introduced a similar resolution, House Joint Resolution 178.

This resolution would extend pension benefits under the laws reenacted by Public Law 269, 74th Congress, August 13, 1935, as now or hereafter amended, to persons who served with the United States military or naval forces in Moro Province, or in the islands of Samar and Leyte, after July 4, 1902, and prior to January 1, 1914, and to their unremarried widows, child, or children. I have heard from a number of these veterans living in Indiana, and I am convinced that they have a good case.

This bill, as House Joint Resolution 110, passed the House of Representatives at the last session of Congress; but no action on the resolution was taken in the Senate. I introduced a similar bill, House Joint Resolution 249. A slightly different bill was passed by both Houses of Congress in the 78th Congress and vetoed by the President. In the 79th Congress an identical bill was passed by the House, but died in the Senate, and a like bill was reported favorably by the 80th Congress.

The bill covers a comparatively few individuals. The present estimate places the number at approximately 500 and approximately 300 widows. Assuming these figures to be correct, and considering the rates of pensions applicable to



both veterans and widows, it appears the maximum first-year cost would be \$798,000. Due to the advanced age of the veterans, the cost would drop sharply with each succeeding year. The average age of the veterans is estimated to be at least 80, and the death rate is rapid for this age group.

The hostilities in which these men were engaged were the very longest in which American troops were ever engaged. They lasted for nearly 12 years. During that time there were nearly 150 bloody engagements and the casualties were numbered in the thousands. The enemy was a formidable one. Our very best officers who were to become famous in World War I received much of their combat experience in these hostilities. The names of Pershing, Wood, Bliss, and March are indelibly inscribed upon the records of these hostilities. These troops under that leadership pacified more than 57,000 square miles of the Philippine Archipelago. They fought to uphold and/or enforce the authority of the United States on United States soil. Fifteen of them were awarded the very highest decoration within the gift of this Government—the Congressional Medal of Honor; and now, after a 43-year wait, they seek a reasonable measure of relief at the hands of the Government they served so long and so well.

My understanding is that this legislation has been opposed in previous years because the hostilities occurred after the official ending date of the Philippine Insurrection. The 150 engagements, therefore, are termed "peacetime police actions." However, since July 4, 1904—the official ending date of the Philippine Insurrection—we have cheerfully legislated war veteran benefits for the veterans of the peacetime police action in Korea, and we have pensioned the veterans of still another peacetime police action, known as the Boxer Rebellion. Likewise, in 1927, the Congress, following the long-established national policy of caring "for him who shall have borne the battle, and for his widow and orphan," pensioned the veterans of numerous undeclared Indian hostilities from the year of 1817 through 1898. These laws are still in force. The enactment of this House joint resolution, therefore, would be in line with traditional policy, instead of establishing a precedent. It would correct an inequality of some 34 years' duration. Actually, there is reason to believe that the Congress fully intended to include this group in Public Law 256, 66th Congress. That act includes all veterans of the Philippine Insurrection, as well as the veterans of the cited peacetime Boxer Rebellion, but that act did not fix beginning and ending dates for either of these conflicts, and it was not until after the enactment of this law that those who served after July 4, 1902, were denied veteran status. The War Department ruled them out on a weak technicality, but before so doing had awarded all veterans who participated in the Philippine hostilities from the official date of the insurrection, that is, April 12, 1899, through 1913, identical Philippine campaign medals.

As this House joint resolution recites, the Congress has heretofore wisely pen-

sioned those who were engaged in similar hostilities to uphold and/or enforce the authority of the United States in its Territories and insular possessions; and since the average age of the veterans under consideration is now more than 80 years, I urge the House to leave no stone unturned to pension these old veterans before it is forever too late. Since there are so few of them living, the cost would be slight when compared with other Government expenditures.

The SPEAKER. The question is, Will the House suspend the rules and pass House Joint Resolution 73 as amended?

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

#### AUTHORIZING THE SPEAKER TO DECLARE A RECESS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that for the balance of this session it may be in order for the Speaker to declare a recess at any time subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

#### KNOX CORP., THOMSON, GA.

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 2904) for the relief of the Knox Corp., of Thomson, Ga., with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, lines 1 and 2, strike out "in excess of 10 per centum thereof."

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MARTIN. Reserving the right to object, Mr. Speaker, I understand the only change in this bill is to eliminate the 10-percent proviso as to legal fees.

Mr. LANE. That is the only change.

Mr. MARTIN. The reason you make the change is that no lawyer is connected with the case?

Mr. LANE. That is the right answer.

Mr. GROSS. Reserving the right to object, Mr. Speaker, what is this bill all about?

Mr. LANE. The author of the bill is right here. It is a private claims bill. It has already passed the House. The Senate amended it by striking out the attorneys' fee proviso of the bill. We find that no attorney handled this bill, so we are willing to strike out the 10-percent clause.

Mr. GROSS. May I ask the gentleman handling the bill if this is going to cost the Federal Government any money?

Mr. LANE. Yes, it will; \$7,809. It is a private claims bill. It has already passed the House.

Mr. GROSS. I guess that will not contribute too much to the necessity for raising the debt ceiling.

I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### J. A. ROSS & CO.

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 3468) for the relief of J. A. Ross & Co., with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 6, strike out "\$34,624.64" and insert "\$17,410.08."

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MARTIN. Mr. Speaker, reserving the right to object, as I understand the House passed the bill with the amount of about \$34,000 in it and the other body reduced it to \$17,000 and you are accepting the amendments of the other body.

Mr. LANE. The minority leader is quite right. The bill originally called for \$34,624 and now the other body has reduced it to \$17,410. The author of the bill, who is the gentleman from Illinois [Mr. SHEEHAN] is agreeable to accepting the amendment.

Mr. MARTIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### ALBERT HEINZE

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 2075) for the relief of Albert Heinze, with an amendment of the Senate thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 11, strike out "in excess of 10 percent thereof."

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. MARTIN. Mr. Speaker, reserving the right to object, I understand this is similar to the first bill that was presented and that the 10 percent is eliminated because there is no lawyer connected with the case.

Mr. LANE. Exactly so. This bill was introduced by the gentleman from Ohio [Mr. BETTS] and we find out now there is no attorney and we are quite agreeable to that proviso being stricken from the bill.

Mr. MARTIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### RELIEF OF CERTAIN ALIENS

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H. J. Res. 374) for the relief of certain aliens, with an amendment of the Senate thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 5, after "Kukic," insert "Lino Agullon Reyes."

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. MARTIN. Mr. Speaker, reserving the right to object, I understand that this is an amendment to include one person who was left out.

Mr. FEIGHAN. Yes; this resolution was passed by the House and contained provision for permanent residence for about 10 aliens. When it went to the other body, the other body amended it on the floor and added the beneficiary provided for in the bill introduced by the gentleman from Iowa [Mr. TALLE], which was passed by the House previously.

Mr. MARTIN. Mr. Speaker, I withdraw my reservation of objection.

Mr. GROSS. Mr. Speaker, reserving the right to object, and I shall not object, I was very much interested yesterday when the immigration bill was passed in the House by the statements of some of the sponsors of the bill that it would obviate the necessity for having bills on the private calendar to handle immigration cases in the future. I seem to recall that when the McCarran-Walter Act was passed, we heard similar statements from the sponsors of that legislation that it would obviate the necessity of having long Private Calendars handling immigration cases—admitting aliens into this country by that method. I am going to be very much interested with the passage of the bill yesterday to see what happens to the Private Calendars with respect to the admission of aliens in the next session of the Congress. Seeing will be believing.

Mr. KEATING. Mr. Speaker, reserving the right to object, I would simply like to say to the gentleman from Iowa, it is true that both of these pieces of legislation would reduce the number of private bills, but we will never have a situation where they will all be eliminated.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### JUDGESHIP FOR THE DISTRICT OF SOUTH DAKOTA

Mr. CELLER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 2413) to clarify the authority of the President to fill the judgeship for the district of South Dakota authorized by the act of February 10, 1954, and to repeal the prohibition contained in such act against filling the next vacancy occurring in the office of district judge for such district.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the President is authorized to appoint, by and with the advice and consent of the Senate an additional district judge for the district of South Dakota as authorized by paragraph (3) of section 2 (b) of the act of February 10, 1954. The second sentence of such paragraph, which prohibits the filling of the first vacancy occurring in the office of district judge for said district, is hereby repealed. In order that the table contained in section 133 of title 18 of the United States Code will reflect the change made by this act in the number of permanent judgeships for the district of South Dakota, such table is amended to read as follows with respect to said district:

| Districts         | Judges |
|-------------------|--------|
| South Dakota..... | 2      |

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### AUTHORIZING HOUSE COMMITTEE ON GOVERNMENT OPERATIONS TO CONDUCT STUDIES AND INVESTIGATIONS OUTSIDE THE UNITED STATES DURING 85TH CONGRESS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 412) to authorize the House Committee on Government Operations to conduct studies and investigations outside the United States during the 85th Congress, and ask for its present consideration.

The Clerk read the resolution, as follows:

*Resolved,* That in performing the duties set forth in clause 8 of rule XI of the Rules of the House of Representatives, during the 85th Congress the Committee on Government Operations, or any subcommittee thereof when authorized by the committee, is authorized to conduct studies and investigations, and exercise the powers conferred by such clause 8, outside the United States.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### COMMITTEE ON WAYS AND MEANS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules I call up the resolution (H. Res. 384) to amend House Resolution 104 of the 85th Congress and ask for its immediate consideration.

The Clerk read as follows:

*Resolved,* That section 2 of House Resolution 104 of the 85th Congress, authorizing the Committee on Ways and Means to conduct thorough studies and investigations of all matters coming within the jurisdiction of such committee, is amended by inserting on page 1, line 9, after the word "within" the words "or without."

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### AMENDING HOUSE RESOLUTION 157, 85TH CONGRESS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules I call up the resolution (H. Res. 275) and ask for its immediate consideration.

The Clerk read as follows:

*Resolved,* That House Resolution 157, 85th Congress, is amended by striking out the words "within the United States" where they appear on page 3, line 6, of said engrossed resolution and inserting in lieu thereof the words "within or without the United States."

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### AMENDING HOUSE RESOLUTION 149, 85TH CONGRESS

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules I call up the resolution (H. Res. 395) to amend House Resolution 149, 85th Congress, and ask for its immediate consideration.

The Clerk read as follows:

*Resolved,* That House Resolution 149, 85th Congress, 1st session, is amended by inserting on page 2, line 15, of the said resolution, after the word "possessions," the phrase "and elsewhere within the North American Continent."

Mr. COLMER. Mr. Speaker, I yield myself such time as I may need.

The SPEAKER. The gentleman from Mississippi is recognized.

Mr. COLMER. Mr. Speaker, the three resolutions just adopted, and the present resolution, all authorize certain committees of the House to do such traveling in the performance of their duties as provided in the resolution.

There is some question in the minds of some people about these resolutions. Personally, I am not prepared either to justify or to criticize in any particular case. I do know that in many cases these missions are justified, and we must assume that they will be and are justified in the present instance.

Mr. Speaker, I yield the usual time to the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. MEADER] and ask unanimous consent that he may speak out of order.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MEADER. Mr. Speaker, I ask unanimous consent to revise and extend and to include certain tables in my remarks.



The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MEADER. Mr. Speaker, I have just introduced a bill to provide payments in lieu of taxes to local units of government on certain industrial plants owned by the United States.

In the 84th Congress I introduced a similar bill which became Public Law

388, signed by the President August 12, 1955. That law, for a temporary period of 4 years, requires the Federal Government to make payments in lieu of taxes on property previously owned by the Reconstruction Finance Corporation or any of its subsidiaries. It has provided relief to many municipalities, school districts, counties, and townships hard pressed financially because of the costs of services they rendered for which the

Federal Government made no contribution.

Mr. Speaker, the properties covered by the legislation are in the custody of the Department of Defense or the General Services Administration. I requested both to supply me with information on the plants covered by Public Law 388 and the amounts paid to local units of government under that law. I incorporate the results of this inquiry at this point in my remarks:

#### DEPARTMENT OF DEFENSE

*Payments in lieu of State and local taxes made by the Department of Defense under provisions of Public Law 388, 84th Cong., as reported to Mr. Claude M. Hirst, Department of Health, Education, and Welfare, from Mar. 30, 1956, to present time*

| Paid by—                         | Date of payment            | Payment made to—                                   | Paid for period  | Amount paid | Property   |
|----------------------------------|----------------------------|--|--|-------------|--|
| Department of the Air Force..... | Mar. 30, 1956 <sup>1</sup> | Lynn, Mass.  | (?)  | \$20,700.16 | (?)  |
| Do.....                          | do.....                    | Everett, Mass.                                     | (?)  | 87,438.00   | (?)  |
| Do.....                          | do.....                    | Adrian, Mich. (not including Madison Township).    | (?)  | 87,195.19   | (?)  |
| Do.....                          | do.....                    | Toledo, Ohio                                       | 1st half of 1955 taxes.  | 15,579.27   | (?)  |
| Do.....                          | do.....                    | Milwaukee, Wis.                                    | (?)  | 40,106.33   | (?)  |
| Do.....                          | Apr. 5, 1956 <sup>1</sup>  | Madison Township, Mich.                            | (?)  | 34,515.78   | (?)  |
| Department of the Navy.....      | do.....                    | Lynn, Mass.  | (?)  | 90,681.38   | (?)  |
| Department of the Air Force..... | May 10, 1956               | County treasurer, Cuyahoga County, Ohio.           | (?)  | 6,615.43    | Air Force plant No. 41.  |
| Do.....                          | May 17, 1956               | County treasurer, Broome County, N. Y.             | 1955 and 1956  | 123,506.95  | (?)  |
| Department of the Army.....      | June 12, 1956              | Receiver of taxes, Burlington, N. J.               | (?)  | 59,994.80   | Burlington ordnance plant, New Jersey.                           |
| Do.....                          | June 25, 1956 <sup>1</sup> | Lima, Ohio   | (?)  | 11,871.82   | Lima ordnance steel foundry.                                     |
| Department of the Navy.....      | July 3, 1956 <sup>1</sup>  | Tax collector, town of Southington, Conn.          | (?)  | 104,061.76  | (?)  |
| Do.....                          | July 19, 1956              | City of Newark, N. J.                              | (?)  | 14,636.16   | (?)  |
| Department of the Air Force..... | Aug. 7, 1956               | County treasurer, Erie County, N. Y.               | 1955 and 1956 taxes with exception of school taxes; only 1956 school taxes paid.   | 171,421.62  | Air Force plant No. 40, Tonawanda, N. Y.                         |
| Department of the Navy.....      | Aug. 3, 1956               | Collector, Tinticum Township, Pa.                  | (?)  | 107,731.97  | Air Force plant No. 18, Kenmore, N. Y.                           |
| Do.....                          | Aug. 20, 1956 <sup>1</sup> | Lebanon, Pa.                                       | Calendar year 1955.  | 105,705.09  | Navy plant in Lester, Pa.  |
| Department of the Air Force..... | Aug. 21, 1956 <sup>1</sup> | Treasurer, Los Angeles County                      | Jan. 1-June 30, 1956.  | 9,000.00    | Navy plant in Lebanon, Pa.                                       |
| Do.....                          | Aug. 28, 1956              | Treasurer, Marion County, Ind.                     | 1955 taxes.  | 4,050.00    | Norwalk tank farm.   |
| Department of the Navy.....      | Aug. 2, 1956               | Newark, N. J.                                      | 1st half of 1955 taxes.  | 4,097.21    | Air Force plant No. 26.  |
| Do.....                          | Aug. 31, 1956              | City of Poughkeepsie, N. Y.                        | 1956 taxes.  | 82,074.74   | (?)  |
| Do.....                          | do.....                    | do.....  | 1956 taxes on real property and school taxes, July 1, 1956-June 30, 1957.  | 14,567.04   | (?)  |
| Do.....                          | do.....                    | do.....  | 1956 taxes on real property and school taxes, July 1, 1956-June 30, 1956.  | 10,080.00   | (?)  |
| Do.....                          | do.....                    | do.....  | 1955 taxes on real property and school taxes, Jan. 1-June 30, 1955.  | 19,962.00   | (?)  |
| Do.....                          | do.....                    | do.....  | 1955 taxes on real property and school taxes, Jan. 1-June 30, 1955.  | 14,241.60   | (?)  |
| Department of the Air Force..... | Sept. 28, 1956             | County treasurer, Lucas County, Ohio.              | 2d half of 1955 taxes.   | 15,579.27   | (?)  |
| Do.....                          | Oct. 2, 1956               | City treasurer, Lynn, Mass.                        | Taxes, calendar year 1956.   | 22,231.04   | (?)  |
| Do.....                          | Oct. 10, 1956              | Treasurer, Van Buren Township, Wayne County, Mich. | 1955 taxes.  | 9,511.23    | (?)  |
| Do.....                          | do.....                    | Town collector, Grafton, Mass.                     | 1956 taxes.  | 46,641.00   | (?)  |
| Do.....                          | Oct. 17, 1956              | City collector, Everett, Mass.                     | do.....  | 92,807.00   | (?)  |
| Do.....                          | June 4, 1956               | Treasurer of King County, Seattle, Wash.           | 1955 taxes.  | 155,533.58  | Boeing plant at Renton, Wash.                                    |
| Do.....                          | Oct. 19, 1956              | Town of Stratford, Conn.                           | do.....  | 718.56      | (?)  |
| Department of the Navy.....      | Oct. 23, 1956              | City collector, Lynn, Mass.                        | 1956 taxes.  | 97,387.72   | (?)  |
| Department of the Air Force..... | Oct. 31, 1956 <sup>1</sup> | Treasurer, city of Adrian, Mich.                   | do.....  | 35,025.55   | (?)  |
| Department of the Navy.....      | Oct. 30, 1956              | City of Rochester, N. Y.                           | 1955 taxes.  | 34,103.25   | (?)  |
| Department of the Air Force..... | Dec. 4, 1956 <sup>1</sup>  | Treasurer, Marion County, Indianapolis, Ind.       | 1956 taxes.  | 35,811.00   | (?)  |
| Do.....                          | Dec. 10, 1956              | City of Kenmore, N. Y.                             | (?)  | 82,074.74   | (?)  |
| Do.....                          | do.....                    | City of Tonawanda, N. Y.                           | School taxes, fiscal year Sept. 1, 1956-Aug. 31, 1957.   | 33,269.50   | (?)  |
| Department of the Army.....      | Sept. 28, 1956             | City of St. Louis, Mo.                             | do.....  | 51,750.00   | (?)  |
| Do.....                          | Oct. 4, 1956               | County of Contra Costa, Calif.                     | 1955 taxes.  | 49,841.71   | St. Louis ordnance steel foundry (plancor 1672).                 |
| Do.....                          | Sept. 14, 1956             | Muskegon County, Mich.                             | do.....  | 93,420.98   | Pacific ordnance steel foundry, Pittsburg, Calif. (plancor 516). |
| Department of the Navy.....      | Dec. 17, 1956              | Ewing Township, Mercer County, N. J.               | do.....  | 86,951.72   | Continental Motors Corp., Muskegon, Mich. (plancor 166).         |
| Department of the Air Force..... | Dec. 31, 1956              | Adrian, Mich.                                      | do.....  | 44,619.18   | Naval Air Test Turbine Station, Trenton, N. J.                   |
| Do.....                          | Jan. 3, 1957               | Sedgwick County, Kans.                             | Tax year 1957.   | 74,659.73   | (?)  |
| Do.....                          | Jan. 8, 1957               | Madison Township, Lewance County, Mich.            | do.....  | 325,325.45  | (?)  |
| Department of the Navy.....      | Jan. 14, 1957              | Collector, town of Southington, Conn.              | County, fiscal year ending Dec. 31, 1956; school, fiscal year ending June 30, 1957; township, fiscal year ending Jan. 3, 1957. | 51,559.69   | (?)  |
| Do.....                          | Jan. 24, 1957              | Collector, St. Louis County, Mo.                   | 1956 taxes.  | 110,183.04  | Naval industrial reserve aircraft plant, Southington, Conn.      |
| Do.....                          | do.....                    | Collector, Borough of Teterboro, N. J.             | 1955 taxes.  | 43,431.29   | Naval industrial reserve aircraft plant, St. Louis, Mo.          |
| Do.....                          | do.....                    | Collector, county of Tarrant, Tex.                 | 1956 taxes (full payment).   | 3,899.87    | Naval industrial reserve aircraft plant, Teterboro, N. J.        |
| Do.....                          | do.....                    | Collector, township of Tinticum, Pa.               | Taxes 1955 (partial payment).  | 1,413.00    | Naval industrial reserve aircraft plant, Saginaw, Tex.           |
| Do.....                          | do.....                    | do.....  | 1955 taxes (partial payment).  | 8,160.02    | Naval industrial reserve aircraft plant, Lester, Pa.             |
| Do.....                          | do.....                    | do.....  | 1956 taxes.  | 8,211.25    | Do.  |
| Do.....                          | Jan. 28, 1957              | Township of Saginaw, Tex.                          | 1955 taxes.  | 2,015.00    | Naval industrial reserve aircraft plant, Saginaw, Tex.           |

See footnotes at end of table.

## DEPARTMENT OF DEFENSE—Continued

Payments in lieu of State and local taxes made by the Department of Defense under provisions of Public Law 388, 84th Cong., as reported to Mr. Claude M. Hirst, Department of Health, Education, and Welfare, from Mar. 30, 1956, to present time—Continued

| Paid by—                         | Date of payment    | Payment made to—   | Paid for period   | Amount paid | Property  |
|----------------------------------|--------------------|--|---|-------------|---|
| Department of the Air Force..... | Feb. 25, 1957..... | Treasurer, Hamilton County, Ohio.....                      | 1955 taxes.....   | \$75,081.00 | Lockland, Ohio, plant.                            |
| Do.....                          | Mar. 1, 1957.....  | City treasurer, Williamsport, Pa.....                      | 1/2 of 1956 taxes.....  | 38,805.76   | (?)   |
| Department of the Navy.....      | March 1957.....    | Collector of taxes, Franklin County, Ohio.....             | 1955 and some of 1956 taxes.....  | 2,509.12    | (?)   |
| Do.....                          | Mar. 18, 1957..... | City of Rochester, N. Y.....                               | Balance of 1956 tax.....  | 1,319.18    | Naval industrial aircraft plant, Columbus, Ohio.  |
| Department of the Air Force..... | Apr. 1, 1957.....  | Cuyahoga County, Ohio.....                                 | 1955 taxes.....   | 161,000.00  | Naval industrial ordnance plant, Rochester, N. Y. |
| Do.....                          | Apr. 8, 1957.....  | Treasurer of Lucas County, Ohio.....                       | Jan. 1-June 30, 1957.....   | 19,282.95   | (?)   |
| Do.....                          | do.....            | Treasurer, Van Buren Township, Wayne County, Mich.....     | July 1, 1955 to Dec. 31, 1955, taxes.....   | 6,615.43    | (?)   |
| Department of the Air Force..... | do.....            | County treasurer, Broome County, N. Y.....                 | 1st half of calendar year 1956.....   | 14,549.95   | (?)   |
| Department of the Navy.....      | Apr. 11, 1957..... | Collector of taxes, County of Dallas.....                  | County, fiscal year ending Nov. 30, 1957; township, fiscal year ending Mar. 31, 1957; school, fiscal year ending June 30, 1957..... | 9,654.07    | (?)   |
| Do.....                          | do.....            | Collector, Grand Prairies Independent School District..... | School tax, Sept. 1, 1956 to Aug. 31, 1957, and county and town taxes for calendar year 1957.....                                   | 78,926.75   | (?)   |
| Department of the Air Force..... | Apr. 15, 1957..... | County treasurer, Cuyahoga County, Ohio.....               | Interim payment for 1955 taxes.....   | 57,000.00   | (?)   |
| Department of the Navy.....      | Apr. 18, 1957..... | Collector of revenue, Jackson County, Mo.....              | do.....   | 90,000.00   | (?)   |
| Department of the Air Force..... | Apr. 24, 1957..... | City treasurer, city of Williamsport, Pa.....              | 1/2 calendar tax year, 1956.....  | 7,147.22    | Air Force plant No. 41.                           |
| Department of the Navy.....      | Apr. 25, 1957..... | Lebanon, Pa., School District.....                         | 1955 taxes.....   | 295,077.60  | (?)   |
| Department of the Air Force..... | May 20, 1957.....  | Collector, Cook County, Ill.....                           | For 1957 city and library tax, Williamsport, Pa.....  | 594.97      | Air Force plant No. 32.                           |
| Do.....                          | May 14, 1957.....  | City treasurer, city of Milwaukee, Wis.....                | Calendar year 1956.....   | 5,400.00    | (?)   |
|                                  |                    |  | 1955 taxes due on June 1, 1956.....   | 972,409.57  | (?)   |
|                                  |                    |  | (?).....  | 2,678.96    | (?)   |

<sup>1</sup> Reported by letter this date, actual date of payment unknown.

<sup>2</sup> Period paid for unknown.

<sup>3</sup> Name of property unknown.

<sup>4</sup> Payment made after close of fiscal year 1956.

<sup>5</sup> Full payment.

<sup>6</sup> Amount paid was \$2,678.96; the total amount claimed by city of Milwaukee was \$41,661.68. Although Department of the Air Force agreed that figure represented total tax payable, amount of \$38,982.72 was offset against that amount pursuant to Opinion of Comptroller General B-130749, Apr. 17, 1953. Thus balance actually paid to city is amount of \$2,678.96.

## General Services Administration—Obligations for payment in lieu of taxes for 1956 tax year from 1957 fiscal year appropriation

[Authorized by act of Aug. 12, 1955 (Public Law 388, 84th Cong.)]

| Location                     | Identity                    | Estimated payments | Location                        | Identity                          | Estimated payments |
|------------------------------|-----------------------------|--------------------|---------------------------------|-----------------------------------|--------------------|
| Alabama: Gadsden.....        | Republic Steel.....         | \$37,889           | New York—Continued              |                                   |                    |
| California:                  |                             |                    | Wingdale.....                   | Amco Magnesium.....               | \$51,642           |
| Chula Vista.....             | Rohr Aircraft.....          | 59,969             | North Carolina: Burlington..... | Firestone Tire & Rubber.....      | 30,563             |
| El Segundo.....              | Douglas Aircraft.....       | 17,249             | Ohio:                           |                                   |                    |
| Manteca.....                 | Permanent Metals.....       | 10,288             | Hamilton.....                   | American Rolling Mill.....        | 3,738              |
| Connecticut: Canaan.....     | New England Lime.....       | 19,558             | Luckey.....                     | Magnesium Reduction.....          | 10,738             |
| Illinois: Chicago.....       | Eversharp, Inc.....         | 3,441              | Painesville.....                | Clifton Products.....             | 1,990              |
| Louisiana: Lake Charles..... | Mathieson Alkali.....       | 8,898              | Do.....                         | Diamond Magnesium.....            | 21,235             |
| Michigan:                    |                             |                    | Troy.....                       | Waco Aircraft.....                | 7,057              |
| Bay City.....                | Dow Chemical Co.....        | 7,959              | Warren.....                     | Republic Steel.....               | 3,307              |
| Saginaw.....                 | General Motors.....         | 35,810             | Youngstown.....                 | do.....                           | 11,528             |
| Montana:                     |                             |                    | Pennsylvania:                   |                                   |                    |
| Butte.....                   | Domestic Manganese.....     | 1,442              | Chester Springs.....            | Franklin Graphite.....            | 1,674              |
| Columbus.....                | Anaconda Copper Mining..... | 1,173              | Erie.....                       | Aluminum Forgings.....            | 48,513             |
| Nebraska: Omaha.....         | Alcohol Plant.....          | 44,151             | Homewood.....                   | Westinghouse.....                 | 2,821              |
| New Jersey: Newton.....      | Anken Film Co.....          | 211                | Indiana:                        |                                   |                    |
| New York:                    |                             |                    | New Castle.....                 | McCreary Tire & Rubber.....       | 2,244              |
| Brooklyn.....                | Mergenthaler Linotype.....  | 61,457             | Washington:                     | United Engineering.....           | 79,766             |
| Schenectady.....             | General Electric.....       | 46,463             | Renton.....                     | Pacific Car & Foundry.....        | 16,622             |
| Syracuse.....                | do.....                     | 31,788             | Marble.....                     | Elector-Metallurgical Quarry..... | 2,071              |
| Tahawus.....                 | National Lead Co.....       | 67,020             | Spokane.....                    | Elector-Metallurgical Plant.....  | 29,945             |
| Utica.....                   | Utica Drop Forge.....       | 3,549              |                                 |                                   |                    |
| Valley Stream.....           | Columbia Aircraft.....      | 13,254             | Total.....                      |                                   | 797,026            |

Mr. Speaker, Public Law 388 had two defects which were recognized at the time. First, the law was temporary, expiring January 1, 1959. Second, it was found necessary to employ an arbitrary formula for describing the type of Federal property to which it applied. Many federally owned industrial plants on which in equity and good conscience contributions should be made to localities do not come within the 4 corners of Public Law 388, either because they never were owned by Reconstruction Finance Corporation or any of its subsidiaries, or because the title had not remained continuously in the United States as was required by the terms of Public Law 388.

I am sure those who supported Public Law 388 with me recognize those defects and are as anxious as I to correct them

by making the law permanent and by adopting a more equitable formula for the description of Federal property subject to payments in lieu of taxes.

Accordingly, over the past several months, I have conducted a study aimed at achieving the above objectives. I employed on my staff a legal assistant, Mr. James A. Flynn, who worked with me and with the legislative counsel and attorneys and others in the agencies having custody of the properties concerned. The result of that study is the bill I introduced today. I hope it will meet with the approval of my colleagues in the Congress and will be promptly enacted into law. I am confident that no justification exists for resistance to the legislation by any agency in the executive branch of the Government. I am introducing it at this time so that during

the recess of the Congress the committee may have ample time to obtain the views and reports of the agencies in the executive branch. That will make it possible for action to be taken on the bill early in the 2d session of the 85th Congress.

Mr. Speaker, I want to call attention to the unique character of this legislation and its fundamental philosophy. It is not a grant-in-aid from the Federal Government to local governments. It is not based upon the principles of hardship or need. It is not a handout. It is recognition that local governments must pay out of their own treasuries money to provide services for the benefit of the Federal Government on property it owns in the jurisdiction of the local government. Local governments provide roads and streets, sewers and gutters, police



protection, fire protection, school facilities, and a host of other benefits. The federally owned industrial plant receives those benefits equally with a privately owned industrial plant adjoining it. Yet, without the legislation, because of the Federal Government's immunity from taxation by local governments, Uncle Sam will be getting a free ride; and to the extent that local taxes are escaped, the Federal Government will be draining from the treasuries of financially hard pressed local governments an unjust enrichment for the Federal Treasury.

Mr. Speaker, we have all witnessed, particularly in the last three decades, the tremendous growth in the National Government at Washington and a comparative lessening of importance of State and local governments. The tremendous sums taken from the people of the United States by the Federal Government for the cost of its operations has absorbed a higher and higher percentage of the total tax base and have made it more and more difficult for local governments to raise the funds necessary for their operations.

The effect of Public Law 388 and the bill I have introduced today is to offset the trend toward concentration of power and aggrandizement of the Federal Government at the expense of local governments. It does this by establishing the principle that the Federal Government should pay its fair share of the cost of services rendered for its benefit by local governments. To the extent payments are made in lieu of taxes the strength and the financial stability of the localities covered by the legislation are enhanced. Thus, my legislation is a step, if only a minor one, in the direction of greater democracy and improved self-government by contributing to the vitality of those units of government which are closest to the people.

Mr. Speaker, we are all aware of the tendency of agencies in the executive branch of the Government, notably the Department of Defense, to hoard whatever they have, particularly when they can do so at no expense. Requiring Federal agencies to make payments in lieu of taxes on properties benefiting from services by local governments and justifying the amounts of those payments to Congressional committees in their budget presentations may tend to discourage executive agencies from hoarding property not needed for any legitimate Government purpose. Thus, properties which ought to be declared surplus may be liquidated and the capital investment they represent either used to reduce the public debt or to contribute to reduction in taxes.

Mr. Speaker, I believe the legislation I have introduced is in the public interest and ought promptly to be enacted.

The text of the bill is as follows:

Bill to amend the Federal Property and Administrative Services Act of 1949 to provide for making payments in lieu of taxes with respect to certain industrial manufacturing plants owned by the United States

*Be it enacted, etc.,* That the table of contents contained in the first section of the Federal Property and Administrative Serv-

ices Act of 1949 is hereby amended by inserting immediately below

"Sec. 705. Effective date,"

the following:

"TITLE VIII—INDUSTRIAL MANUFACTURING PLANTS

"Sec. 801. Declaration of policy.

"Sec. 802. Definitions.

"Sec. 803. Payments in lieu of taxes on industrial manufacturing plants.

"Sec. 804. Limitations."

SEC. 2. Such act is hereby further amended by adding at the end thereof the following:

"TITLE VIII—INDUSTRIAL MANUFACTURING PLANTS

"Declaration of policy

"Sec. 801. It is hereby declared to be the policy of the Congress to relieve States and local taxing authorities of the burdens placed upon them due to the tax-exempt status of certain industrial manufacturing plants owned by the United States.

"Definitions

"Sec. 802. As used in this title—

"(a) The term 'State' means each of the several States of the United States, and the Territories of Alaska and Hawaii.

"(b) The term 'real property' means (1) any interest in land, and (2) any improvement made thereon, if for the purpose of taxation such interest or improvement is characterized as real property under the applicable law of the State in which such land is located.

"(c) The term 'local taxing authority' means any county or municipality, and any subdivision of any State, county, or municipality which is authorized by law to levy and collect taxes upon real property.

"(d) The terms 'real property tax' and 'real property taxes' do not include any special assessment levied upon real property while title thereto is held by the United States, except any special assessment levied after January 1, 1959, the major portion of which is levied against real property which is privately owned.

"(e) The term 'Government department' means any department, agency, or instrumentality of the United States.

"(f) The term 'industrial manufacturing plant' means—

"(1) a national industrial reserve or departmental reserve plant in idle status; and

"(2) any other plant which is primarily engaged in the production, manufacture, fabrication, assembly, or repair of articles, goods, or wares and which is not an integral part of, and also is not used for purposes incidental to, Government facilities not engaged in production, manufacture, fabrication, assembly, or repair. A suspension of production, manufacture, fabrication, assembly, or repair shall not be construed to remove any plant from the provisions of this paragraph.

"Payments in lieu of taxes on industrial manufacturing plants

"Sec. 803. Where an industrial manufacturing plant is located on any real property in the custody or control of any Government department, then on each date occurring on or after January 1, 1959, on which real property taxes levied by any State or local taxing authority with respect to any period become due, such Government department shall pay to the appropriate State and local taxing authorities an amount equal to the amount of the real property tax which would be payable to each such State or local taxing authority on such date if legal title to such real property had been held by a private citizen on such date and during all periods to which such date relates.

"Limitations

"SEC. 804. (a) The failure of any Government department to make, or to make timely payment of, any payment authorized by section 803 shall not subject—

"(1) any Government department, or any person who is a subsequent purchaser of any real property from any Government department, to the payment of any penalty or penalty interest, or to any payment in lieu of any penalty or penalty interest; or

"(2) any real property or other property or property right to any lien, attachment, foreclosure, garnishment, or other legal proceeding.

"(b) No payment shall be made under section 803 with respect to any real property—

"(1) which is taxable by any State or local taxing authority under any provision of law, or with respect to which any payment in lieu of taxes is payable under any provision of law other than this title; or

"(2) unless such property (A) was acquired by the United States after December 31, 1945, or (B) was owned by the Reconstruction Finance Corporation (as defined in section 702) after December 31, 1945, notwithstanding any subsequent transfer thereof from such corporation to any Government department or person.

"(c) Nothing contained in this title shall establish any liability of any Government department for the payment of any payment in lieu of taxes with respect to any real property for any period before January 1, 1959."

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. COLMER. I yield to the gentleman from Iowa, Mr. Speaker.

Mr. GROSS. With the exception of the last resolution, these resolutions will enable other committees, some of which already have that authority, to travel abroad. Is that not correct?

Mr. COLMER. I am not sure I understood the question. The gentleman said they already had the authority.

Mr. GROSS. Some have the authority, do they not?

Mr. COLMER. They have limited authority. This is specific authority.

Mr. GROSS. Not limited as to the expenditure of funds. Is not that correct?

Mr. COLMER. That is something with which the Committee on Rules has nothing to do.

Mr. GROSS. At the rate of exodus already started I wonder if there will be any counterpart funds left by the end of the year.

Mr. COLMER. I am sorry, I cannot answer the gentleman.

Mr. GROSS. I wonder if the gentleman agrees with me that it is about time these committees—their staffs and the Members of Congress, and that includes both this body and the other body, pay for their travel and other necessary expenses out of funds appropriated to the committees? In other words, if they use counterpart funds, buy the counterpart funds and pay for them in American dollars, and then come back here and submit full and public accounts. That is the way I think this thing should be done.

I say to the gentleman that at the rate this foreign travel is being expanded and in some cases abused, Congress is going to have a beautiful scandal in its collective lap. Some of this spending in the past has been for junketing on the part of Members of Congress.

I am not going to force the issue on these resolutions at this late date, but certainly something ought to be done next year by the Committee on Rules or whatever committee has the authority to regulate this thing.

Mr. COLMER. Mr. Speaker, in reply to the gentleman's statement, the gentleman is usually correct in his position here on this floor in looking after the interests of the taxpayers of this country. I am sure that wherever these funds are used they ought to be accounted for, and I agree with the gentleman.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

### RECESS

The SPEAKER. The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 24 minutes p. m.), the House stood in recess subject to the call of the Chair.

### AFTER RECESS

(The recess having expired, the House was called to order by the Speaker at 4 o'clock and 51 minutes p. m.)

### HOUR OF MEETING AUGUST 30

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

### SIGNIFICANCE OF WISCONSIN ELECTION

Mr. SMITH of Wisconsin. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SMITH of Wisconsin. Mr. Speaker, since the upset election in Wisconsin last Tuesday the question everybody asks is, "What happened in your State?"

The answer, as I see it, Mr. Speaker, is that the people in Wisconsin have rebelled against excessive and oppressive Government spending. This is a matter that transcends party lines.

Upon the election of President Eisenhower in 1952 there was great hope throughout the country that economy would be the order of the day in Washington, that in some way he would bring an end to the prolific spending policies that prevailed in previous administrations.

We have now reached a point midway in the term of the President and yet there is not less spending but more. I can hear the rejoinder, Mr. Speaker, that much of this spending is caused by the so-called cold war situation and this

may be true to some degree. At this moment, however, the American people are discouraged and dismayed by the insistence of the President that he must have every cent he has asked for in the foreign-aid program and money for all the other items in his budget request.

In the State of Wisconsin, the people have been protesting and on last Tuesday—at the ballot box—they had an opportunity to register this protest and they did so with a vengeance. I dare say that if other elections were held today or tomorrow in various other States, the result would be the same.

Just today, Mr. Speaker, I received a post card in which a voter expressed his views, perhaps crudely, but he says and I quote:

I take the liberty of writing to you in regard to restoring the cut in the foreign giveaway program. This is outrageous as many here think and it is hoped that Members of Congress will insist upon the cut.

To restore the cut in funds that the House made in the appropriation for foreign aid is indeed outrageous, Mr. Speaker. Why is it that Congress is so far behind the thinking of the people? They do not approach this matter in terms of political parties but in terms of their own welfare.

The result in the Wisconsin election should be a warning not only to Wisconsin and to Wisconsin Republicans but to both political parties through the Nation. This Wisconsin result can well be a barometer of what can happen in the next election to every incumbent, Democrat and Republican alike.

Mr. Speaker, I submit that the Wisconsin vote was a repudiation of the philosophy that we can go on eternally spending and giving our money away under the guise of national security. As has been said, "We cannot spend ourselves rich," nor can we spend ourselves secure. This the people seem to know even if our leaders do not.

### BUSINESS OF THE HOUSE TOMORROW

Mr. GROSS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. GROSS. Mr. Speaker, I take this time to ask the distinguished majority leader, if I might have his attention, what it is that brings the House into session at 10 o'clock tomorrow morning? Can the gentleman state what the business of the House will be tomorrow morning at 10 o'clock?

Mr. McCORMACK. A meeting at 10 o'clock seemed to be advisable in the minds of the leadership because nobody knows what is likely to break. If the situation should develop where we can dispose of matters tomorrow—

Mr. GROSS. The gentleman is being "iffy."

Mr. McCORMACK. The gentleman asked me a question and I will answer. If we can dispose of matters tomorrow the meeting at 10 o'clock would enable

this to be accomplished more effectively than if we met at 12 o'clock.

Mr. GROSS. Now, if, if, as the gentleman says, thus and so takes place, then we will accomplish something more effectively by coming in at 10 o'clock tomorrow. Let me ask the gentleman this question.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. GROSS. Mr. Speaker, I make the point of order a quorum is not present.

The SPEAKER. The Chair allowed the gentleman to take all the time he asked for.

Mr. GROSS. The gentleman from Massachusetts took most of my time.

The SPEAKER. The gentleman asked a question and the gentleman from Massachusetts tried to answer it. Does the gentleman insist on his point of no quorum?

Mr. GROSS. Mr. Speaker, I withdraw the point of no quorum.

### APPOINTMENT AS MEMBERS OF THE UNITED STATES GROUP OF THE NORTH ATLANTIC TREATY PARLIAMENTARY CONFERENCE

The SPEAKER. The Chair desires to announce that pursuant to the provisions of Public Law 689, 84th Congress, the Chair appoints as members of the United States Group of the North Atlantic Treaty Parliamentary Conference the following Members on the part of the House: Mr. HAYS of Ohio; Mr. McCARTHY, of Minnesota; Mr. SMITH of Mississippi; Mr. DOLLINGER, of New York; Mr. SELDEN, of Alabama; Mr. LECOMPTE, of Iowa; Mr. BECKER, of New York; Mr. CANFIELD, of New Jersey; and Mr. CORBETT, of Pennsylvania.

### BUSINESS OF THE HOUSE TOMORROW

Mr. DAVIS of Georgia. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DAVIS of Georgia. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. GROSS. Now that the important business of appointing delegates to go to London on the annual junket, known as the Interparliamentary Union Conference has been consummated, the gentleman from Iowa would like to ask the gentleman from Massachusetts, the distinguished majority leader, if things do not develop as the gentleman thinks they will or hopes they will in the other body, are we going to have indefinite recesses tomorrow and sit around waiting for the other body to make up its collective mind to send some legislation to the House? How much longer are we going to sit at the throne of the other body and wait?

Mr. McCORMACK. The gentleman from Iowa, I am sure, gives the gentleman from Massachusetts credit for advising the House as to any situation.

Mr. GROSS. Oh, well—



Mr. McCORMACK. One thing I have never been guilty of is trying to be coy with my associates. I have always been as frank as I could be. I cannot answer the gentleman's question, neither can anyone else. I am not going to be caustic with my friend, who has been unnecessarily caustic with me, and I can be if I want to be, but I am not going to be caustic because I am unable to answer the question except, in my judgment and the judgment of the leadership, it is in the interest of the membership of the House to meet tomorrow at 10 o'clock. What will happen, I do not know. I hope for the best.

#### FIFTIETH ANNIVERSARY OF STATE GOVERNORS' CONFERENCE

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (S. J. Res. 35) to provide for the observance and commemoration of the 50th anniversary of the 1st conference of State governors for the protection, in the public interest, of the natural resources of the United States, with House amendments thereto, insist upon the amendments of the House and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from New York? (After a pause.) The Chair hears none, and appoints the following conferees: Messrs. FRAZIER, ASHMORE, and KEENEY.

#### SOVIET ICBM UPGRADES UNITED STATES NAVY ROLE

Mr. HOSMER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOSMER. Mr. Speaker, Soviet claims to development of a missile capable of striking any place in the world with destructive accuracy may or may not be true. If they are true, the Soviets still are faced with a production problem of considerable magnitude. The real significance of the Soviet announcement is to highlight the ever-increasing role the United States Navy must play in the Nation's slowly evolving new defense concept.

It is a concept which must be based on atomic armed seaplanes, self-guided missiles, and an atomic-powered fleet.

As long as the retaliatory mission of our Strategic Air Command is tied to land-based bombers or land-based intercontinental missiles, a large number of which must be based in the continental United States, American homes, cities, and factories remain prime targets for surprise destruction by such weapons as the Soviet ICBM. Sixteen million casualties were estimated during last year's Civil Defense Administration's mock nationwide drill based on surprise attack.

But exactly the same circumstances and conditions can be applied to any system of Soviet offense based on ICBM missiles to be fired against the world from Soviet territory. Any such weapons land

based within Soviet domains simply invite destruction of Soviet home territory. The whole history of Soviet international relations since World War I reveals a paranoid fear of destruction of home territory. In the interval between the two World Wars, Communist ideology as expressed by Marx and Engels was second placed to Stalinist 5-year plans aimed almost exclusively at moving old industries and creating new ones behind the protective wall of the Caucasus out of the historic path of invaders of the Russian Empire. This precaution spelled ultimate defeat for Hitler's invaders. Since World War II the same pattern has been starkly evident, both under Stalin's final regime and those that have followed to the present moment.

Momentarily the United States will have developed the ideal weapons system effective against the precise Soviet fear that can contain its aggressive desires, and at the same time relieve the continental United States from the threat of the Red ICBM.

Polaris, the Navy's newest ballistic missile, is well toward final development. It will be capable of being fired from submarines at ranges up to 1,500 miles. Combined with the long-range, high-speed and stealthy surprise of the Navy's new atomic submarines, its striking range will place 90 percent of Soviet industry and war-making capability under the positive threat of accurate United States retaliation. It will place all but the most remote Red ICBM missile-launching sites under the same threat of retaliation. These are the exact circumstances the Soviets least want to see brought about.

But our eggs are not all in this basket. Superrange, atomic-armed seaplanes are now being developed by the Glen L. Martin Co. These can be tendered by atomic-powered ships with unlimited cruising ranges. Like the submarine fleet, this fleet can move from place to place about the world on predetermined, but irregular schedules. It would be almost impossible for an enemy to locate and destroy either type fleets. Both would stand almost completely free from surprise attack and constantly capable of accomplishing the destruction of the Soviet homeland which the Red rulers most fear.

With our retaliatory defense machinery completely mobile and away from our homes and factories, there is no foreseeable way the Soviets could use their ICBM to make an effective surprise attack against it. Without assurance of first destroying our ability to inflict death and destruction behind the Iron Curtain there is little likelihood that the Soviet ICBM would be fired on American homes and factories, for there could be no possible chance of ultimately defeating us.

It is up to the Congress and to the responsible officials in the Department of Defense to recognize these changed circumstances of our defense and this imperative need to renovate our defense concepts.

Added together they mean a prime reliance on the modern United States Navy as the country's strongest arm of defense.

#### THE FOURTH INDIANA DISTRICT

Mr. ADAIR. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ADAIR. Mr. Speaker, it has been my custom, since being elected to the House of Representatives, to conduct an official tour of the eight counties in the Fourth Indiana District following the adjournment of the Congress.

Inasmuch as the Congress has been in such a long session this year, I am planning this official tour later than usual, but want very much to meet personally with constituents. This affords an excellent opportunity to learn, at first hand, the views and problems of our citizens. Also, we may exchange ideas on legislative and governmental matters to be given consideration during the next session of Congress.

For example, in reviewing some of the legislative actions of this session, it is my firm conviction that people generally wanted reduction of governmental expenditures. While the Congress did not reduce budget requests as much as I had hoped, I personally voted to cut appropriations by more than \$7 billion. All of the cuts I voted for were not sustained by a majority in the House and Senate, but in the final analysis Congress did trim the budget about \$5 billion.

Again, with respect to the mutual security program—better known as the foreign aid bill—I voted against this proposal. The people of the fourth district, generally, I believe, are strongly against giving away our American dollars for these purposes of doubtful merit. I feel that we can accomplish far more through the voluntary programs like CROP or CARE, and missions established by our churches in foreign lands than by pouring out our taxpayers' money. It has been shown by overseas reactions among many of the foreign countries that we have not won friends nor influenced people as we wished and expected by doling out to them foreign aid funds.

In maintaining the peace, it seems to me that this Congress has upheld the arm of the President as a strong guard against communism and has also shown the free nations of the world that our greatest desire is to halt aggression and force.

Domestically, I have supported legislation to broaden benefits and help those who have been pressed by inflation. This includes those on pensions and retirement as well as those who have faced the need for public assistance even in our unprecedented prosperity.

Moreover, in my efforts to serve best the people of our district and our beloved country, I have consistently endeavored to see that the problems of veterans, farmers, labor, and business have received proper attention and consideration.

Even so, there is much unfinished business left behind by this first session of the 85th Congress. It is my feeling that when we return home and talk personally

with the people, we will be in a better position next January to carry out their wishes in legislative and governmental matters.

That is why I am particularly pleased that I can announce this district tour. Also, to state that the Congressional office in the district will soon be opened in room 310 of the Federal Building at Fort Wayne where I welcome visits from constituents to discuss and assist them with any governmental problems they may have. During adjournment, of course, our Washington office also will be open to serve the public.

It is my plan to be present for consultations with constituents in the courthouse in each of the county seat cities of the following counties—Adams, Wells, Whitley, DeKalb, Noble, LaGrange, and Steuben. After the tour is completed, for the eighth county—Allen—the Congressional office will be open at Fort Wayne, as stated above.

Here are the dates, times, and places of the official tour:

Thursday, October 3: Wells County, 10 a. m. until 4 p. m., courthouse, Bluffton.

Friday, October 4: Adams County, 10 a. m. until 4 p. m., courthouse, Decatur.

Monday, October 7: Steuben County, 10 a. m. until 4 p. m., courthouse, Angola.

Tuesday, October 8: LaGrange County, 10 a. m. until 4 p. m., courthouse, LaGrange.

Wednesday, October 9: Noble County, 10 a. m. until 4 p. m., courthouse, Albion.

Thursday, October 10: Whitley County, 10 a. m. until 4 p. m., courthouse, Columbia City.

Friday, October 11: De Kalb County, 10 a. m. until 4 p. m., courthouse, Auburn.

#### WILLIAM HOWARD TAFT

Mr. HESS. Mr. Speaker, I ask unanimous consent to extend my remarks at this point.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? There was no objection.

Mr. HESS. Mr. Speaker, 100 years ago on September 15, this year, William Howard Taft was born in Cincinnati, Ohio. As a native and lifelong resident of Cincinnati, I cannot permit to pass unnoticed, an anniversary which I am sure every Member will want to honor.

William Howard Taft was born in Cincinnati on September 15, 1857. This year, therefore, marks the centennial of his birth. It is entirely proper that his countrymen should mark the occasion by paying tribute to the memory of one of the best-loved Americans of his time—or any time. The only man thus far to hold, respectively, the offices of both President and Chief Justice of the United States, his career as we view it—a quarter of a century and more after its close—is as rich in contribution as it is unique in scope.

There is a certain comfortable reassurance, a fundamental rightness about that long and fruitful life so that, pondering over the history of those times, instinctively one realizes, "This was a good life. Here was a great public serv-

ant." One of the noblest human traits, to me known, is the average man's instinctive recognition of goodness and fundamental integrity encountered in another, and no man ever came into the presence of William Howard Taft without becoming instantly aware that here indeed was a man without malice or guile. He had absolute integrity. He was, in the words of a friend, "honest, simply honest, transparently honest." His character was like a highly polished crystal, reflecting and throwing off light, impervious to soil or stain.

Mr. Speaker, I cannot, of course, in the very brief time at my disposal, attempt even the barest outline of a life of public service which began soon after Taft's admission to the Ohio bar in 1880 at the age of 22, and continued almost uninterruptedly until the end, half a century later. His first public office was that of assistant prosecuting attorney for Hamilton County, Ohio—to which he was appointed the year after he was admitted to the bar. In the following year he was appointed collector or internal revenue for Cincinnati.

Taft's real public career began with his appointment to fill an unexpired term on the Superior Court of Ohio. In the judicial life Taft found his true vocation; he never ceased to long for it, and through all the long busy years as Solicitor General of the United States, Governor General of the Philippines, Secretary of War, and finally President of the United States, his heart turned ever toward the judicial bench.

It was, therefore, one of the most fitting and satisfactory conclusions in American public life that, after a lifetime of unselfish service to his country and to the little brown brothers, as he used to call the people of the Philippines; after the vicissitudes of the Presidency—the only shadowed chapter in a life otherwise singularly sunny—a great public servant at last came into his own, and William Howard Taft ascended the bench as Chief Justice of the United States.

Years before when, as President, Taft signed the commission of Edward Douglass White as Chief Justice, he sighed, "To think I am giving this commission for the office I wanted myself." And now Taft was Chief Justice—succeeding the very man he had himself appointed so long ago. I repeat, it was one of the happiest, most fitting conclusions of a great and noble life of which history bears record.

William Howard Taft brought to the great office of head of the most august judicial court on earth that broad and balancing serenity which had characterized his long and illustrious career. He brought more than that—he brought profound legal knowledge and rich experience in the world of affairs. More and greater than all of this, he brought to the supreme bench the sympathy and understanding of one who knew and loved his fellow men. He brought integrity.

The people of Cincinnati and the members of the William Howard Taft Memorial Association pay tribute on the centennial of his birth to William How-

ard Taft with pride and deep affection arising from the contemplation of an honorable, useful, and noble life.

#### POST OFFICE AND FEDERAL BUILDING FOR COUNCIL BLUFFS, IOWA

Mr. JENSEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? There was no objection.

Mr. JENSEN. Mr. Speaker, on January 14, 1957, I had inserted in the CONGRESSIONAL RECORD, along with my own remarks, the unbelievable but true story about the long and futile fight for a new post office and Federal building for Council Bluffs, Iowa—a city of 50,000 people—by Frank M. Lane.

That story gives cause for those responsible to hang their heads in shame.

Here is a very short synopsis of the story:

In 1950 the old, but very serviceable and beautiful post office and Federal building was condemned, and in 1951 torn down. Had a few thousand dollars been spent on the underpinnings of that building, it would have served its purpose for at least another 50 years, but, no, it was torn down and the old material sold for a pittance—and mind you, that was done before any plans, or appropriations, were even in the making for a new building. An old unsuitable pavilion was then rented for the post office by Uncle Sam for \$1,000 per month, and about a dozen Federal offices were scattered all over town, costing the Government an additional \$800 per month, or thereabout, while the Federal court is housed in the county courthouse, and that situation still exists this very minute.

Now, I will bring this sad spectacle up to date.

As is general knowledge, in the session of the 1953 Congress passed the Lease-Purchase Act. Its purpose was to build such Federal buildings, financed by private capital and Uncle Sam to pay rent for a period up to 20 years on such a basis as to amortize the cost of the building, after which it would become the property of Uncle Sam. Congress approved many scores of such building projects in 1954 and 1955—in every State of the Union. The Council Bluffs building was placed No. 1 on that list because it was the place where such a building was most needed. Plans and specifications were drawn for our building, as was the case for a number of other buildings on the approved list. Bids were called for in 1956, but by that time interest rates had risen to a point where only one contract could be let—all the other bids were rejected, including the bids for the Council Bluffs building, because those bids were above the maximum costs as designated by Congress.

About 60 days ago, the Senate amended the original Lease-Purchase Act in such a way as to permit these buildings to be constructed under that act—but, lo and behold, another big monkey wrench was thrown into the machinery by the House Committee on Public Works. To the great surprise—



and may I say the disgust—of a majority of the Members of the House of Representatives, the House Public Works Committee by a strict party vote turned thumbs down on the Senate-amended Lease-Purchase Act, and voted out a bill that is completely new, which provides for direct appropriation from the United States Treasury in the amount of \$1,500,000,000 over a 5-year period, to build such Federal buildings.

Now, to show the inconsistency of their bill, the committee approved six large Federal buildings to be built here in the District of Columbia under the rental amortization plan—so, the lease-purchase plan is good for the District of Columbia, but bad for Council Bluffs, say they.

Now the facts are, the least informed Member of Congress knows full well that the next Congress, or any Congress in the foreseeable future, will not appropriate such a large sum of money for this purpose. So I daresay there can be but one answer—and only one answer—for the action taken by that committee on this matter; which is that, next year being an election year, they hope to pass some kind of a bill through Congress to build these buildings, and thereby make political hay while it is fresh on the voter's mind.

The bill which the committee voted out then had to go to the House Rules Committee, where it is buried deep for this session because, had the bill come to the floor of the House, the amended Senate bill could easily have been substituted for the committee bill, and the powers that be in the House know it only too well.

That completes the sad story up to date.

Where we go from here, only time can tell.

#### A BILL TO EXTEND THE NATIONAL WOOL ACT OF 1954

Mr. THOMSON of Wyoming. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. THOMSON of Wyoming. Mr. Speaker, I am joining with several of my colleagues this date in introducing a bill to extend the National Wool Act of 1954 for an additional 4 years to March 31, 1963. The act is presently due to expire March 31, 1959. It is essential, however, that legislation be enacted early in the next session to extend the act, if we are to avoid the harmful effect of uncertainty within the industry.

Wool and sugar are two of the few, if not the only two, major agricultural crops which we produce in this country that are not produced in surplus or in excess of our rate of consumption. We produce in this country less than half the wool which we consume. Nevertheless, prior to enactment of the National Wool Act of 1954, the sheep and wool industry in the United States was in difficult straits and the situation was constantly becoming worse. The total

number of sheep raised in the United States had dropped from 49,346,000 in 1942 to 27,079,000 in 1954. This drop can be attributed mainly to price ceilings during the war and increase in imports during the war and thereafter in the face of rising costs to domestic producers. Even so, the tariff on wool was further reduced by over 25 percent in 1948, or reduced from 35 cents a clean pound to 25½ cents. The American producer could simply not compete with the lower living standards and the lower wages and lower cost of production in other areas. The result was a shift in production from sheep to cattle. The result, in my opinion, was to depress the cattle market and to contribute substantially to our overall agricultural problem. By far the greatest portion of our farm income comes from livestock and livestock products. We were faced with another very real problem. Wool is an important strategic material. Our domestic production was far below the safe level for our national security and was continually decreasing.

In addition to that, under a conventional-type support program, the stockpile of wool was building up Government storage at taxpayers' expense, which further depressed the market price. This stockpile had grown to 150 million pounds. Faced with this situation, in 1954, on the recommendations of the administration, the National Wool Act of 1954 was passed. It does not provide for an agricultural payment in the conventional sense; it provides for payment in lieu of tariff, payable solely out of 70 percent of the tariff revenues on the wool that is imported, and is not payable from the revenues collected from general taxes. This is known as an incentive payment. The effect has been to strengthen our domestic wool industry and to strengthen domestic prices. The Government surplus stockpile has been reduced from 150 million pounds to about 20 million pounds. In the first years, payments ran much larger than expected. The effect of the act is now being reflected. Domestic prices are improved and the payment will be reduced to an estimated \$21 million for the current clip, as compared to payments of \$58 million in the initial year of operation. The decline in our sheep numbers has been slowed. The act is tending to achieve its goals. An extension, however, in the first part of the next session is essential to permit uninterrupted improvement. The improvement is not limited to the woolgrowers. It extends to the processors and manufacturers. The extension of this act is important to the Nation as a whole.

I urge that such be made the first order of business in the next session.

I personally believe that the true solution of this problem and the problems of an increasing number of our domestic industries is by adequate tariffs or import quotas. I do not believe that we can maintain the pay scale paid to our American workers, maintain our American industries and jobs, or preserve our American standard of living unless this is done. I believe that it is in the best interests of the Free World that such be done. In

doing so we can still permit friendly nations to share in the growth of America and the expansion of our markets. I believe that such general legislation should be favorably considered. Until that is done, however, it is essential that we extend the National Wool Act of 1954.

#### THE UNITED STATES AND ITS ECONOMIC, POLITICAL, AND MILITARY POWER

Mr. SCOTT of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SCOTT of Pennsylvania. Mr. Speaker, these closing weeks of this first session have produced a truly remarkable spectacle.

We have witnessed the birth, early adolescence and frightening maturity of a new faction of advocates of dollar-economy.

Against a background of the greatest economic, political, and military power ever amassed by a single nation—the United States—these new-found disciples of thrift have deliberately and consciously distorted the praiseworthy virtue of economy to undermine the principal bulwark against global communism.

At a time when the Soviet Union is announcing new and successful ventures into military strength, ill-advised cuts in our own budget have served only to weaken our own strength.

At a time when the United States is more prosperous than ever; when the grave Syrian crisis further establishes the dangerous instability of the Middle East; when every valid sign indicates an intensification of the struggle against Communism, these new architects of economy have deliberately chipped and hacked away—in the best manner of political vandalism—at the very keystone of the world's freedom loving nations.

The effects of these economies are fearsome, indeed.

Our Air Force must reduce its manpower and the number of its air groups.

It has, and it must continue to, slow down the production of supersonic fighters and the B-52 jet bombers.

When the full impact of this so-called economy wave has manifested itself, we may even perceive the absorption of our Tactical Air Command by the Strategic Air Command, simply because the richest nation in the world hasn't provided enough money to maintain both.

Our Navy is cutting back its personnel. Rather than building the fighting vessels every recognized authority says we need, we are in the process of deactivating ships.

At this moment the Navy is engaged in the drastic slowdown or total elimination of 64 stations or naval facilities.

Our Army must reduce its strength to 16 divisions by the end of this year.

Many installations are already scheduled for closing by the end of this year—and more next year.

No one—least of all, I—will quarrel with the concept of a balanced national economy.

No one recognizes more clearly than I that calculated risks are a part of all military planning.

No nation can—or should—attempt to achieve absolute security.

But I do question—and question closely—the wisdom and timing of the leaders of this House in the exercise of their recently discovered passion for pennypinching.

I go even further.

I see in this spectacle of the capricious dilution of our military strength a measure of mischief and political irresponsibility that is, to say the least, awful.

And I make this charge specifically in light of the fact that ways and means have been available to the leaders of this House for several months to bring about genuine savings in Federal expenditures—savings that could combat our other major foe, inflation, and still permit us to fight, at full strength, communism.

Last week—in fact, on August 22—I introduced a bill, H. R. 9415, to amend the Internal Revenue Code of 1954 to provide a revision of personal and corporate tax schedules.

My bill, which is identical to another, H. R. 6452, introduced by Mr. SADLAK, of Connecticut, last March, provides for a sensible reduction in individual income tax rates in each bracket and of corporate income tax rates over a period of 5 years, beginning January 1, 1958.

These downward adjustments in tax schedules, provided for in my bill, have a threefold goal:

First. To increase individuals' standard of living by allowing them to retain a larger portion of their real earnings.

Second. To encourage business—especially small business—to expand and grow, thereby enriching our national economy.

Third. To provide for a regular flow of revenues for the orderly retirement of our national debt each year.

But I must emphatically state that I do not now—nor shall I ever—sponsor or support any legislation to reduce taxes if such legislation carries as its price the foolhardy, Alice-in-Wonderland-type of tampering with our national functions, such as defense of this Nation and aid for our allies, bound to us in the common cause against communism.

With equal emphasis I state to the leaders of this House that if their burning interest in economy bore the stamp of authenticity, they could have achieved their savings in Federal expenditures long before this—and without jeopardizing our national welfare—by enacting into law a measure that has been before them since June 7, 1957.

I refer to a bill, H. R. 8002, introduced 3 months ago by Mr. ROGERS of Florida, the companion bill to S. 434, known as the Kennedy-Payne bill.

This legislation, as every Member of this House is aware, implements one of the most far-reaching fiscal reforms proposed by the Citizens Committee for the Hoover Report.

It is devoid of political bias.

Its sponsors include Democratic and Republican leaders of the Senate.

The best known and most respected authorities on fiscal management of both parties have given this measure their unqualified endorsement.

That he who runs may read, I summarize here briefly the intent of H. R. 8002:

It provides that appropriations would be granted for the oncoming fiscal year instead of in a lump sum for an entire program as is now the case.

The advantages and attributes of this bill are myriad.

It permits Congress to adhere to its constitutional duty of custodian of the public funds with genuine realism.

It would provide Congress with the means of reviewing annually the spending activities and the programs of each of the spending agencies.

It would in no way hamper or curtail, executive agencies from entering into long-range programs, spanning several years, for it permits the authorization of long-range contracts, and limits only actual appropriations to 1 year.

The Director of the Bureau of the Budget, the Secretary of the Treasury, the Comptroller General of the United States—indeed, every responsible official—has testified before committees of this House that as of today there exists some \$70 billion in carryover appropriations—or roughly the equivalent of the budget for fiscal 1958.

The hard, cold fact of the matter is that it is possible that this \$70 billion can be spent by the spending agencies without the Congress actually knowing where a single dollar of it goes—or why.

The record is replete with shocking instances of uncontrolled and unsupervised spending, as permitted under the present system of appropriating funds for executive agencies.

We know that in 1953 Congress appropriated \$12.5 billion for guns and other weapons for use in the Korean war.

The war ended within a month of the new budget year.

Years later in May 1957, the Army was still spending this \$12.5 billion—and Congress had not a single method or means of reviewing that spending.

I am not singling out just this one instance.

Every executive department of the Government, large or small, operates under the same loose, inexcusable system of gigantic grants without even cursory review of spending.

Apart from recapturing the \$70 billion which I mentioned before, fiscal experts, irrespective of party, have uniformly stated that, were H. R. 8002 enacted into law, savings amounting to \$3 billion a year could be achieved under our present or comparable rates of spending.

There is nothing complex or intricate in the system of accounting called for in H. R. 8002.

If appropriations are to be determined on an annual accrued expenditure basis, it means only two things:

First. The United States Government will buy only what it needs and pay only for what it gets.

Second. Congress will have at hand a constant means of fulfilling its role as watchdog over the needs of the Nation.

If there is anything revolutionary or dangerous in this philosophy I fail to see it.

And I am happy to know that in this conviction of mine I am joined by Americans such as former President Herbert Hoover, Joseph P. Kennedy, Solomon C. Hollister, Sidney A. Mitchell and Robert G. Storey—not forgetting for a moment the 47 Members of the Senate, including Democratic Senator BYRD, who sponsored and voted for S. 434.

In fact the only question in my mind today is "why have the leadership of this Congress, so recently imbued with an all-consuming fear of inflation that they would toy with the welfare of this Nation, failed to apply their talents for money-saving along the lines spelled out in H. R. 8002?"

Why are we subjected to economy measures that can only injure us, while those measures which can help us lie neglected in some pigeonhole?

Why is a dollar saved sensibly and rationally less valuable than one saved by foolhardiness?

Why must "economy" wear the cloak of politics, when the garb of fiscal prudence and intelligent planning is just as handy and certainly far better fitting to the needs and obligations of the United States?

I realize full well that too little time remains for deliberate and conscientious action on H. R. 8002, and the resulting bill which would grow out of such action—H. R. 9415.

But in the ensuing months between now and the opening of the second session of this Congress enough time does remain for my colleagues to do a bit of what we call in scholastic circles "outside reading."

I recommend to them most highly a farcical novel entitled "Brewster's Millions" by George McCutcheon.

This is not a facetious suggestion.

The analogy between the sorry Mr. Brewster and the present sorry plight of the United States Congress is too perfect for jokemaking.

Mr. Brewster, you will recall, was confronted with the problem of spending himself broke before he could be assured of receiving additional funds.

Whether we like it or not, we, by law, require the executive departments to spend themselves broke before they, too, can receive additional funds.

The greatest tragedy of all is that while, "Brewster's Millions" was a work of fiction, the millions with the allocation of which we are entrusted are the realistic fruits of the efforts of millions of hard-working, patriotic Americans, to whom this Congress and every Congress, owes an everlasting obligation.

#### REPORT ON THE 1ST SESSION OF THE 85TH CONGRESS

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? There was no objection.

Mr. HENDERSON. Mr. Speaker, as the 1st session of the 85th Congress draws to a close, I wish to make some



observations with regard to what it has accomplished and what it has failed to accomplish, as well as to discuss the stand that I have taken on some of the more controversial measures which were considered here. We have been in Washington a long time this year in a session of unusual duration, and without some sort of a final report it is difficult to recall the important events which have transpired since last January 3.

One thing is notable. Although the number of bills which have been introduced in the House is nearly 10,000, with approximately 3,000 more in the Senate, the number of bills which have been approved and signed by the President—something more than 250—is a mere fraction of the total which were introduced. There have been very few measures which could be regarded as being of major legislative importance. In many ways that is a good record because I am firmly convinced that it is as essential for a Congress to resist wholesale enactment of bad or questionable legislation as it is to consider and pass beneficial legislation. Regimentation is one of the great problems facing America today—regimentation which has come from congressional anxiety that there might be some field of endeavor or activity which has not been controlled. Therefore, I repeat that the fact that few major bills were passed might well be generally characterized as an advantage for the citizens of America.

#### MIDDLE EAST RESOLUTION

When Congress convened on January 3, the world was in the midst of a crisis which had occurred because of the situation in Suez in which the Egyptian Government had seized the canal. France, Britain, and Israel had crossed the Egyptian frontier in a military engagement. From a small beginning, it was clear that the most serious consequences could have developed. As a result, President Eisenhower asked the Congress to propose a resolution of strength and to authorize him to move boldly both diplomatically and militarily in the Middle East to lessen the threat of general war. The President also requested that he be given power to expend for this program up to \$200 million from funds which had been authorized by a previous Congress, but which had not yet been expended. In spite of the urgency of this legislation, Congress moved with shocking leisureliness. It was not until January 30 that the resolution passed the House. It was not agreed to by the Senate until March 5.

#### TAX REDUCTION

The taxpayers of America received no relief from the first session of the 85th Congress. No substantial tax reduction bills were enacted and few were given the courtesy of consideration. Yet the tax revenue under existing laws increased from \$68,165,000,000 in fiscal 1956 to \$70,989,000,000 in fiscal 1957 because of the economic growth of the Nation. Rather than a tax reduction, legislation was enacted to extend for another year the old emergency wartime excise taxes in order to maintain tax income at the present high level. The Tax Rate Extension Act of 1957, which extended these wartime tax rates, was

approved by Congress on March 28 and by the President on the following day. This was the second important bill to become law during the year and, in fact, the 12th bill of any sort, important or trivial, to be passed in the first 3 months of 1957.

#### HOUSING ACT

The Housing Act of 1957 was the third major bill which the Congress considered and this was not approved until after the session was more than 6 months old. I think it fortunate that this bill did not authorize any additional public housing. The bill did amend the Housing Act with regard to units already authorized and, in addition, contained provisions with regard to college and military housing, FHA loans, reduced downpayment requirements, and other modifications of the FHA and FNMA activities to permit builders to provide, and homeowners to acquire, additional private housing.

#### GIVEAWAY

The Mutual Security Act, or foreign-aid bill, is a proposition which provides for the transfer of about \$3 billion of wealth from this Nation to countries abroad. I opposed this bill because I believe foreign aid has become an ill-considered implement upon which too much foreign policy reliance has been placed. Funds used for this costly program could be applied at home in view of our national debt and the oppressive burden on our taxpayers. Too often, nations, though they may be in need, fail to appreciate the sacrifice we in America are making and continue to regard with suspicion the seemingly bountiful and inexhaustible pot of gold which our Government does out. In many nations abroad, this has developed into outright enmity. It is a tragic commentary that in our well-meaning haste to spend money abroad, we find American administrators of the foreign-aid program zealously digging up projects that are not needed, wanted, or understood in the nation receiving the benefits.

#### VETERANS LEGISLATION

The final bill which is given a rating of "major" in this first session of Congress deals with veterans benefits. Few bills for veterans were considered by the 85th Congress. However, one such bill was approved by the House and Senate providing for a 10-percent increase in compensation for those disabled veterans with service-connected disabilities. Other veterans bills have been passed by the House, but are still to be considered by the Senate. These include an in-

crease in pensions for widows of the Spanish-American War, the Boxer Rebellion, and the Philippine Insurrection. Another bill liberalized criteria under which the eligibility of widows of all wars are computed. Other measures of widespread importance to veterans are still to be considered next year.

#### SCHOOL CONSTRUCTION

Very few bills were killed during the session by action on the floor of the House. By and large, those measures which had stimulated considerable opposition were held in committee until a more propitious occasion. However, one bill, the School Construction Assistance Act of 1957, which sought to inaugurate a Federal spending program to supplement a purely local function of providing educational facilities, was substantially defeated. I opposed this measure.

#### POSTAL RATES

For the second successive year, the House passed a bill to provide for an increase in postage rates from 3 cents to 4 cents on first-class mail, from 6 cents to 7 cents on airmail, and a general overall increase on other types of mail. However, the Senate has not seen fit to act upon this legislation in 1957.

#### CIVIL RIGHTS

The major legislation incorporated in the civil-rights bill which provided for the protection of the voting rights of all Americans, received a mixed reaction. The House passed one version of this legislation, which I approved, and the Senate, after prolonged debate, voted a watered-down version. After weeks of waiting, bickering, and shuffling, a compromise was finally advanced which is acceptable to most Members of Congress. The jury-trial issue was resolved by permitting a defendant to obtain a jury trial if his initial trial before a judge resulted in a sentence in excess of \$300 fine or 45 days in jail.

#### APPROPRIATION BILLS

Even though the Nation might endure without the enactment of new laws and, in fact, might be better off if none were enacted, one function—one painful function—of Congress requires action each year. That is the appropriation of money. Annually, Congress is required to appropriate sufficient funds from the tax revenues or other sources of Federal income to conduct the operation of the Government for the next fiscal year. This is accomplished by the enactment of appropriation bills. The following appropriations were made:

| Appropriation bills for 1958                | Amount originally proposed | Passed by House | Amount in final bill |
|---|----------------------------|-----------------|----------------------|
| Treasury-Post Office.....                   | \$3,965,291,000            | \$3,884,927,000 | \$3,884,927,000      |
| Interior.....                               | 515,189,700                | 454,395,700     | 454,395,700          |
| General Government matters.....             | 20,921,870                 | 16,021,370      | 16,010,370           |
| Independent offices.....                    | 5,923,195,000              | 5,385,201,700   | 5,373,877,800        |
| Labor-Health, Education, and Welfare.....   | 2,981,277,581              | 2,846,831,581   | 2,871,182,781        |
| District of Columbia (Federal payment)..... | 25,504,450                 | 22,504,450      | 22,504,450           |
| Commerce.....                               | 871,513,000                | 653,685,060     | 597,790,225          |
| State, Justice, Judiciary.....              | 665,649,802                | 563,799,793     | 562,891,293          |
| Agriculture.....                            | 3,965,446,617              | 3,692,889,757   | 3,666,543,757        |
| Legislative.....                            | 108,271,443                | 78,370,285      | 104,844,660          |
| Defense.....                                | 36,128,000,000             | 33,562,725,000  | 33,759,850,000       |
| Public works (exclusive of AEC-TV).....     | 876,453,000                | 814,813,023     | 858,094,323          |
| Supplemental (post office).....             | 149,500,000                | 133,000,000     | 133,000,000          |
| Supplemental, 1958.....                     | 1,973,767,827              | 1,581,590,587   | 1,734,011,947        |
| Mutual security.....                        | 3,386,860,000              | 2,524,760,000   | 2,768,760,000        |
| Atomic energy.....                          | 2,491,625,000              | 2,299,718,500   | 2,323,632,500        |
| Total.....                                  | 64,048,466,290             | 58,515,233,806  | 59,134,110,706       |

The totals above do not reflect certain other costs which the Nation's taxpayers are called upon to assume. One huge item is the fixed charge of approximately \$7,360,000,000 which represents interest on our huge public debt. Happily, this debt, now in the neighborhood of \$270 billion, has been reduced by \$5,200,000,000 during the past 3 years.

Many Members had misgivings with regard to the amounts included in these appropriation bills. I shared many of those misgivings. In fact, in every instance in which there was a possibility of voting for responsible reductions, I am recorded as having favored such cuts.

In one of the appropriation bills, 14 amendments were voted upon with an aim of effecting a reduction. I am proud to have been one of those who voted in favor of each of those 14 amendments. Inasmuch as funds are necessary for the conduct of legitimate functions of the Government, I voted in favor of each of the appropriation bills in their final form except the supplemental appropriation bill for 1958 and mutual security appropriation bill. On the latter bill, I was recorded in opposition. I consider this function a most questionable one in view of the manner in which it has been conducted in the past.

#### FARM LEGISLATION

The session produced very few bills that might be considered helpful or beneficial to the farming industry. One bill of some note was similar to one I had introduced providing for the reduction of controls over grain production by making it possible for a farmer to raise up to 30 acres of wheat without regulation or without restraint so long as that wheat was used on the farmer's premises. My own provision proposed to lift the acreage restrictions entirely. I look forward expectantly to the day when farm controls and regimentation of all farm activities can be removed and I will work toward hastening that day in every way possible.

#### COMMITTEE WORK

During this session I have been a member of the Banking and Currency Committee which is charged with the responsibility of regulation of the Federal financial institutions and those institutions subject to Federal control and with many other fiscal and monetary considerations. Bills considered include measures to extend the life of the Small Business Administration, to increase the authority of the Export-Import Bank, to prevent the stagnation of the building and loan industry by holding companies, the Housing Act of 1957, and the Financial Institutions Act which is designed to recodify and up-date the laws with regard to the financial institutions of the country.

#### BILLS INTRODUCED

Legislative procedures being what they are and party control in Congress being what it is, usually few bills by Members of the minority party in Congress are privileged to be considered and enacted. Consequently, with the Democrat Party in power during the 85th Congress, few bills by Republicans were considered and approved. Nevertheless, all Members in-

troduce bills to pave the way for future consideration and to add support to others who have introduced legislation as well as to put forward concepts which are believed to be advisable with regard to necessary legislation. As I mentioned at the outset of this report, it is my own belief that the Nation needs fewer, rather than more, laws. I introduced a very small number. One bill which I introduced received recognition and the philosophy behind it was considered as the House approved a Democrat-authored bill to permit farmers to raise up to 30 acres of wheat so long as the feed and seed was used on the premises. My own bill, which I would have preferred, was one which would have permitted unlimited acreage so long as the same purpose was observed.

Another one of my bills would have made the Small Business Administration a permanent agency. Under existing legislation the Small Business Administration was due to go out of existence in 1957. Although my Committee on Banking and Currency approved the provision for permanent status in a bill revamping the functions of the Small Business Administration, as finally enacted after a struggle with the Senate during its filibuster over civil rights, extension of the Small Business Administration was granted for only 1 year.

Earlier, I mentioned my criticism of the fact that no actual consideration was given to a tax reduction. I am firmly convinced that one of the serious threats to small business, to the independent grocer, to the small manufacturer, even to the farmer, lies in the tax structure of the Nation. Big business, large corporations, wealthy enterprises, can obtain tax advantages through the use of accounting procedures that the little fellow lacks the resources to duplicate. I, therefore, joined several other Members of Congress in introducing legislation designed to give a tax break to the small-business man by a reduction in taxes, slight as it might be, and also by permitting small enterprises to have a tax advantage in plowing back funds to be reinvested into their business for growth and development. I regret that the leadership in Congress did not permit bills of this type to be considered.

A problem of considerable concern to me and one which is in the minds of fully half of the residents of the 15th District and throughout the Nation is the difficulty of finding employment for older persons. I have introduced legislation which would provide a tax incentive for employers who would hire more than the normal amount of older people so that persons past middle age who enjoy good health, by reason of the tremendous strides that have been made in the fields of medicine and mental hygiene, could find useful and gainful employment. This bill joins those of other Members of Congress which would prohibit discrimination in employment of persons past 40 and these meritorious objectives are gathering dust in the legislative pigeonholes in the 85th Congress.

#### ECONOMY

It was not a wave of hysteria that swept through the hills of southeastern

Ohio, but a rugged determination on the part of analytical constituents that economy in government is an urgent necessity. Ever since we deserted the philosophy of those who framed our Constitution, which limited our powers to tax ourselves, ever since the day that the 16th amendment was enacted providing for the levying of an income tax of unlimited amounts according to the whims of Congress and the prodding of pressure groups, this Nation has known little about the blessings of economy. The economy demand that was heard from the taxpayers in the early part of 1957 had most beneficial results upon Congress as will be noted from the fact that the total appropriations for the year are almost \$5 billion or 7.7 percent less than had been originally proposed. In addition to supporting each of those cuts or reductions, I made it a part of my own program in voting to approve many measures which would lead to economy in the operation and cost of our Government and which could not endanger its security or efficient functioning. In fact, in February of 1957, I joined with my colleagues from Ohio in signing a declaration of economy which stated the following:

The Ohio Republican delegation in the United States House of Representatives, after careful study and evaluation, has unanimously agreed that a substantial reduction of the \$72 billion budget will be in the best interests of the people of the United States.

It was further agreed that every proposed reduction in the budget, which does not curtail essential services or endanger the security of our country, will be supported.

It is my belief that I consistently followed that declaration of policy, in fact, my record of economy votes was noted in the Congressional Quarterly as being the second highest in the State of Ohio and among the highest for the entire Nation.

#### PROGRAM FOR NEXT YEAR

Predictions are difficult, of course, but with the second session of Congress coming just 4 short months from now, it is anticipated that some of the measures which will face Members of Congress will be those to augment postal rates, to decontrol the production of natural gas, to work out some of the problems in the National Highway Act, and I most sincerely hope, measures to provide for a tax reduction which will remove some of the oppressive burden from the shoulders of harassed taxpayers. I intend to work for that end, both to the point of obtaining a general tax reduction and toward obtaining an equitable tax responsibility.

#### THE LESSON OF KOREA BROUGHT HOME

The SPEAKER. Under previous order of the House, the gentleman from Oklahoma [Mr. EDMONDSON] is recognized for 15 minutes.

Mr. EDMONDSON. Mr. Speaker, the Navy League has rendered a service to all Members of Congress by this week making available to each Member a copy of a historic book, *The Sea War in Korea*, by Comdr. Malcolm W. Cagle and Comdr.



Frank A. Manson, of the United States Navy.

The Manson-Cagle history of the Korean conflict, written from the standpoint of naval officers with outstanding combat records, is replete with significant lessons for this Nation in 1957.

Perhaps one of the most important lessons of the new publication is the strong case which it makes for balance in our Armed Forces, both between the services and within the services.

Although we had the atomic weapon throughout the Korean conflict, it was fought in its entirety with conventional weapons and conventional forces, and the Navy's mission in getting our troops to the battlefield and keeping them supplied was of critical importance.

Another lesson is the importance of amphibious warfare—and The Sea War in Korea emphasizes effectively the teamwork and coordination between and among the services which are essential to effective amphibious operations.

In an eloquent foreword to the book, the importance of readiness for what might be called a "limited war" in this year of 1957 is well stated by Adm. Arleigh A. Burke, Chief of Naval Operations. In Admiral Burke's own words, the first lesson of the Korean War is that—

The military forces of the United States must be vigilant and ready to defeat aggression in any area and in any form, whether it be large or small, atomic or conventional.

And it is still true, as Admiral Burke states, that control of the sea is prerequisite to victory in modern war.

Perhaps the most timely lesson of all, as this Nation discusses the possibilities of disarmament with the Communist world, can be found in this quotation from Vice Adm. C. T. Joy, who was Chief of the U. N. Command Truce Delegation Team:

During the last 10 months of my tour in the Far East I was fortunate, or unfortunate, enough to face our common enemy across the conference table. If there are still those in the Free World who believe that the enemy can be moved by logic, or that he is susceptible to moral appeal, or that he is willing to act in good faith, those remaining few should immediately disabuse themselves of that notion. It was a mistake to assume, or even hope, that the enemy was capable of acting in good faith. Future textbooks can set down the maxim that the speed with which agreement is reached with the Communists varies directly as the military pressure applied, and that the worth of any agreement is in proportion to the military strength you are able and willing to apply to enforce it.

As for the future, it should be clear that there is nothing inevitable about the onward and upward progress of the United States or the United Nations. In fact there is nothing inevitable about our survival. History is littered with the graves of civilizations that assumed all is well. All is not well. We will survive and progress to the extent that we are aware of the enemy who threatens us, and to the extent that we stay strong enough to meet him in the arena of his choosing.

As this country moves today to reduce our military forces, to place fighting ships in mothballs, and to slow down the development of missiles, it is well indeed to ponder the words of Vice Admiral Joy,

and the many lessons of the sea war in Korea.

It is especially gratifying to me that one of the authors of this book, the Sea War in Korea, is the young Oklahoman who has established one of the outstanding records in the Navy of any man from our State who has served in that great force. Commander Manson with this book has given to the Congress and to the country a message well worth pondering in this year of 1957.

Mr. WHITENER. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WHITENER. Mr. Speaker, I wish to associate myself with the remarks made by my distinguished colleague from Oklahoma concerning Comdr. Frank A. Manson and the part Commander Manson had in writing The Sea War in Korea.

Commander Manson is a very close friend of mine, and I have been privileged to be associated with him in both an official and personal capacity. He is a profound student of history and has a very keen and analytical mind. His devotion to the Navy and its role in our struggle to preserve liberty is unsurpassed. Commander Manson's untiring efforts reflect great credit upon himself and are indicative of the very highest traditions of the United States Navy.

The Sea War in Korea should be read by every Member of this House. It is not a dull history. It is a stirring chronology of the valiant efforts made by our Navy in combating communism in the Far East. It points up the fact that eternal vigilance is the price of liberty and that this Nation must be prepared at all times on land, in the air, and on the high seas if we are to remain a free and independent people.

I commend Commander Manson for his part in bringing this vital message to the American people, and I hope that The Sea War in Korea will be read by everyone who has a part in the shaping of the destiny of this Nation.

#### RETIREMENT FOR CAPITOL PERSONNEL

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, the House passed unanimously yesterday a very crippling amendment to the retirement bill affecting certain personnel here at the Capitol, H. R. 8424. I think it was because of an inadvertence or a misunderstanding of the provisions of the amendment. I believe that the Senate will rectify it later, because it should be rectified.

#### NATIONAL GRANGE HEADQUARTERS

The SPEAKER. Under previous order of the House, the gentlewoman from Idaho [Mrs. Frost] is recognized for 5 minutes.

Mrs. FROST. Mr. Speaker, I want to add my voice to those of my colleagues who have spoken out on this floor against razing the National Grange headquarters, and the other structures on Jackson Place, to make way for a mammoth office building to house the swelling White House staff.

If ever there was an example of waste, inefficiency and sheer disregard for the rights of others, this is it. The National Grange headquarters is a beautiful, modern structure built with the pennies, dimes, and dollars of American farm families, and belongs to them. The other buildings scheduled to be torn down are either handsome, up-to-date office buildings which the Government could use as they are, or are interesting structures which are intimately tied in with 19th century Washington. A tasteful blend of the old and the new gives Jackson Place a flavor of its own, a flavor which is cherished not only by those who live here, but those who come to visit.

Yet, on July 17 of this year, the President transmitted to the Congress, with his blessing, the recommendations of his Advisory Commission on Presidential Office Space, that the entire row on Jackson Place be torn down, with the exception of the Decatur House at one end and a similar structure at the other, and that a gigantic new office building be thrown up in between.

And do you know how the ground on which the Grange building now stands would be used under this plan? For lawn. Lawn to show off the Decatur House.

Mr. Speaker, everyone agrees that the Decatur House should be preserved. The home of Commodore Stephen Decatur, who fought the Barbary pirates, is a showplace which has been little changed down through the years. But it is generally estimated that the Federal Government will have to pay \$500,000 for the Grange property if it is acquired by the General Services Administration by condemnation. Add to this the cost of tearing it down, and the cost of clearing the site and putting it in grass, and you will have the most expensive lawn in America. I think the country can well do without this bit of grass at this time when we are trying so hard to cut our expenditures.

Many distinguished architects and the National Trust for Historic Preservations, which is congressionally chartered, have strongly recommended that the Jackson Place buildings be preserved, and that the new Federal office building be confined to that portion of square No. 167 which fronts on 17th and H Streets. This would give additional office space to the White House staff at a location which is just across the street from the wing now used for offices.

The President's Advisory Commission has also proposed razing the historic old State, War and Navy building, which stands across the street from the White

House in another direction, to make way for another new office building. This is one of the most perfect examples of French Renaissance architecture in the United States. It is a Washington landmark.

It has been estimated that it would cost a cool \$6 million just to tear down this well-built structure. It seems to me this \$6 million might well be used to alter the interior of the present building and make a more useful arrangement of the rooms.

Because I feel that both the razing of the Jackson Place row of buildings, and the old State, War and Navy building, would be unforgivably wasteful and unwise, I have introduced a bill (H. R. 9323) to prohibit Government agencies from acquiring or using the National Grange headquarters' site without specific congressional approval, and to provide for the renovation of the old State Department building.

I am inclined to agree with my colleague, Congressman FRANK THOMPSON, of New Jersey, principal sponsor of this bill, that "the President plans for 2 office buildings to house his expanded staff constitute a 48-carat, multimillion-dollar boondoggle."

#### THE 85TH CONGRESS

The SPEAKER. Under previous order of the House, the gentleman from Ohio [Mr. VANIK] is recognized for 30 minutes.

Mr. VANIK. Mr. Speaker, as this 1st session of the 85th Congress draws to a close, it is fitting to analyze its record of accomplishments and shortcomings. Whether the record may afford proof or not, it has been a busy session of long hours and tense, hard work. A deep sense of purpose seemed to prevail throughout the sessions every day. This Congress vigorously worked to reduce Federal expenditures with a minimum loss of public service and with an alert respect for the national security. This Congress is distinguished for the scholarly debate on the civil-rights issue and the forging of the first "civil rights" bill in 82 years.

Since January 3, the House has been in session 138 days. Almost 1,200 bills were passed by the House which resulted in 179 public laws to date. Of 220 roll-calls, I missed only 6 of which only 2 were issue votes, an attendance record of 96 percent.

I want now to discuss vital questions which confronted this congressional session with particular emphasis on those issues substantially affecting my community, Cleveland's east side, the growing city of Garfield Heights and the village of Newburgh Heights, the finest congressional district in America.

#### THE BUDGET, FISCAL POLICY, AND TAX REDUCTION

Citizens everywhere have been clamoring for a reduction in our burdensome Federal taxes. Earlier this year tax reduction seemed possible. However, inflation had its most serious effect on Government itself. The same or even less military hardware would cost more money. The spiraling increase in the cost of handling the Federal debt in-

duced by administration policies, in addition to the inflationary rise in the price of Government procurement, made futile the aggressive efforts by Congress to reduce the cost of Government. It was soon apparent that a tax cut was not in the picture this year.

In addition to inflation, the administration's policy of "tight money" and unrestrained interest rates has permitted inflation to invade the money markets at a brutal expense to the Government itself. In 1952 interest on the public debt was \$5.9 billion, while in 1958 this interest cost has risen to \$7.3 billion, an increase of \$1.4 billion or a 24 percent increase in the interest charges on the public debt. Inflation and the skyrocketing cost of interest on the public debt have resulted in the regrettable fact that the public debt has risen from \$259.2 billion at the end of 1952 to \$270.6 billion at the end of fiscal 1957.

The President's budget estimate of \$71.8 billion was under heavy assault in Congress. After vigilant efforts, approximately \$5 billion have been pruned from contemplated Federal expenditures. Congress to date has appropriated \$56.3 billion plus an estimated \$3.4 billion for the mutual security program plus the sum of \$7.4 billion as interest on the public debt or a total expenditure of approximately \$67 billion.

America must attack its indebtedness with the same spirit and vigor with which it attacks other enemies of the national security. This struggle must take place on two fronts: Firstly, to reduce Federal expenditures, and secondly, to resist the tremendous pressures by special groups to work out tax saving advantages at the expense of the Federal Treasury.

The tremendous pressure for tax reduction has been generated by corporate enterprise and the higher income groups which seek more income after taxes for so-called investment in new enterprise. Some segments of this corporate enterprise have enjoyed tax depreciation benefits which deferred taxable income for a future time. A reduction in corporate taxes for these favored enterprises would result in a multiplied loss to the Federal Treasury from these sources.

Early this year and after an exhaustive study, I was the first Member of Congress to attack the tax avoidance practices of American corporations engaging in foreign oil exploitation. Our Government was spending millions and pledging American lives to resist Communist advances in the Middle East. For the same ostensible purposes our Government was providing weapons and support to guarantee the tenure of Middle East governments, including the protection of King Saud and the vital oil contracts into which he entered with American corporations. American men and money were pledged to defend King Saud from enemies without his nation and people from within who may have had some argument with his concept of social justice. It was indeed shocking, therefore, to learn that in spite of the tremendous contribution of the American people to the successful development of the Middle East oil industry,

highly profitable to certain American corporations, taxes on income in excess of one-quarter billion dollars annually escaped the United States Treasury. The American corporations legalized this tax diversion by arranging with King Saud to convert their royalty obligations fixed by contract to a tax imposed by the foreign government and therefore exempt from United States taxation. This expressed the selfish contempt by profit-hungry corporations to the American people and their Government, which guaranteed the integrity of profitable oil contracts which would otherwise be meaningless paper.

It is morally unjust to permit such tax escapes to exist when so many individuals are overwhelmed with their tax burdens. Congress has become concerned with this problem, and the possibility of eliminating tax depletion allowances at least for American operators abroad is being considered.

If fiscal prudence were the test applied to our national affairs, the national indebtedness of this country should be attacked with as much vigor as any other enemy of the national security. If our Nation will insist on collecting the income taxes rightfully due and owing this country, if tax loopholes under which American corporations engaged in oil production at home and abroad will be required to pay taxes which they rightfully owe this country, if the use of the quick depreciation privilege is immediately terminated, and if the American people would support their representatives in Congress in an all-out struggle against national indebtedness, the job could be done in a remarkably short period of time. The advantage to the American people would far outweigh the temporary gains that might result from small tax reductions now. If apprised of all of the facts, I believe the American people would support policies to make our Government economically stronger.

In the final analysis, the greatest bulwark of strength which our Nation possesses in the event of contingent depression or war is the fiscal stability that only a reduced public indebtedness can produce. Our democracy must be economically sound to survive. Sound national credit is as important a weapon for the national security as any developed by modern research.

However, if the Congress next year feels that a distribution should be made of any accumulated surplus resulting from budget reduction and if our economy should prove to need the added stimulation of more disposable income, I will do everything in my power during the coming session of Congress to support a tax reduction which will redound to the benefit of the family by increasing exemptions. Dependency exemptions must be realistically adjusted to the real cost of supporting dependents before any other group receives tax-cut consideration. The family is the bulwark of American life, and family life must be given this help long overdue.

#### NATIONAL DEFENSE AND MUTUAL SECURITY

The most costly item by far in the national budget was the appropriation



of \$33.7 billion for the security of the Nation. This was \$2.3 billion less than the President had requested, and it was the considered judgment that if our Nation was to err in this item, it would be wiser to err on the side of more defense rather than less. The cost of more complex and intricate military equipment was increasing and economies would have to be brought about at the price of declaring obsolete many established activities of the national defense.

First it was the Navy declaring the Army methods obsolete because of immobility. Then the Air Force declared the basic techniques of both the Army and the Air Force obsolete and inadequate. Now the intercontinental ballistic missile with an atomic warhead, threatens the positions of all other established activities of national defense.

This is a time of radically changing concepts of national defense. The result will probably provide a valuable and important place for all defense activities with emphasis on missile warfare in the future which will require more expensive equipment and more highly trained personnel.

On the problems of our national security I deem it extremely important to take the counsel of our experts after discounting the factor of service rivalries. While service rivalries may be expensive, they may, in some way, compensate for their added cost by presenting constant competition of ideas as to which device or method will more adequately defend our Nation. It is obvious in any case that adequate defense can be brought about with fewer men in the military service. Those who remain must receive intense training and retraining. It is hoped that the draft of our young men may soon be terminated and that in keeping with new policies in the Defense Department, incentive pay and other career incentives might end the draft and produce an adequate supply of men and women dedicated to serve in the armed services and keep up with its changing requirements.

The reduced appropriations for the Defense Department have already been felt throughout the Cleveland area. Many of our smaller plants and defense suppliers and subcontractors are already feeling the effect of defense cutbacks. While this will undoubtedly result in the displacement of many people from their jobs, it is far better that this changeover in production be experienced at a time of high productivity rather than in a recessive period, and it must be remembered that defense spending should be for the national defense rather than for the creation of job stability.

In the mutual security program the Congress agreed upon an appropriation of \$3.4 billion, approximately \$1 billion less than the President's request, and time can only tell whether this is an adequate amount. Uninformed people are opposed to our foreign aid program as a costly and useless expenditure of American funds. The disclosure of unwise expenditures and activities has not added to the popular support of this program. Our Congressional committees have made a vigilant effort to control and more

effectively regulate activities included in the program.

The fact is that the mutual-security program has strengthened free Europe. In 1956, for example, when our contribution to the European NATO countries amounted to \$1.7 billion, our NATO partners in Europe expended for defense \$13 billion or almost 90 percent of their defense expenditures combined. In addition, the nations receiving military assistance from us have spent for defense about \$5.50 for every dollar that we have put into such assistance. This essential mutuality in the defense activities of America and its Free World partners is a great source of strength in the effort to insure lasting peace and security. Without our mutual-security program the Governments of France, Italy, and West Germany may have been forced into unfortunate alliances with Soviet Russia. Without this program the Government of South Korea would be in precarious jeopardy, and without the support of governments of the Middle East, there would be no possible halt to aggression through the Middle East and into Africa.

While we recognize the importance of our mutual security program, we must at the same time convince our friends abroad that there must be a determined and steady retrenchment in the spending of our Nation abroad. There is a limitation to our financial strength, and while we are happy to assist them in the reconstruction of their economies and in the rehabilitation of their national defense, they are rapidly approaching the time of self-reliance in these vital areas.

#### INFLATION AND THE SHRINKING DOLLAR

The flight of the dollar from value is the most pressing problem of our times. The administration blames the rise in spending over income, individual, corporate, and government. The figures show, however, that individual consumer spending is levelling off. Congress has made vigorous efforts to restrain Government spending. Corporate spending for expansion has continued without restraint, unaffected by rising money costs because these have been included in higher prices and the internal generation of capital through stock and debenture sales. In the Banking Committee, I extensively questioned William McChesney Martin on this issue and did not receive conclusive replies.

Through Congressional hearings, the process of "administered prices," those brought about by agreement rather than by completion, were brought to the light of day.

I took every opportunity to call Congressional attention to the effect of rising prices which came to my attention. Specifically, I protested the "administered" price increase in steel and called attention to the collusive nature of the cigarette price increases administered by five great tobacco companies. In addition, I protested the increases demanded by the Nation's airlines on the basis that passenger miles doubled since 1952 with the same equipment and schedules. It occurred to me that premium jet equipment should be paid for by the special travelers who demanded faster transportation. The great masses of American

people are turning to air transport, frequently the only type available, and demand established safe planes rather than high-speed luxury jets designed for long distance expense-account travelers. The Government through the CAB administers airline prices and should grant only such price increases as can be clearly justified.

#### THE FARM PROBLEM

Most city residents consider themselves far removed from the problems of the farmer, but their welfare is more involved than they may believe. Farm prosperity is directly related to urban prosperity since the flow of farm produce to the market is rivaled by the movement of city products to the farm areas.

Something is drastically wrong with a national farm policy which results in a 5-year decline of 27 percent in net farm income. This is augmented by the fact that the Nation has been losing 100,000 farms annually. Farm net income of \$11.5 billion in early 1957 is slightly more than one-half of the \$5 billion farm-help budget request of the President. How much closer can America come to the state farms?

It was quite obvious that the soil bank program was a failure as administered. It failed to make a worthwhile contribution to the increase and stabilization of farm income. I opposed the continuance of this program as a dole to the farmer, producing nothing more than a half-billion dollar headache for the American people.

#### QUICK TAX WRITEOFFS

During my time in the Congress, I have taken the floor numerous times to criticize the unwarranted granting of quick tax-amortization writeoffs which were being made by the Office of Defense Mobilization to numerous industries throughout the Nation. The fast tax writeoffs were started during the Korean war to allow tax benefits to industry as an inducement to expand production of defense needs in short supply. My opposition was based upon the loss of considerable tax revenues and the discrimination which resulted in favor of those corporations favored for the tax-writeoff privilege.

When it was disclosed that the Government's loss in tax revenues in the form of postponed taxes would total \$5 billion in addition to \$3 billion in interest charges on necessary Treasury borrowings resulting from the tax postponement, the Congress acted and terminated the program as of December 1959. In the intervening period, writeoffs will be allowed only for specialized defense items or atomic-energy requirements. In any event, the long struggle against this form of tax giveaway was near a close.

#### VETERANS' LEGISLATION

This session did not produce much legislative gain to the veteran. Service-connected compensation for veterans, less the total and additional allowances for dependents, would amount to 10 percent. The rate for total disability was increased 24 percent from \$181 to \$225 monthly. The legislation also increased certain statutory awards for specific disabilities.

The veterans' direct loan housing law does not apply in urban areas. The rising rates of interest have the effect of terminating the GI loan program in the Cleveland area after existing commitments are exhausted. Seventy-six percent of the veterans of the Cleveland area who have never exercised their GI loan rights may have permanently lost them.

#### ATOMIC-ENERGY DEVELOPMENT

One of the most serious discussions in the current session of Congress centered upon the position of America in the atomic development field. Progress in England was obviously more rapid. While it seemed obvious that our Nation was far out in front in the development of atomic weapons, possessed of horrid potentials of destruction, it was apparent also that we were trailing in the development of peacetime uses of atomic energy. To stimulate peacetime development in America, Congress enacted a program of insurance indemnification to protect against tremendous losses which might result from a nuclear accident.

The protection of our citizens from the hazards of nuclear accidents was as much an issue as our progress in nuclear research. In view of the fact that a nuclear-reactor powerplant of the so-called hot-breeder type was being constructed at Lagoona Beach, at the southwest corner of Lake Erie, I was especially concerned, particularly since the Atomic Energy Commission's own reports on theoretical possibilities and consequences of major accidents in large nuclear powerplants indicated that under adverse combinations of conditions people could be killed at distances up to 15 miles and injured at distances of about 45 miles with property damages ranging from a half million dollars to about seven billion dollars.

It was my view that the Lagoona Beach site was too close to major urban centers for the most dangerous type of nuclear reactor and that a more remote location should have been selected. I was first in the House to introduce legislation providing for the establishment of a Committee on Reactor Safeguards to review safety studies and report on the adequacy of proposed reactor safety standards. This legislation was incorporated into the legislation which passed the House and will serve in a considerable way to provide for safe atomic development.

It was also my view that our Nation should urge the termination of further "A" and "H" bomb tests. The scientific revelations on the harmful and disastrous effects of fallout were startling. On the floor of Congress I deplored the apparently deliberate suppression of available scientific data on the subject during last year's political campaign.

#### POSTAL RATES AND SALARY INCREASES

For many years I have felt that postal employees were subsidizing the postal service by wage scales far out of line with the rising cost of living and the highly regulated conditions of their employment. Because of this the families of postal workers were forced to supplemental work to avoid a plummeting standard of living.

Before the Post Office and Civil Service Committee, I argued for a long-overdue adjustment in postal salaries to preserve the morale and to continue the tenure of trained and able workers. Subsequently, I joined in the signing of a discharge petition to force favorable action on this legislation by the House.

At the same time I exercised every effort to oppose the administration's desire to increase the cost of first-class mail from 3 cents to 4 cents. From all of the evidence submitted I was convinced that first-class mail was operating at a profit and that the postal deficit was brought about by the high costs of 2d-, 3d-, and 4th-class mail, otherwise known as junk mail. The magazine and newspaper publishers were attempting to push the burden of mail cost onto the user of ordinary first-class mail. It was my point of view that the only factors involved in mail rates were weight, time, and distance. While letters seldom arrived on an expected schedule, magazines always did. They should pay their proper share of costs.

I took the floor to speak out against the use of the mails to merchandise food and the so-called junk mail. I displayed to my colleagues a 6-ounce package of dog food and a 4-ounce package of salad dressing, which came to my home through the mails. Packages of this type multiplied by the multitude of homes on a postal home-delivery route must contribute to the postman's despair.

Notwithstanding this, if there was any promise that the postal service would improve and that postal salaries would be increased with a 4-cent stamp, I may have supported the proposal. My deep fear is that the President would approve a postal rate increase and veto a postal salary bill.

#### SOCIAL SECURITY AND WELFARE LEGISLATION

The 520,766 Ohioans receiving Federal Social Security benefits received no cost of living adjustment. Over nine million Americans are receiving social security benefits at a monthly rate of almost one-half billion. This is becoming a tremendous factor in providing funds for consumer goods consumption and the resulting employment created.

The only legislative change this session extends until July 1, 1958 the time for disabled persons to file applications to preserve their rights for old-age, survivor, and disability insurance.

During the House debate on the Welfare Department appropriations, I supported appropriations for adequate social security administration and took the floor to save the apprentice-training program from serious cutback.

#### IMMIGRATION

I introduced legislation to liberalize the immigration laws and to eliminate the discriminatory national origins concept. America must perpetuate its traditional place in world history as a place of refuge for the oppressed and as a citadel of hope and freedom. This cannot be achieved with arbitrary and discriminatory bars to immigration. This country must always maintain a sensible and humane policy toward those who hope for citizenship. Can those who are early settlers disclaim the quality of lat-

ter day pilgrims? In a recent television show which I saw, a young man whose parents were foreign born exclaimed indignantly to the proud old American stock parents of his finance, "My parents didn't come to America on the *Mayflower*. They came over much later, when the immigration laws were far more strict."

Since the world-shaking revolts of last October, I closely followed the Hungarian refugee problem. At Camp Kilmer I saw the first refugees arrive and since that time extensive efforts were made through my office to reconcile refugees with their Cleveland relatives. The Hungarian refugee program had two purposes, humanitarian and to provide relief to countries which provided refuge. Austria would have collapsed under refugee pressure. The almost 33,000 Hungarian parolees admitted to the United States are far less proportionate than those absorbed by Canada and the countries of free Europe.

Whether our country was fully aware of the consequences or not, we encouraged the people of Hungary to revolt against their oppressors, to leave their families, and to abandon their homes. They could not return to Hungary with any sense of security and they could not be expected to live out their lives in the refugee camps. It was only decent of America to do its share. It was only fitting that the parolee program be extended to a fair proportion of the Hungarian refugees in Yugoslavia who, through circumstances, found themselves fleeing to Yugoslavia instead of Austria.

The status of the Hungarian parolees in America is a problem which must be resolved in the next session of Congress. In the meanwhile, the refugees are marrying American citizens and giving birth to American children. If the law does not soon respond, the issue will become moot.

In the closing hours of this legislative session the Congress passed a stopgap immigration bill which, although weaker than hoped for, at least was aimed at alleviating hardship conditions arising out of the separated families occurring with the immigration of some of its members under the displaced persons and refugee relief programs. The mortgages imposed on various immigration quotas of Eastern European countries under the Displaced Persons Acts have been eliminated. It reallocates over 18,000 leftover immigrant visas which were not used by the time of the expiration of the Refugee Relief Act last December, with about 14,000 visas going to escapees from Iron Curtain countries. The bill permits a total of more than 60,000 aliens to enter the United States over the next 2 years.

The measure grants nonquota immigrant status until June 30, 1959, to alien children under 14 adopted by United States citizen abroad or coming to the United States for the purposes of adoption. In addition, the entry of certain immigrants afflicted with tuberculosis is permitted, provided they are close relatives of United States citizens or of aliens lawfully admitted for permanent residence and provided also that they are



under bond and adequate medical safeguards are taken.

Finally, the Secretary of State and the Attorney General are granted joint discretionary authority to waive, on a basis of reciprocity, fingerprinting requirements in the case of nonimmigrant aliens. It was our Nation's fingerprinting requirements of cultural exchange visitors which resulted in the cancellation this year of the Cleveland Orchestra's appearance scheduled in Prague and threatened the conduct of the winter Olympics in California in 1960.

#### HOUSING AND URBAN RENEWAL

The housing pressures of the Cleveland area received very little relief by way of Federal legislation this year. The administration's tight money policy pressured interest rates upward and closed out the GI loan program for all practical purposes. Clevelanders, particularly those of the low and moderate income groups, were forced into secondary mortgage markets, with interest rates running close to usurious limits of 8 percent. Most hopeful buyers were forced to defer home purchase plans because of inability to meet high down-payment requirements of local banks and lending institutions. FHA loans were not abundant, and most builders scrapped extensive homebuilding plans depressing new home starts to postwar lows. In Cleveland the result was less housing for more people.

Some slight relief was provided in the Housing Act of 1957 which I have labeled the Not Much Housing Act. FHA downpayments were reduced from 5 percent on the first \$9,000 and 25 percent of the excess to 3 percent of the first \$10,000 of value, 15 percent of the value between \$10,000 and \$16,000, and 30 percent of the excess. These provisions tend to benefit higher cost home buyers rather than the multitudes of citizens needing low-cost housing.

When the administration slashed urban renewal allocations, I protested on the floor of the House. The Congress extended urban renewal and slum clearance for 1 additional year, and the administration about-faced and restored the slash in the program.

The housing problem in our community seems to worsen. New areas of blight develop more rapidly than community renewal and rehabilitation. This is a problem national in scope which can be resolved only with Federal leadership.

#### THE NATURAL-GAS BILL

Only the Clevelanders who have compared natural-gas prices in other communities are in a position to really know the favorable conditions under which natural gas is made available in the Cleveland area. My winter gas bill for a 6-room house in Cleveland runs about \$17 per month. In a smaller house in Washington, with milder weather, the natural gas charges exceed \$41 per month. Gas is reasonably priced in Cleveland, and we must vigorously fight to preserve the Federal Natural Gas Act which insures Government vigilance in natural gas pricing. Otherwise we would be at the mercy of the Southwestern States gas producing interests

who could impose their price demands on our gas-dependent community.

Early in June I testified before the Interstate and Foreign Commerce Committee opposing legislation destroying Federal regulation of natural-gas pricing. It was my opinion that enactment of this legislation would impose higher gas charges on our citizens equivalent to the cost of 2½ extra months per year at winter-month price levels.

The legislation was passed out by the Interstate and Foreign Commerce Committee. Prior to the time it was considered by the powerful House Rules Committee, I prepared a petition which was signed by 58 Members of the House advising the Rules Committee of their desire to speak in opposition to the bill. Several weeks ago, proponents of the legislation announced their decision to defer further action on the bill until next year.

Drew Pearson recently reported that this decision was the result of the efforts of some young, vigorous Congressmen, led by TORBERT MACDONALD, of Massachusetts, JOHN DINGELL, of Michigan, and CHARLES VANIK, of Cleveland.

The gas-bill fight is not over. Next year the oil and gas industry will exert every effort to pass this legislation destroying effective Federal regulation of natural gas and which would result in a price increase for everyone.

#### WATER DIVERSION AND THE PORT OF CLEVELAND

In order to protect the interests of the port of Cleveland, I appeared before the Public Works Committee on March 27 and opposed the efforts of Chicago to increase withdrawal of water from 1,500 cubic feet per minute to 2,500, on a 3-year trial basis. Chicago needs this water to flush its sewage down the drainage canal. Such water diversions are seldom temporary and tend to defer the construction of necessary sewage treatment facilities.

On the same day Admiral Spencer, of the Lake Carriers Association, with headquarters in Cleveland, called attention to the lowering of lake levels. He stated that on the first day of navigation this year, the lakes were nearly 2 feet lower than they were in 1953. In view of that lowering the level of the lakes at this time by even 1 inch through the additional diversion of 1,000 cubic feet per second will affect the carrying capacity of nearly every vessel on nearly every trip, with a total annual reduction in carrying capacity of the Great Lakes fleet by about 1,200,000 tons. Chicago is already depressing the lakes by 3 inches below normal levels. This additional diversion will lower the lakes by another inch.

When we recognize that the entry channel into Cleveland Harbor is 25 feet deep, while the Cuyahoga River has a 23-foot depth, developed at a tremendous public expense, every inch of water is important.

When we look out over Lake Erie, it seems like a tremendous unlimited supply of water—but it is not enough to allow for extensive pollution or diversion by Great Lakes cities. We must plan for the days when new urban communities, miles from the water's edge, will look to the Great Lakes for life-giving indus-

try and agriculture-supporting fresh water.

This year Congress appropriated funds necessary to replace Cuyahoga River bridges with safe, modern structures to facilitate the movement of shipping as well as traffic. The next major effort will be directed to deepening the harbor and river channels in time to accommodate the St. Lawrence Seaway traffic.

#### CIVIL RIGHTS

In several respects the 85th Congress thus far promises to have a distinguished place in American Congressional history. It has been able to accomplish—in a limited way—what no other Congress since Civil War Reconstruction days could achieve—the enactment of a civil-rights bill. While the final product is a diluted version of the more liberal proposal passed by the House of Representatives, it nevertheless represents a step forward and provides a legal framework upon which future improvements can be made.

At the beginning of this session of Congress early in January, I was pleased to participate in an informal organization of some 80 northern and western liberals deeply concerned in the enactment of an adequate civil-rights bill. As one of the members of this liberal group, I was proud of the manner in which partisanship and personalities gave way in an effort to bring about the enactment of an effective civil-rights bill in the House of Representatives.

On January 28, 1957, I introduced H. R. 3793, a civil-rights bill patterned after the legislation introduced by the gentleman from New York, the Honorable EMANUEL CELLER, chairman of the House Judiciary Committee, and on February 6, 1957, I testified before the House Judiciary Committee and urged the enactment of this vital legislation as a practical approach and constructive step forward in establishing better human relations in America. Although this proposal only partially fulfilled the need, it represented the very minimum that Congress could do to establish uniform standards of human decency throughout America. Although this legislation left untouched vast areas of civil rights in America which remain the work of a future Congress, it represented only a moderate step forward.

I pointed out that the problem of integrating American life is not a local problem, that to the South it means the breakdown of separate social systems developed over the generations, that the universal dignity which will ultimately develop in the mainstream of southern life will increase productivity, develop a deeper sense of social responsibility, and preserve and protect the greatest asset with which the South is blessed—its people of all races and colors and creeds. I pointed out that the North has an abundance of prejudice problems which will probably provide more labor than the South for the Civil Rights Commission for the reason that prejudice can be seen to take effect at the city limits and that few areas in the new dominions of northern suburbia are feasibly and practically available to all Americans. The migration of city dwellers into the new confused outposts of suburbia are

frequently motivated by a desire for a segregated community and segregated schools. Friendly, warm communities are not friendly and warm to everybody. Community clubs are designed for segregation by clubby covenants which blaspheme that dignified word. Their ostensible purpose is to preserve community life. Their practical purpose is to discriminate and segregate. Banks and lending institutions have had their part in isolating these communities from tolerance by a segregation loan policy.

The problems of the North are in many respects more difficult than those of the South. The difference is that the North tries where the South is inclined to despair.

After the legislation was reported out by the Judiciary Committee, civil-rights legislation appeared to be permanently suppressed by the Rules Committee, and in order to force the legislation from the Rules Committee, Representative JAMES ROOSEVELT filed a discharge petition to force the legislation to the floor. On April 29, 1957, I was the third Member of Congress to sign the discharge petition to expedite action on this vital and important legislation before the end of the current legislative session. On July 7, I took the floor to support the use of the injunctive process in civil-rights legislation on the basis that the use of injunction in this area would be creating a living law, facing up to the practicality of an existing situation and seeking to avoid injury to citizens threatened by deprivation of the right to vote before that injury occurs. On Monday, June 10, 1957, I took the floor in general debate on the civil-rights legislation and pointed out that the cause of civil rights and civil liberties received its first impetus in modern times in the administration of the late Franklin Delano Roosevelt and that these aims were revived and carried on by former President Harry Truman, who in 1948 listed civil-rights objectives and endeavored to carry them on.

On June 13 I took the floor again to oppose amendments which sought to destroy the legislation, while on June 17 it was necessary again to take the floor and argue against the so-called jury trial amendment on the basis that the injunctive power of our courts is a modern approach to the need for avoiding and eliminating injuries to the rights of persons before they develop, that the use of the injunctive power will grow rather than diminish. I argued that the injunctive process will undoubtedly prove a most useful device for protecting the rights and liberties of every American citizen.

As the civil-rights legislation left the House, it was a good, sound bill, and its purposes were seriously impaired by the amendments which were adopted by the Senate. Although my first reaction was that the legislation was fatally revised by the Senate, upon more considered judgment I came to realize that the legislative process seldom results in perfect legislation, that because of compromises which are wrought in the nature of the legislative process, it is essential to fight

for the ideal by accepting the best that can be achieved on the theory that improvements to the law are a continuing process and the work of a future Congress. As a matter of fact, if Congress enacted only perfect laws, it would soon legislate itself out of business.

As finally drafted, the Civil Rights Act of 1957 provides for a bipartisan Commission with subpoena powers to call witnesses and investigate civil-rights violations. A Civil Rights Division is established within the Justice Department under the supervision of an Assistant Attorney General who may institute injunctive proceedings in the name of the United States Government and on behalf of an aggrieved person to prevent acts designed to keep voters from the polls. This preventive action, as opposed to punitive action under present law, which is operative only after an act has been committed, is a new weapon of enforcement. It permits the Attorney General to bypass State local courts and go directly into Federal courts. It overcomes those State statutes which have been resurrected to prohibit organizations from filing suits on behalf of persons who are unable to do so themselves because of financial situation or intimidation.

The jury trial feature which has been made a part of the injunctive enforcement of voting rights applies only to criminal contempt proceedings designed to punish a person for willful disobedience of an injunction or other court order. Even there the judge may exercise discretion; the accused may be tried with or without a jury. However, if the judge tries the case without a jury, in the event of a conviction if the fine should exceed \$300 or imprisonment of 45 days, the accused upon demand is entitled to a new trial before a jury. The accused is not entitled to jury trial if the fine does not exceed this \$300 or imprisonment, the maximum 45 days. If the accused does demand or is granted a jury trial, a conviction can draw maximum penalties of \$1,000 or 6 months imprisonment. It is expected, however, that most voting cases will be disposed of through civil contempt proceedings aimed at securing compliance with a court order in which the accused is not entitled to a jury trial.

The significant fact is that for the first time in 82 years the Congress of the United States has placed itself on record in support of the civil rights of its citizens. The test of this legislation will not be in the convictions or imprisonment which it may produce. The test will be in the civil-rights violations it may discourage. It is to be hoped that the mandate of this legislation will fix itself clearly in the mind of every citizen to the end that he will not impair or interfere with the voting rights or civil liberties of his fellowmen.

If the spirit of this legislation is wholeheartedly accepted by the American people everywhere, no further legislation may be required. Our hope is that true tolerance will become habit and custom throughout the American scene.

#### AFTER ADJOURNMENT PLANS

After the close of this session of Congress, and until we reconvene in January, I will be available daily at my Cleveland office, 506 Federal Building on Cleveland's Public Square. The telephone number is Cherry 1-7900. A great many problems and inquiries were referred to my office during the course of the session which must be resolved. In addition, I want to personally meet as many constituents as possible. This is difficult but important work, but I consider it a Congressman's duty to courteously interpret the activities of the Federal Government to the individual citizen. The citizen is the root of all governmental authority, and he has the right to know the reasons behind the law or administrative act. He also has the right to express his opinions on public business to his elected representative. The individual citizen's sound and constructive ideas may well be the basis for writing new laws or rewriting the old.

#### THE LATE COL. THOMAS F. SULLIVAN

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. Mr. Speaker, throughout our country there are many public officials in nonelective office, who have, and are rendering a lifetime of public service, honorable men and women devoted to their public trust. One of such fine public officials, who died a few days ago, was Col. Thomas F. Sullivan, police commissioner of the city of Boston. Tom Sullivan, as he was affectionately called, was well known throughout the country, numbering among his friends leaders from all walks of life. Among his close friends were Cardinal Spellman, Archbishop Cushing, President Franklin D. Roosevelt, President Harry S. Truman, and countless others.

The respect held for Colonel Sullivan was deep and profound.

In time of war, in the Spanish-American War, Police Commissioner Sullivan served our country with fidelity and bravery.

Prior to his appointment as police commissioner of the city of Boston, in 1943, in which position he served until the time of his death, Colonel Sullivan served for a period of 20 years as chairman of the Boston Transit Commission. In this position he handled countless millions of dollars for the city of Boston without the slightest breath of criticism being directed at him. He was deeply respected for his ability, his honorableness and his devotion to duty. Above all, he was deeply respected for his honesty. He was a man of profound faith.

In addition, Colonel Sullivan held other public positions of trust and responsibility. His whole life was an active one, devoted to the public service of the city of Boston and the Common-



wealth of Massachusetts, and, in time of war, to his country.

It can truly be said of Colonel Sullivan that he performed every duty in the best interest of the people he so unselfishly served.

Colonel Sullivan was a close and valued friend of Mrs. McCormack and myself. We respected him deeply. We valued his friendship.

During his lifetime Colonel Sullivan made marked contributions toward the preservation and strengthening of our country.

In Colonel Sullivan the Commonwealth of Massachusetts and the city of Boston have lost one of their outstanding citizens.

Mrs. McCormack joins with me in extending to Mrs. Sullivan and her daughter our deep sympathy in their great loss and sorrow.

#### ASIATIC FLU VACCINE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I should like to ask any member of the Committee on Appropriations or any member of the committee that handles public health matters if there is enough money available to send the protective vaccine against the Asiatic flu to the States, because there is some question of there being enough money for that.

Mr. TABER. There was money put into the bill to cover that situation. I assume it was enough, because we have not heard anything more.

Mrs. ROGERS of Massachusetts. I am delighted. I know the gentleman wants to take care of the life and health of the people of the country.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. O'HARA of Illinois, for 20 minutes today.

Mr. FOGARTY, for 20 minutes today.

Mrs. POST, for 5 minutes today.

Mrs. ROGERS of Massachusetts, for 5 minutes, on tomorrow.

#### EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

Mr. SISK.

Mrs. KEE and to include extraneous matter.

Mr. FERNOS-ISERN.

Mr. McCULLOCH.

Mr. HENDERSON and to include extraneous matter.

Mr. SCHERER.

Mr. COLE.

Mr. HILL.

Mr. CARRIGG.

Mr. REECE of Tennessee (at the request of Mr. BAKER) and to include extraneous matter.

Mr. METCALF and to include extraneous matter.

Mrs. GRANAHAN and to include extraneous matter.

Mr. NIMTZ.

Mr. POWELL in five instances and to include extraneous matter; and Mr. COOLEY and Mr. FOGARTY, and to include extraneous matter (all at the request of Mr. McCORMACK).

Mr. KEATING and to include extraneous matter.

#### ENROLLED BILLS SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 3028. An act to provide for the relief of certain female members of the Air Force, and for other purposes;

H. R. 3625. An act to amend section 214 of the Interstate Commerce Act, as amended, to prevent the use of arbitrary stock par values to evade Interstate Commerce Commission jurisdiction;

H. R. 3940. An act to grant certain lands to the Territory of Alaska;

H. R. 6258. An act to amend the act entitled "An act to provide additional revenue for the District of Columbia, and for other purposes," approved August 17, 1937, as amended;

H. R. 6562. An act relating to the north half of section 33, township 28 south, range 56 east, Copper River meridian, Alaska;

H. R. 6760. An act to grant to the Territory of Alaska title to certain lands beneath tidal waters, and for other purposes;

H. R. 8030. An act to amend the Agricultural Adjustment Act of 1938 with respect to acreage history; and

H. R. 8918. An act to further amend the act of August 7, 1946 (60 Stat. 896), as amended by the act of October 25, 1951 (65 Stat. 657), to provide for the exchange of lands of the United States as a site for the new Sibley Memorial Hospital; to provide for the transfer of the property of the Hahnemann Hospital of the District of Columbia, formerly the National Homeopathic Association, a corporation organized under the laws of the District of Columbia, to the Lucy Webb Hayes National Training School for Deaconesses and Missionaries, including Sibley Memorial Hospital, a corporation organized under the laws of the District of Columbia, and for other purposes.

#### SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 1645. An act to authorize the Secretary of the Interior to grant easements in certain lands to the city of Las Vegas, Nev., for road-widening purposes;

S. 2080. An act relating to the computation of income for the purpose of payment of death benefits to parents or pension for non-service-connected disability or death in certain cases;

S. 2500. An act to make uniform the termination date for the use of official franks by former Members of Congress, and for other purposes; and

S. J. Res. 18. Joint resolution to authorize and request the President to issue a proclamation in connection with the centennial of the birth of Theodore Roosevelt;

#### BILLS PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on August 28, 1957, present to the President, for his approval, bills of the House of the following titles:

H. R. 2462. An act to adjust the rates of basic compensation of certain officers and employees of the Federal Government, and for other purposes;

H. R. 2474. An act to increase the rates of basic salary of employees in the postal field service; and

H. R. 3377. An act to promote the national defense by authorizing the construction of aeronautical research facilities and the acquisition of land by the National Advisory Committee for Aeronautics necessary to the effective prosecution of aeronautical research.

#### ADJOURNMENT

Mr. WHITENER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.), under its previous order, the House adjourned until tomorrow, Friday, August 30, 1957, at 10 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1173. A letter from the Clerk, House of Representatives, relative to the contest for a seat in the House of Representatives from the First Congressional District of Maine, James C. Oliver against Robert Hale (H. Doc. No. 237); to the Committee on House Administration and ordered to be printed.

1174. A letter from the Assistant Secretary of the Navy (Material), relative to a proposal by the Department of the Navy to transfer a 24-foot plane personnel boat (hull No. C-15755), with engine, to the city of Green Cove Springs, Fla., pursuant to title 10, United States Code, section 7308; to the Committee on Armed Services.

1175. A letter from the Assistant Secretary of Defense (Supply and Logistics), transmitting reports on Army, Navy, and Air Force prime contract procurement actions with small and large concerns for work in the United States completed during the 12 months of fiscal year 1957, pursuant to Public Law 268, 84th Congress; to the Committee on Banking and Currency.

1176. A letter from the Acting Secretary of the Interior, transmitting a copy of an application for a loan under the provisions of Public Law 984, 84th Congress (Small Reclamation Projects Act of 1956) as amended by Public Law 47, 85th Congress, as well as a report on the Harlingen division of the lower Rio Grande rehabilitation project, Texas, as prepared by the regional director of the Bureau of Reclamation; to the Committee on Interior and Insular Affairs.

1177. A letter from the Acting Secretary of Commerce, transmitting a report on war-risk insurance and certain marine and liability insurance for the American public as of June 30, 1957, pursuant to title XII of

the Merchant Marine Act of 1936, as amended; to the Committee on Merchant Marine and Fisheries.

1178. A letter from the Secretary of State, transmitting the final report in respect of the administration of the Refugee Relief Act of 1953, as amended; to the Committee on the Judiciary.

1179. A letter from the Administrator, General Services Administration, transmitting a notice of a proposed disposition from the national stockpile of approximately 134,384,000 pounds of extra long staple cotton less 50,000 bales (approximately 25 million pounds) authorized to be withdrawn therefrom by Public Law 96, 85th Congress, pursuant to the Strategic and Critical Materials Stock Piling Act (53 Stat. 811, as amended, 50 U. S. C. 98b (e)); to the Committee on Armed Services.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MASON: Committee on Ways and Means. H. R. 7628. A bill to amend part III of subchapter O of chapter 1 of the Internal Revenue Code of 1954; without amendment (Rept. No. 1269). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BERRY:

H. R. 9518. A bill to extend the National Wool Act of 1954; to the Committee on Agriculture.

By Mr. BUDGE:

H. R. 9519. A bill to extend the National Wool Act of 1954 (68 Stat. 910); to the Committee on Agriculture.

By Mr. COLE:

H. R. 9520. A bill to authorize the transfer of Sampson Air Force Base to the State of New York for park and recreation purposes; to the Committee on Armed Services.

By Mr. HALEY:

H. R. 9521. A bill to amend paragraph (k) of section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, to define the term "chemical preservative" as used in such paragraph; to the Committee on Interstate and Foreign Commerce.

By Mr. KEATING:

H. R. 9522. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the disposal of surplus property to certain welfare agencies; to the Committee on Government Operations.

By Mrs. KEE:

H. R. 9523. A bill to amend the Internal Revenue Code of 1954 to increase the depletion allowance for coal and lignite; to the Committee on Ways and Means.

H. R. 9524. A bill to encourage and stimulate the production and conservation of coal in the United States through research and development by creating a Coal Research and Development Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MEADER:

H. R. 9525. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for making payments in lieu of taxes with respect to certain industrial manufacturing plants owned by the United States; to the Committee on Government Operations.

By Mr. NATCHER:

H. R. 9526. A bill to create a National Coal Research and Development Commission; to the Committee on Interior and Insular Affairs.

By Mr. PERKINS:

H. R. 9527. A bill to create a National Coal Research and Development Commission; to the Committee on Interior and Insular Affairs.

By Mr. REUSS:

H. R. 9528. A bill to amend the Social Security Act and the Internal Revenue Code so as to increase the benefits payable under the Federal old-age, survivors, and disability insurance program; to provide that full benefits thereunder, when based upon the attainment of retirement age, will be payable to both men and women at age 60; to increase the amount of outside earnings permitted without deductions from benefits thereunder, and for other purposes; to the Committee on Ways and Means.

By Mr. RIVERS:

H. R. 9529. A bill to provide for a survey of the Coosawhatchie and Broad Rivers in South Carolina, upstream to the vicinity of Dawson Landing; to the Committee on Public Works.

By Mr. SISK:

H. R. 9530. A bill to provide for certain preliminary actions that need to be taken before Federal supervision over Indian affairs in California can be terminated; to the Committee on Interior and Insular Affairs.

By Mr. THOMSON of Wyoming:

H. R. 9531. A bill to provide for distribution of moneys received from mineral lands; to the Committee on Interior and Insular Affairs.

H. R. 9532. A bill to extend the National Wool Act of 1954 (68 Stat. 910); to the Committee on Agriculture.

By Mr. TOLLEFSON:

H. R. 9533. A bill to authorize certain compensation to members and former members of the uniformed services who were confined as prisoners of war or who evaded capture for a period of 1 year or more, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ULLMAN:

H. R. 9534. A bill to amend title I of the Housing Act of 1949 to authorize in certain cases financial assistance for community relocation; to the Committee on Banking and Currency.

H. R. 9535. A bill to extend the National Wool Act of 1954 (68 Stat. 910); to the Committee on Agriculture.

By Mr. VANIK:

H. R. 9536. A bill to amend title III of the National Housing Act to provide that the Federal National Mortgage Association may allow a discount of up to 5 percent to mortgagors who make accelerated lump-sum payments under mortgages held by such association; to the Committee on Banking and Currency.

H. R. 9537. A bill to amend the Federal-Aid Highway Act of 1956 to provide that no Federal funds shall be used to pay for the cost of relocating utility facilities, and for other purposes; to the Committee on Public Works.

H. R. 9538. A bill to amend the Communications Act of 1934, so as to direct the Federal Communications Commission to prescribe a schedule of fees to be paid by holders of broadcasting station licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPINALL:

H. R. 9539. A bill to extend the National Wool Act of 1954 (68 Stat. 910); to the Committee on Agriculture.

By Mr. BURNS of Hawaii:

H. R. 9540. A bill to cancel a pending land transactions with the division of national missions of the Methodist Church and the Territory of Hawaii; to the Committee on Interior and Insular Affairs.

H. R. 9541. A bill to amend the Hawaiian Organic Act, and to approve an amendment to the Hawaiian land laws with respect to leases; to the Committee on Interior and Insular Affairs.

H. R. 9542. A bill to remove certain restrictions on the travel of certain aliens from the Territory of Hawaii to any other place under the jurisdiction of the United States; to the Committee on the Judiciary.

H. R. 9543. A bill to provide for the conveyance of certain real property used by the University of Hawaii to the board of regents of such university, for the use and benefit of such university; to the Committee on Interior and Insular Affairs.

By Mr. EBERHARTER:

H. R. 9544. A bill to amend the Internal Revenue Code of 1954 to terminate the provision for the use of certain methods and rates in computing the depreciation deduction; to the Committee on Ways and Means.

By Mr. GUBSER:

H. R. 9545. A bill to amend section 222 of the National Housing Act to provide that the widow of a serviceman shall be exempt from payment of mortgage insurance premiums thereunder on the same basis as the serviceman himself; to the Committee on Banking and Currency.

By Mr. MULTER:

H. R. 9546. A bill to provide for the grading of meat and for informing the ultimate user of such grade; to the Committee on Agriculture.

By Mr. PATTERSON:

H. R. 9547. A bill to amend Public Law 38, 81st Congress, to provide authority for the Secretary of Agriculture to make certain production disaster loans, and for other purposes; to the Committee on Agriculture.

H. R. 9548. A bill to amend Public Law 38, 81st Congress, to provide authority for the Secretary of Agriculture to make certain production disaster loans, and for other purposes; to the Committee on Agriculture.

By Mr. ROGERS of Colorado:

H. R. 9549. A bill to authorize the Administrator of General Services to convey certain lands in the State of Colorado to the city of Denver, Colo.; to the committee on Government Operations.

By Mr. THOMSON of Wyoming:

H. R. 9550. A bill to authorize the Administrator of General Services to convey certain lands in the State of Wyoming to the city of Cheyenne, Wyo.; to the Committee on Government Operations.

By Mr. WHARTON:

H. J. Res. 459. Joint resolution proposing an amendment to the Constitution with respect to the admission of new States as sovereign States of the United States; to the Committee on the Judiciary.

By Mr. FULTON:

H. J. Res. 460. Joint resolution to establish a Joint Committee on Earth Satellites and the Problems of Outer Space; to the Committee on Rules.

By Mr. GWINN:

H. J. Res. 461. Joint resolution proposing an amendment to the Constitution depriving the Federal Government of the power to impose estate and gift taxes; to the Committee on the Judiciary.

By Mr. GROSS:

H. Res. 413. Resolution creating a standing Committee on Small Business in the House of Representatives; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT:

H. R. 9551. A bill for the relief of Francesca Magazzini; to the Committee on the Judiciary.



By Mr. BOLAND:

H. R. 9552. A bill for the relief of Harvey-Whipple, Inc.; to the Committee on the Judiciary.

By Mr. BONNER:

H. R. 9553. A bill for the relief of Elizabeth Alida Tate; to the Committee on the Judiciary.

By Mr. DINGELL:

H. R. 9554. A bill for the relief of Theodore Demos Gundunas and his wife, Amelia Gundunas; to the Committee on the Judiciary.

By Mr. GUBSER:

H. R. 9555. A bill for the relief of Pacita A. Crabtree; to the Committee on the Judiciary.

By Mr. HENDERSON:

H. R. 9556. A bill for the relief of Irmgard Johanna Thompson; to the Committee on the Judiciary.

By Mr. HESELTON:

H. R. 9557. A bill for the relief of Araxe Papazian; to the Committee on the Judiciary.

By Mr. HOLTZMAN:

H. R. 9558. A bill for the relief of Anahid and Vahan Murachanian; to the Committee on the Judiciary.

By Mrs. KELLY of New York:

H. R. 9559. A bill for the relief of Hugh McKay; to the Committee on the Judiciary.

By Mr. KILDAY:

H. R. 9560. A bill for the relief of Salvador Gamez-Torres; to the Committee on the Judiciary.

By Mr. LANE:

H. R. 9561. A bill for the relief of Joseph Bell, Herman Karp, Hyman M. Oberman and Abraham Smith; to the Committee on the Judiciary.

By Mr. MACDONALD:

H. R. 9562. A bill for the relief of Arnold N. Pinto; to the Committee on the Judiciary.

H. R. 9563. A bill for the relief of Young Su Wah, Young Mun Bun, and Young Mun Wei; to the Committee on the Judiciary.

By Mr. PATTERSON:

H. R. 9564. A bill to provide for Federal grants to the Blind Veterans Association, Inc., to aid in the establishment of a program of assistance for blinded veterans of the Armed Forces of the United States; to the Committee on Veterans' Affairs.

By Mr. SCOTT of Pennsylvania:

H. R. 9565. A bill for the relief of Mercedes Garcia; to the Committee on the Judiciary.

By Mr. SEELY-BROWN:

H. R. 9566. A bill for the relief of Khalil S. A. Aoun; to the Committee on the Judiciary.

By Mr. WOLVERTON:

H. R. 9567. A bill for the relief of Lai Chong; to the Committee on the Judiciary.

By Mr. ZABLOCKI:

H. R. 9568. A bill for the relief of Ioanna Nterlis, Panagiotis Nterlis and Andreas Nterlis; to the Committee on the Judiciary.

By Mr. ZELENIKO:

H. R. 9569. A bill for the relief of Dr. Helen Kodza (Dr. Helen Codzavouyuki); to the Committee on the Judiciary.

### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

338. By the SPEAKER: Petition of the commander, My Maryland Post No. 126, American Legion, Seat Pleasant, Md., requesting enactment of legislation to provide all known means of safeguarding the health and lives of all Americans from the dangers of the threatened influenza epidemic, and directing the executive branch of our Government to take adequate and immediate steps to safeguard our people; to the Committee on Interstate and Foreign Commerce.

339. Also, petition of William Dane, Marroero La., requesting a full-scale public inquiry into the conduct of the United States Custom Department in respect to the handling of the well-known Charolais cattle deal; to the Committee on Ways and Means.

## EXTENSIONS OF REMARKS

### Libya Celebrates Sixth Anniversary of Independence

#### EXTENSION OF REMARKS OF

**HON. ADAM C. POWELL, JR.**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. POWELL. Mr. Speaker, when I came back from the Bandung Conference, I announced that I would address the United States Congress each time there was an anniversary of one of the 29 participating nations in the Asian-African Conference on friendly terms with the United States.

Congress will not be in session when Libya celebrates her sixth anniversary of independence on December 24, 1957, hence I wish to take this opportunity to send greetings to the people of Libya, His Majesty Mohamad Idris Al Mahdi Al Senussi, and His Excellency Saddigh Muntasser, Ambassador of Libya, in honor of this event.

On December 24, 1951, King Idris proclaimed "to the noble people of Libya that in fulfillment of their endeavors and of the United Nations resolutions of November 21, 1949, our beloved country has, with the help of God, attained independence." Both the League of Nations and the United Nations had proclaimed the concept of international responsibility for less fortunate peoples. Libyan independence became for many states the expression of this concept and of the assertion of the rights of nationalism.

Since 1951, Libya has been moving slowly but concretely in the direction of political maturity; its governmental in-

stitutions have assumed greater substance and authority; its economy has been bolstered by foreign grants and technical assistance; and its people have grown increasingly to accommodate themselves to the existence of national institutions which are somewhat more powerful and far more impersonal than those of the tribe or the family. In addition, the Libyan Government has enhanced its prestige and underlined the country's strategic importance in the Mediterranean area by concluding special agreements with the United States and United Kingdom permitting the establishment of western troops and bases in Libya. Libyan foreign policy has shown a marked friendliness to the United States and a growing understanding and appreciation of the threat of international communism.

We are proud of the progress being made by Libya and happy that we are able to assist. The orderly development of the new states of Africa to political stability and economic well-being is a source of gratification.

### A Congressman Should Visit With His Constituents

#### EXTENSION OF REMARKS OF

**HON. WILLIAM M. McCULLOCH**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. McCULLOCH. Mr. Speaker, I believe that a Congressman should be in his district to confer and visit with his

constituents whenever official duties do not require him to be in Washington.

When Congress adjourns in a few days, I expect to return home and to be available for conferences and visits with residents of the Fourth District in the courthouse of each county seat between 8 a. m. and 4 p. m., in accordance with the following schedule:

Allen County, Lima: Thursday, September 19.

Auglaize County, Wapakoneta: Tuesday, September 17.

Darke County, Greenville: Wednesday, September 18.

Mercer County, Celina: Monday, September 16.

Miami County, Troy: Tuesday, September 24.

Preble County, Eaton: Wednesday, September 25.

Shelby County, Sidney: Thursday, September 26.

No appointments will be necessary. Any problem with, or opinion concerning, the Federal Government will be proper subject for conference.

Of course, I will be glad to see residents of the district, in my Piqua office, any time that Congress is not in session, except on the days scheduled above.

### Surplus Property for Worthy Agencies

#### EXTENSION OF REMARKS OF

**HON. KENNETH B. KEATING**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. KEATING. Mr. Speaker, I have today introduced a bill to make certain

welfare and recreation agencies eligible for Federal surplus property.

Under the present law, such surpluses can go only to medical institutions, health centers, schools, colleges, and related organizations. The proposed bill would broaden eligibility to include agencies such as the Salvation Army, YMCA, YWCA, Travelers Aid, and similar organizations.

The bill grew out of recommendations drawn up by a National Welfare Assembly Committee, which included members drawn from American Foundation for the Blind, Child Welfare League of America, Council of Jewish Federations and Welfare Funds, Council on Social Work Education, Girl Scouts, National Council of Churches of Christ in America, National Federation of Settlements and Neighborhood Centers, National Jewish Welfare Board, National Recreation Association, Salvation Army, United Community Funds and Councils, Young Men's Christian Association, and Young Women's Christian Association. In addition, the following organizations also expressed their interest in this subject: American Hearing Society, Board of Hospitals and Homes of the Methodist Church, National Catholic Community Service, and United HIAS Service.

The present law, which limits eligibility for surplus Government property to educational and health organizations, should be expanded to include worthy welfare and recreational agencies. These include settlement houses, homes for the aged, youth centers, character building agencies, and adoption centers.

These agencies are doing a magnificent job of helping our young people, our aged, and many of our needy citizens. They need and can make good use of surplus property in their work.

Since the Department of Health, Education, and Welfare cooperated with the National Welfare Assembly Committee in drawing up the agreement out of which this bill grew, it deserves wide support and should be acted upon as soon as possible after Congress reconvenes in January.

We should leave no stone unturned in helping these fine organizations pursue their objectives, for in the end their success will mean a better America for all.

**Hon. Samuel K. McConnell**

EXTENSION OF REMARKS  
OF

**HON. STERLING COLE**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 29, 1957*

Mr. COLE. Mr. Speaker, it is my genuine regret that I was not present in the Chamber of the House on Tuesday last, when some Members, including yourself, gave expression of their high respect and esteem for our distinguished colleague of Pennsylvania, who is resigning from this body soon.

It was not long after Sam came to the Congress approximately 10 years ago

that I became impressed with his high character and sound judgment. He was always of even temper, always friendly and gracious, always a gentleman with never an unkind word, always calm and deliberate. He was the kind of legislator who appeals to his colleagues and associates to a very high degree. We shall miss him in this Chamber.

His good advice will be needed in years to come and, personally, I will miss his friendship which I have treasured highly. In our regret, however, Mr. Speaker, there is consolation in the thought that Mr. McCONNELL is leaving us in order to render service to the unfortunate persons suffering from physical handicap. I am sure that he, too, must have some misgivings in leaving the Congress, but I am confident that he is motivated by the high sense of duty which has been characteristic of him, and his desire to be of genuine help to his fellow man, Mr. Speaker, we wish him God's speed and good health.

**Retirement of Elton Layton**

EXTENSION OF REMARKS

OF

**HON. JOSEPH L. CARRIG**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 29, 1957*

Mr. CARRIG. Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, may I note with a touch of personal sadness the resignation of Elton Layton as clerk of the Interstate and Foreign Commerce Committee of the House of Representatives.

Although Mr. Layton has resided in Virginia for many years, I still dispute Congressman BROYHILL's claim that Elton is his No. 1 constituent. I feel that because of the fact that Elton for many years was a resident of my own district I can also lay claim to him.

Since coming to Washington and particularly since he began his work on the Interstate and Foreign Commerce Committee, he has endeared himself to the members of that committee under whom he has served over the years and his gracious and courteous manner to those who have had dealings with the committee certainly has given him stature of such a nature that two Congressmen could claim him as their own.

Elton Layton comes from Matamoras, Pike County, Pa., where his twin sister, Mrs. Elda Lord, still resides. He is the son of the late Cora Layton Hine, of Matamoras and Orson, Pa.

Mr. Layton started work on his 16th birthday in 1906 as a stenographer with the Erie Railroad Co. in New York City and, after working 5 years with them, he accepted a better position with the Borden Condensed Milk Co. in New York City. Five years later he accepted a position in the Quartermaster General's Office of the War Department here in Washington. He was soon promoted to secretary to the Quartermaster General of the Army. In this position he came into contact with Members of Congress,

one of whom, Hon. Samuel E. Winslow, had taken note of his ability and offered him his present position which he accepted at the beginning of the 67th Congress in 1921. It is believed that no one on Capitol Hill has ever continuously served as a clerk of any committee for that length of time.

It is my sincere hope and prayer that Almighty God will shower His choicest blessings upon Elton and his family during the years to come.

**Congressman Nimitz Plans Tour of 25 Cities in Third District of Indiana**

EXTENSION OF REMARKS  
OF

**HON. F. JAY NIMTZ**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, August 29, 1957*

Mr. NIMTZ. Mr. Speaker, in order to bring the services of my Congressional office directly to the people in their home communities, I am planning an official business tour of 25 cities and towns in the Third Indiana District while Congress is in recess.

My 1957 grassroots tour has been scheduled for September 16 through September 20 and will include visits to 7 communities in Elkhart County, 6 in St. Joseph County, 7 in La Porte County and 5 in Marshall County.

A temporary office will be established in a central location in each community where I will have an opportunity to meet local constituents and discuss with them current problems and policies of the Federal Government.

A member of my Washington office staff will accompany me and we will welcome the chance to be of service to any and all callers. No advance appointments will be necessary.

After 8 busy months in Washington, I am eager to return to Indiana and renew my personal contacts with friends in the Third District. This tour will give me an opportunity to do so and it also will make it possible for me to report directly to the people on my stewardship in Congress.

During the Congressional recess my office at 301 Federal Building, South Bend—Telephone, Central 4-5616—will be open daily to answer any inquiries from constituents. My office in Washington also will remain open to assist visitors from the district.

The complete schedule for my September tour of the district follows:

MONDAY, SEPTEMBER 16

Lakeville, Town Hall, 9 a. m.  
Plymouth, Court House, 10 a. m.  
Bourbon, News-Mirror office, 2 p. m.  
Argos, Town Hall, 3 p. m.  
Culver, Post Office, 4 p. m.

TUESDAY, SEPTEMBER 17

Michigan City, Court House, 10 a. m.  
Westville, Public Library, 1 p. m.  
Union Mills, Fire Station, 2 p. m.  
Wanatah, H. W. Welkie office, 3 p. m.  
La Crosse, Town Hall, 4 p. m.



WEDNESDAY, SEPTEMBER 18

North Liberty, Post Office, 9 a. m.  
Walkerton, Town Hall, 10 a. m.  
La Porte, Court House, 11 a. m.  
Rolling Prairie, Fire Station, 3 p. m.  
New Carlisle, Town Hall, 4 p. m.

THURSDAY, SEPTEMBER 19

Osceola, Fire Station, 9 a. m.  
Elkhart, Court House, 10 a. m.  
Middlebury, First State Bank, 2 p. m.  
Bristol, Town Hall, 3 p. m.  
Granger, Post Office, 4 p. m.

FRIDAY, SEPTEMBER 20

Wakarusa, Exchange State Bank,  
9 a. m.  
Goshen, Court House, 10 a. m.  
New Paris, State Bank, 2 p. m.  
Nappanee, City Hall, 3 p. m.  
Bremen, Town Hall, 4 p. m.

### Cambodia Celebrates Its Fourth Anniversary of Independence, November 9, 1957

#### EXTENSION OF REMARKS

OF

HON. ADAM C. POWELL, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. POWELL. Mr. Speaker, when I came back from the Bandung Conference, I announced that I would address the United States Congress each time there was an anniversary of one of the 29 participating nations in the Asian-African Conference on friendly terms with the United States.

Because the Congress will not be in session at the time of the event, I wish to take this opportunity to congratulate the people of Cambodia, His Majesty King Norodom Sihanouk, and His Excellency Nong Kimmy, Ambassador of Cambodia on the occasion of the celebration of the fourth anniversary of independence of Cambodia, November 9, 1957.

The people of Cambodia have displayed courage and scored no small victories on their path to independence. Cambodia became an associated state within the French Union as a result of the French-Cambodian Treaty of November 8, 1949. Following additional arrangements with France, the Cambodian King proclaimed national independence on November 9, 1953. International recognition was accorded Cambodian sovereignty in the Geneva Declaration of July 21, 1954.

Cambodia and the United States have enjoyed close friendship and cooperation. According to Secretary Dulles:

United States policy in Cambodia is based on a simple precept: That is, the United States through its military and economic aid programs seeks to assist the Cambodian Government in its endeavor to maintain the sovereign independence of the Kingdom. This assistance is extended only at the wish of the Royal Cambodian Government, which officially requested military aid on May 20, 1954, and military and economic aid on September 1, 1954.

The United States considers it to be in its national interest to help in the economic and social advancement of all free nations. The best way that we in America can maintain our own independence is to help other countries maintain their independence. Only by granting full independence to the Asiatic peoples can the Communists be deprived of the contention that they are liberating those peoples from colonial rule. Full sovereignty for all people is the only way to rally them at this hour to the cause of the West and to persuade them that it is in their own interests to fight to the death against the Communists.

As one who deeply believes in freedom, democracy, and the importance of achieving a better understanding among all nations, I want to again extend warm greetings to the people of Cambodia, and wish them every success.

### Latin American Policy

#### EXTENSION OF REMARKS

OF

HON. B. CARROLL REECE

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. REECE of Tennessee. Mr. Speaker, I have on several occasions during the last few months, addressed the House indicating my concern over the campaign of the gentleman from Oregon against several Latin American republics. I honestly feel that his activities are contrary to the best interests of our national security and the welfare of amicable hemispheric relations. I have tried to be quite objective in my comments on the gentleman's activities and have raised numerous questions which he has seen fit either to evade or to leave unanswered. If these questions were fully and completely answered by the gentleman, the House might be in a better position to judge his actions in light of full disclosure. I would like to take this opportunity to repeat some of my questions posed on July 19, and August 9, 1957, in the fond hope that the gentleman will see the benefit of complete and candid replies in the interest of a full understanding of his objectives.

I have stated that the gentleman fomented revolution and in support of this assertion, I quoted his words of June 13, 1957, on this floor. "Do I foment revolution against dictators? Yes; gladly, and until I die." I asked the gentleman if he still adheres to this position or has he seen the folly of an American representative fomenting revolution against friendly Allied countries.

I have asserted that from a reading of certain Costa Rican newspapers it would appear that the gentleman's statements and actions were an intrusion into the foreign policy prerogatives of the executive branch of the Government. In order to judge the correctness of my assertion I have, on several occasions, asked the gentleman to make available to the House all his public and private statements made in the Caribbean area. He has consistently refused to do so.

bean area. He has consistently refused to do so.

I have repeatedly questioned the gentleman concerning his weekend excursions to Costa Rica and Colombia in the company of a female employee of the Library of Congress. I have asked the gentleman to explain why this employee, Mrs. Bennett, was given equal pictorial and editorial billing by Costa Rican newspapers and why she was termed "a collaborator of the gentleman from Oregon." Also, I have asked that the gentleman make known the extent of the expenses defrayed by the Government of Costa Rica and a Colombian newspaper. I brought to the gentleman's attention the fact that the Associated Press, under dateline June 15, reported that Mr. and Mrs. Porter arrived in Costa Rica on that date. I asked the gentleman if the Associated Press had confused Mrs. Bennett with Mrs. Porter and, if not, were Mrs. Porter's expenses defrayed similarly. None of these questions have been answered.

As regards the gentleman's attitude toward the propriety of the Library of Congress providing the services of Mrs. Bennett, I have inquired of the gentleman if he believes that those services are proper. I raised the question of conflict of interest in Mrs. Bennett, a Federal employee of the United States, accepting emoluments from foreign governments. I ask the gentleman if he had sought a ruling on this question from the Attorney General of the United States. There has been no answer.

I felt that in light of my assertions concerning the improper actions of Mrs. Bennett, it would be helpful to judge their correctness if the gentleman from Oregon were to make available a summary of Mrs. Bennett's actions and public statements in the Caribbean. Such might explain her widespread press coverage in Costa Rica. No such information has been forthcoming from the gentleman.

The gentleman has stated that the military advantage of aid to certain Latin American countries is only fancied but he admits that the Department of Defense asserts that the military advantage gained thereby is very real. I have asked the gentleman if he considers himself a more qualified judge of military requirements than the Department of Defense. The question remains unanswered.

I agree with the gentleman that the Communist danger in Latin America can be more attributed to subversion than invasion but that there is no difference in the end result. I asked the gentleman if he is aware that the Red government of Guatemala established by subversion was overthrown by Castillo Armas just in time to prevent the arrival of Soviet arms in a Swedish ship.

The gentleman has stated on numerous occasions that everyone in the State Department below the post of Assistant Secretary for Inter-American Affairs agrees with his policies. In the interest of the continuation of our good-neighbor policy, I ask the gentleman to make public the names of those State Department officials who are not in sympathy with this long-established bipartisan

policy. Again, the gentleman has failed to produce.

The gentleman has stated that he has been "lionized by the people of Costa Rica." In this regard, I asked the gentleman what connection there was between his fervent reception in Costa Rica and his introduction of an amendment to the mutual security bill which would have cut off aid to Costa Rica's archenemy, Nicaragua.

I ask the gentleman to explain the meaning of the overwhelming defeat of his amendment to the mutual security bill particularly in light of the fact that he had brought these amendments and his report thereon to the attention of every Member of this body 2 weeks before the vote was recorded.

I have asked the gentleman why he does not consult with the House Committee on Foreign Affairs or the Secretary of State before making his radical charges against the governments of allied countries. Again, no satisfactory answer was forthcoming.

These and many other questions designed to reach a better understanding of the objectives of the gentleman from Oregon remain unanswered. I have no means of knowing whether the gentleman will ever choose to reply but in the absence of any explanation from the gentleman, I conclude his silence is a tacit admission of the veracity of my assertions.

### Courteous, Considerate, Efficient Service

#### EXTENSION OF REMARKS

OF

**HON. KATHRYN E. GRANAHAH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mrs. GRANAHAH. Mr. Speaker, as we come to the final hours of this session of Congress, I want to take this opportunity to express my personal appreciation to the fine group of young men who serve us here in the House as page boys, doorkeepers, messengers, and in a variety of other capacities.

They are uniformly courteous, considerate, helpful in a million ways, and provide us with very efficient service. When one considers that there are 435 Members of the House of Representatives, and that we are all on constant call when the House is in session—with messages from our offices, visits to the floor with friends and constituents who have come to see the House in action, and the constant summoning of the telephone—it is a wonder these House employees I mentioned can find the energy to carry back and forth all of the many messages and to run all of the many errands which are their duty during a day when the House meets.

I would like to pay particular tribute to the fine work of C. H. "Colonel" Emerson, and "Charlie" Hackney, in directing the work of the telephone pages in the Cloakroom, and "Art" Cameron, overseer of the group, as well as the boys themselves—particularly "Ken" Harding, "Dan" Corcoran, "Bob" Gandel, "Joe"

Saunders, "Bill" Grotefeld, and John Larkin. They have been wonderful to me.

Mr. Turner Robertson, chief page, is one of the outstanding employees of the House, and I know I speak for all of the Members when I say how much we appreciate the fine way he directs the bench pages, the door pages, the phone pages—the entire group.

### Professional Visual Care for War Veterans

#### EXTENSION OF REMARKS

OF

**HON. B. F. SISK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. SISK. Mr. Speaker, the Committee on Veterans' Affairs has reported favorably to this House H. R. 6719, which we may anticipate will be before the House for action shortly after we convene in January. I would like to commend this legislation to the Members and urge that during the recess they take the opportunity to examine it. The bill would provide urgently needed salary adjustments to the professional personnel of the Veterans' Administration. I am convinced these adjustments are not only merited, but that they are most necessary if we are to secure for veterans the high caliber health and hospital services they deserve.

I would like particularly to address my remarks and draw the Members' attention to section 5 of H. R. 6719, which would provide a long overdue recognition of the services and accomplishments of the optometric profession and would enable the Veterans' Administration to make far better use of optometrists in providing visual care for veterans.

About 10 years ago the Congress directed that the armed services commission optometrists. As a consequence, more than 300 doctors of optometry are on active duty with professional status as commissioned officers of the military services, holding ranks as high as lieutenant colonel in the Army, captain in the Navy, and major in the Air Force. Under present regulations, doctors of optometry, graduates of accredited and recognized colleges requiring 5 or 6 years of college work leading to doctors' degrees, are classified as technicians, grades 5 to 7, by the Veterans' Administration and are paid and treated as such. As a consequence, fewer than 10 optometrists are employed by the Administration throughout the country. Unfortunately, the veterans and taxpayers are the ones who suffer through this inconsistent discrimination.

I do not think there can be any doubt of the ultimate economy and improved visual care which would result if the Congress enacts the authorizing provisions of section 5 of H. R. 6719 and if a strengthened program of visual care of veterans is conscientiously formulated by the Veterans' Administration. Doctors of optometry are providing about

75 percent of the visual care in the United States and it is unthinkable that we should deny this same visual attention to veterans.

Doctors of optometry are intensively trained to test and diagnose visual defects and to consider test results and prescribe appropriate corrective lenses and devices. This training to diagnose, to analyze, and to prescribe are the phases of their work in the visual health field which merit professional recognition, for they require the exercise of independent, trained judgment. Doctors of optometry are thus differentiated from nurses, laboratory workers, and other technicians who carry out orders given them by a doctor.

Doctors of optometry are also intensively trained to recognize diseases of the eyes, though treatment of diseases by medicine or surgery is outside their field. When a patient exhibits symptoms of disease, he is referred to a specialist in diseases of the eye in exactly the same manner as your family medical doctor refers patients to specialists when diagnosis and treatment are not in the medical field in which his services will provide the attention and expert handling required.

During committee consideration of this legislation, two objections were raised to the provisions of section 5 giving professional status to doctors of optometry. It was said this should not be done because the present professional staff of the Veterans' Administration is designated as the "Medical Service," and optometrists are not medical doctors. To me, such an argument completely lacks substance and is a quibbling over words. It would be far better to rename the division as "Health Service," than to deprive veterans of this care—if any recognition is to be given to such an argument.

More serious was the allegation that optometrists are not professionally trained. I looked into this, because I certainly do not want to bring about unskilled or untrained visual care. I find that every college in this country giving a degree as doctor of optometry maintains a professional school of optometry with high requirements for admission, including at least 2 years of preprofessional training at the college level, with a minimum of 3 or 4 additional years of professional study, requiring 5 or 6 years of college training in all. This compares favorably with the requirements of other professions concerned with health care and exceeds a number of them.

I think the Members will agree that this requirement, together with the provisions of section 5 authorizing the Veterans' Administrator to determine requirements for eligibility, effectively insures the highest professional standards. I feel it is unfortunate that misleading statements were made to the committee in this regard.

There is a larger and perhaps a more important principle involved in the legislation we consider which bears on health care for veterans, servicemen, and others entitled to such care. I think it would be most unfortunate if we became so circumscribed and bound to the canons and beliefs and theories of any one school or



branch of the healing art that we could not take advantage of the services offered by another branch. We all may suffer if we are blind to the advances of science and the formulation of new theories which, perhaps, do not fit into the thinking of older schools. We cannot afford to trust our health and well-being exclusively to a monopoly of thought.

## Puerto Rico and Its Governor

### EXTENSION OF REMARKS

OF

## HON. A. FERNÓS-ISERN

RESIDENT COMMISSIONER FROM PUERTO RICO  
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. FERNÓS-ISERN. Mr. Speaker, during the first session of this Congress there have appeared in the RECORD sundry statements with reference to various aspects of Latin American policy in general and to policies concerning the Caribbean area in particular. Although I am the only person in the Congress who represents a Caribbean community, I have not felt inclined to participate. However, in a spirit of fairness and justice to my constituents in general and to the chief executive of the Commonwealth of Puerto Rico, Gov. Luis Muñoz-Marín, in particular, I must now make the present statement. But, before I proceed, may I say that it is not my intention to engage in debate with any of my colleagues who have preceded me. I merely wish to set the record straight in what concerns Puerto Rico and its Governor.

Many, if not most, of the Members know Governor Muñoz-Marín, and I know that those who do have always had a high respect for him. In this regard, I must express my deep appreciation for what our colleague from California [Mr. JACKSON], had to say in his remarks on Monday. Perhaps it is unnecessary that I may say anything on this subject, but men pass on while the printed word remains. The record might be confusing if the Resident Commissioner of Puerto Rico were to remain silent.

I shall begin by observing that the powers and functions of the government of the Commonwealth of Puerto Rico are about the same as the functions and powers of the government of any State of the Union, and that the United States Government operates in Puerto Rico in the same way as it does in any State of the Union.

I observe, too, that there are only 65 miles of water between the Dominican Republic and Puerto Rico. Whatever the political conditions in the Dominican Republic may be, it is a fact that a substantial number of Dominican citizens have chosen to exile themselves from their native country, and that Puerto Rico, as well as New York, and certainly other places in the United States, have become their havens. Whether they live in Puerto Rico, New York, or Miami, they live under the same United States laws. I can understand that the feelings between these exiles and officials of

their own government may be taut and tense. It does not require much imagination to conceive it. But no matter how strained those relations may be, I do not believe that such a situation should justify transgressions of the boundaries of propriety as to either of them in dealing with or referring to or passing judgment on the acts of officials of the United States Government or of the State governments, including the Commonwealth of Puerto Rico.

There is an instance which I shall point out where I think such boundaries have been transgressed. In a letter recently inserted in the RECORD, accusations have been made by a Dominican official with respect to the Governor of Puerto Rico for the reason that the latter granted an interview in his office in San Juan to a gentleman of Dominican extraction, a resident of the city of New York, who was then visiting Puerto Rico. He was accompanied by a former president of the Dominican Senate who has been a resident of Puerto Rico for many years. These gentlemen are known to be opponents of the present Dominican administration. No evidence, whatever, except supposition and speculation, has been given to consider the visit of this gentleman to Puerto Rico as anything improper. But it seems that, in the opinion of the Dominican official, the officials of the government of Puerto Rico are under an affirmative obligation to refuse to receive callers, or in any way communicate with persons who happen to be opponents of the present Dominican administration.

We in Puerto Rico live under the laws of the Commonwealth and the laws of the United States and no other. It is not our concern what political habits in other countries may be.

The Governor of Puerto Rico would not refuse to confer at any time with his own political opponents. It seems absurd that he may be expected to refuse to confer with anyone merely because that person is somebody else's opponent.

Suppression of freedom of thought, expression and association in Puerto Rico cannot be imposed either by direction or indirection from within; less so, by indirection from without.

Rights and privileges recognized in the United States are as sacred in Puerto Rico as anywhere in the Union. The citizens of the Commonwealth of Puerto Rico fully expect such rights always to be so maintained.

## Iran Celebrates the Birthday of the Shah

### EXTENSION OF REMARKS

OF

## HON. ADAM C. POWELL, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. POWELL. Mr. Speaker, when I came back from the Bandung Conference, I announced that I would address the United States Congress each time there was an anniversary of one of the 29 participating nations in the Asian-Afri-

can Conference on friendly relations with the United States.

Congress will not be in session when Iran celebrates the birthday anniversary of the Shah on October 26, 1957; hence, I wish to take this opportunity to send greetings to His Imperial Majesty Mohammed Reza Shah Pahlavi and the people of Iran in honor of this event.

After a decade of almost continual foreign menace and internal strife, Iran today is experiencing recovery. Internal order, a pro-Western foreign policy, and a modest start on the profound economic and social reforms considered essential for long-term stability have been effected.

A major factor in the improvement of the country's position has been the cooperation extended through the United Nations and the United States technical assistance programs which have been operating in Iran since 1949 and 1950, respectively. These programs have met with much enthusiasm in Iran. Greater progress is still needed, and efforts are being exerted toward that end.

Although much remains to be done, there is much that is positive and satisfactory in the present Iranian situation. Iran has consistently demonstrated her confidence in the principle of collective security and helps to form a bulwark against communism. Menaced for centuries by the Soviet dreams of expansion, Iran has a life-and-death interest in the collective security aims of the Baghdad Pact and the Eisenhower doctrine.

As one who deeply believes in freedom, democracy, and the importance of achieving a better understanding among all nations, I want to take this opportunity to wish Iran every success.

## Politics Stalemate Farm Legislation—Benson Exploits Disunity Among Farmers

### EXTENSION OF REMARKS

OF

## HON. HAROLD D. COOLEY

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. COOLEY. Mr. Speaker, as the 1st session of the 85th Congress draws to a close, it occurs to me that I should advise the Congress and the country concerning the work of the House Committee on Agriculture during the weeks and months of the present session. I also feel that I should discuss some of the problems with which the members of our committee have been confronted and say something about the present plight of American farmers.

Such a report, to convey to the Nation a true accounting, must bring forward at the outset the name of Mr. Ezra Taft Benson, Secretary of Agriculture.

### BENSON RETURNS FROM THE WILDERNESS

In the closing weeks of this Congress, when the Secretary of Agriculture, under normal circumstances, would be in Washington eagerly pressing all matters vital to the well-being of farmers, everyone was wondering as to the whereabouts

of Mr. Benson. His absence seemed to be shrouded in some sort of mystery. The President indicated at a news conference that the Secretary was out in the country getting grassroots opinion on a new farm program. Apparently the President did not know where the Secretary was nor did he know what he was doing. But now the veil of mystery has been lifted and we are told that the Secretary has been wandering in the wilderness for 50 days and nights. He says he was inspecting national forests. We, of course, hope that he found everything well in the wilderness. Actually, the farmers of America think that the Secretary has been in "a wilderness" since the beginning of his administration. Ever since he has been in public office we have been hoping that the Secretary would come up with some new idea, but to this good day he has neither presented a single new thought nor a single new idea. His one purpose has been to drive down farm prices and income.

#### CONGRESS ALERT TO FARMERS' NEEDS

Mr. Speaker, there has never been a session of Congress in which the Members who are interested in the well-being of agriculture have worked more diligently, more faithfully, or with a greater dedication, in behalf of those millions of our citizens who live and labor on the farms of our country. I commend those Members of both parties who have proven themselves to be devoted friends of agriculture.

#### PARTISAN POLITICS PLAYS A PART

Unfortunately, partisan politics has lifted its ugly head in our committee room. The problems of agriculture are paramount and should be considered in an atmosphere which is entirely free from partisan politics and political expediency. Members of our committee of both parties are devoted to the cause of agriculture and to the well-being of all the people of our Nation, but we are divided along party lines and in such a situation the farmers of the Nation are the ones who suffer.

When the 85th Congress convened in January the agricultural economy, after 4 long years of steady and devastating deterioration, was still growing progressively worse. Secretary Benson was winning the great battle to bring down prices and to lower farm income. Never on any occasion has he championed the cause of farmers. Many farm families, unable to make ends meet, have moved into towns and cities seeking jobs which were not available. Others were holding on to their land only by privation and by increasing their debts. Many operators of larger farms were hard-pressed. Meanwhile, other great segments of our economy continued to enjoy unparalleled prosperity.

#### SITUATION DEMANDED ACTION

This Congress immediately set to work to undo the damage that had been done to the farm program in the 4 years of Mr. Benson's reign; to take whatever legislative steps were needed to restore stability to agriculture—and thus to bring our farm people into equal partnership in the rewards of American free enterprise.

But, Mr. Speaker, our efforts have been nullified by the Secretary of Agriculture, Mr. Benson.

The deep concern of the Members of this House for the well-being of agriculture is vividly spread in the records of our Committee on Agriculture, which it is my privilege and honor to serve as chairman. These records show that the Members of this body have introduced in this session 513 bills, intended to improve the conditions on our farms and our committee has taken final action on 272 of these bills.

Our committee, with its 18 subcommittees, has conducted 176 hearings and study sessions. We studied all the bills carefully and, as is the custom, selected those we deemed to be worthy of early action and submitted them to the Secretary of Agriculture.

Mr. Speaker, the House, the Congress, the farmers of America, should know this:

We sent 125 bills to the Secretary. Mr. Benson approved only 16 of these bills. He disapproved or proposed substantial changes in all the others or did not express an opinion at all. He rejected all legislation proposing fundamental improvements in the operation of farm laws to increase the income of farm families.

We sent to him bills proposing revisions in the present loan and acreage allotment program. We forwarded to him bills proposing two-price or domestic parity systems for various commodities which would let these crops move competitively into world markets while maintaining a reasonable price in our domestic markets. We sent to him proposals for production payments, compensatory payments, or marketing equalization payments to farmers. He returned them with the Department's stamp of disapproval.

#### BENSON WOULD DESTROY PARITY PRINCIPLE

Instead, Mr. Benson sent us his own proposal, that the flexible 75 to 90 percent of parity supports for the major crops, the sliding scale which he installed, now be discarded and that he be given absolute authority, at his own personal discretion, to fix the supports of major crops at zero to 90 percent, or to eliminate the program completely. In effect, Mr. Benson's program for agriculture is that we make him the czar of agriculture.

Needless to say, no Democrat would touch Mr. Benson's bill; and likewise, it is to the credit of the Republican Members of the Congress that they, too, have washed their hands of this new effort of the Secretary to destroy the parity principle which the farmers of America were so long in winning and which the Nation had come to accept as sound and fair. Agriculture is in the middle of a sad and sorry situation when the Secretary of Agriculture is not able to persuade and prevail upon any member of his own political party to introduce legislation which he proposes.

Mr. Speaker, although Mr. Benson cannot find support in the Congress for this new mischief he proposes, we have learned that when the Secretary disapproves a measure it is doomed. This is

the lesson the President taught us last year when he vetoed H. R. 12, the bill which sought to stop the downward flexing of farm prices and to restore 90 percent of parity price supports.

Thus, the threat of veto, at Mr. Benson's signal, thwarts the Congress.

#### THE SECRETARY EXPLOITS DISUNITY

Moreover, the Secretary does not rely entirely upon the veto, nor upon the fortunes of his bills in the Congress, to accomplish his ends. He has a third design. It is the most crafty, and the most cunning, of all. It is contemptible and unforgivable. We have it from no less a source than the Wall Street Journal, which supports Mr. Benson's policies, that the administration is exploiting disunity among farmers to bring down farm prices. The following is from the front page of this newspaper's edition of August 2:

Benson maneuvers to blunt opposition to his drive for lower price supports.

He'll seek power to ease planting curbs right away if props drop. Aids figure fatter harvests would offset the initial pinch of lower prices on farm income. Benson will hold out hope that controls would die eventually. He'll promise to use prop-cutting power moderately, trim supports to world market levels in easy stages.

Administration strategists aim to exploit splits within commodity groups. They play California cottongrowers against Dixie producers in the push for lower fiber props. Officials make the most of intercrop jealousy. Benson plans to ask authority to lower dairy support floors; spokesmen for major crops complain mandatory dairy props incur heavy losses.

Benson's foes fail to agree on an alternative. Some Democrats plug hard for direct payments to farmers. Others refuse to swallow the idea. Benson's backers take cheer from the opposition's distress.

#### A BATTLE WON AND LOST

Mr. Speaker, only a few short years ago we were confident that a long, hard, and sometimes bitter struggle had been won. We thought that at long last agriculture had been accepted in equal partnership to share equitably in the rewards of free enterprise along with all other segments of our society.

Today we find ourselves embattled perhaps as never before.

Farmers are again the poor relations in the Nation's economy. The parity principle is under assault, and has been shaken to its very foundation. Crop is pitted against crop, region against region, organization against organization. This disunity is being exploited to rob the farmer of the rewards for his work.

The situation we confront today is strangely and ominously reminiscent of the state of agriculture 25 years ago.

There are many Members of this House who can remember—and some will never forget—the late 1920's when agriculture went into a devastating decline. Our farmers called for help. The rest of our economy—much as today—was preoccupied with prosperity, and the farmers' cries scarcely were heard.

Ultimately, in the early 1930's, the ruin of agriculture ran its inevitable course, and our whole economy tumbled into a great depression.

It was then that this country came to a realization of the importance of agri-



culture to the strength and prosperity of our whole economy. That was when our farm program was born.

Mr. Speaker, in a few days we shall be back home, in our districts among the good people who sent us here, and in our daily associations we shall be giving accounts of our stewardship. Our farmer friends will want to know why agriculture is depressed—why the farm program that operated so well so long and at so little expense is not now working to help them—why farm families are not sharing in the Nation's prosperity—why nothing has been done.

I am going to tell the truth. I am going to tell my farmer friends about Mr. Benson, and about those who hold his hand. My people are going to hear from me two stories: One, a 20-year story; the other, a 4-year story.

#### THE 20-YEAR STORY

The 20-year story, which began in 1933, is an account of the accomplishment of the parity principle—agriculture's magna carta. The income of agriculture multiplied sixfold, sevenfold, or eightfold in those two decades. For 11 consecutive years prior to 1953, the average prices paid to farmers were at or above 100 percent of parity. Rural people were able to buy the conveniences and comforts hitherto available only to those who resided in the cities and towns. The blessings of electricity were taken into the rural areas. Farmers became financially able to mechanize their farms and to apply the new sciences, to bring the blessings of abundance at low cost to this country. Farmers, with the means to do it, devoted their resources and energies to the restoration and conservation of their most precious resource, the soil. Better farm income created greater markets for industries in the cities, made jobs, and kept factory wheels turning.

During those 20 years the output per farm increased by 100 percent, so that now each farmworker feeds 20 persons. As a consequence of this new efficiency in agriculture American families have had available to them more and better food, for an expenditure of a smaller percentage of their total income, than in any other period of history. Although in recent years retail prices have increased as farm prices declined, even today the average hourly wage of industrial workers will buy twice as much food as in 1929.

Our accomplishments in agriculture were phenomenal. What did this 20-year program cost?

The Commodity Credit Corporation supported the prices of the major storable crops for the 20 years prior to 1953, not at a loss, not at a cost, but at an actual profit of \$13 million. For these two decades the CCC price supports on basic crops, nonbasics, perishables and nonperishables, storables and nonstorables—potatoes, eggs, wool, and everything else—amounted to only \$1,064,000,000.

The total losses on all price-support programs through the Commodity Credit Corporation on all commodities amounted to only \$1,064,000,000. I emphasize the fact that this was a cumulative loss

for 20 years; to show just how negligible this loss really was, and in fairness to farmers the cumulative losses should be related to cumulative gains for the same period of time. The cumulative farm marketings for the same 20 years, 1933-52 inclusive, amounted to more than \$390 billion. The cumulative national income for the same 20 years amounted to over \$3 trillion. So in fairness, we must relate price-support losses both to farm income and to national income to realize just how negligible the losses really are.

#### THE 4-YEAR STORY

Now let us look at the 4-year story which began in 1953, and which continues—though we pray that it may not be for long.

First, we recall that 1953 was the year in which the assault was launched upon the parity principle—the Secretary of Agriculture began shouting to the country: "The farmer is pricing himself out of his markets"—and here is the story: Farm prices dropped in 1953 to 92 percent of parity, to 89 percent in 1954, 84 percent in 1955, to 82 percent in 1956, and prices in July 1957 were running below July of 1956 in terms of parity.

Farm net income dropped from \$14,256,000,000 in 1952 to \$11,800,000,000 in 1956.

Farm-mortgage debt has risen from \$6,600,000,000 in 1952 to approximately \$10 billion today.

Whereas the CCC price-support program for 20 years cost \$1,064,000,000, the losses for the 4 years, 1953 through 1956, were 3 times the combined total of the previous 20 years—slightly over \$1 billion in 20 years, and \$3 billion in 4 years. Meanwhile, CCC investments in surpluses increased from \$2,452,000,000 in 1952 to \$8,211,000,000 as of January 1, 1957.

Briefly, in 4 years Mr. Benson has lost 3 times as much money in CCC price supports as this program cost in the previous 20 years; at the end of the 4 years he has 3 times more surplus on hand than he had when he started; farm prices are down 18 percent and farm income down 15 percent.

Mr. Speaker, this is the dreary 4-year story of the farmer's income going down and the costs to the Government going up.

#### FACTS AND FIGURES

To aid the Members in pointing concisely to what has taken place, and what is taking place, in agriculture, I am inserting at this point certain facts and figures. But before submitting these facts and figures I want to emphasize that Secretary Benson has had more money, more personnel, and more power and authority than any other Secretary of Agriculture in the history of this Republic. He has had more committees, more commissions, and personal advisers than any other Secretary in history. When he took office our agricultural budget was only \$1,817,000,000. The last Benson proposed was for approximately \$5 billion, amounting to almost 50 percent of the total net income of all the farmers of America during the year 1956. Only a small part of this gigantic sum actually went into the pockets of farmers,

#### CCC PRICE SUPPORT LOSSES

As of January 1, 1953: \$1,064,617,225.

As of January 1, 1957: \$4,005,229,643.

(NOTE.—The losses in 4 years, from January 1953 through 1956, were about three times the total of losses during the previous 20-year history of CCC price support operations.)

Twenty-year loss (1933-52): \$1,064,617,225.

Loss (1953 through 1956): \$2,940,612,418.

CCC OPERATIONS IN BASIC CROPS ONLY (COTTON, WHEAT, TOBACCO, CORN, RICE, AND PEANUTS)

January 1, 1953 (at the end of 20 years): \$13,011,290 profit.

January 1, 1957 (4 years later): \$1,222,671,853 loss.

(NOTE.—A \$13,011,290 profit over a 20-year period of CCC price supports on the basics turned into an \$8 million loss within 4 months after Mr. Benson took office. In 4 years under Mr. Benson losses on the basics amounted to \$1,235,683,243 compared to the \$13 million plus profit in the previous 20 years. These losses have been piling higher since January 1, 1957.)

(NOTE.—The CCC support program for cotton, over 20 years, showed a profit of over \$268 million. But this profit has been wiped out, by a cotton program loss of over a half billion dollars in the last 18 months.)

#### Losses on dairy products

Up to Jan. 1, 1953: \$121,523,383

Since Jan. 1, 1953, to Jan.

1, 1957: 1,161,871,659

Dairy program total: 1,283,395,042

(By the end of June 1957 the dairy program losses had exceeded \$1,400,000,000.)

#### CCC INVESTMENTS

Total CCC investments (inventory and loans) as of Jan. 1, 1953: \$2,452,000,000

Total CCC investments (inventory and loans) as of Jan. 1, 1957: 6,211,000,000

Total increase in 4 years: 5,759,000,000

CCC investments by crops (inventory and loans)

| Crop              | Amount               | Value         |
|-------------------|----------------------|---------------|
| Cotton:           | <i>Bales</i>         |               |
| Jan. 1, 1953..... | 1,097,000            | \$166,779,000 |
| Jan. 1, 1957..... | 10,263,000           | 1,723,711,000 |
| Wheat:            | <i>Bushels</i>       |               |
| Jan. 1, 1953..... | 467,847,000          | 1,081,545,000 |
| Jan. 1, 1957..... | 1,039,029,000        | 2,683,452,000 |
| Corn 7:           |                      |               |
| Jan. 1, 1953..... | 368,349,000          | 587,274,000   |
| Jan. 1, 1957..... | 1,199,688,000        | 2,045,551,000 |
| Rice:             | <i>Hundredweight</i> |               |
| Jan. 1, 1953..... | 108,000              | 878,000       |
| Jan. 1, 1957..... | 22,372,000           | 173,848,000   |
| Peanuts:          | <i>Pounds</i>        |               |
| Jan. 1, 1953..... | 192,528,000          | 22,644,000    |
| Jan. 1, 1957..... | 336,435,000          | 35,664,000    |
| Tobacco:          |                      |               |
| Jan. 1, 1953..... | 544,067,000          | 250,373,000   |
| Jan. 1, 1957..... | 1,075,660,000        | 673,554,000   |
| Dairy products:   |                      |               |
| Jan. 1, 1953..... |                      | 8,445,000     |
| Jan. 1, 1957..... |                      | 111,031,000   |

#### Farmers (1952 and 1956)

|  | 1952      | 1956      |
|--|-----------|-----------|
| Farmers' net income (billions).....    | \$14.3    | \$11.8    |
| Farmers' share of food dollar          |           |           |
| (cents).....                           | 47        | 40        |
| Prices paid by farmers, index.....     | 287       | 286       |
| Prices received by farmers, index..... | 288       | 235       |
| Parity ratio.....                      | 100       | 82        |
| Number of farms.....                   | 5,421,000 | 4,964,000 |

#### PER CAPITA INCOME (1956)

People on farms: \$889 (down \$64 per person since 1952).

Nonfarm people: \$2,010 (up \$177 per person since 1952).

#### COMPARISONS

Average of farm prices in 1956 down 18 percent from 1952.

Net farm income in 1956 was 15 percent below 1952.

#### CONTRAST

Hourly earnings industrial workers in 1956 up 19 percent since 1952.

Net corporation dividend payments in 1956 up 33 percent since 1952.

#### Farm prices (as percentage of parity)

|           | Percent |
|-----------|---------|
| 1942----- | 105     |
| 1943----- | 113     |
| 1944----- | 108     |
| 1945----- | 109     |
| 1946----- | 113     |
| 1947----- | 115     |
| 1948----- | 110     |
| 1949----- | 100     |
| 1950----- | 101     |
| 1951----- | 107     |
| 1952----- | 100     |
| 1953----- | 92      |
| 1954----- | 89      |
| 1955----- | 84      |
| 1956----- | 82      |

#### Cash receipts of farmers (not including Government payments)

|           |                 |
|-----------|-----------------|
| 1932----- | \$4,748,000,000 |
| 1947----- | 29,664,000,000  |
| 1948----- | 30,253,000,000  |
| 1951----- | 32,909,000,000  |
| 1952----- | 32,538,000,000  |
| 1955----- | 29,264,000,000  |
| 1956----- | 29,999,000,000  |

#### Net income of farmers (including Government payments)

|           |                 |
|-----------|-----------------|
| 1932----- | \$1,928,000,000 |
| 1947----- | 17,191,000,000  |
| 1948----- | 15,943,000,000  |
| 1951----- | 14,802,000,000  |
| 1952----- | 14,256,000,000  |
| 1955----- | 11,340,000,000  |
| 1956----- | 11,836,000,000  |

#### National income

|           |                  |
|-----------|------------------|
| 1932----- | \$43,049,000,000 |
| 1948----- | 208,980,000,000  |
| 1951----- | 250,779,000,000  |
| 1952----- | 266,406,000,000  |
| 1955----- | 296,379,000,000  |
| 1956----- | 314,471,000,000  |

Mr. Speaker, these are the facts and the figures. I will tell my people the truth, that the 20-year story is the triumph of the parity principle and its meaning in a better life for farm families, more and better food for a smaller part of the paychecks of consumers and a modest cost to the Government; that the 4-year story is of the dismantling of this hard-won parity principle and what this has meant in new deprivations for farmers and huge costs to the Government.

#### MORE TROUBLE AHEAD

Now, where do we stand today?

I regret that I must tell my farmer friends that the worst seems yet to come.

Those who are tearing down the parity principle—the farmers' Magna Carta—thus far have accomplished their ends principally by destruction of the 90-percent of parity price supports and the substitution of a sliding, flexible, lower support system, down to 75 percent of parity for the major storable crops.

Now, as I have heretofore mentioned, the Secretary of Agriculture has sent to the Congress a proposal that he be given absolute power, in his own personal dis-

cretion, to support the basic crops at 0 to 90 percent of parity, or to eliminate supports completely. He evangelizes a free-market and free-price route for agriculture.

I can see nothing but farm bankruptcy in such a policy.

#### THE NATURE OF THE FARM PROBLEM

Agriculture alone cannot live under one system and the rest of the economy under another. Wages do not fluctuate with supply and demand. Labor has its minimum wage and collective bargaining laws. Supply and demand have little influence on the cost of transportation, electric power, and telephone service. Industry puts a price tag on what it produces.

Agriculture is the only major element of our total economy that has no device outside of Government, to pattern its production to market needs. Farmers have no way of measuring what should be their individual contributions to a balanced national supply of food and fiber, without Government help. Farmers have virtually no bargaining power in the commerce they conduct.

Shall we say to the farmers of America that you shall go into the market places with what you produce and, hat in hand, ask: "What will you give me?"

The farm families on these broad lands are the primary producers of the wealth of this Nation. Yet, in 1956, although they comprised 13.2 percent of our population, they received only 6.3 percent of our national income. Income of all farm workers last year averaged only 78 cents an hour, for their labor and their management. The average wage of industrial workers increased to \$2.08 an hour. The per capita income of the 22,250,000 people living on farms amounted to only \$889—and a third of this was from off-farm sources such as part-time jobs in town—while the per capita income of our nonfarm population soared to \$2,010.

Yet we have before the Congress, directly from the Secretary of Agriculture, a proposition for the further dismantling of price supports—a proposition that would totally wreck the parity principle, which is agriculture's only recognized means of determining the inequity of its position in relation to the rest of our economy and society.

#### THE ANTIFARMER CAMPAIGN

Perhaps never in history, as in the last 4 years, has 1 segment of our society been singled out for such lambasting, such slander, and generally such cruel treatment as has been administered to the farmers of America.

Through every medium, through press releases, through radio and television, in speeches, thousands upon thousands of words have been beamed to city dwellers. With evil sounding overtones, such words as "surpluses," "controls," "subsidies," "waste," have been drummed into city ears. Our customers in town have been told that the farmer is pricing himself out of his markets, with a hint that he is living a high life on Government checks. The farmers have been denounced, ridiculed, and vilified from one end of the land to the other by people in high places.

Moreover, as I have pointed out to the House, a successful attempt has been made to divide farmers, to set one group, one region, one organization against another.

The great shibboleth of the exploiters of disunity is the one word: "Freedom."

Never has one word embracing a noble aspiration of a people been more soiled in its usage. The American farmer is the most independent, the most freedom-loving individual on earth. The question is: Shall we let the exploiters use this virtue to permanently repress our farm families and to make them content with a lesser share in the rewards of America's free enterprise?

Industry and business manage, adjust, and control production and the flow of goods offered for sale. We are told that if farmers enter into a program to pattern their production to the measure of their markets they are surrendering their freedom.

Industry and business put a price tag on the goods they produce and merchandise, but the farmer is propagandized that if he enters into an arrangement to use the pricing principles that are necessary to the success of any enterprise, he will lose his independence and his liberties.

The exploiters would deny to the farmers the recourse to their Government such as has been used to restrain the impact of the free play of supply and demand in industry and business and has mitigated and tempered the hazards of working and trading in industry and business.

Let me make my own position clear.

I shall work to the limit for the real independence of farmers, and of all Americans; but I shall never brood on the farmers' loss of their freedom to go bankrupt and their freedom to become again the paupers in this Nation's economy.

The free-market and free-price route that is now being preached for agriculture, while the farmers' production costs are fixed high by the protections afforded all others in our economy, will surely put our farmers at the mercy of a world price.

We shall not submit to reducing the American farmer to the rank of world peasant.

Many of us representing agricultural districts supported the laws that have brought a new era of prosperity to the laboring man. We supported the enactments that have created the economic climate for the greatest business prosperity in our history. I would not repeal these statutes.

We supported and fought for the laws that established the parity principle for agriculture. We shall not rest until the befuddled foes of equity for agriculture are routed out of administrative places in Washington and the farmers' position of due reward for enterprise is restored and secured.

#### PROPAGANDA CAMPAIGN PLANNED

Mr. Speaker, I have information to the effect that officials of the Department of Agriculture are now preparing for perhaps the greatest program of propaganda that has yet been undertaken. I am



advised that workers in the Department of Agriculture have been directed to prepare and to present facts and figures in such fashion as to indicate that all is well on the farm front, that farmers are not really hurting and are not in distress. Under the guise of summarizing accomplishments under the Eisenhower administration, officials of the Department will try to show that farmers are riding on a rosy road to prosperity.

Soon we may expect the entire propaganda potential of the Department of Agriculture to be beaming misleading information to the people of the country. Perhaps officials of the Department of Agriculture will indicate:

That farm prices have turned the corner, that they are higher than a year ago.

That farm income is headed up for the first time in a peacetime year since 1947; that farm assets are at an all-time high, and that only 1 out of 3 farms is burdened with a mortgage.

That exports are larger than ever before.

That surplus holdings of the Commodity Credit Corporation are being drawn down. That markets are returning and surpluses are disappearing.

Our farmers have learned that when Mr. Benson says things are getting better it is time for agriculture to get ready for something worse. Certainly, when Mr. Benson reports that farm prices have turned the corner, he will not mention the fact that farm costs are climbing faster than prices and that farm prices in July of this year were below the prices of July of last year in terms of parity. I am quite certain that the Secretary of Agriculture will not mention the hundreds of millions of dollars of losses incurred and the hundreds of millions of dollars paid out in subsidies which are responsible for increases in exports and some slight reduction in the inventories of the Commodity Credit Corporation. Actually Mr. Benson would probably do farmers a favor if he would withhold this new and bright presentation which he is planning, for we see and realize that in the past, whenever he talks up prices, parity has gone down. Here are some of the things Benson has said in the past and here is what has happened to parity every time he has talked of prices:

| Date          | Benson said—   | Parity stood at (percent)— |
|---------------|--|----------------------------|
| Feb. 11, 1953 | "Analysis leads us to expect no major changes (in farm price) during the next several months."                           |                            |
| Apr. 7, 1953  | "Our analysis * * * anticipate that prices of farm products during the spring and summer will be steady."                | 94                         |
| Oct. 21, 1953 | "It's my belief that the major price declines are behind us."  | 92                         |
| June 30, 1954 | "If (last month's 4-percent farm-price decline) does not indicate a general weakening in the farm-price structure."      | 90                         |
| Jan. 7, 1955  | "I am convinced that for agriculture the road ahead will be smoother than the one we have been traveling."               | 88                         |
| June 15, 1955 | "I am confident that we have seen the worst of the transition which agriculture goes through following every major war." | 86                         |

Mr. Benson talked some more in 1956 and the level of farm prices dropped to 82 percent of parity.

In reviewing the records and summarizing accomplishments, no doubt the Secretary will lay considerable stress on the achievements of the rural development program. The farmers will recall that this program was launched in the wake of searing criticism of the Secretary early in his administration when his aids made statements to the effect that "inefficient" farmers should stop trying to farm and find jobs in industry. By the operation of this program, Secretary Benson cannot kid small farmers into believing that he and his associates have had a change of heart.

Mr. Benson spoke a few weeks ago in Minnesota. Mrs. Margaret Terner of Cokato, Minn., daughter of one of the township's finest farmers and wife of another one of the area's finest farmers, asked the Secretary: "How is the farmer to meet his obligations in the face of lower farm prices and rising costs?" Mr. Benson's reply: "Seek other employment."

During the entire time that Mr. Benson has served as Secretary of Agriculture he has had in mind and has worked diligently to accomplish one goal, and that is to lower farm prices and bring down farm income. His sliding scale is sliding the farmers of America into bankruptcy.

#### FARMERS MUST STAND TOGETHER

Mr. Speaker, we shall never accomplish an equitable position for agriculture in Washington unless there is behind us, at the grassroots, a mobilization of purpose, understanding and action in a united agriculture.

Those of us in Washington who have the interest of agriculture at heart will never impose a program upon farmers. We shall not act until we know what farmers want.

Our weakness in the Congress at this moment is the disunity in the ranks of agriculture. The house of agriculture is divided. This is the work of the Secretary of Agriculture and those who support him. The exploiters are using the disunity they have created to tear down the parity principle.

There have been reports in the press that political overtones are evident, that the declining farm population may be a factor in the calculations, and the strategists, playing for political power by repressing farm prices, may reason that they will more than offset losses in the dwindling rural vote if they pick up additional support in the cities.

This is a sorry business, but I have no fear of it.

Our problem is to bring agriculture into one community of purpose and effort.

#### AMERICA'S STRENGTH

We may then convince the Nation that the interests of our great rural and urban populations are one and the same, that they are tied inextricably together.

We may then show America where her essential strength lies. We may point out that in America 1 farm worker feeds 20 persons, while in Russia agriculture requires the labor of fully one-

half the total population. We shall emphasize that the efficiency of our farmers along with the moral fiber of a free people, is the basic difference in the stature of a democratic America and a communistic Russia. We shall sink home the fact that, while one-half Russia's total population works on farms and still cannot meet the Communists' need for food and fiber, in America the efficiency of our farmers releases 90 percent of our work for other employment—in factories, in mines, in shops, in transport, in all the other pursuits which—with the abundance of food and fiber from our farms—makes the United States standard of living the object of longing of peoples the world over.

We shall tell our story. We shall spread the truth about agriculture.

Once we in agriculture are united—once we put our house back together—I am supremely confident that our friends in the towns and the cities, and their representatives in the Congress, will insist—as a matter of self-interest and of simple American justice—that our parity principle be restored, that farm families share fairly in the rewards of enterprise, and that they enjoy a full partnership in the blessings of this capitalistic system which has made our abundance and our strength the envy of the world.

#### Saudi Arabia Celebrates King Saud's Anniversary of Accession to the Throne, November 12, 1957

#### EXTENSION OF REMARKS OF

HON. ADAM C. POWELL, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. POWELL. Mr. Speaker, when I came back from the Bandung Conference I announced that I would address the United States Congress each time there was an anniversary of one of the 29 participating nations in the Asian-African Conference on friendly terms with the United States.

Inasmuch as the Congress will not be in session at the time of the event, I wish to take this opportunity to extend greetings to the people of Saudi Arabia, His Majesty Saud Ibn Abdul Aziz al Saud, and His Excellency Sheikh Abdullah Al-Khayyal, Ambassador of Saudi Arabia, upon the occasion of the celebration of the fourth anniversary of King Saud's accession to the throne of Saudi Arabia, November 12, 1957.

The Arabian Peninsula is the cradle of the modern Arab people. Since the consolidation of the Saudi kingdom in 1925, Saudi Arabia has been the largest and in many ways the most important of the states of the peninsula. The United States has had relations of special importance with Saudi Arabia for over two decades and looks forward to continued cooperation. Firmly committed against communism, King Saud follows his

father's traditional policy of close friendship with the United States.

Upon this occasion of the celebration of the fourth anniversary of the accession of King Saud, I pray for divine guidance of the leaders and people of this noble country. May they discover what is basically just within the vexing issues upon which they are called upon to make their decisions. And may love fill the hearts of citizen of Saudi Arabia so that peace may be more surely secured and brotherhood helped to come alive for the peoples of the world.

## Department of Health, Education, and Welfare

### EXTENSION OF REMARKS

OF

### HON. JOHN E. FOGARTY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. FOGARTY. Mr. Speaker, these are the closing moments of the first session of the 85th Congress. There is some pressing business still to come before the House prior to adjournment. The important items of business on our agenda are well known to all of us in Congress, as they are to the Nation. Only a matter of the utmost urgency should be brought up on the floor if it is a departure from the specific issues that await our consideration.

I am convinced that the irresponsible and arbitrary actions of the Bureau of the Budget—actions which reverse the considered judgment of Congress and flout the expressed will of the American people—constitute a matter of such urgency.

I am talking about the apparently deliberate refusal of the Executive Office of the President's Bureau of the Budget to permit the executive agencies to spend, or even to plan to spend, the sums of money appropriated by Congress and approved by the President as the necessary and proper expenditures for these agencies and departments.

I will not generalize. Let me be specific.

On June 27 of this year, the Congress voted an appropriation bill for the Department of Health, Education, and Welfare. Two days later, the President signed this bill into the law of the land. Among other vitally important programs for which this bill provided—programs which affect all Americans in a very direct and personal way, like social security, education, vocational rehabilitation, and food and drug regulations—there were eight appropriations totaling \$211 million for research against cancer, heart disease, mental illness, and the other diseases that kill and cripple millions of Americans each year.

I do not need to tell my colleagues that this year, perhaps more than any other year in recent history, appropriation bills have been considered with great care; nor do I need to tell my colleagues why this has been true. In most

instances, the administration's appropriation requests have been cut back, reflecting the commitment of Congress to reduce unnecessary Federal spending and stop the threatening upward spiral of inflation.

In some individual instances, however, the Congress voted more funds than the administration requested. This is one of its responsibilities, in the final analysis—to review these requests for funds, to evaluate them, and to act on them—to cut them, approve them, or increase them, according to the considered best judgment of the Congress in session. A cornerstone of our constitutional system rests on this authority and responsibility of Congress to set the fiscal and legislative base for the programs of the executive branch of the Federal Government.

In the case of the medical research programs of the National Institutes of Health—after weeks of hearings and discussions involving literally hundreds of witnesses before both Houses of Congress—we provided a modest increase in the requested funds from \$190 million to \$211 million. I will highlight the importance of these appropriations with four simple statements of fact: First, these funds support more than one-third of all the medical research done in this country today; second, many of the great recent advances against disease have resulted from research supported by these appropriations; third, the experience of both Houses of Congress over a period of many years has been that these programs have been accorded, because they have merited, the confidence and respect of our country's scientific institutions and of people everywhere; and fourth, the effect of denying a large part of the needed funds for these programs, or of creating a feeling of uncertainty as to their availability, is sure to be seriously damaging and may be catastrophic.

Despite these facts, and despite their knowledge of the conviction of Congress that these programs should receive sustained and farsighted support, a handful of the President's advisers have apparently decided that the full amount of the funds appropriated for the National Institutes of Health shall not be spent—although Congress, and the President want it to be available if needed. Even today, nearly 2 months after President Eisenhower signed the bill into law, and after an incredible series of contradictory and delaying acts, the situation is far from clear. Those who direct these programs have been told they are permitted to spend—and this only after some extreme pressure on the Bureau of the Budget from Congress and from the Secretary of Health, Education, and Welfare, Mr. Folsom—most, but still not all, of what they need in the first quarter of fiscal year 1958. They still do not know, and Secretary Folsom does not know, what they will be permitted to spend for the rest of the fiscal year by those omniscient and omnipotent manipulators of the Federal fiscal processes who advise the President but do not feel compelled to carry out his orders after he has appraised their advice and made his decision.

I will not go into any of the harrowing details. A simple chronology of the events related to the National Institutes of Health appropriation since June 27 will make my point.

On that date, their bill, which increased the President's appropriation request by \$21 million, was passed and sent to the White House.

On June 29, the President signed the bill into law.

Yet the day before, June 28, the Director of the Bureau of the Budget had issued instructions which not only forbade spending at the level approved by the President the next day, but—incredible as it sounds—directed a pattern of spending which for the National Institutes of Health would be actually below what the President had asked Congress to appropriate in the first place.

On August 7, the Bureau of the Budget advised Secretary Folsom that it could not make up its mind about the full year, but that he would have to cut roughly \$17 million out of the first quarter's spending for the eight appropriations.

On August 13, Secretary Folsom asked the Bureau of the Budget to reconsider, and they yielded a little bit.

On August 20 Secretary Folsom again asked them to reconsider, and they yielded a little bit more.

It is not for me to say how much effect was made by the inquiries of Congress as to the status of these matters during the time they were in negotiation. A committee of the Senate chaired by the distinguished Senator from Alabama, LISTER HILL, looked into it. A committee of the House, which I am privileged to chair, looked into it twice. I cannot feel that it was a very rewarding experience for any of us. Certainly there has been no clarification either as to general policy or as to specific intent on the part of the Bureau of the Budget. The National Institutes of Health are still nearly \$800,000 short of their needs for research in their own laboratories in Bethesda during the first quarter. And they still have no idea how much, during the remainder of the year, they will be permitted to spend of the total of \$211 million appropriated for the medical research they conduct and the research and training they support among the Nation's medical schools and universities.

I am sure it must be apparent, even to the uninitiated, that medical research cannot go forward in the face of these fiscal uncertainties. Those who do research and those who foster environments where creative research can thrive have every right to expect stability and continuity in that part of their support derived from the Federal Government. They do not expect arbitrary and capricious action of the kind that has characterized the Bureau of the Budget's handling of these appropriations this year. Such actions sow seeds of uncertainty and indecision among the scientific community and do irreparable damage of a deep and lasting nature.

I want to emphasize what I mean by the National Institutes of Health. It is not, as some may think, just a group of laboratories in Bethesda, Md. They are



part of it, and they do splendid work, and they must be supported at adequate levels so their scientists can continue to make the outstanding contributions to the Nation's health that they have made in the past.

Much more important, however, is the fact that through the National Institutes of Health a large segment of all the medical research in this country is supported. Thus we are not concerned here with the simple maintenance of a Government bureau. When doubt and uncertainty creep into the fiscal picture, it shakes the entire medical school and university world by undermining their confidence in the stability of Government support. The Congress by its actions and the Public Health Service by its wise and careful administrative leadership have gradually built up this confidence as these programs have come into being and developed in size and in stature since World War II. I am sure it is the intention of every Member of Congress that the scientists and scientific institutions who are part of this national research effort against disease should not feel insecure in this support. Yet we find that all of the confidence that has been built up through the years can be undermined by a few people in the Budget Bureau who do not understand the significance of stable support and apparently do not care if our medical research effort is strong or weak, as long as they can juggle figures to what they think to be their own advantage.

Last year, nearly 7,000 research projects in 700 research institutions all over the country were supported by these funds. More than 3,000 people were being trained for careers in medical science and related fields. These are not statistics. They are people, and they are the people who are and will be the producers of new knowledge which will benefit all mankind. They know, as you and I know, and as all thoughtful people know, that medical research cannot be turned on and off like a faucet under the hand of some master planner.

Yet not 2 weeks ago, I had a desperate call from a distinguished scientist. He had trained for a career in medical research and teaching—long, hard years of specialized work in which the only rewards were those satisfactions that come to a scientist in the accomplishment of the progressive steps of his career. He had submitted an application for research grant support from the National Institutes of Health. That application was reviewed by the groups of non-Federal scientists and laymen who advise the Surgeon General on the scientific merits of each application. The project was recommended highly, and the Surgeon General approved it. The scientist was notified of this action, but at the same time he was told that it was dependent on the availability of funds. So far so good. But now came the impact of the Bureau of the Budget. The scientist wants to make the study, his institution supports him, the project is found worthy of support by an outstanding scientific review panel, the Surgeon General wants to support the study, the Congress appropriates funds which permit such sup-

port, the President signifies his assent—and yet there follows a period of shilly-shallying, of backing and filling, of delay and confusion. The weeks pass. The scientist is uncertain. He wants to think everything is all right. To do the study, he has to make his plans, hire technical staff, arrange for laboratory space, re-apportion part of his teaching load. These things must be done in the spring and early summer if they are to meet the needs of the academic year. Yet Public Health Service officials are not permitted to definitely commit the funds to him. There was something in one of the Bureau of the Budget's directives about not approving any new grants. Other bureaucratic phrases fly thick and fast. They add up to the fact that the scientific administrator in Washington cannot tell the scientist in the university that the funds are on their way. And so he, having once had confidence in the stability and leadership of this federally supported research program, has to call me, his Congressman, to see if I can help resolve his bewilderment.

I must say, with a great deal of chagrin, that I was not able to give him, nor was I even able to find out, the answers.

I am disturbed to think what might have happened on these apportionments had Congress not happened to be in session during the period of time when this sequence of contradictions and equivocations took place.

Let me remind you, too, that this is not an isolated instance. Last year, for example, and in connection with these same appropriations I have been discussing, the techniques were different but the apparent intent was the same. Again the Bureau of the Budget withheld the right to spend appropriated funds. They said, in effect, spend at a curtailed rate until you have justified to our satisfaction that you can spend the newly appropriated amount wisely—and then made sure they were not satisfied until the year was more than one-quarter gone, thus assuring themselves of savings which were in fact forced by these delaying tactics and resulted in a shrunken program.

I have talked about this issue in terms of medical research not because it is unique, but because it so clearly makes the point. Other Public Health Service programs have been similarly affected, as have other important functions throughout the Department of Health, Education, and Welfare, whose programs are so intensively scrutinized by the appropriation committee of the House which it is my privilege to chair.

I cannot say from firsthand experience whether the same situation prevails among other agencies. I doubt, however, if there are many whose appointed heads are as forthright and as consistent as Secretary Folsom. Although he must have been subjected to tremendous pressures from the President's budget intermediaries, he has steadfastly refused to compromise his principles or the Department's program. It is ironic indeed that he must make such fights within his own family, but he is the more to be praised for standing up for what he thinks is right.

It is altogether inappropriate and perhaps impolitic for me to interpret his position. I would have to guess from his actions, however, that he believes in careful budget formulation and thoughtful budget defense, followed by prudent administration of appropriated funds so that if there are savings, they are the product of economical administration rather than the arbitrary prejudgment of a group of slide-rule experts whose calculations totally ignore the substance of the programs involved and their present and potential meaning to the American people.

It is my conviction, gentlemen, that if this trend is permitted to continue, it will make a mockery of the established and proved appropriation processes of Congress. We can hold all the hearings we want, and render the most considered judgment of which we are capable in the public interest, but it has no meaning if the Bureau of the Budget—with or without Presidential instruction or that of the assistant President—interferes with the orderly processes of government by imposing fiscal restraints in direct contravention of the will of Congress. And they do this on the slender pretext of the Antideficiency Act, which was designed to prevent overspending by executive agencies, and not to superimpose their judgment on that of Congress.

I do not suggest that there is any grand strategy behind this series of moves. It would be unthinkable that—having capitalized on the plans for extending traditional and creating new programs which the public wants—this administration could now abandon them and deliberately contrive enforced savings so that there can be a possibility of a tax reduction in an election year at the expense of the health of the American people. I would rather think that it is merely shortsighted budget maneuvering on the part of a handful of misguided people that underlies these events.

For I know, as you my colleagues know, what is at stake. It is not merely an issue between the legislative and executive branches—although preservation of our respective roles is of the utmost importance. Just as important, however, is the fact that those who direct the affected programs cannot do what clearly needs to be done in the public interest.

Let me illustrate, again, from the National Institutes of Health.

During the first quarter of the fiscal year, the Bureau of the Budget—after first trying to withhold \$17 million for these programs—finally withheld just over \$700,000 appropriated by Congress for laboratory research and clinical investigations at Bethesda. This is still under appeal, but even if the appeal is won, a great deal has been lost—confidence and morale, to be sure, but also definitive studies of the kind not one of us would wish to see curtailed. Let me cite a few: research on the Asian influenza vaccine and on the disease itself; marked expansion of studies of radiation as part of the broad field of physical biology; a new study centered in Panama and dealing, among other things, with the continuing threat of yellow fever; a new project which initiates a program of research against mental illness within

expanded clinical facilities at St. Elizabeths; a comprehensive, multidiscipline study of the biological aspects of aging; an expansion of the promising research field represented by viruses and cancer; establishment of studies in both metabolic and infectious diseases, using animals in germ-free environments as the research tools.

The successful conduct of research of this kind is certain to yield important advances in medical science and may mean the difference for many Americans between health and productivity on the one hand, and death and disability on the other.

It is not, of course, only the research programs of the Institutes that are affected. In combination, the restrictions placed on initial spending and the uncertainties over how much can be spent during the full year are certain to inflict damage on all of the major programs of the Department, including other activities of the Public Health Service.

The Department, as you know, is fairly young. But it is composed of a number of established activities. Grouping them together as the Department of Health, Education, and Welfare was a great forward step. In addition to giving the individual programs a frame of reference, it also permits and encourages a coherent and unified attack on certain major problems with which the Department is faced. And now these complex programs are also impeded by false economy and threatened by budgetary confusion.

A typical example is in the work of the Department related to our older citizens—the aged and infirm. I have pressed the Department hard for 3 years to assert more leadership in this field. Finally they have at least made a good beginning. Elements of the Department's new and promising program are found in the Social Security Administration, the Office of Education, the Office of Vocational Rehabilitation, and all three bureaus of the Public Health Service, as well as in the Secretary's own office. And now even this good start is being cut back. Does the Bureau of the Budget really think they know better than the whole Department how appropriated funds for these programs can most effectively be spent? Is there any one of them who knows anything at all concerning the substance of these programs which they so casually reduce or destroy?

The same thing can be said for mental health and mental retardation. I have discussed and studied this field in general and in specific for almost all of my 17 years in Congress. This does not qualify me as an expert. But I know that this is a problem of immediate and alarming proportions. The mentally ill, the severely disturbed, the psychologically or physically handicapped children—I am convinced that we cannot and must not fail to do whatever we can on their behalf. And yet we find research and study in this field being forbidden even though Congress has made money available—even to the unbelievable point of impeding the small beginning made by the Office of Education in studies of how better to teach

the mentally retarded up to their optimum educational level.

I say we cannot permit a handful of numbers experts in the Bureau of the Budget to decide whether such studies should or should not be undertaken. With me, this is both a practical matter and a matter of principle.

I call upon the administration to cease these confusing, delaying, and damaging practices. I shall watch the fiscal events of this year with a great deal of interest. If there is no improvement during the next budget and appropriation cycle, I will most certainly seek full discussion and appropriate action to assure Congress and the American people that this disturbing threat to our system of government is remedied.

But this is not enough, because this is remedial and not immediate action. I also call upon the President of the United States to take steps now to untie the hands of the program people in his executive branch. I cannot believe that he knows what is happening in his name. He has gone on record many times to confirm his belief in and support of medical research. He cannot be aware that his own staff is undercutting programs which reflect his own convictions.

I am sure that the remarks I make here to alert the House of Representatives will be brought to his personal attention. I feel sure that when he knows the facts, he will order the Bureau of the Budget to stop this highhanded and destructive practice at once.

#### Keenotes

#### EXTENSION OF REMARKS OF

#### HON. ELIZABETH KEE

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mrs. KEE. Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, I include the following:

#### KEENOTES

(By Representative ELIZABETH KEE)

I am writing Keenotes this week slightly ahead of my usual schedule. The House of Representatives is momentarily expecting the fall of the gavel denoting adjournment of the 1st session of the 85th Congress. Should this occur before the weekend, I plan to leave Washington immediately to return to the fifth district and a prolonged round of visits with all my good friends and constituents back home. It will be good to see the hills of West Virginia again.

Meanwhile my time is divided between trying to complete bits of unfinished business at my desk and scurrying through the subway to the Capitol in answer to the quorum bells summoning Members to the floor to vote on the spate of bills—the unfinished business—which always seems to flood Congress in the final days of any session.

It is, of course, much too early to pass judgment on the record which the 85th Congress has written for itself thus far. Many political writers will, however, attempt to do so, using as a basis the extent to which the administration's recommendations and program have been enacted into law. This is hardly a sound appraisal.

Both the administration and the Congress are answerable to the people and no Congress can acquit itself of its grave responsibilities by becoming a rubber stamp of approval for anything and everything an administration might propose. In this respect, the 85th Congress has, I feel, acted with wisdom and restraint. It has considered each of the President's legislative recommendations with great thoroughness and in terms of the national interests. It has not permitted itself to be coerced into hasty decisions by the pressures of political expediency and it has maintained an attentive ear for the wishes of the people rather than for the whimsies of the White House.

I use the word "whimsies" purposefully for I know of no better way to describe the administration's constantly shifting position on its own legislative proposals. Every effort to pin the administration down to a firm stand on any given issue, at any given moment, has proved a frustrating experience for both its most ardent supporters and its most vigorous opponents, alike. Take the very important matter of the budget, for example.

After severely criticizing the spending policies of his predecessors in office, the President in January submitted to Congress a budget calling for the greatest peacetime spending in the history of the country, a record of \$7.8 billion. In July, he issued instructions to his Cabinet members to hold expenditures in their departments down to the \$70 billion level of the preceding (1957) fiscal year.

When his own Secretary of the Treasury denounced the 1958 budget as too large, the President, gravely agreeing that this was so, invited the Congress to cut it. But hardly had Congress settled down to this challenging task, than the President appeared on television to warn the American people that any cuts in the appropriations he had requested for his defense and foreign-aid programs would seriously imperil the national security.

The administration has been equally vague and indecisive about other of the long list of recommendations in its program. The need for school construction legislation was pointed up as urgent and then when the bill was before the House, the something less than lukewarm enthusiasm for it emanating from the White House, helped its opponents to defeat the bill.

Passage of the first civil-rights bill to get through Congress in 80 years also had legislators going around in circles. The administration would compromise. It wouldn't compromise. It insisted upon section III. It didn't care about section III. No bill at all was better than enactment of the Senate version. With modifications, it would accept the Senate version. Small wonder, then, that many Members of Congress were hard put to know just where the administration stood on this most critical legislation.

Reviewing the events of this session in my own mind as I write this, I am more than satisfied that the 85th Congress, in its first session, has dealt conscientiously and responsibly with the problems and the affairs of the Nation. Where no emergencies existed, it has wisely refrained from hasty action. It has delved beneath the surface of each legislative proposal, cautiously exploring what far-reaching effects it might have upon our people.

Above all, it has responded notably to the public demand for economies in government. It has known how to be generous where generosity was called for, as witness the pay raises voted the hard-pressed postal and classified employees of the Federal Government. But it has also known how to eliminate nonessential spending when the benefits received were not equal to the dollars spent.



In fact, a major portion of the 85th Congress' time so far has been devoted to the budgetary and bookkeeping problems of the Nation, and in the years ahead the American taxpayer may be very happy that it was.

And now, wishing everyone in the Fifth District a very pleasant Labor Day, I look forward to seeing all of you in person shortly.

## Vietnam Celebrates Second Anniversary of Independence

### EXTENSION OF REMARKS

OF

**HON. ADAM C. POWELL, JR.**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. POWELL. Mr. Speaker, because Congress will not be in session on the occasion of the celebration of the second anniversary of the proclamation of the Republic of Vietnam on October 26, 1957, I wish to take this opportunity to send warm greetings to the people of Vietnam, President Ngo Dinh Diem, and His Excellency Tran Van Chuong, Ambassador of Vietnam, in honor of this event.

In 2 short years of independence free Vietnam has made commendable progress toward stability, security, and strength. Vietnam can justly take pride in her notable accomplishments. They have laid the foundation for even more satisfying development in the future. Among the factors that explain the remarkable rise of free Vietnam from the shambles created by many years of murderous civil and international war, the division of the country at Geneva, and the continuing menace of predatory communism, there is the dedication, courage, and resourcefulness of President Diem himself. In him, his country has found a truly worthy leader whose integrity and devotion to his country's welfare have become generally recognized among his people. Asia has given us in President Diem another great figure, and the entire Free World has become the richer for his example of determination and moral fortitude.

The United States is proud to be on the side of the effort of the Vietnamese people under President Diem to establish freedom, peace, and the good life. The United States wishes to continue to assist and to be a loyal and trusted friend of Vietnam. President Diem during his recent visit to the United States said on May 13, 1957:

You all know what we have achieved during the last 2 years. Most people know that we could not have succeeded as we did without American material aid. But not many know that equally important for our survival was your moral aid, a kind of aid that usually does not come from governments but from the people directly. . . .

Recently, we and our friends talked much about our need for leadership on other levels than the political—for leadership in the cultural, technical, and economic fields. In order to build a stable economy, which is the necessary basis for democracy, we do indeed need such leaders whom we now so desperately lack. This is why we welcome

your technical advisers, whether they come from your Government, from private industry, from universities, or from foundations.

We welcome such help, but even more we would welcome support for our efforts to train our own technicians. Although we want your advisers in our country, we aspire also in this effect toward fuller independence. We must multiply our efforts to educate our youth for these great new tasks.

Vietnam is a great temptation for the Communists. Vietnam is the gateway to the invasion of southeast Asia and to its immense resources in manpower and raw materials. President Diem has said:

We all still live in great peril of losing out to a determined enemy who is active along a front line that circles the whole globe. Fate has put us at a crucial spot on the border between democratic freedom and Communist tyranny. Your aid enables us to hold this crucial line, and to hold it at less expense to you, and at less danger to the world than you could have done it yourselves. . . . We need you. . . . Our people hate war, but they also hate to be slaves.

If attacked, we shall fight again. Your aid and your friendship will help us fight well and, we hope, successfully. We will then surely not fight for Vietnam alone. And if we, as we pray, are spared such a conflict, it may well be because the enemy is afraid of our determination and strength. In any case, and whatever the future will bring, we shall repay the debt we owe to the Free World.

We are proud of the progress being made by Vietnam and happy that we are able to assist. The orderly development of the new states of southeast Asia to political stability and economic well-being is a source of gratification. As one who deeply believes in freedom, democracy, and the importance of achieving a better understanding among all nations, I wish Vietnam every success which she so richly deserves.

## Serious Problems in Agriculture

### EXTENSION OF REMARKS

OF

**HON. WILLIAM S. HILL**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. HILL. Mr. Speaker, this first session of the 85th Congress is at an end. For more than 7 months we have been in session wrestling with the problems facing our country. Millions of words have been recorded on the floor and in the committee hearings of the House, but very little in the way of constructive legislation has been enacted. It is not my purpose to find fault with the inaction of the Congress. It is a normal thing for the first session of a Congress to produce less in the way of final legislation than does the second session, but I wonder if it is normal to spend thousands of hours in session in committee and on the floor and produce but a fraction of the program that has been suggested by the President or by the Members who have introduced more than 10,000 bills embodying their ideas of needed legislation.

My primary interest in the Congress for many years has been in the fields of

small business and agriculture. On occasion I have taken the floor to outline suggestions which my thinking and study in these fields have convinced me are needed to solve some of the serious problems facing these two segments of our economy.

In agriculture particularly are we facing serious difficulties about which little is being done. When we close the books on this session of Congress, we will have to conclude that no major farm legislation will have been enacted by the Congress. However, the Committee on Agriculture, on which I have the honor to serve, has done a world of work in committee, and many hearings have been held. Much testimony has been heard on major agricultural problems, and certainly during the 2d session of the 85th Congress this House will have an opportunity to consider fundamental changes in the approach toward the solution of the difficulties. As I said in an address on this floor last year, changes must be made in our basic agricultural legislation to bring it in conformance with the era in which we live. Our present price and production control legislation had its genesis in the postwar depression following World War I. The skid of prices received for farm products in 1919 and 1920 brought home sharply the importance of our agricultural economy to the economy of our Nation as a whole. Failure to solve or ease the problem at that time, in my opinion, paved the way for the depression of the early thirties.

In 1933 a determined effort to bolster the farm economy saw a movement toward managed prices and production that resulted in the Agriculture Act of 1938. This act, with minor amendments, is still the basic agricultural act under which most of our farm programs are operated.

These programs were depression born and geared to an emergency that had little or no relation to present-day economic factors. I find no fault with the attempt to help the farmer at that time, but I am certain that experience has shown that the type of programs devised would not solve the problems that arose when the tremendous energies of our agricultural producers met the challenge to feed the Free World during World War II, the Korean war, and the immediate postwar period.

Agriculture is not like most production processes where adjustment can be made by shutting down an assembly line or abandoning a line of production when the demand has slackened or ceased. The success with which the challenge of the war years was met is to be commended, but the gradual readjustment of world markets to improved local conditions without a corresponding adjustment of our own production and marketing has led to a disjointed imbalance which has caused much of the serious difficulty into which agriculture has been plunged. It is to the credit of this administration that the problem has not achieved disastrous proportions.

The specter of ever-increasing surpluses and ever-increasing production

was met with increased production controls while the price support program attempted to compensate the farmer for reduced plantings. How inefficient this process really is can best be illustrated by what is happening to our basic crops under the basic Agriculture Act of 1938, as amended. Cotton is probably the best, or perhaps I should say the worst, example of outmoded programs attempting to aid a crop and by this assistance practically ruining the cotton producers.

It is abundantly clear that high-level rigid price supports are not good for the cotton industry. Our cotton loses out in markets both at home and abroad. Stiff competition from synthetic fibers and from expanding foreign cotton production abroad means that our growers can not find a market and cotton is piled in Government warehouses.

By our own actions we are pricing our cotton out of important market outlets. Our rigid high supports for cotton enable competitors—the synthetic fiber producers and foreign cotton growers—to expand their production and take over an increasing number of our cotton customers. As the saying goes, we “hold an umbrella over our competition.” All of this happens because we were unwilling to recognize the basic fact that competitive prices for cotton are still highly important in holding and broadening domestic and foreign markets for the output of our efficient cotton farms.

High, rigid price supports, which discourage domestic consumption and exports, are largely responsible for cotton backing up into the hands of the Federal Government. When that happens, severe acreage curtailment is necessary.

There is a growing realization today that we must be able to sell our cotton to people—not to the Commodity Credit Corporation via the price-support route. The CCC itself consumes no cotton; it is people who do. People—not the CCC—make up the lasting and permanently profitable market that cotton must have.

Official reports of the Department of Agriculture reveal some very interesting facts about plantings and production of cotton. In the 1934–38 period the average of cotton acreage in the United States was more than 29 million acres a year. For 1957 the acreage is down to 14.2 million acres. Despite these drastic reductions in acreage, the United States had 60 percent of the world's accumulated cotton stocks on August 1, 1956.

During the same periods that domestic producers were being forced to reduce their cotton acreage drastically, foreign countries, spurred on by our price support umbrella over the world market, increased their cotton acreage by leaps and bounds.

During the 1934–38 period Syria planted 74,000 acres of cotton. In 1956 their cotton acreage was 675,000 acres—nine acres for every one planted prior to World War II.

Mexico increased its plantings from 680,000 acres in the 1934–38 period to more than 2,690,000 acres in 1955—nearly 4 times as many acres as in the prewar period.

Prior to World War II Turkey planted approximately 621,000 acres. By 1955 plantings were nearly 2½ times as large, or more than 1,500,000 acres.

Production yields kept pace with these increased plantings, and American producers have been producing for storage instead of consumption. The price umbrella made it possible for foreign countries to undersell United States price supported cotton. The obvious result is the loss of actual and potential foreign markets.

Certainly what is true concerning the loss of markets for cotton will positively apply to every other type and kind of farm commodity that depends on foreign consumption for the disposition of the surplus.

The failure of the price-support programs as provided for under the basic act of 1938 is not so much the failure of inactivity—we have attempted with patchwork amendments to bolster the act on a hit-and-miss basis—but the failure to proceed vigorously with corollary programs to keep it modern.

In the face of outmoded programs that need changing, we have made some progress. Last year, net realized farm income was 4 percent above 1955—the first peacetime year in which net farm income increased since 1947. Computed on a per farm basis the increase amounts to 7 percent.

For the first half of this year, realized net farm income was at the rate of about \$12.1 billion, 2½ percent higher than in the first half of 1956.

Prices which farmers received for crops and livestock in the month ending July 15 rose 1 percent. At the same time, farmers' costs of production and living supplies fell one-third of 1 percent during the same month.

Market prices for cattle and hogs have been running \$2 to \$3 per 100 pounds above a year ago. Meat consumption last year averaged 167 pounds per person—the highest in more than 50 years.

Milk prices received by farmers have averaged higher, above the previous year at this time, for the third consecutive year.

Exports in farm commodities in fiscal 1957 were the highest in history. Most of this was due to increased activity made possible by the administration sponsored Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

Government-owned surpluses are being reduced. Commodity Credit Corporation investments in price supported commodities were about \$7.6 billion on May 31, 1957, a net reduction of about \$900 million since May 31 of 1956, and a reduction of about \$1.3 billion below the peak holdings of February 1956.

Farm values reached an alltime high in March of this year, up 7 percent over the previous year.

An alltime high of \$176 billion in total agricultural assets was again set January 1, 1957. Farmers have only about \$12 in debts for each \$100 of assets they own. Only about 1 farm of each 3 has a mortgage. Farm ownership is at an alltime high. There are fewer tenants as compared to farm owners than ever before.

Over 94 percent of all farms have electricity.

Despite cries about the plight of the family farm and its disappearance from the scene, we find that large-scale farms are only about 4 percent of all farms—the same as 30 years ago.

Most of this strengthening in agriculture has been due to the reduction of surpluses. The results of the soil bank and surplus disposal programs are serving to halt the trend of lowered farm net income.

Address by the Honorable Frank M. Coffin, of Maine, to the Maine Soil Conservation District Supervisors Association Annual Meeting, Thorndike Hotel, Rockland, Maine, August 29, 1957

#### EXTENSION OF REMARKS

OF

**HON. LEE METCALF**

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. METCALF. Mr. Speaker, one of the most critical, and most challenging issues before this Congress is the great need for more adequate conservation legislation. As the demands on our land and water resources increase, our responsibility to conserve and use wisely the resources we have is more imperative than ever.

Our distinguished colleague from Maine, Mr. COFFIN, has made some pertinent and imaginative suggestions on this subject. In a speech to the Maine soil conservation district supervisors, Mr. COFFIN outlined an approach to improving our program for tree planting and land utilization. This is a subject of considerable interest to the people of Maine, of course, but his suggestions in the following speech merit the attention of conservationists in the entire Nation:

President Sanborn, Chairman Harriman, Commissioner Newdick, supervisors, and friends, having emerged from the heat and humidity of Washington and the last frantic days of the Congressional session, I welcome the opportunity to be with you in this pleasant Maine setting tonight. I am not sure that my function should be that of a speaker in your program, but rather that I should be playing a more appropriate role as a listener.

One of the great pleasures and satisfactions of my first months in Congress has been the opportunity to learn more about the problems and programs of agriculture. I confess that my joy would be more complete if I had all the answers to the problems, but for the present I shall content myself with learning and some tentative explorations in the fields of agricultural policy. From what I have observed of the battles raging among the so-called farm bloc in Congress, caution seems the better part of valor.

I am not here, tonight, to tell you how to solve the problem of surpluses, the increasing squeeze of lower farm prices and higher costs of operation, and the gigantic challenge of our productive capacity. I am here as a layman who must weigh in the balance the conflicting proposals which appear in Congress and vote for legislation which will benefit you and the consuming public. I am



here to examine one phase of agriculture, to stimulate some inquiry in an area which is of great importance to our entire Nation, and particularly to the State of Maine. That area lies in the great field of conservation and land utilization.

I would like to call to your attention tonight a little bit of the past, a larger chunk of the present, and a glimpse of the future.

The first settlers on this continent found an abundant land waiting for tillage, presenting vast opportunities for the production of food and fiber. As the eastern seaboard was settled, and as land—once rich—was depleted, the pioneers moved westward for richer soil. The land has been cultivated, bared, and in many areas of the country stripped of its productive capacity.

The political emphasis in the last few years has been on the problem of surpluses in certain commodities, but the day is coming when we may be plagued—not with surpluses—but with a shortage of arable land on which to produce enough food and fiber for ourselves and others.

Fortunately, the warnings of the early conservationists have been heeded, and since the thirties we have been making great strides in correcting some of the abuses which have been so wasteful of land and water resources in the past.

We in Maine can be proud of the record we are building in the field of conservation. The work which you and your fellow agriculturists are doing is an inspiration to anyone who takes the time to study the results of your work.

Approximately 95 percent of the farms and farmland in Maine are within the boundaries of the State's 15 farmer-organized soil conservation districts. Maine's high-ranking position so close behind the 16 States that are 100 percent covered by such districts is doubly significant.

It reflects the progressive manner in which the State's landowners and operators have taken advantage of the district machinery provided by the 1941 State law for local, democratic organizations to deal more effectively with individual and community soil and water conservation problems. In addition, it points up the tremendous responsibilities of local leadership in advancing the State's basic agricultural economy. These responsibilities rest upon the shoulders of the 45 locally chosen soil conservation district supervisors and the State Soil Conservation Committee.

Agricultural production represents a better than \$200 million annual cash business in Maine. Nothing can be more important to the long-time health of this or any other State's agricultural productive capacity than the protection and improvement of its basic soil and water resources.

Maine's soil conservation districts—with 15 years of progressively successful experience and accomplishment behind them—are looked to for continued effective leadership, through their elected supervisors, in maintaining our productive agricultural resources for continuing use. The 10 years of effective work in the Knox-Lincoln district are a challenge to the future, as is the experience in the other districts of the State.

Maine's soil and water conservation program has been built on sound foundations, since the original establishment of the erosion control demonstration project in the Aroostook County potato area in the mid-thirties. It has advanced through the teamwork of local farm and business community leaders, the college of agriculture, experiment station, and extension service at the university, and various other local, State, and Federal agencies, including the Soil Conservation Service, and other divisions of the United States Department of Agriculture.

The statistics showing the present level of activity in the soil conservation districts of Maine are most impressive. Nearly 8,000 co-operators, with a million and a half acres

are participating in your program. Two thousand six hundred of these co-operators are located in my own Congressional District. In the Second District alone over one and a quarter million acres of soil surveys have been completed, and basic plans for 1,543 farms have been drawn up.

Conservation applied on the land is the physical measure of success of the soil and water conservation effort to which the Nation has addressed itself during the last quarter of a century. Another dependable yardstick of our advancement in basic resources preservation is the unprecedented public concern over the conservation, development, and most efficient use of our water, timber, grass, and wildlife resources.

The soil conservation district program has, with the cooperation of local, State, and Federal interests, given us a great democratic experiment and an adventure in initiating and implementing practical conservation action. Under the watchwords "conservation, development, self-government" this program provides an outstanding example of democracy in action.

Congress, meanwhile, has a continuing history of providing broadened soil and water conservation authorizations as need has dictated, and of making necessary appropriations to carry them out. Admittedly, the funds made available for the Federal share of technical and other conservation participation have not always been as much as were desired or could be used effectively by local soil conservation districts or other conservation users and assisting agencies. But these appropriations have been increased year by year in an attempt to keep up as nearly as possible with obviously growing district and other needs and demands.

Technical assistance under the 1935 Soil Conservation Act, through the Department of Agriculture's Soil Conservation Service, remains, of course, the backbone of the Federal contribution to the national action program of soil and water conservation, supplemented by the important cost-sharing assistance of the agricultural conservation program. Both have stood the test of soundness in purpose and results through more than two decades of operation.

Of similar promise in a broader field of conservation need is the opportunity opened up by the 1954 Watershed Protection and Flood Prevention Act for still wider cooperative action in dealing with water supply and management problems extending beyond agricultural lands and individual properties to entire communities or metropolitan areas.

So far, no immediate appropriate watersheds for use of the new Watershed Act apparently have been programed in Maine; but undoubtedly further study of likely watershed areas, as local community interest develops, will confirm the need and the opportunities for small watershed projects similar to those getting under way in neighboring Northeastern States.

Particularly as it was broadened in 1956 to include more multiple-purpose municipal and industrial water supply needs, drainage and other purposes, the Watershed Act has a place in the overall soil and water conservation potential of the southeastern area and other parts of the State.

We do not have as serious flood-prevention situations to cope with as are found in other parts of the country, but there is always a need for conserving the moisture in the soil for crop and pasture production, for streambank protection—especially in handling snow-melt runoff—drainage rehabilitation of wetter croplands, and so on. Land use treatments with the practices being used in the soil conservation districts are basic to any watershed treatment; and the Watershed Act may well operate to facilitate and strengthen the soil conservation districts' going programs.

There have been, of course, other important conservation measures provided by recent Congresses.

There is the Water Facilities Act for making direct or insured loans through private banking sources and the Farmers Home Administration for soil and water conserving or drainage facilities and reforestation.

In addition, a provision has been inserted in the revised Internal Revenue Code, making it possible for farmers to treat expenditures for a number of soil conservation measures as current expenses that may be deducted from farm income for income tax purposes.

Another, the Great Plains conservation program, ties together more closely Federal, State, and local technical, financial, and other conservation efforts on a primarily conservation land-use basis. It is, at present, limited to the Great Plains area, but it could suggest similar application in principle elsewhere.

There is the newer Soil Bank Act with its conservation reserve features for helping landowners to get less productive acreage into permanent trees or grass crops, or into use for water storage. It is regrettable that more emphasis has not been placed on the soil conservation features of this act, rather than the present public stress on getting crops out of production.

The very circumstances of such broadened conservation authorizations and programs point up the fact that the resources conservation job, though well advanced in general, is not finished anywhere, and it is only well begun elsewhere. The fine accomplishment in erosion control and conservation land-use methods in the Maine potato country, for example, by no means indicate that the whole task is finished even there, much less in the State as a whole.

There are comparatively new-found problems coming into focus. Good agricultural land is being withdrawn from production and taken over for suburban building and industrial sites, highways, airfields, and various other nonagricultural uses. Conservationists, agricultural interests, and planning authorities alike have been growing more and more conscious of the vast, so-called strip cities spreading over the countryside before the onrush of fast increasing populations and urban concentrations—and of the land and water problems developing in their wake.

Even in Maine, areas like those around Portland and Bangor, especially with the influx of summer residents, have not escaped this trend. Now is the time for us to act.

Now is the time to make sure we do not waste the resources of this verdant State. We must treasure our two jewels of great price—our unsurpassed 85 percent forest cover and our unequalled annual rainfall. Now is the time to put our minds and hands to the task of preserving our land and water resources before they are lost forever.

Faced with the problems of our peculiar soil conditions, confronted with changing market patterns, we should adapt ourselves to the most useful and productive use of our land.

To me, one of the great opportunities presented to us is the potential development of our forest resources to meet the ever increasing demand for wood and wood products. New uses are being found for wood. As long ago as 1947 I was impressed with a challenging book entitled "The Coming Age of Wood."

Greater demands are being placed on the available supply of wood and lumber products. With forest development we can preserve our land and water resources and provide greater economic opportunities for our farmers and for our manufacturers and workers.

A start has been made in this area, but it is only the beginning. The problems of

long-term investment, the hazards of fire, the steady drain of taxes, and the delayed return on tree planting make it almost impossible for many of our farmers to consider going into tree farming on the scale which is necessary if we are to meet this challenge.

Under the Soil Bank Act, for example, a relatively small acreage of land can be planted to trees, with Government assistance for planting and land rental payments. We have substantial acreages of land that were cropped at one time, but which are not qualified for soil-bank payments under existing requirements of the act because they are not cultivated at the present time.

In the current session of Congress I drafted a bill which I introduced with Representative McIntire, seeking to amend the Soil Bank Act by providing for participation by those who "plant and maintain trees for the contract period on specifically designated acreage of land on the farm which was once used in the production of such crops and is still suitable therefor."

This problem of land that has been abandoned to cropping use is particularly challenging from the standpoint of getting more needed conservation planting done in Maine. The need for some workable incentive or other solution persists beyond the present facilities of the soil-conservation districts themselves for expanding this part of their regular soil-conservation program.

We cannot afford to have our former croplands grow up to useless hardwood brush. We cannot allow the opportunity of wood utilization and supply to pass us by.

My soil bank bill, H. R. 6303, offered a tentative approach to the problem. The Agriculture Department has not looked on this suggestion with a kindly eye. Before we can arrive at a practical solution it will be necessary for us to explore the possibilities of some pilot projects similar to those pursued under the original Soil Conservation Act of the 74th Congress, which later developed into the very effective watershed program.

Several possibilities suggest themselves. Some require Federal action, some State participation, and all demand the cooperative effort of farmers and farm leaders like yourselves.

There is the possibility of expanded Federal-State participation and cost-sharing in actual tree planting. There is the suggestion of long-term Federal loans for tree farming, where conservation practices are followed. There is the proposal for deferred taxation on land planted to trees under such a program. And, there is the thought of cooperative tree farming by groups of farmers, where the resources of a single farmer are not sufficient to carry the load. There may be other avenues which can be followed in approaching this challenge.

This, to me, is one of the soundest ways in which we can help to preserve the identity of our family farmers. This, to me, is one of the most effective means of preserving the beauty and productive grandeur of our State—it is a means of preserving a way of life that is dear to us all.

Soil conservation districts offer the logical means through which we can deal with these farm and watershed programs locally. No one knows the problems better than the district supervisors and the district cooperators, or has had more sound experience in the field of resource conservation, in Maine and throughout the country.

There are today 2,770 soil conservation districts, including 93 percent of the Nation's farms and ranches, and 88 percent of its farmland. As of January 1, 1957, nearly 1,140,000 district cooperators had basic conservation plans on nearly 320 million acres. Soil surveys, on which are based the conservation farm plans that guide the application of soil and water conservation practices

on the land, had been made on more than 500 million acres in the districts.

Applications for Federal assistance on projects through the Watershed Protection and Flood Prevention Act, meanwhile, totaled 742 to August 26, 1957. That many had been made by local communities, approved by their States and forwarded to Washington. A total of 278 of these had been authorized for planning assistance. Fifty-five already were approved for operations. Conservation and land-treatment and flood-prevention work is well along, also, in the 58 pilot small-watershed projects, along with similar flood-prevention work on subwatersheds in 11 major authorized watersheds under the 1944 Flood Control Act.

This progress and accomplishment is made possible by bringing to bear the human and physical resources of many individuals and many communities on the common problem, from Maine to California, from Florida to Washington State. The results obtained stem from the initiative, leadership and hard work of nearly 14,000 soil conservation district supervisors and one and three-quarter million district co-operators—like those in the 15 soil conservation districts of our own State of Maine.

In January I hope to implement some of the suggestions I have made tonight with further legislation to encourage the expansion of our tree planting program. I hope you will give considerable thought to the tentative proposals I have made with a view to advising me on the wisdom and practicability of these or other approaches.

I am therefore seeking your assistance during the next 4 months to discuss various kinds of pilot projects that might well be incorporated in such legislation. This process of analysis and creative thinking on your part will contribute immeasurably to our chances of success. I say this with such experience as I have gained in the legislative process. Over 15,000 bills are filed each session. Only a few reach final passage. Those bills which contain not only a fruitful idea but which are accompanied by the down-to-earth support of citizens who know the problems which the legislation aims to solve have the best chance of success.

You have the experience and the knowledge necessary for sound recommendations. The success of any such program will depend on your contributions. As a Representative in Congress I can help you with enabling legislation.

I can think of nothing more appropriate than a new and needed approach to land stewardship originating in the State of Maine.

## Department of State Historical Division

### EXTENSION OF REMARKS

OF

HON. JOHN E. HENDERSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. HENDERSON. Mr. Speaker, before this session ends, I wish to comment upon a matter which has been of long-standing concern to me—the operation of the Department of State Historical Division, particularly as it relates to the publication of the records of our recent diplomatic history. The place of Dr. Donald Dozer in the controversy which has arisen over this question is well known. For those who are not aware of his part in the argument, I be-

lieve it can be stated fairly and briefly that this gentleman was summarily fired, without a hearing, from the Historical Division as a result of his honest belief that it is the proper function of a historian and scholar to insist that the people be apprised of such facts as exist when the divulgence of such information does not compromise our national security.

Dr. Dozer is an Ohioan and a native of the 15th Congressional District which I have the honor to represent here. His career as a scholar has been a most distinguished one and, through my friendship with him, I know that his integrity is beyond reproach. He has a long and brilliant record as a teacher of American diplomatic history, inter-American relations and other subjects in the historical field at Boston University, the University of Maryland, the American University, and the strategic Intelligence School of our Armed Forces. He has achieved membership in Phi Beta Kappa and other societies as a result of his outstanding scholarship.

After wartime service in several Federal agencies, Dr. Dozer joined the Latin American Division of the Department of State. For that position, he was recommended by Dr. James P. Baxter III, formerly of Harvard University and now president of Williams College, and by Mr. John C. Dreier, who is now our ambassador to the Organization of American States. From 1944 through 1947, Dr. Dozer's high competence was rewarded by steady advancement. In 1947, he was placed in charge of the Division of Research for American Republics in the intelligence organization of the State Department. Four years later, Dr. Dozer transferred to the Historical Division as assistant to the Chief of the Division, Mr. G. Bernard Noble. In this position his duties were defined as follows:

Under general supervision, serves as adviser to the Chief of the Division of Historical Policy Research, GS-170-15-4476, on new historical research problems and projects which initially require consideration by the Chief of the Division. In this connection, provides technical advice and assistance in studying and analyzing such projects, particularly those which cut across branch lines.

Deals with assignments involving the planning and assimilation by the Division of projects arising as a result of recent developments and happenings in our foreign relations such as the war in Korea, our relationships with the countries of Europe under the Atlantic Pact and the historical issues leading up to its establishment, and similar events in our foreign relations, as well as special historical background papers which require special and expeditious handling. Advises and assists the Chief of the Division in regard to the planning, objectives, approach, content, analysis and conclusions to be developed with respect to such problems and projects as they relate to the historical aspects of our foreign relations.

As an expert in the field of intelligence research, reviews completed projects and studies for the purpose of assuring the proper treatment and integration of both historical and intelligence aspects; and assures that top policy officials of the Department are apprised of any problems which require special treatment and interpretation because of the unique and complex intelli-



gence and historical issues involved in our foreign relations.

During Dr. Dozer's more than 15 years of Government service, including more than 11 years in the State Department, all of his performance ratings were either very good, satisfactory, or excellent. They commended him particularly for his industry, cooperativeness, and subject competence. These commendations were signed by all his supervisors including Dr. Roland D. Hussey, now professor of Latin American history at the University of California at Los Angeles, Mr. Ellis O. Briggs, now American Ambassador to Brazil, and Dr. Allan Evans, Director of the Office of Intelligence Research.

Dr. Evans, who knows Dr. Dozer well, has praised him as a meticulous scholar by training, anxious to avoid any danger of falling into prejudiced or distorted judgment, and abiding carefully by established evidence.

Prof. William L. Langer, Coolidge professor of history at Harvard University, who became well acquainted professionally with Dr. Dozer while he was serving as Chief of the Research and Analysis Branch of the Office of Strategic Services and later as special assistant to the Secretary of State in charge of intelligence work, says that he formed a high regard for Dr. Dozer both as a man and as a scholar. He adds that Dr. Dozer was highly esteemed by his colleagues as an able, hard-working, and devoted analyst. Col. William A. Eddy, who replaced Professor Langer as special assistant to the Secretary of State for intelligence in 1946 and who, like Dr. Dozer, was a former student at Wooster College, knows Dr. Dozer well as a friend and former colleague and has indicated his high opinion of his work and his administrative activities. Mr. Park Armstrong, Colonel Eddy's successor as special assistant to the Secretary of State for intelligence from 1947 until his resignation early this year, has written that Dr. Dozer is, in his opinion, an outstanding figure in the Latin American field:

He possesses a profound knowledge of the historical, sociological, and economic background of the area and, as well, a thorough understanding of the current scene. He has a unique intellectual aptitude for the interpretation of present conditions and developments and a decided facility for its expression.

Dr. Dozer, as assistant to the Chief of the Historical Division, Mr. Noble, was commended by his chief in November 1951 as follows:

Performance very satisfactory in all assignments thus far undertaken. Has shown great interest, initiative, competence, and cooperative spirit in work.

In his performance rating a year later in December 1952 Dr. Dozer was commended as follows by the same chief:

Overall work performance is very satisfactory in all assignments within the range of his interest. This applies particularly to the field of United States relations with Latin America in which he has special competence.

All of Dr. Dozer's performance ratings up to the last one, dated May 22, 1955, were similarly laudatory.

In his State Department work Dr. Dozer, while still in the intelligence organization, qualified for and received civil-service status on the GS-15 register. Throughout his State Department service he possessed top-secret clearance; that is, he was authorized to see all documents having the highest security classifications "top secret" and "eyes only" needed for his work. He was designated as the sole representative of the State Department in Washington to attend the second Latin American Intelligence Conference at Quarry Heights in the Panama Canal Zone in 1948. In the same year he was included as a member of the United States delegation to the Ninth International Conference of American States and attended that conference at Bogotá, Colombia, as assistant technical secretary of the American delegation.

Dr. Dozer's association with the State Department ended in January 1956 as a result of differences precipitated by his insistence upon the prompt, careful, and unexpurgated publication of diplomatic papers in fulfillment of the commitments publicly assumed by the Department in 1953 and 1954.

I believe it is advisable to recapitulate the record of events which led to this disagreement. In 1953 when the Eisenhower administration came into office the Historical Division in the State Department, which was responsible for the publication of the diplomatic papers of this Government, had allowed them to fall 18 years in arrears. These papers had been published only through 1934 and thus covered only the first 2 years of the Roosevelt administration.

In May 1953 the State Department under a new administration proposed to expedite the publication of these records. Assistant Secretary of State Mr. Carl McArdle promised in a letter which was published in the Supplemental Hearing on Departments of State, Justice, and Commerce appropriations for 1954, first, that the Department of State would bring the publication of these volumes as up to date as possible; second, that if additional funds could be made available the State Department would give priority to the full story of the United States relations with China, 1941-50; and, third, that the documents on the wartime conferences among the heads of the Allied Governments in World War II would be ready for publication within a year; that is, by June 30, 1954. The Department of State thus offered to break the long silence of the previous 18 years and inform the American people of the negotiations that had been carried on with foreign nations in their name by their responsible officials during the crucial periods before, during, and immediately after World War II.

This broad program of publication was entrusted to the Historical Division, which had been headed by Mr. G. Bernard Noble since 1946. His assistant was Dr. Donald M. Dozer. Dr. Dozer has publicly asserted that from the beginning this program of publication was subjected there to delays, sabotage, and expurgation of records. In fact, Dr.

Dozer and other members of the division were not even assigned to the compilation of the wartime conferences until nearly 6 months later although those records had been promised to be ready for publication within a year. The assignment of one member of the division to this urgent project was postponed because priority was given to three other projects: These so-called priority projects were the great seal of the United States, buildings occupied by the Department of State, and portraits of the Secretaries of State.

Leads to material indispensable for the completion of the project, as, for example, the John Paton Davies notes of the Cairo Conference, papers in the Franklin D. Roosevelt Library at Hyde Park, and papers of Alger Hiss and Secretary Stettinius, were either not followed up or were followed up ineffectually by the responsible officials of the Division. After Dr. Dozer was finally given responsibility in October 1953 for compiling the records of the Cairo-Teheran Conferences of 1943, he met his deadline and had his compilation ready for publication by June 30, 1954.

Meanwhile at the congressional hearings on the State Department in April 1954, the Deputy Assistant Secretary of State for Public Affairs reiterated the commitments made a year earlier that the historical division would finish the compilation of papers of all 12 of the wartime conferences by June 30, 1954. In addition, he promised specifically that the Malta-Yalta, Potsdam, and Cairo-Teheran volumes would be published by June 30, 1955. He promised also that within 4 years, that is by June 30, 1957, the Historical Division would publish a total of 41 volumes, including the annual volumes of foreign relations, at the rate of 8 volumes for fiscal 1954, 11 volumes for fiscal 1955, 11 volumes for fiscal 1956, and 11 volumes for fiscal 1957. Congress thereupon appropriated a quarter of a million dollars for this specific purpose, during the fiscal year 1955.

In the 4 years 1953-57 Congress has appropriated close to a million dollars to the Historical Division of the State Department for this program. What has been accomplished? Where are the diplomatic papers that the State Department explicitly promised to lay before the American people? Most of them still remain hidden behind the iron curtain of the Historical Division. Of the five volumes of papers on the wartime conferences which were promised, only one—the Malta-Yalta volume, compiled originally in uncensored form by Mr. Bryton Barron and later censored prior to publication—has been published. Four years and a million dollars after the launching of this speedup program the Historical Division is still 18 years in arrears in the publication of the annual volumes of the diplomatic papers of this Government.

If a decision was ever made at top levels in the Government to kill this program and to continue to withhold from the American people the secret diplomatic record of their Government during the war and postwar periods,

that decision was never made known either to Dr. Dozer or to the Congress, which has continued for 4 years to appropriate all the money requested for it by the State Department.

On the contrary, the Historical Division was told officially in 1953 that this program was strongly backed by the White House. President Eisenhower himself publicly endorsed it in a press conference in April 1955.

It seems apparent that the forces in the State Department which have succeeded in delaying the overdue publication of these diplomatic papers have fully succeeded in ridding the Historical Division of both Dr. Dozer and Mr. Bryton Barron. These gentlemen were the two spokesmen within the Department whose insistence upon full and honest reporting caused an internal argument which culminated in their dismissal.

I believe that my colleagues here will agree that it is a most anomalous situation when trained, professional men such as Dr. Dozer and Mr. Barron are pilloried for their insistence that a department of Government carry out its stated commitments. We find such developments hard to imagine when they occur in Government. When such arbitrary action takes place, it is possible that the Department has discharged the wrong men. Although harmony may now prevail in the State Department's Historical Division, the problems which this incident discloses lead only to the conclusion that overhauling of the Division is needed and is, in fact, very long overdue.

The release of Dr. Dozer under the guise of inefficiency is a transparent ruse which hardly needs comment here in view of his services to the Department over many years. The unfortunate aspect of this affair is that it casts a cloud over the professional ability and standing of this fine and able gentleman. It is ironic indeed that this should occur to a fine scholar whose only fault was to pursue too diligently the ethics of his profession—namely, the objective reporting of facts. If the Historical Division wishes to rewrite history or to suppress information for narrowly political reasons, I feel certain that no scholar wishes to be associated with this process of "doublethink."

In this sense, Dr. Dozer's experience has been a service to the Nation. The fact that the unfortunate conditions it showed to exist in an important agency of Government are uncorrected is tragic indeed. Although objective scholarship is obviously persona non grata in the State Department, we can rejoice that Dr. Dozer's refusal to distort the truth about the conduct of our foreign affairs represents the kind of scholarship which is in the best tradition of American principles. I congratulate this gentleman and I feel certain that my feelings in this regard are shared throughout his profession and by those many public figures and newspapers who have spoken out in Dr. Dozer's cause.

## Congressional Investigation of International Labor Organization Imperative

### EXTENSION OF REMARKS

OF

HON. GORDON H. SCHERER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 29, 1957

Mr. SCHERER. Mr. Speaker, the Senate recently considered a resolution (S. J. Res. 73) to raise the ceiling on United States contributions to the International Labor Organization from \$1,750,000 a year to \$3,000,000 a year.

The Senate approved an increase of \$250,000, which would raise the ceiling to \$2,000,000 a year.

The resolution has now been referred to the House Foreign Affairs Committee. It will come up for discussion and action at the next session. It would be most constructive, therefore, to give the questions raised by this resolution some study in the meantime—and I therefore propose to go into it today, with the hope and expectation that what I have to say may lead to a closer examination of the advisability of the ILO budget increase.

Just what is the ILO?

Most of us know that it is a holdover from the League of Nations, and that it is now one of the agencies of the United Nations.

We know that it holds an annual conference every June in Geneva, attended by representatives of labor, employers, and government from each of its 78 member countries.

We know that the ILO is presumed to concern itself with the welfare and the standards of living of the workingman, all over the world.

We are told by the Labor Department, the State Department, and various international idealists, that the ILO is a vital instrument for the preservation of world peace.

But all of this still leaves us in the dark. I repeat—just what is the ILO, and what does it do?

Fortunately, we have available factual information on this subject, gathered from people who have had ample experience in ILO conferences. I refer in particular to William L. McGrath, of my own city of Cincinnati, who served for 6 years as a member of the United States employer delegation to the ILO, and has also served a 3-year term as a member of its governing body.

Mr. McGrath's reports on the actual workings of the ILO have aroused the National Association of Manufacturers and the United States Chamber of Commerce, which nominate the employer delegation to the ILO, to the point that these two organizations have seriously questioned the advisability of further participation in the ILO. They sent a delegation this year practically under protest, at the urgent insistence of the Government, and have recommended that the Congress of the United States conduct a searching joint investigation as to the advisability of the United

States continuing to remain a member of the ILO.

The concern of the NAM and the United States Chamber of Commerce lies in the fact that the ILO has long since ceased to be a body devoted to the affairs of labor, and has instead become a political forum and propaganda agency devoted chiefly to fostering the philosophy of socialism, communism, and nationalization of industry.

To further its purposes the ILO uses the convention device. As you know, a convention is, in effect, a draft of a basic law which, when ratified by member countries, stands as a treaty among the nations which have ratified it.

ILO conventions can be, and are, used as the framework for specific legislation in countries all over the world. Left-wing political orators use them to lend support to their campaign proposals. From the standpoint of ideologies the ILO is probably the most influential propaganda organization in the world today; and this propaganda is in the main absolutely contrary to the beliefs and principles of the United States.

We, that is, the great majority of us, believe in freedom for the individual; the ILO is dedicated to mastery by government. The underlying intent of practically every ILO proposal put forward in recent years has been along the lines of more power for government, more control by government, more regimentation by government, more regulation by government—until the state would be the complete master of human destinies and affairs.

In its earlier days the ILO devoted itself to subjects concerned directly with labor. But then, in 1944, the ILO passed the so-called Declaration of Philadelphia, which said, among other things, that it was a responsibility of the ILO to examine and consider all international economic policies and measures in the light of the attainment of conditions under which human beings pursue their material well-being and their spiritual development.

By incorporating this declaration in its constitution, the ILO assumed the presumed right to draft proposed international laws on any subject under the sun; and that is exactly what it has proceeded to do. Let me give you some examples:

The ILO has drafted a proposed international law to the effect that government should give people money for illness, injury, childbirth, unemployment, old age, invalidity, which is defined as the inability to engage in any gainful activity, and a morbid condition. Interwoven in the provisions of this convention is a complete system of socialized medicine.

The ILO has drafted a proposed international law to the effect that all private employment agencies should be put out of business, and all employment placement should be concentrated in the hands of government. If government can tell people where they must go for jobs, government can direct the destiny of mankind.



The ILO has drafted a proposed international law to the effect that government should pay benefits to employed women at the time of childbirth, that the children should be put into a government-run nursery, and that interruptions of mothers' working time for purposes of nursing the baby should be counted as working hours and paid for as such by the employer. I am told that when this convention was being drafted, an argument arose as to whether the convention should prescribe that a woman should nurse her baby for 1 hour during the working day, or for 2½ hours.

The ILO enacts recommendations as well as conventions—and in its recommendations it can give its socialistic ambitions full sway, for recommendations are pure propaganda, and do not have to be held within bounds which are practical for ratification purposes.

In 1955 the ILO passed a recommendation to the effect that in each country the public authorities, meaning government, should take over the education of all youngsters on the farm, providing them with textbooks, and teachers, prescribing examination requirements, and providing buildings, transportation, equipment, and so forth. This was a blueprint for the Communist technique of forcing young minds into the pattern prescribed by government.

In that same year the ILO recommended that the competent authority—meaning government—should prepare suggestions and guidance for the operation of canteens and cafeterias in industrial plants, subject to legal enforcement. In short, government is going to prescribe what people shall eat.

The ILO also enacts resolutions. One of its resolutions, passed under the pretext of dealing with unemployment, prescribed that government should take over production, allocation of markets, distribution of products, price fixing, wage fixing, financing—in fact, all phases of the economic system—and in addition, prescribed how workers should use their leisure time.

The ILO has what it calls a program of technical assistance. Theoretically, the ILO is supposed to send out experts to underdeveloped countries to help them increase productivity. But a large share of the technical assistance projects undertaken by the ILO turn out to be projects having to do with giving government a greater voice in the affairs of men.

For instance, the ILO calls the setting up of a social security system, the organization of a labor department, the establishment of a cooperative, the undertaking of a manpower survey, technical assistance. It is my suspicion that the technical assistance of the ILO consists largely of providing assistance in the promotion of socialism.

The Socialists took control of the ILO some years ago, when socialism took a firm hold in Europe. The underdeveloped countries of the Far East, impressed with Socialist ideas, followed the European pattern. Then in 1954 the Communists came back into the ILO in a big way. Russia returned as three

nations—the U. S. S. R., the Ukraine, and Byelorussia—and began to bring its satellites back in full strength.

Today the Soviet countries have a solid block of 36 potential votes in the ILO, as compared to 4 for the United States.

The recent Communist invasion of the ILO has operated to push the nature of its proposals further to the left. While the Socialists and the Communists compete for followers, they nevertheless agree on certain basic theories such as nationalization of industry and government regimentation.

The net result is that today, as I said before, the ILO is spreading the doctrines of socialism and collectivism all over the world.

The Labor Department and the State Department say that the ILO represents an opportunity to sell the American way of life and the competitive system to the rest of the world. But have our Government delegates ever stood up at an ILO conference and made such an attempt? The answer is "No."

The employer and worker delegates from the free countries of the world have tried to have the so-called employer and worker delegates from the Soviet nations disqualified, on the ground that they cannot possibly represent free associations of employers and workers, and are merely stooges of their governments and the Communist Party. But has the United States Government helped in this effort? Again, the answer is "No." Our Government's policy has been simply to accept the doctrine of coexistence.

In short, the Socialists and the Communists have been gaining increasing headway in the ILO, and the influence of the United States has been growing less and less.

Hour after hour, in the plenary sessions, I am told, the Reds condemn our way of life and make frequent abusive reference to the United States—and for the most part we just sit and take it.

And is an international forum in which free enterprise is damned by a continuous flow of leftwing and Communist oratory of any possible help in selling the philosophy of the United States or in the preservation of world peace?

This brings me to the question of the proposed increase in our annual contribution to the ILO. We are asked to give more money to an organization in which our influence has been growing steadily less, and which is becoming increasingly successful in selling the rest of the world the very principles to which we are most opposed.

But that is just the beginning of the budget story. The detailed facts are almost incredible.

The United States pays 25 percent of the ILO budget; the other 77 nations pay the rest. This means that we bear one-fourth of the cost, and have one-seventy-eighth of the votes.

Sixty-four member nations of the ILO pay a total of 24.07 percent of its budget. In short, 64 nations, all rolled together, pay less than the United States; and

yet those 64 nations, which include the smaller, underdeveloped and Socialist nations, can completely outvote the United States on any issue.

In 1955 the budget was apportioned among 66 member nations. But then the three Russian nations, the U. S. S. R., the Ukraine, and Byelorussia, came back in, and Honduras also joined. These 4 new members contributed 11.5 percent of the ILO budget. As a result, 41 nations got reductions in percentage allocations of ILO expense. But did the United States get a reduction? The answer is "No." For some years there has been a persistent drive within the ILO to get an even higher percentage from the United States of America.

The 1958 budget for the ILO contemplates a further percentage reduction for 27 member nations.

Now, in the face of the facts I have previously given you, let me ask this simple question—why should our country provide additional financing to an organization which is dedicated to the destruction of the very principles for which our country stands?

Of course, there are people who gaily assume that everything is for the good and that the ILO must be a noble enterprise because of its announced intentions. There are also people who may feel that the interests of the United States are well protected in the ILO because Mr. David Morse, Director General of the ILO, is an American citizen.

I would like to say a few words about Mr. Morse. Back in the Roosevelt era he was General Counsel of the National Labor Relations Board, and then became Under Secretary of Labor. He headed the Government delegation to the ILO, and then in 1948 was elected its Director General. This was a natural progression, the implications of which you can judge for yourselves.

When the Russians came back into the ILO, bringing their satellites with them in full force, Mr. Morse took a very factual view of the situation. After all, they represented a substantial increase in the ILO budget.

At the May meeting of the governing body this year, the question arose as to the reelection of Mr. Morse as Director General. His term was to expire in 1958. The governing body voted to extend his term for 5 more years.

Speaking in support of that proposal, Mr. Arutiunian, representing the Government of the U. S. S. R., said that he wished to stress the fact that Mr. Morse had been personally responsible to a very large extent for "certain developments in ILO activities in recent years"; that during his directorship it had become a universal organization, which made it possible to organize cooperation between countries which had different social and economic systems.

Following his reelection, Mr. Morse "hinted"—according to the Christian Science Monitor of June 27—that he would submit formal proposals soon for full ILO recognition of employer delegates for Communist countries.

I draw no implications and make no criticism of Mr. Morse. The executive

head of an international organization owes his allegiance to that organization, and must shape his policies in line with majority opinion of its membership.

When he assumed his office, Mr. Morse took the following oath:

I solemnly undertake to exercise in all loyalty, discretion, and conscience the functions that have been entrusted to me as Director General of the International Labor Office, to discharge these functions and regulate my conduct with the interests of the International Labor Organization alone in view, not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the International Labor Organization, and at all times to uphold the constitution of the International Labor Organization.

It is my understanding that Mr. Morse is an exceptionally able man, which he must be to hold the position he does. I simply wish to point out that the fact that Mr. Morse is an American citizen does not make him, in the ILO, an official representative of the interests of the United States. To carry through his job with honesty and integrity, he must follow the thinking of majority ILO membership, and such thinking is contrary to the philosophy of the United States.

I would like to mention another individual currently in the limelight in connection with ILO affairs, Joseph E.

Johnson, president of the Carnegie Endowment for International Peace.

Last year, when the NAM and the United States chamber launched a serious blast of criticism of the ILO, the administrative branch of the Government set up an independent committee composed of college professors to look into the matter. Mr. Johnson was the chairman.

The Johnson committee came up with a report to the effect that, although there were many things wrong with the ILO, it was nevertheless a glorious institution. I have always been intrigued by the unfailing instinct of people in Government to select a committee chairman who will come up with a report which suits their purposes.

Mr. Johnson showed up this June as one of the advisors on the United States Government delegation to the ILO Conference in Geneva. No doubt this is merely a singular coincidence.

I think it is high time that the Congress of the United States turned the spotlight on the ILO.

The Congress has not been in the least backward in turning the spotlight on organized labor. Why should we hesitate as far as the ILO is concerned? It is rather interesting that, when Dave Beck was wanted by Senator McCLELLAN's committee, the first story was that he

could not come because he was on his way to attend an ILO meeting in Hamburg. I believe the time has come for the Congress to take a new look at this whole ILO proposition.

I should like to explore this pertinent question—can anyone from the Labor or State Department, or any place else, point specifically to any particular advantage or accomplishment gained for the people of the United States as a result of our participation in the ILO?

I say that either the United States should be more effective in the ILO than it is now, or we should get out of it—one or the other.

But the correct answer can only be obtained by really digging into the subject. That is why I think we should have a joint Congressional investigation.

Mr. McGrath, who has devoted many months of time and effort to the ILO, was once told by a member of the State Department that as to ILO matters there were "global considerations which no mere businessman could be expected to understand." Perhaps there are global considerations which no mere Congressman can be expected to understand. If so, I would like to know what they are.

It is my present intention to introduce at the next session of the Congress a joint resolution calling for a complete investigation of the International Labor Organization.

## SENATE

FRIDAY, AUGUST 30, 1957

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

Rev. Albert P. Shirkey, D. D., minister, Mount Vernon Place Methodist Church, Washington, D. C., offered the following prayer:

God of our fathers, the alpha and omega, the beginning and the end, we call upon Thee for Thy benediction upon our President, every Member of the Senate, and all members of our Government. Take these weary servants of the people and refresh them by Thy grace. Enlighten them for these closing hours of decision. May God's presence protect them on their homeward journey, and make their hearts glad in the thanks of a grateful nation for their unselfish service.

What has been done in this Chamber that is weak make strong, overrule all things done in error, and forgive that which has been done for political profit at the cost of a nation's integrity and strength. Bless without measure the good things that have been undertaken for God and humanity.

Gracious God, save us from our enemies without who seek our destruction, and help us to overcome by faith the enemies within of fear and confusion, to the end that we may become a wiser and stronger Nation and a better leader in the world.

In the name of Jesus Christ, our Lord. Amen.

## THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the Journal

of the proceedings for the legislative days of August 28 and August 29 was approved without reading.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Maurer, one of its reading clerks, announced that the House had passed the bill (S. 1636) for the relief of Delfina Cinco de Lopez, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 6006. An act to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes;

H. R. 6908. An act to authorize modification and extension of the program of grants-in-aid to the Republic of the Philippines for the hospitalization of certain veterans, to restore eligibility for hospital and medical care to certain veterans of the Armed Forces of the United States residing in the Philippines, and for other purposes;

H. R. 8139. An act for the relief of Mrs. Catherine Pochon Dike;

H. R. 8490. An act to amend the Agricultural Adjustment Act of 1938, as amended, with respect to rice acreage allotments; and

H. J. Res. 73. Joint resolution placing certain individuals who served in the Armed Forces of the United States in the Moro Province, including Mindanao, and in the islands of Leyte and Samar after July 4, 1902, and their survivors, in the same status as those who served in the Armed Forces during the Philippine Insurrection and their survivors.

## HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated:

H. R. 6006. An act to amend certain provisions of the Antidumping Act, 1921, to provide for greater certainty, speed, and efficiency in the enforcement thereof, and for other purposes; and

H. J. Res. 73. Joint resolution placing certain individuals who served in the Armed Forces of the United States in the Moro Province, including Mindanao, and in the islands of Leyte and Samar after July 4, 1902, and their survivors, in the same status as those who served in the Armed Forces during the Philippine Insurrection and their survivors; to the Committee on Finance.

H. R. 6908. An act to authorize modification and extension of the program of grants-in-aid to the Republic of the Philippines for the hospitalization of certain veterans, to restore eligibility for hospital and medical care to certain veterans of the Armed Forces of the United States residing in the Philippines, and for other purposes; to the Committee on Labor and Public Welfare.

H. R. 8139. An act for the relief of Mrs. Catherine Pochon Dike; to the Committee on the Judiciary.

H. R. 8490. An act to amend the Agricultural Adjustment Act of 1938, as amended, with respect to rice acreage allotments; to the Committee on Agriculture and Forestry.

## ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on Thursday, August 29, 1957, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 1645. An act to authorize the Secretary of the Interior to grant easements in certain