SENATE

WEDNESDAY, JUNE 11, 1958

The Senate met at 10 o'clock a. m.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father, God, as in this pavilion of prayer we fling open the shuttered windows of our darkened lives to the revealing light of Thy presence, enable us in our daily work to reflect some broken beams of Thy glory. Teach us, we beseech Thee, how to be victors over circumstances, not victims of them. Save us from despair and defeat by a faith fit to live by, a self fit to live with, and a cause fit to live for.

In these perplexing and often baffling times that try our souls and test our character, may Thy strength sustain us, Thy wisdom instruct us, and Thy hand direct us this day and evermore. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, June 10, 1958, was dispensed with.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nominations of Eugene R. Gilmartin, of Rhode Island, to be United States judge for the District Court of Guam, Justus A. Gibson, to be postmaster at Mount Carmel, Ill., and Thomas D. McManus, to be postmaster at Channelview, Tex., which nominating messages were referred to the appropriate committees.

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

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the following committees and subcommittees were authorized to meet during the session of the Senate today:

The Committee on Rules and Administration;

The Committee on Banking and Currency;

The Fiscal Affairs Subcommittee of the Committee on the District of Columbia; and

The Railroad Retirement Subcommittee of the Committee on Labor and Public Welfare.

On request of Mr. MANSFIELD, and by unanimous consent, the Post Office Subcommittee of the Committee on Post Office and Civil Service was authorized to meet today during the session of the Senate.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. MANSFIELD. Mr. President, under the rule, there will be the usual morning hour for the introduction of bills and the transaction of other routine business. I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

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

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

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

PROPOSED TRANSFER BY NAVY DEPARTMENT OF BOATS TO CITY OF PIKEVILLE, KY.

A letter from the Under Secretary of the Navy, reporting, pursuant to law, that the Navy Department proposes to transfer a 17-foot skiff and a 16-foot wherry to the City of Pikeville, Ky.; to the Committee on Armed Services.

REPORT ON LIQUIDATION OF RECONSTRUCTION FINANCE CORPORATION

A letter from the Administrator, Small Business Administration, Washington, D. C., transmitting, pursuant to law, a report on the progress made in liquidating the assets formerly held by the Reconstruction Finance Corporation, covering the quarterly period ended March 31, 1958 (with an accompanying report); to the Committee on Banking and Currency.

APPLICATION FOR LOAN AND GRANT TO WALKER RIVER IRRIGATION DISTRICT, NEV.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, an application for a loan and grant to the Walker River Irrigation District, Nev. (with accompanying papers); to the Committee on Interior and Insular Affairs.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A resolution adopted by the Military Chaplains Association of the United States, at New York City, favoring the repeal of the act of February 18, 1896, providing for the special appointment for the Chaplain at West Point Military Academy; to the Committee on Armed Services.

A letter in the nature of a petition from the Right Reverend Dr. Father Basil, executive secretary of the Central California Homes for the Aged, Delhi, Calif., favoring the enactment of legislation to amend the surplus hardware program so as to grant eligibility to the nonprofit homes for the aged to receive surplus hardware; to the Committee on Government Operations.

A letter in the nature of a petition from the Right Reverend Dr. Father Basil, executive secretary, the Central California Home for the Aged, Delhi, Calif., favoring the enactment of legislation to modify the regulation of the labor code, section 222.5, so as to exempt nonprofit homes; to the Committee on Labor and Public Welfare.

Petitions signed by sundry citizens of West Covina, and Baldwin Park, both in the State of California, relating to the Presidential veto of the omnibus rivers and harbors bill, and the completion of the comprehensive plan for conservation and control of floodwaters in the county of Los Angeles; to the Committee on Public Works.

A letter in the nature of a petition from the Joint Committee on the National Capital, Washington, D. C., signed by Ralph Walker, chairman, requesting that publicity be given to any proposed changes in the Capitol Building; to the Committee on Public Works.

Resolutions adopted by the mayor and board of supervisors of the city and county of Honolulu, T. H., and the Board of Supervisors of the County of Maui, T. H., favoring separate action by the Congress on bills granting statehood to Alaska and Hawaii; ordered to lie on the table.

RESOLUTIONS OF KANSAS ASSOCIATION FOR WILDLIFE

Mr. CARLSON. Mr. President, on Monday of this week the Senate passed Senate bill 2617, amending the Migratory Bird Hunting Stamp Act of 1934.

The Kansas Association for Wildlife, Inc., has expressed its approval of that bill and also of several other bills that are pending in the Congress.

Inasmuch as I did not have these resolutions on Monday, and therefore could not make them a part of the debate, on that day, I ask unanimous consent that they be printed in the RECORD, and referred to the appropriate committees.

There being no objection, the resolutions were referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed in the RECORD, as follows:

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 7, MAY 18, 1958

Be it resolved by the Kansas Association for Wildlife, Inc., That we give our full support to identical bills S. 2617, H. R. 11607, H. R. 11642, and H. R. 12006, which provides a $3 duck stamp with 100 percent of funds derived therefrom to be earmarked for wetland acquisition; and

Resolved, That the Secretary of the Kansas Association for Wildlife, Inc., forward immediately to the entire Kansas delegation in both House and Senate copies of this resolution, with a request for early and favorable action; and

Resolved, That a copy of this resolution be forwarded to Hon. HERBERT C. BONNER, chairman, House Committee on Merchant Marine and Fisheries.

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 8, MAY 18, 1858

Be it resolved by the Kansas Association for Wildlife, Inc., That we urge the Senate Subcommittee on Agricultural Appropriations to restore to H. R. 11767, a Department of Agriculture appropriation bill, the 80 percent Federal share of cost on wildlife conservation practices under the Soil Bank program and to restore to $350 million the appropriation for conservation reserve payments in the fiscal year 1958–59, and to $450 million such appropriation for fiscal years 1959–60; and

Resolved, That copies of this resolution be forwarded to Senators FRANK CARLSON and ANDREW SCHOEPPEL.

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 9, MAY 18, 1958

Be it resolved by the Kansas Association for Wildlife, Inc., That we urge early and affirmative action by the Congress on S. 2447 authorizing expanded research into the effects of chemical pesticides on fish and wildlife and that copies of this resolution be directed to Senator WARREN MAGNUSON, chairman, Senate Subcommittee on Merchant Marine and Fisheries and to the members of the Kansas delegation in House and Senate.

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 10, MAY 18, 1958

Be it resolved, That Kansas Association for Wildlife, Inc., support the revised draft of bill S. 2496, the Watkins bill, which draft has been agreed upon by the executive departments and received by the Secretary of the Interior, Fred A. Seaton; and

Resolved, That the secretary of Kansas Association for Wildlife, Inc., be instructed to forward copies of this resolution to Senator WARREN G. MAGNUSON, chairman, Senate Committee on Interstate and Foreign Commerce, requesting early hearings on this measure to amend Public Law 732, the Coordination Act, and endorsing Secretary Seaton's revisions thereto; and

Resolved, That copies of this resolution be addressed to Senator ARTHUR V. WATKINS, the bill's author, and to Kansas Senators FRANK CARLSON and ANDREW SCHOEPPEL.

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 13, MAY 18, 1958

Be it resolved by Kansas Association for Wildlife, Inc., That the Secretary be instructed to forward copies of this resolution to Senators FRANK CARLSON and ANDREW SCHOEPPEL urging their support of H. R. 10746 which includes appropriations for the Forest Service and which has been referred to the Senate following passage by the House; and

Resolved, That we request our Kansas Senators to work for the appropriation of $8,120,000 for recreational areas and public use facilities in the national forests as well as the appropriation of $510,000 for wildlife habitat work in the forests, which appropriations are called for in H. R. 10746.

KANSAS ASSOCIATION FOR WILDLIFE, INC., RESOLUTION 14, MAY 18, 1958

Be it resolved by Kansas Association for Wildlife, Inc., That we favor the provisions of S. 1176, the wilderness bill, now before the Senate Committee on Interior and Insular Affairs and that we urge the Honorable JAMES E. MURRAY, chairman of said committee, and members of the Kansas delegation in the Senate to seek early and favorable action, both in committee and on the Senate floor, of this Senate bill, as revised in committee print No. 2.

THE CENTENNIAL OF SHATTUCK SCHOOL, FARIBAULT, MINN.—ARTICLES

Mr. THYE. Mr. President, earlier in this session, on May 21, I submitted a concurrent resolution to mark the centennial year of Shattuck School, in Faribault, Minn., which has just finished its centennial commencement exercises.

This memorable occasion at Shattuck was noted recently in the Christian Science Monitor; and I ask unanimous consent, Mr. President, that the two articles which appeared in the June 7 issue of that paper be printed in the RECORD at this point, and be referred to the Committee on Labor and Public Welfare.

Mr. President, Shattuck School is but a few miles from my home in Northfield, Minn. I have known of the school for many years, and have been greatly interested in it. Therefore, it is with a deep sense of appreciation that I have noted the splendid and informative article which was written by H. W. Bailey, and was published in the Christian Science Monitor. These articles will be of importance to the readers of the CONGRESSIONAL RECORD.

There being no objection, the articles were referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor of June 7, 1958]

SALUTE TO HISTORIC PREPARATORY SCHOOL CELEBRATING ITS 100TH YEAR—GREW UP WITH MINNESOTA

(By H. W. Bailey)

FARIBAULT, MINN.—One hundred years ago three dust-covered pioneer trail blazers paused on a picturesque bluff 50 miles south of Minneapolis. They nodded in agreement. This was it. Their search was ended.

On the following day the work of founding what is now the oldest secondary school of the Episcopal Church west of the Alleghenies was launched.

Without money or property, but with a burning zeal and a dogged determination, the three educators fired the imaginations of others and started a school which was to make history—Shattuck.

CELEBRATING WITH MINNESOTA

Today there is a certain grandeur about the wooded campus of the now famous Shattuck School overlooking the city of Faribault, Minn.

The stateliness of its solid stone buildings might well cause any man who visits it to exclaim, "I wish I'd been able to attend such a school." Today this distinguished preparatory school with a long history is celebrating its centennial—no small milestone for a school located in the Northwest region of the upper Great Lakes.

Now more than 3,000 living alumni, traditionally called "Old Shads," reside in every State in the Union, in all Territories and 22 foreign countries. One of every 73 living Old Shads is listed in Who's Who in America. Shattuck's facilities, spread over its 250 acres, are now valued at $7,500,000.

Each year at Shattuck there is what amounts to a great pilgrimage to this campus—that magnetic tug, well known to every Old Shad, draws him back. And little wonder, for having climbed their way to success in their chosen fields, these men now understand that Shattuck had subtly, yet surely, encouraged within them the makings of a man. It was more than a school to them.

While it is true that Shattuck is a church school, affiliated with the Episcopal Church, it is also true that a wide diversity of religious backgrounds is represented by the faculty and students. Nor is Shattuck a mold for future Episcopal theologians. Her alumni represent educators, diplomats, surgeons, artists, actors, business executives, engineers.

NOT A RICH MEN'S SCHOOL

A scholarship-aid program makes it possible for worthy boys from all economic levels to attend. The Reverend Sidney W. Goldsmith, Jr., rector and headmaster of Shattuck, has said, "We cannot lose sight of the fact that this school is dedicated to dealing with the whole man in preparation for life."

Recognized as one of the foremost preparatory schools in the United States, Shattuck channels its contribution to education through five distinct fields of development. Some activities, which might be considered extracurricular in other schools, are regarded as an important part of Shattuck's carefully balanced educational program.

Perhaps it is this approach at Shattuck which makes learning there not so much classroom cramming, but a way of life. Gradually there comes to its boys a striving for excellence in each of these five phases of development—academics, athletics, social life, ROTC, and worship.

As they walk the wood-paneled corridors and feel the eyes of past Shattuck greats looking down upon them from oil portraits, the students seem automatically to soak up the fact that they are expected to carry on a challenging tradition.

Worship embodies more than mere piety at Shattuck.

COMMUNITY ACTIVITY

"Worship," explains Headmaster Goldsmith, "is something considerably beyond a pious activity for pious persons. We see it as a community activity which day by day reminds us of our intended goals, our needs, our possibilities, and the sources of our power."

On Sunday a Shattuck student may attend the church of his choice in Faribault or he may worship in the school's magnificent Chapel of the Good Shepherd, considered one of the most beautiful churches in America.

This impressive structure is built of native blue limestone quarried locally. The 80-foot tower is entirely of stone, a feature rarely duplicated even now. Stonemasons from Europe were brought to Faribault to erect the tower.

On Shattuck's campus young men are learning not only how to sit reverently during a service, they are learning that religion is a practical reality to be applied to everyday life. They see Christianity, not as a shelter for stuffy fanatics but as a workable outward expression of an inward belief which, when properly applied, brings all other phases of life into balance.

CADETS AND CRACK SQUAD

Through its ROTC program, Shattuck boys cover the art of living from another angle, soaking up lessons in courtesy, teamwork, and military preparedness. The school's crack squad, a precision drill team which has never been defeated in competition, symbolizes the excellence to which all Shads aspire.

Here the school sees to it that academic training soars higher than a mere storing up of facts. The goal is a leading of sincere young thinkers toward an understanding of the significance in modern living. As a college preparatory school, Shattuck emphasizes English, mathematics, modern and classical languages, natural science, and history. The faculty-student ratio is 1 to 10, planned purposely for close association. Individual thinking, individual expression are encouraged.

Social activities are planned to arm students with social graces. Knowing how to properly meet and work with people is as important as any lesson to be learned, the staff feels.

And so with sports at Shattuck, piling up athletic trophies is not the driving force, here. The school offers a well-rounded physical training as one of its major contributions to education. This includes 12 varsity and intramural sports all scheduled to give the boys an understanding of team play as a part of the game of life.

Shattuck's educational program is not designed to produce intellectual snobs. The high, shining purpose of Shattuck is to equip its students with the ability to face life squarely with commonsense logic, to send forth men eager to help make the world a better place because they themselves, having entered Shattuck's doors, have learned to be better citizens.

SHATTUCK'S CENTURY MARKER

(By Millicent Taylor)

One hundred years is a long time, as history is written in the United States, and especially in the great rolling hills of the upper Great Lakes region that the people of Minnesota and on beyond like to call the Northwest. Shattuck School's early days saw a very different countryside. It was Indian country then. The years between have been the years of Minnesota's statehood. School and State are celebrating this centennial together.

This year's commencement is a 3-day program, June 6, 7, and 8. It is featuring parades, receptions, reunions, and the awarding of special citations, in addition to its traditional commencement activities.

BEGAN IN THE CHAPEL

Shattuck is a college preparatory school for boys. Included in the present enrollment are boys from 29 States, 4 Canadian provinces, Arabia, the Canal Zone, England, Ethiopia, France, and Venezuela. Affiliated with the Episcopal Church, this 100-year-old school began its 3-day celebration with a choral communion service in the beautiful Chapel of the Good Shepherd, offering thanksgiving for Shattuck's founding.

The centennial parade through downtown Faribault celebrated the joint birthdays of the school and the statehood of Minnesota. A marker was dedicated on the site where the Rev. James Lloyd Breck, Shattuck's founder, opened classes for 15 pupils on June 3, 1858.

Citations were awarded at a luncheon. The speaker was Dr. Athelstan Spilhaus, dean of the Institute of Technology, University of Minnesota. One hundred persons living in the United States and Territories have been chosen, following nationwide nominations, to receive centennial citations. This recognition is for making outstanding contributions toward the advancement of secondary education.

NEW WAY OF CELEBRATING

As far as the Shattuck centennial committee has been able to determine, I am told, no such program as this of the citations has ever been attempted in the field of secondary education. Editorial comments from all parts of the United States "signify interest in and approval of the project," says the Reverend Joseph M. McKee, centennial coordinator.

Today, June 7, at Shattuck, is Reunion Day—filled with meetings and greetings of fathers, mothers, and "Old Shads," with a band concert, competitive drill, retreat parade, drill of the crack squad, other things, and ending, of course, with a dance. Miss Centennial Minnesota will present the national colors to the company commander of the honor company after competitive drill.

Sunday should be a beautiful and memorable day for all. The traditional baccalaureate service and graduation day exercises center around the church, as in all church-affiliated schools. The Episcopal Bishop of Minnesota, the Right Reverend Hamilton H. Kellogg, will present the diplomas.

With this brief glimpse of a 3-day program of an historic old secondary school, you who know such schools in your own region or country can in imagination fill in details of days and years of progress down the century that has just passed, and salute with appreciation one more independent or private school for its quality contribution to education.

AMENDMENT OF REORGANIZATION PLAN NO. 2 OF 1953, RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION—LETTER AND RESOLUTION

Mr. HUMPHREY. Mr. President, as sponsor of the bill (S. 2990) to amend Reorganization Plan No. 2 of 1953, I was most interested to receive a resolution which was unanimously adopted at the annual meeting of the delegates of Dairyland Power Cooperative, endorsing the provisions of the bill. I ask unanimous consent that the resolution and accompanying letter be printed in the RECORD, and appropriately referred.

There being no objection, the letter and resolution were referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

DAIRYLAND POWER COOPERATIVE,
La Crosse, Wis., June 6, 1958.

Hon. HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR HUMPHREY: It is a pleasure for me to enclose herewith a copy of the annual report of Dairyland Power Cooperative, outlining its activities and results of operations for the calendar year of 1957.

The year was one of further significant progress in our goal of serving 95,000 farm families and rural businesses with ever-improving electric service. Despite inflation and for the 8th time in the last 10 years, we were again able to lower the net cost of producing a kilowatt hour of electricity. Our net costs were 28.9 percent lower than in 1947.

Electric power delivered to our 26 member distribution cooperatives exceeded 580 million kilowatt-hours, five times greater than in 1947. Individual consumption of members increased from 471 to 513 kilowatt hours per month. Our system studies indicate continued growth for the years ahead.

We hope you will find that our efforts and accomplishments here are worthy of your commendation. We solicit your continued support of the activities of Dairyland Power Cooperative and for the nationwide program of cooperative rural electrification.

We appreciate your introduction of the Humphrey-Price bill. You will be interested to know that at the annual meeting of the delegates of Dairyland Power, held in La Crosse on June 4, a resolution was unanimously adopted, endorsing the provisions of this bill. A copy of this resolution is enclosed herewith on a separate sheet.

Sincerely yours,

JOHN P. MADGETT,
General Manager.

AMENDMENT OF REORGANIZATION PLAN

Whereas Congress in enacting the Rural Electrification Act of 1936 wisely provided that the administration of REA should be nonpartisan and that the Administrator should be responsible to the President; and

Whereas pursuant to the authority vested in him by Reorganization Plan No. 2 of 1953, the Secretary of Agriculture has violated the spirit and intent of the Rural Electrification Act of 1936, by taking from the Administrator the power and responsibility to make loans in excess of $500,000 and giving this authority to politically appointed subordinates of the Secretary, thereby damaging the morale of REA and its administration of the REA Act; and

Whereas Senate bill 2990 has been introduced by Senator HUMPHREY to restore to the Administrator the functions and powers taken from him under section 1 of Reorganization Plan No. 2 of 1953: Now, therefore, be it

Resolved by the delegates from the 26-member cooperatives to the 1958 annual meeting of Dairyland Power Cooperative, That the enactment into law of S. 2990 is essential if REA is to be administered on a nonpartisan basis in accordance with the intent and spirit of the Rural Electrification Act of 1936 and if the Administrator is to act with the independence and responsibility which should be solely his.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURRAY, from the Committee on Interior and Insular Affairs, with amendments:

S. 3817. A bill to provide a program for the development of the mineral resources of the United States, its Territories and possessions by encouraging exploration for minerals and for other purposes (Rept. No. 1686).

By Mr. HENNINGS, from the Committee on Rules and Administration, without amendment:

H. R. 12521. An act to authorize the Clerk of the House of Representatives to withhold certain amounts due employees of the House of Representatives; and

S. Res. 310. Resolution authorizing the printing of additional copies of the hearing on saline water conversion.

By Mr. CHAVEZ, from the Committee on Public Works, without amendment:

S. 1985. A bill to authorize the preparation of plans and specifications for the construction of a building for a National Air Museum for the Smithsonian Institution, and all other work incidental thereto (Rept. No. 1687);

S. 2158. A bill relating to the procedure for altering certain bridges over navigable waters (Rept. No. 1688);

S. 2214. A bill to revise the authorization with respect to the charging of tolls on the bridge across the Mississippi River near Jefferson Barracks, Mo. (Rept. No. 1689);

S. 2964. A bill granting the consent and approval of Congress to a compact between the State of Connecticut and the State of Massachusetts relating to flood control (Rept. No. 1690);

S. 3392. A bill establishing the time for commencement and completion of the reconstruction, enlargement, and extension of the bridge across the Mississippi River at or near Rock Island, Ill. (Rept. No. 1691);

S. 3524. A bill to change the name of the Markland locks and dam to McAlpine locks and dam (Rept. No. 1692);

H. R. 2548. An act to authorize payment for losses sustained by owners of wells in the vicinity of the construction area of the New Cumberland Dam project by reason of the lowering of the level of water in such wells as a result of the construction of New Cumberland Dam project (Rept. No. 1694);

H. R. 4260. An act to authorize the Chief of Engineers to publish information pamphlets, maps, brochures, and other material (Rept. No. 1695);

H. R. 4683. An act to authorize adjustment, in the public interest, of rentals under leases entered into for the provision of commercial recreational facilities at the Lake Greeson Reservoir, Narrows Dam (Rept. No. 1696);

H. R. 5033. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark. (Rept. No. 1697);

H. R. 12052. An act to designate the dam and reservoir to be constructed at Stewarts Ferry, Tenn., as the J. Percy Priest Dam and Reservoir (Rept. No. 1698); and

H. J. Res. 382. Joint resolution granting the consent and approval of Congress to an amendment of the agreement between the

States of Vermont and New York relating to the creation of the Lake Champlain Bridge Commission (Rept. No. 1693).

By Mr. CHAVEZ, from the Committee on Public Works, with amendments:

S. 3053. A bill for the relief of Nettie L. Richard, Florence L. Morris, Tessie L. Marx, and Helen L. Levi (Rept. No. 1699); and

S. 3335. A bill to provide for a National Capital Center of the Performing Arts which will be constructed, with funds raised by voluntary contributions, on part of the land in the District of Columbia made available for the Smithsonian Gallery of Art (Rept. No. 1700).

DOROTHY (L.) TRAVIS JONES

Mr. CURTIS, from the Committee on Rules and Administration, reported an original resolution (S. Res. 313) to pay a gratuity to Dorothy (L.) Travis Jones, which was placed on the calendar, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Dorothy (L.) Travis Jones, wife of Lloyd W. Jones, an employee of the Senate at the time of his death, a sum equal to 1 year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce:

Rear Adm. Edward H. Thiele to be Engineer in Chief of the United States Coast Guard, with the rank of rear admiral; and

Albert L. Wilding, to be a commissioned instructor with the grade of lieutenant (junior grade), United States Coast Guard.

BILLS INTRODUCED

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

By Mr. HRUSKA:

S. 3978. A bill to provide for the revestment of certain lands or interests therein acquired for the Harlan County Reservoir, Nebr., by the reconveyance of such lands or interests therein to the former owners thereof; to the Committee on Public Works.

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

By Mr. NEUBERGER:

S. 3979. A bill to promote ethical standards of conduct among Members of Congress and officers and employees of the United States, and for other purposes; to the Committee on the Judiciary.

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

By Mr. MURRAY:

S. 3980. A bill to establish a Housing Conservation and Rehabilitation Finance Agency to provide loan funds for the conservation and rehabilitation of existing housing and for other purposes; to the Committee on Banking and Currency.

S. 3981. A bill to amend the Revised Organic Act of the Virgin Islands; to the Committee on Interior and Insular Affairs.

By Mr. POTTER:

S. 3982. A bill for the relief of Androula Neofitos Stephanon (Andoula Kyriacou Stephanou);

S. 3983. A bill for the relief of Chung Wai Wong; and

S. 3984. A bill for the relief of Wolfgang Stresemann; to the Committee on the Judiciary.

By Mr. HAYDEN:

S. 3985. A bill to authorize the establishment of the Hubbell Trading Post National Historic Site, in the State of Arizona, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 3986. A bill to authorize the Secretary of the Interior to enter into an agreement for relocating portions of the Natchez Trace Parkway, Miss., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HILL (for himself, Mr. STENNIS, Mr. EASTLAND, and Mr. SPARKMAN):

S. 3987. A bill granting the consent and approval of Congress to the Tennessee-Tombigbee Waterway Development Compact; to the Committee on the Judiciary.

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

By Mr. BIBLE (by request):

S. 3988. A bill to amend the District of Columbia Teachers' Salary Act of 1955; to the Committee on the District of Columbia.

RESOLUTION

Mr. CURTIS, from the Committee on Rules and Administration, reported an original resolution (S. Res. 313) to pay a gratuity to Dorothy (L.) Travis Jones, which was placed on the calendar.

(See the above resolution printed in full when reported by Mr. CURTIS, which appears under the heading "Reports of Committees".)

RECONVEYANCE OF CERTAIN LANDS IN NEBRASKA TO FORMER OWNERS THEREOF

Mr. HRUSKA. Mr. President, I introduce, for appropriate reference, a bill pertaining to the Harlan County Reservoir, Nebr.

The purpose of the bill is to authorize and direct the Secretary of the Army to determine what lands or interest in lands the Harlan County Reservoir, Nebr., are not required for project purposes, and to reconvey to the former owners, as defined therein, such lands or interest in lands heretofore acquired, at a price equal to that originally paid by the United States, with adjustments. Adjustments would include those for the flowage easements to which the conveyances would be subject.

It is my information, Mr. President, that some of the lands in question are now being farmed by former owners and other tenants, under lease from the Government. This fact would serve to indicate that, except for flowage rights, there is no present and immediate need for this land by the project itself. It would seem to indicate that conveyance of the land could be made subject to flowage easements without impairing in any way the operation or maintenance of the reservoir in question.

Therefore, reconveyance to the former owners would have the very beneficial effect of placing the land back on the local tax rolls, and would also restore the ownership to those from whom the land was originally taken, or if any such former owner is deceased, then to his spouse, if living, or if such spouse is also deceased, then to his children.

Among the former owners from whom such lands were acquired by the Government are: William and Glen Schoneberg; George Fishback, deceased; Frank L. and Alvina A. Pape; Harry W. Cramer; Harry W. and Carl H. Cramer; George W. and Cleta Mae Davis; E. Guy and Elsie Pearl Newton; Merle W. Callaway; heirs of the O. T. Brown estate; Thomas B. Ralston, Jr., and Elizabeth B. Sherwood; James A. McGeachin; and J. N. Ralston.

It is my hope, Mr. President, that early and favorable consideration will be given this bill by the committee to which it is assigned, and by the Senate.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 3978) to provide for the revestment of certain lands or interests therein acquired for the Harlan County Reservoir, Nebr., by the reconveyance of such lands or interests therein to the former owners thereof, introduced by Mr. HRUSKA, was received, read twice by its title, and referred to the Committee on Public Works.

FEDERAL ETHICAL STANDARDS ACT OF 1958, TO PROVIDE SAME CONFLICT-OF-INTEREST CODE FOR MEMBERS OF CONGRESS AS EXECUTIVE APPOINTEES

Mr. NEUBERGER. Mr. President, I long have thought that Members of Congress should be subject to conflict-of-interest laws just as are officials of the executive branch of Government. Today I am introducing proposed legislation designed to establish that principle.

The title of my bill is the "Federal Ethical Standards Act of 1958." It seeks to resolve a dilemma which long has disturbed thoughtful students of government in the United States. These men and women have wondered how Congress can demand of the officers of executive agencies higher standards of ethics and disinterestedness than Congress is willing to set for itself.

My bill would end that dilemma. With its enactment, Congress and the executive would be under substantially the same code with respect to corporate holdings and equities, private business transactions and related matters.

Let me cite only one example. Under existing law, no official or employee of the executive agencies can leave his public post and press any pending private matter before his old bureau or department until 2 years have elapsed. However, no such restraint applies to Members of Congress who quit the House or Senate. They can act as lobbyists or representatives for private interests immediately, even in questions or issues pending before committees on which they recently served. My bill would correct this paradoxical situation.

In other words, Mr. President, many of us have been concerned for quite a while over the broad general question of

who polices the policeman. Committees of Congress require Cabinet appointees of the President of the United States to divest themselves of stock holdings in corporations that have business dealings with the Federal departments which these appointees will administer. Yet, Members of the Senate and House can own shares or partnerships of businesses that are directly affected by legislation which these Senators or Representatives are drafting and voting upon.

This does not, of course, necessarily prejudice or corrupt their judgment on the merits of the issue before them, any more than the judgment of executive officials is necessarily prejudiced or corrupted in comparable situations. It should be clearly understood that the overwhelming majority of both elective and appointive officials are persons of exceptionally high standards of honesty and integrity who make the policy choices and decisions that come before them on the basis of their best judgment of the public interest.

The unfortunate truth, however, is that this fact is not clearly and universally understood to be the case. And the inconsistency between the rules which Congress, with a great show of righteousness, applies to executive officials and its failure to apply identical rules and standards to its own Members undoubtedly has reflected adversely on the reputation of Congress in the public mind.

Members of Congress are, I repeat, as honest, ethical, and as self-sacrificing as any other class of persons in our society, and yet it has often been remarked that comparatively Congress is the object of much skepticism and cynicism. Why have we thus presented an inaccurate and unflattering image in public opinion?

One reason, I believe, is that Congress never has submitted itself to the objective standards of disinterestedness, of full disclosure, and of other procedures which Congress righteously demands of executive officials and everyone else.

LAWS MAY BE DEFICIENT

I wish to emphasize, Mr. President, that in introducing this bill I am definitely not passing upon the wisdom, adequacy, or desirability of the existing conflict-of-interest statutes which Congress has seen fit to enact for observance by officials of executive departments and agencies. In my opinion, some of these provisions might well be reviewed and analyzed with a critical eye. However, I do not wish to engage in such a review in connection with my present bill in order to avoid complicating the simple question of extension of conflict-of-interest coverage to Congress. What I am saying today is this—as long as these standards are applied to the executive arm of Government, then they should apply equally to the legislative arm of Government. That is the purport of the bill.

I also desire to stress once more that introduction of this proposed legislation implies absolutely no criticism on my part of any Member of the Senate or the House. For instance, Mr. President, a few Senators and Representatives have been singled out from time to time for public comment because they are more affluent or financially successful than the rest of us. Their private wealth has been discussed in the press, and their holdings in industries influenced by legislation or regulation have been searchingly analyzed. Yet I think the record shows that this misses the point and may often be unfair to them. Actually, there are very few of us here in Congress who can be said to be wholly isolated from any and all situations that lend themselves to a charge of conflict of interest somewhere along the line.

To begin with, political campaign contributions from the owners and managers of business corporations and from trade-union, political-education funds involve, in and of themselves, a built-in role for money in politics which pertains to and colors all our elections. After all, nearly all these business and labor organizations are heavily involved in legislative matters every day that Congress is in session.

Secondly, Members of Congress are necessarily men and women who have private lives and careers in the communities from which they come prior to their entry into full-time, professional, public life. Like everyone else, they must either make a living at some form of business or professional pursuit or they must own sources of productive wealth. They may be farmers, property owners, or businessmen. In any case, they normally have some economic stake and interest in their communities when they become candidates for Congress, and it is not expected of them that they should wholly sever these interests in the economy which, after all, involves the ultimate interests and wealth of all of us. Nevertheless, we must recognize that the maintenance of such an economic stake in specific types of property on the part of Members of Congress may give rise to exactly the same questions about ethics and disinterestedness as Congress so often raises with respect to men who are drawn from the economic life of the community into executive positions.

To mention another point, many Senators and Representatives receive handsome speaker's fees from groups and organizations with many legislative interests. This has become necessary to the pocketbooks of many Members without substantial private means, in view of the heavy expenses of maintaining two separate residences—as almost all of us must do—and of meeting the needs of our offices beyond those now provided for by appropriations. My bill would seek to have information about such speaking and writing fees and other sources of outside income made public each year, so as to forestall public feeling that there is no check on possible abuses in this practice.

PERSONAL EXPERIENCE REFLECTED IN BILL

Mr. President, a situation involving a possible appearance of a conflict of interest can intrude itself into the affairs of a Senator or Representative at virtually any time, especially in times as complex as the present. Let me cite only one example. I am familiar with it because it pertains to me personally.

In the fall of 1957, during my brief vacation, I wrote an article about a famous and stirring episode in the history of the Oregon country—the founding of Astoria at the mouth of the Columbia River by the company of John Jacob Astor's ill-fated ship, *Tonquin*. I wrote the article because of the forthcoming Oregon centennial celebration. As my colleagues know, I am a professional author and writer in private life. I wrote the article myself, without assistance or collaboration. I did so both because of my deep and abiding interest in the dramatic origins and history of my State, and also in an effort to make some money to help pay the rather large stationery bills, lunch bills, radio-tape bills, travel expenses, and other obligations which seem to go with being a Senator.

I sold the article to a periodical which I regard as one of the finest ever published in America. This is American Heritage, a great magazine dedicated to the vivid presentation of American history. I was paid a fee of $500 for the article.

Then, rather early in the present session of Congress, the editors and publishers of American Heritage came before the Senate Committee on Post Office and Civil Service with a legislative request. Because American Heritage has a hard cover, it has been unable to qualify under law for second-class mailing privileges. This, of course, substantially increased its mailing costs. As a member of the Senate Committee on Post Office and Civil Service, I thought it outrageous that a distinguished periodical like American Heritage could not qualify for a second class mailing permit because of a very old reference to the matter of bindings in the law when such permits could go without question to many magazines that are little better than trash.

Within the Postal Rate Subcommittee, I became an active champion of an amendment to the rate act which would permit magazines with stiff covers—like American Heritage—to come within the scope of second class mailing permits. I am happy to report that this effort was successful. Such an amendment was a part of the postage pay-rate bill which President Eisenhower signed on May 27, 1958.

Yet, Mr. President, note the situation which confronted me. I had written an article for American Heritage and been paid $500 for the manuscript. As a Member of the Senate, I had sponsored a proposal admitting American Heritage to second-class mailing privileges. Between the two situations there was no more connection than there is between this Senate Chamber and the Polo Grounds in New York City. But somebody with ugly intentions and evil thoughts could still try to make something of it, even though the chronology alone would disprove any such charges.

Accordingly, I chose what seemed to me a reasonable solution to the problem. I have presented the $500 check to a fine educational institution in my State, Portland State College, to be used as a scholarship for a student or students specializing in the study of Oregon his-

tory. Mrs. Neuberger and I will present the scholarship formally next year, on the occasion of our State's 100th anniversary commemoration. The check itself has already been turned over to the president of Portland State College, Dr. John F. Cramer.

I have gone into detail about the episode, Mr. President, because I believe it illustrates how no Senator or Representative ever can consider himself or herself wholly free of situations which could seem to involve conflict of interest, actual or imaginary.

ROSCOE DRUMMOND COMMENTS ON FEDERAL APPOINTEES

I am aware of the fact, Mr. President, that a good many able leaders from business and industry, and also from law firms representing business clients, have been discouraged from entering Government service—or from staying in such service—because of the harassment they sometimes confront here, and because of the financial sacrifices involved in severing all connections with the private economy. This has been shown by a recent survey conducted at the Harvard Business School Club of Washington, D. C. The survey was capably analyzed by a column issuing from the pen of the distinguished columnist, Roscoe Drummond, and I ask unanimous consent that this significant article from the Oregon Journal, of Portland, for June 1, 1958, be reprinted in the RECORD at this point.

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

PRESIDENT FAILS TO RETAIN BEST BUSINESS HEADS

(By Roscoe Drummond)

WASHINGTON.—When General Eisenhower was campaigning for the Presidency in 1952, one of the most appealing and persistent promises he made to the American people was this:

"I am going to get the best brains in the country, the best executive talent, the widest experience and put them to work for the Nation."

He has been unable to do it.

With all the President's prestige and persuasiveness and personal charm, he has been unable to get the best brains, the best executive talent, the widest experience to work for the Government.

More often than not the most qualified, the most promising people refused to take a Government job and when they did they left it so soon that they hardly gave value received.

The situation is getting worse, not better. It has been getting steadily worse since the end of World War II.

The Harvard Business School Club of Washington, D. C., has just completed, under the direction of Dr. Wilford L. White, of the Small Business Administration, an invaluable study of "Businessmen in Government," their experiences, reactions, difficulties, and, most of all, the colossal disinterest of the business community in having them serve.

How hard is it to get the right business executives with the right skills in the places in Government where they are most needed?

The answer of the Harvard survey is that "there exists a frightening lack of interest in the business community for participation in the Government service" and that companies and most businessmen look upon serving the Government more as a "career detour" than as an opportunity for "broadened experience."

How hard is it for the Government to retain good business executives once it gets them? The answer reveals the most discomforting fact of all: More and more qualified businessmen are serving constantly shorter periods. The Harvard survey discloses this picture:

Period when service began:	*Percentage serving year or less*
1941–45 (World War II)	16
1946–49	37
1950–52 (Korean conflict)	67
1953–56	70

I am not suggesting that business is the only reservoir of executive talent for Government service. But it is an important reservoir and when you find a frightening lack of interest among businessmen to serve in the Government and when you find a steady decline in the length of time they are willing to serve, no wonder the President has to reach down into the bottom of the barrel for many of his appointments. Even the Korean war did not arrest the mounting desire to cut short the period of service in Washington.

It is fair to say, I think, that it takes fully a year to master the intricacies of top Government jobs. So what do you have when 70 percent of the businessmen in Government refuse to serve more than a year? What you have is 70 percent of the businessmen in Government learning their jobs and quitting as soon as they learn.

The central conclusion of the Harvard survey is that the United States never will be able to stand up in the race with the Soviet Union if it can't get better men in Government for longer periods.

"The new competition with Soviet Russia," the report states, "is more likely to be won in the sprawling bureaucracy of Washington than on some remote battlefield. If the military services can command a certain allegiance in their recruitment, how much more should the civil departments of the Federal Government do the same."

It will require a change in our whole attitude toward Government to bring this about.

Mr. NEUBERGER. Now, Mr. President, it is my firm opinion that the doctor ought to have to swallow some of his own medicine. In other words, I mean that Congress should come under the same conflict-of-interest scrutiny which it applies to officials and employees of the executive branch of the Government.

As drafted by the Senate Legislative Counsel, my bill proposes to accomplish this simply by extending to Members of Congress the major provisions which Congress—rightly or wrongly—has found to be appropriate so as to guard the purity of motives and disinterestedness of judgment of executive officials.

For example, as I have already mentioned, there is the limitation on the representation of claims against the Government while a person is occupying a Federal office, or for 2 years thereafter.

The bill would extend to Members of Congress the existing prohibition against carrying on any trade or business in the funds or debts or public property of the United States or any State.

The bill would also extend to Members of Congress the existing prohibition against receiving any compensation for governmental services from any nongovernmental source.

ADEQUATE FUNDS AND DISCLOSURE OF OUTSIDE INCOME PROVIDED

In addition, Mr. President, my bill would add two new provisions to the overall scheme of our present conflicts-of-interest legislation. The first of these would be a provision for disclosure of outside sources of income and financial interests. This would apply equally to Members of Congress and to appointed officials holding offices requiring confirmation by the Senate. Under the bill, such elected and appointed officials would file annually with the Comptroller General a report stating the amount and sources of each item of income or gifts—including speaking and writing fees—and expenditures that exceed $100, and a statement of his assets and liabilities and dealings in securities or commodities during the preceding calendar year.

Finally, Mr. President, my bill would seek to meet one of the main reasons why such things as speaking and writing fees or other sources of outside income are needed by Members of Congress without private wealth. Therefore, it contains a section which would pull together in one place the provisions for appropriating the sums to meet the various types of administrative and office expenses which all of us in the Congress must bear in meeting the heavy demands that are made upon our offices by constantly growing populations in our States. In this bill, I have not actually specified the precise amounts which are to be appropriated. I would leave this determination to the Committee on Rules and Administration to be fixed after a thorough study of the situation. This section of my bill is limited to the Senate, because, of course, it is up to the other House itself to make whatever arrangements it may deem proper and necessary to meet the same problem.

Primarily, however, Mr. President, I want to stress that there is no reason why the Senate should not enact, from time to time, in a single, coordinated, and public manner, all of the expenditures which are reasonably necessary to operate our Senate offices in accordance with modern needs, so that there will be no necessity for Members to supplement these appropriations with substantial additional personal outlays. While these appropriations may then appear somewhat larger than many people may today believe them to be, I have no doubt that the public will be satisfied to have the reassurance that the extensive demands which they themselves make upon their elected officials are met from governmental sources, and not from private funds—whether they be that official's own private wealth or such forms of outside income as speaking and writing fees or other.

Mr. President, in conclusion I ask unanimous consent that there may be printed in the RECORD the text of my bill, followed by a sectional analysis prepared by the Office of the Legislative Counsel, and by an article which I wrote for the New York Times Sunday Magazine of February 23, 1958, entitled "Who Polices the Policeman (Congress)?" in which I expressed at greater length some of the policy considerations which lie at the basis of my proposals.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill, sectional

analysis, and article will be printed in the RECORD.

The bill (S. 3979) to promote ethical standards of conduct among Members of Congress and officers and employees of the United States, and for other purposes, introduced by Mr. NEUBERGER, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That this act may be cited as the "Federal Ethical Standards Act of 1958."

CONFLICT OF INTEREST AMENDMENTS

SEC. 2. (a) Section 190 of the Revised Statutes (5 U. S. C. 99) is amended to read as follows:

"SEC. 190. It shall be unlawful for any individual who has served in the position of Member of or Delegate to the Congress, or of Resident Commissioner in the Congress, or as an officer or employee in the executive branch of the Government, to act as counsel, attorney, or agent for the prosecution of any claim against the United States which was pending in any department or agency of the United States while he occupied such position or served as such officer or employee, or to aid in any manner or by any means in the prosecution of any such claim within 2 years after he shall have ceased to serve in such position, office or employment."

(b) The first paragraph of section 283 of title 18 of the United States Code is amended to read as follows:

"Whoever, being a Member of or Delegate to the Congress, a Resident Commissioner in the Congress, an officer or employee of the United States or any department or agency thereof, or an officer or employee of the Senate or the House of Representatives, acts as an agent or attorney for the prosecution of any claim against the United States, or aids or assists in the prosecution or support of any such claim otherwise than in the proper discharge of his official duties, or receives any gratuity, or any share of or interest in any such claim, shall be fined not more than $10,000 or imprisoned not more than 1 year, or both."

(c) The text of section 284 of title 18 of the United States Code is amended to read as follows:

"Whoever, having served as a Member of or Delegate to the Congress, a Resident Commissioner in the Congress, or as an officer or employee of the United States or any department or agency thereof (including any commissioned officer assigned to duty in any such department or agency), within 2 years after the time at which such service has ceased, prosecutes, or acts as counsel, attorney, or agent for the prosecution of, any claim against the United States involving any subject matter with which such person was directly concerned in connection with his performance of such service, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both."

(d) Section 434 of title 18 of the United States Code is amended by adding at the end thereof the following new stentence: "For the purposes of this section, the possession of legal title to, or a beneficial interest in, 20 percent or fewer of the outstanding shares of the capital stock of any corporation, or entitlement to receive not more than 20 percent of the profits distributed by any other business entity for any period, shall not in itself be deemed to constitute a direct or indirect interest in the pecuniary profits or contracts of such corporation or other business entity."

(e) The text of section 1901 of title 18 of the United States Code is amended to read as follows:

"Whoever, being a Member of or Delegate to the Congress, a Resident Commissioner in the Congress, or an officer of the United States or any department or agency thereof concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any State, or in the public property of either, shall be fined not more than $3,000, or imprisoned for not more than 1 year, or both; and shall be removed from office, and be incapable of holding any office under the United States."

(f) The text of section 1914 of title 18 of the United States Code is amended to read as follows:

"Whoever, being a Member of or Delegate to the Congress, a Resident Commissioner in the Congress, or an officer or employee of the United States or any department or agency thereof, receives any salary in connection with his services as such Member, Delegate, Commissioner, officer, or employee from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

"Whoever, whether a person, association, or corporation, makes any contribution to, or in any way supplements the salary of, any such Member, Delegate, Commissioner, officer, or employee for the services performed by him in the execution of his office or employment as such—

"Shall be fined not more than $1,000 or imprisoned not more than 6 months, or both."

DISCLOSURE OF INCOME AND FINANCIAL INTERESTS

SEC. 3. (a) Each Member of the Senate and House of Representatives (including each Delegate and Resident Commissioner), and each civilian officer of the United States or any department or agency thereof holding any office to which he was appointed by and with the advice and consent of the Senate, shall file annually with the Comptroller General a report containing a full and complete statement of—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift (other than gifts received from members of his immediate family) received by him during the preceding calendar year which exceeds $100 in amount or value; including any fee or other honorarium received by any individual for or in connection with the preparation or delivery of any speech or address, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication, and the monetary value of subsistence, travel, and other facilities received by any individual in kind;

(2) the value of each asset held by him, or by him and his spouse jointly, and the amount of each liability owed by him, or by him and his spouse jointly, as of the close of the preceding calendar year; and

(3) all dealings in securities or commodities by him, or by any person acting on his behalf or pursuant to his direction, during the preceding calendar year.

(b) Except as hereinafter provided, reports required by this section shall be filed not later than March 31 of each year. In the case of any person whose service as a Member of the Senate or House of Representatives, or as Delegate or Resident Commissioner, or as an officer or employee of the United States, terminated prior to such date in any year, such report shall be filed on the last day of such person's service, or on such later date, not more than 3 months after the termination of such service, as the Comptroller General may prescribe.

(c) Reports required by this section shall be in such form and detail as the Comptroller General may prescribe. The Comptroller General may provide for the grouping of items of income, sources of income, assets, liabilities, and dealings in securities or commodities, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, or dealings in securities and commodities of any individual.

(d) Each report required by this section shall be made under penalty for perjury. Any person who willfully fails to file a report required by this section, or who knowingly and willfully files a false report under this section, shall be fined $2,000, or imprisoned for not more than 5 years, or both.

(e) All reports filed under this section shall be maintained by the Comptroller General as public records which, under such reasonable regulations as he shall prescribe, shall be available for inspection by members of the public.

(f) For the purposes of any report required by this section, an individual shall be considered to have been a Member of the Senate or House of Representatives, a Delegate or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, during any calendar year if he served in any such position for more than 6 months during such calendar year.

(g) As used in this section—

(1) The term "income" means gross income as defined in section 22 (a) of the Internal Revenue Code.

(2) The term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U. S. C., sec. 77b).

(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act, as amended (7 U. S. C., sec. 2).

(4) The term "dealings in securities or commodities" means any acquisition, holding, withholding, use, transfer, disposition, or other transaction involving any security or commodity.

(5) The term "member of his immediate family," when used in relation to any individual, includes the spouse, parent, stepparent, parent by adoption, child, stepchild, or adoptive child of such individual.

OFFICIAL EXPENSES OF MEMBERS OF CONGRESS

SEC. 4. (a) The aggregate amount of the basic compensation authorized to be paid annually for administrative and clerical assistance and messenger service in the office of each Senator shall be a sum determined in accordance with the following table on the basis of the population of the State of such Senator:

States having a population of:	*Amount*
Less than 3,000,000	$------
3,000,000 but less than 4,000,000	------
4,000,000 but less than 5,000,000	------
5,000,000 but less than 7,000,000	------
7,000,000 but less than 9,000,000	------
9,000,000 but less than 11,000,000	------
11,000,000 but less than 13,000,000	------
13,000,000 or more	------

(b) Each Member of Congress shall be reimbursed for all necessary and reasonable expenses incurred by him in traveling between his home and the District of Columbia on official business, except that no such traveling expenses shall be allowed under this act for more than ——— trips made in any year by any such Member from the District of Columbia to his home, or for more than ——— trips made in any year by any such Member from his home to the District of Columbia. Each Member of Congress shall transmit his voucher with respect to any amounts to which he is entitled under this subsection, in the case of a Senator, to the President of the Senate under rules and regulations prescribed by the Committee on Rules and Administration of the Senate, and, in the case of any other Member of Congress, to the Speaker of the House of Representatives under rules and regulations prescribed by the Committee on House Administration

of the House of Representatives, and such amounts shall be certified for payment by the Speaker or President of the Senate, as the case may be, along with the certificate for the monthly compensation of such Member. Any amounts so certified shall be conclusive upon all the departments and officers of the Government.

(c) Subject to such limitations as may be prescribed by the Committee on Rules and Administration of the Senate, there shall be paid from the contingent fund of the Senate—

(1) toll charges on official long-distance telephone calls made by or on behalf of Senators or the President of the Senate;

(2) charges on official telegrams sent by or on behalf of Senators or the President of the Senate; and

(3) airmail and special-delivery postage on official mail matter sent out by or on behalf of Senators or the President of the Senate.

(d) As used in this section—

(1) "Member of Congress" means any Member of the Senate or House of Representatives, any Delegate from a Territory, and the Resident Commissioner from Puerto Rico.

(2) "Home" means, in the case of a Member of Congress, any place within the State, Congressional District, Territory, or possession which he represents in Congress.

(3) "Session" means any regular or special session of the Congress, but shall not include any period during which the Congress is adjourned for more than 3 days to a day certain, or sine die.

(e) The following provisions of law are hereby repealed:

(1) Section 17 of the act of July 28, 1866 (2 U. S. C. 43);

(2) The proviso contained in the first section of the act of May 7, 1906 (2 U. S. C. 44);

(3) The matter relating to payment of charges on official telegrams and long-distance telephone calls, which appears under the heading "Contingent Expenses of the Senate" in the Legislative Branch Appropriation Act, 1947 (60 Stat. 392; 2 U. S. C. 46c, 46d, 46e), as amended;

(4) The fourth paragraph under the heading "Contingent Expenses of the Senate" in the First Deficiency Appropriation Act, 1949 (63 Stat. 77; 2 U. S. C. 46d–1); and

(5) The paragraph relating to airmail and special-delivery postage for Members of the Senate, which appears under the heading "Contingent Expenses of the Senate" in the Legislative Branch Appropriation Act, 1942, as amended and supplemented (58 Stat. 339; 59 Stat. 242; 65 Stat. 391; 68 Stat. 402; 69 Stat. 503; 70 Stat. 359; 2 U. S. C. 42a).

(f) Section 36 of the act entitled "An act to provide a civil government for Puerto Rico, and for other purposes," approved March 2, 1917 (39 Stat. 963), as amended, is amended by striking out "the sum of $500 as mileage for each session of the House of Representatives and".

(g) This section shall take effect on July 1, 1958.

The sectional analysis and article presented by Mr. NEUBERGER are as follows:

SECTIONAL ANALYSIS

Section 1 provides a short title for the act—the "Federal Ethical Standards Act of 1958."

Section 2: Except as noted hereinafter, this section would amend certain of the "conflict of interest" statutes to make them applicable specifically to Members of Congress, Delegates to the Congress, and Resident Commissioners in Congress.

Subsection (a): Would make applicable to such individuals the provisions of section 190 of the revised statutes, which now makes it unlawful for any officer or employee of any Government department, within 2 years after the termination of his office or employment, to aid in the prosecution of any claim against the United States which was pending in any department while the individual served as such officer or employee.

Subsection (b): Would make applicable to such individuals the provisions of section 283 of title 18 of the United States Code, which prohibits any officer or employee of the United States or any department or agency thereof, while serving as such, from (1) aiding in the prosecution of any claim against the United States "otherwise than in the proper discharge of his official duties," or (2) receiving any gratuity or interest in such claim in exchange for aid in the prosecution thereof.

Subsection (c): Would make applicable to such individuals the provisions of section 284 of title 18 of the United States Code, which prohibits any individual from aiding, within 2 years after the termination of his employment in any agency of the United States, in the prosecution of any claim against the United States involving any subject matter with which such individual was directly concerned in the performance of his duties in such employment.

Subsection (d): Would amend section 434 of title 18 of the United States Code, which prohibits any individual from serving as an officer or agent of the United States for the transaction of business with any business entity if such individual also is an officer, agent, or member of such business entity, or is directly or indirectly interested in the pecuniary profits or contracts of such business entity. The amendment would qualify that section by providing that possession of not more than 20 percent of the outstanding stock of any corporation, or entitlement to receive not more than 20 percent of the profits distributed by any other business entity for any period, shall not of itself be deemed to constitute a direct or indirect interest in the pecuniary profits or contracts of such business entity within the meaning of section 434.

Subsection (e): Would make applicable to Members of Congress, Delegates, and Resident Commissioners the provisions of section 1901 of title 18 of the United States Code, which prohibits officers of the United States concerned in the collection or disbursement of the revenues thereof from carrying on any trade or business in the funds, debts, or public property of the United States or of any State.

Subsection (f): Would make applicable to Members of Congress, Delegates, and Resident Commissioners the provisions of section 1914 of title 18 of the United States Code, which prohibits any Government officer or employee from receiving any salary, in connection with his services as such, from any source other than the United States Government or any State, county, or municipality, and prohibits any other person, association, or corporation from supplementing or contributing to the salary of any Government officer or employee for services rendered by him for the United States.

Section 3: This section would impose upon Members of Congress, Delegates, and Resident Commissioners, and upon civilian officers of the United States appointed after Senate confirmation, the obligation to file annually with the Comptroller General a report disclosing specified information concerning their personal financial status and transactions, and would provide for the administration of its provisions.

Subsection (a): Would require each such individual to include in each such report for each calendar year (1) the amount and source of each item of his income, and each item of reimbursement for expenditures, with specified exceptions, (2) a statement of his assets and liabilities, and those of such individual and his spouse jointly, as of the close of such year, and (3) a statement of his direct or indirect dealings in securities and commodities during such year.

Subsection (b): Would require such reports to be filed not later than March 31 of each year, except as otherwise specifically provided.

Subsection (c): Would authorize the Comptroller General to prescribe the form of such reports and the detail in which the required information is to be stated therein.

Subsection (d): Would require each report so made to be subject to penalty for perjury.

Subsection (e): Would require the Comptroller General to maintain such reports as public records available for public inspection.

Subsection (f): Would make the provisions of the section applicable to any individual who served as a Member of Congress, Delegate, or Resident Commissioner for more than 6 months in any calendar year.

Subsection (g): Would define terms used in the section. The term "income" would mean gross income as defined by the Internal Revenue Code, and would include (but would not be limited to) (1) any fee or other honorarium received for any speech, for attendance at any assembly of individuals, or for the preparation of any material for publication, and (2) the monetary value of any subsistence, travel, or other facilities received in kind.

Section 4: This section would provide means whereby more realistic provision could be made for the payment of expenses incurred by Members of Congress in the performance of their official duties.

Subsection (a): Would prescribe, in accordance with the schedule contained in existing law, the sums authorized to be paid annually for administrative and clerical assistance in the office of each Senator. The sums so to be authorized have not been inserted in the bill as introduced, the determination of appropriate amounts having been left for regular committee and floor procedure. As comparable provisions pertaining to Members of the House properly are a matter for determination by the House, no such provisions are included in the bill as introduced.

Subsection (b): Would provide for the reimbursement of each Member of Congress for necessary and reasonable expenses incurred by him annually on official business in making a number of round trips between the District of Columbia and his home. As in subsection (a), determination of the appropriate number of such trips to be authorized has been left for committee and floor determination. Under present law each Member is entitled to be reimbursed for only one such round trip per year for travel incident to the business of his office (as distinguished from the business of a committee of which he is a member).

Subsection (c): Would by a permanent provision of law authorize the Committee on Rules and Administration of the Senate to determine from time to time the amounts which may be paid from the contingent fund of the Senate for expenses incurred by the President of the Senate and by Members of the Senate for charges incurred by them on official business for long-distance telephone calls, telegrams, and airmail or special-delivery postage. Under present permanent law each Member is limited to 120 long-distance telephone calls to or from the District of Columbia aggregating 600 minutes per month, plus an expenditure of not more than $1,200 per annum on either calls to or from the District of Columbia or originating and terminating outside the District of Columbia. That requirement has been modified by a provision contained in the Legislative Appropriation Act for 1958 which makes an additional sum of $14,500 available during fiscal year 1958, for the payment, under regulations adopted by the Committee on Rules

and Administration, for the payment of telephone and telegraph expenses. Under present law each Senator is reimbursed for air mail and special-delivery postage expenses up to the sum of $400 per annum. For the reason stated with respect to subsection (a), no provision has been included with respect to the expenses of Members of the House.

Subsection (d): Contains definitions of the terms used in this section.

Subsection (e): Provides for the repeal of those provisions of law which would be replaced by the provisions of subsections (a), (b), and (c).

[From the New York Times Magazine of February 23, 1958]

WHO POLICES THE POLICEMAN (CONGRESS)?

(By Hon. RICHARD L. NEUBERGER, of Oregon)

WASHINGTON.—Once again the disturbing question of conflict of interest is racking the city that is our seat of government. This time those involved are predominantly members of powerful quasi-independent regulatory commissions, with particular emphasis on the personnel of the Federal Communications Commission, which allocates licenses for radio and television outlets. Some of these men have been charged by Congressional committees with accepting entertainment, travel expenses, speaking fees and reception equipment from various segments of the industry that they are supposed to supervise. Wives and other members of their families are also said to have shared in this hospitality. Certain of the charges have been challenged, but the basic issue continues as one of the thornier problems confronting representative government like ours.

How can private obligations be squared with one's responsibility to the public?

In these cases conflict of interest has been interpreted to mean that Federal commissioners may not be able to exercise their regulatory powers fairly and judicially when they are indebted for financial or social favors to those whom they must regulate. A television channel, after all, is a highly valuable piece of property. The dispensing of such property should never be influenced by any conflict of interest which stems from the showering of gifts upon the dispensator. Such is one crucial facet of the conflict-of-interest controversy.

Conflict of interest does not always take this form. Frequently it derives from a person's own acquisition, rather than from offerings pressed upon him. During the very recent past, Senate committees investigating the qualifications of various Cabinet appointees of President Eisenhower have suggested that these men sell their stocks in industries negotiating contracts with the Government. Such suggestions have affected the corporate holdings of Presidential selections from the business world like ex-Secretary of the Treasury George M. Humphrey and his successor, Robert B. Anderson, and ex-Secretary of Defense Charles E. Wilson and the man who succeeded him, Neil H. McElroy.

The implication has been that an inevitable conflict of interest occurs when the head of a government department must rule or pass upon contracts with a firm in which he himself retains an equity. It evidently would be taxing human nature too strenuously to expect strict impartiality in such circumstances.

Whenever the conflict-of-interest issue is raised on the floor of the Senate or House, or before a committee of either Chamber, the public stirs uneasily. The taint of corruption or shady dealings is sniffed in the land. Murmurings come from the political opposition, and often in highly inflammatory terms. The slurs over baked hams and deep freezes in the Truman administration still rankle Democrats and have not been forgiven. My Senate colleague from Oregon, WAYNE MORSE, has declared that President Eisenhower himself is guilty of a conflict of interest by accepting gifts of cattle and farm machinery for his Gettysburg estate.

The claim of conflict of interest, whether brought against Republican or Democratic regimes, invariably makes people commence to suspect that government has departed a long way from the ideals of Thomas Jefferson, who said, "When a man assumes a public trust, he should consider himself as public property."

Yet, as a Member of the United States Senate, I have some uneasy feelings of my own over the entire conflict-of-interest question, especially because the voicing of this question in any particular episode almost always begins in the Halls of Congress. Congress has set itself up to scrutinize the ethics and morals of the executive branch of government. But who watches Congress with respect to conflict of interest? Is the sentry unsullied? In other words, who polices the policeman?

Many different statutes pertain to the general matter of conflict of interest. One of these laws stipulates that "no person appointed to the office of Secretary of the Treasury shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States. * * *"

This is all well and good. The Secretary of our Treasury must be above suspicion. No conflict of interest should ever attach to him. Yet the Secretary merely carries out the broad policies of taxation, of maritime customs and arrangements, of tariffs, of banking procedures, which are fixed for him by Congress. Why, then, do not these restraints apply to Members of the Senate and the House? They can own a sea vessel, buy any securities they please, negotiate to run their grazing herds on public lands, and be very much interested indeed in carrying on the business of trade and commerce. Furthermore, they can accept speaking fees. Some of these fees not only run to $1,000 or more, but are offered by organizations and groups directly interested in issues pending before Congress.

What is the theory behind such a double standard of morality? Can it possibly be the settled notion of the American people that an appointee of the President, serving as Secretary of the Treasury, is likely to be motivated by his own financial self-interest but that an elected Senator or Representative will be immune to any of these temptations? Is Congress a law unto itself?

"You can't make a Senator do anything" exclaimed a Senator, KARL E. MUNDT, of South Dakota, during the dispute between the Army and the late Senator Joseph R. McCarthy in 1954. This seems to be the situation which lurks behind Congressional exemption from the code imposed on executive agencies. A Senator, or his counterpart in the House of Representatives, can do no wrong. This may have been what was meant by Dr. George Galloway and his collaborator, Cabell Phillips, when they wrote 5 years ago, in a book about the legislative process: "No one ever investigates Congress."

Yet I fear that it has a corroding effect on Government generally, when a member of the President's Cabinet can be ordered to jettison his corporate portfolio by Senators who themselves may be dabbling in oil, cotton-futures, television, hotel chains, or uranium. If Federal commissioners are to be pilloried for accepting hacienda suites at Palm Springs or airplane tickets to Palm Beach, how can Senators and Representatives continue profitable associations with law firms retained by banks, railroads, labor unions, and utility companies?

I want to emphasize that my thesis implies no criticism of any specific Senators or Members of the House. All are only doing what comes naturally. This is a matter of group behavior and not individual sin. The pattern has become accepted over the years. Most of our law-makers are fundamentally honorable and trustworthy, but custom and habit apparently justify many contradictions. Although celebrated careers as Congressional investigators have been built by looking for fly specks in governmental bureaus, our country's annals record few instances when conflict of interest ever was applied to a Senator or Representative.

In fact, Daniel Webster of Massachusetts has just been selected by a bipartisan Senate committee as 1 of the 5 greatest Senators of our history, to be heralded in a special portrait gallery at the Capitol. The choice of Senator Webster was recently eulogized on the floor of the Senate. But Webster once wrote to Nicholas Biddle, president of the controversial Bank of the United States: "I believe that my retainer has not been renewed or refreshed as usual. If it be wished that my relation to the bank should be continued, it may be well to send me the usual retainers."

This was conflict of interest with a vengeance—even at the point of blunt threats. The Bank of the United States was in need of a Federal charter at the moment. Yet Senator Webster has been chosen in our own time as one of the Senate's immortals. Why, in view of this, should lesser legislators worry about owning sea vessels or acquiring radio and television outlets?

I am encouraged by the fact that I am by no means the only Member of Congress troubled by the double standard surrounding the current crisis over conflict of interest. Senator PAUL H. DOUGLAS, of Illinois has lamented many times that Members of the House and Senate may accept valuable gifts or speaking fees which could be the downfall of a bureaucrat in one of the executive departments. Senators THOMAS C. HENNINGS, JR., of Missouri, and ALBERT GORE, of Tennessee, have sought to provide far closer scrutiny over funds spent for lobbying, influence-peddling and other avenues to Congressional favor. And Representative THOMAS M. PELLY, a Republican sent to the Capital by the populous Seattle district, recently told his colleagues:

"I raise the question as to whether bankers should be on committees that consider matters of benefit to banks. Should members who own farms frame legislation to support the prices of crops they raise themselves? * * * It is pretty obvious that if I owned an oil well, I should not be free to participate in setting the rates for depletion. Members of Congress have raised their eyebrows and also their voices, at times, over situations involving the ethics of members of the executive branch of Government. It seems to me the standard we have set for ourselves is not as high as the standard we have set for others."

As a member of the Senate Committee on Post Office and Civil Service, I have heard Presidential appointees to the Postal Department asked if they had any properties which might benefit from special classes of mailing rates. Of course, a conflict of interest was at stake in their replies. Yet a good many Members of Congress are engaged in daily or weekly newspaper publishing, and no question ever seems to be raised when they vote on the second-class mailing schedules that apply to newspapers.

I am the author of quite a few books, but I can participate without criticism in Senate discussions deciding the fate of the separate mailing rate for book publishers. As a Senator, I am free to file for a radio station wavelength, to bid on national forest time, or to prospect for minerals on Federal land. Yet, as a Presidential appointee

to the agencies handling these matters, I would be forbidden under the conflict-of-interest statute from any such undertakings. Ironically, the Senate and the House form the supreme policymaking arm of our country, which sets the rules for all these responsibilities of government, and many more, besides.

However, it is not even in this realm that I regard Congress as being the most paradoxically immune to the conflict-of-interest standard by which it measures Federal bureaus. I think the greatest degree of irony and contrast is to be found in the freedom of candidates for the Senate and House to collect huge campaign funds.

William S. White, of the New York Times, author of the Senate analysis Citadel, has written that it requires a $200,000 exchequer to win election as a Senator in a State of small population and at least $1 million in a large industrial State. This, it seems to me, narrows to a reductio ad absurdum the spectacle of a Senate committee breaking a poor Presidential appointee on the wheel because he owns some General Motors stock or is married to a woman who manufactures military uniforms.

To begin with, I believe that the native integrity of the average human being is most jeopardized by favors he has accepted from somebody else rather than because of any holdings which have long been his own. Our political system being what it is, most successful senatorial candidates take the oath of office after having received substantial benefactions from the political-action funds of labor organizations or from the owners of distilleries, sawmills, gas corporations, power companies, breweries, airlines, and mines.

If this is not conflict of interest, what is it? Such groups are as involved in legislation as was the Bank of the United States during Webster's era. Can it be that a Federal Communications Commissioner is susceptible to the loan of a color television set, but a Senator or Representative incurs no commensurate obligation because of a $5,000 campaign contribution from a leading stockholder in a broadcasting chain?

What is the solution to all this? Must we continue standards of behavior for the executive and legislative branches of government under which one is expected to observe antiseptic purity while the other may fare forth every 2 years in quest of campaign treasuries of ever-increasing size? It is estimated that all the major political contests of 1956 cost at least $200 million for radio and television time, elaborate headquarters, paid managers and agents, signboards along miles and miles of trunk highways, and prodigious quantities of buttons, badges, balloons, and similar gadgets. This sum is sufficient to create more conflict-of-interest dilemmas than could be unearthed by Scotland Yard, the Royal Mounties, and the Federal Bureau of Investigation combined.

My recommendations for correction are these:

(1) The executive and legislative wings should be governed by conflict-of-interest laws as nearly similar as their differing structures and composition will permit.

(2) Neither administrative appointees nor Members of Congress should be required to divest themselves of their corporate holdings or other possessions. The mere public listing of these equities annually ought to be enough in a democracy to assure that such ownership will not be subject to abuse.

(3) This public listing should include a record of any speaking fees larger than $100, of any travel reimbursement from private sources higher than this amount, or any gifts greater than this value, except from members of one's own family.

(4) President Theodore Roosevelt's recommendation of 1907 should be put into effect, which would liberate political candidates from the necessity of raising large purses from private donors by authorizing the Federal Government to finance each major party with a contribution of 20 cents per voter in Presidential years and of 15 cents in the off-year elections.

(5) Enforcement of these statutes should be removed as far as possible from politics, through a special nonpartisan agency in the office of the Comptroller General, which would supervise all laws dealing with conflict-of-interest or corrupt practices.

(6) The net financial worth of a Federal administrator or Member of Congress should be disclosed at the start of his public career, in much the same manner as Adlai E. Stevenson revealed his holdings in the Presidential campaign of 1952. I am convinced this kind of yearly accounting would do far more to curtail favoritism or pocketlining than any number of artificial limitations, such as forbidding a Secretary to own a "sea vessel" or trying to prevent a Senator from establishing a law-firm connection in his home State.

(7) Adequate provision should be made by the Government for the office expenses and travel needs of Members of Congress, so they will not be under compulsion to compete for questionable speaking fees and otherwise feel an urgency to augment their incomes. I know that many Senators exhaust their $1,800 stationery allowance and $300 fund for postage stamps long before the year is ended. After that, these supplies are paid for by the Member himself. In addition, one round trip annually between the National Capital and a Legislator's home State is rarely sufficient and plane or train fares across the continent to California, Oregon or Nevada are expensive.

These proposals, in and of themselves will not promote honesty in government. The stain of corruption or careless ethics is not thus easily removed. Nor are rules ever a substitute for men and women of character and enduring integrity. But such a code would have the great virtue of placing the executive and legislative branches on the same moral footing. And one of its genuine additional benefits would be to provide for enforcement outside the ordinary political zones of government. The Comptroller General is appointed for 15 years; that fact furnishes insulation from the hazards of each passing election.

Today, for example, we have statutes dealing with the disclosure of campaign contributors, but such laws are honored principally in the breach. My 1954 campaign in Oregon was comparatively underfinanced. My Republican adversary outspent me by at least 75 percent. I had not one billboard. I had a small 2-room office near the top of an unpretentious building, only two poorly paid employees and few printed brochures. My campaign had only limited television time—a few 1-minute spots and a single 15-minute program with my wife, who was a candidate for the legislature, on the night before the election.

Imagine my consternation, therefore, when I discovered that the Senatorial contest in sparsely settled Oregon had reported a much larger expenditure to the Secretary of the Senate than extravagant campaigns in some of the States of greatest population. I decided, then and there, that few United States Attorneys or Attorneys General cared to invoke the rather ambiguous Corrupt Practices Act against United States Senators.

But until we end this double standard, until we make a Senator as scrupulous about conflict of interest as a Cabinet member must be, we shall merely be shadowboxing when we talk about coming to grips with shabbiness in government. Nor will we be dealing fairly with Congress itself unless we promote affirmative and enlightened steps to free the average Senator or Representative from the humiliating necessity, every few years of collecting a well-filled purse to finance his continuance in public office.

GRANTING CONSENT OF CONGRESS TO TENNESSEE - TOMBIGBEE WATERWAY DEVELOPMENT COMPACT

Mr. HILL. Mr. President, on behalf of the junior Senator from Mississippi [Mr. STENNIS], the senior Senator from Mississippi [Mr. EASTLAND], my colleague the junior Senator from Alabama [Mr. SPARKMAN], and myself, I introduce, for appropriate reference, a bill granting the consent and approval of Congress to the Tennessee-Tombigbee Waterway Development Compact.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 3987) granting the consent and approval of Congress to the Tennessee-Tombigbee Waterway Development Compact, introduced by Mr. HILL (for himself, Mr. STENNIS, Mr. EASTLAND, and Mr. SPARKMAN), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. HILL. Mr. President, the bill, if enacted, would simply give the consent and approval of Congress to the Tennessee-Tombigbee Waterway Development Compact, and it quotes the compact as approved by both the Mississippi and Alabama Legislatures.

The bill also provides authority for any State to become a party to this compact without further submission to Congress and further reserves the right to Congress to alter, amend, or repeal this proposed act.

The purpose of this compact is to promote the development of the navigable waterway connecting the Tennessee and Tombigbee Rivers by way of the East Fork of the Tombigbee River so as to provide a navigable channel.

The compact provides that membership of the Tennessee-Tombigbee Waterway Development Authority shall consist of the governors of each party State and five other citizens of each party State, to be appointed by the governor thereof. This authority shall have power to hold hearings, to conduct studies and surveys of all problems, benefits, and other matters associated with development of this project.

The compact provides that when authorized by each party State's legislature, the party States will make available and pay the authority such funds as are required for operation of the authority.

The compact also states that the provisions of the compact shall continue in force until the legislature or governor of each State takes action to withdraw therefrom, provided that withdrawal shall not become effective until 6 months after date of action taken by the legislature or governor.

There is great merit to the Tennessee-Tombigbee Waterway, which was authorized by Congress in 1946. Within the last several years there has been a marked change in the potential economic benefit which would come from the construction to follow. Both Mississippi and Alabama have made great strides in obtaining new industries which would be served by this proposed waterway, all of which greatly strengthens the justification and the soundness of this waterway. In the last few years,

integrated chemical plants have been built and put into production within the reach of the Tombigbee River between Mobile and Jackson, Ala. Other manufacturers and chemical plants now have under consideration construction of facilities within reach of the Tombigbee. The industrial developments along the Tennessee River are also going forward at a most impressive rate.

The compact would pledge and bind the neighboring States of Alabama and Mississippi to cooperate and work together in making the Tombigbee River a navigable waterway.

The Corps of Engineers now has underway a restudy of the feasibility of this project, which is expected to be completed within the next few weeks.

The construction of this facility would greatly strengthen the economy of Mississippi, Alabama, and neighboring States, as well as the economy of the Nation. The Mississippi Legislature has appropriated $80,000 and the Alabama Legislature $100,000 to get this compact underway.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958—AMENDMENTS

Mr. McNAMARA submitted amendments, intended to be proposed by him, to the bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes, which were ordered to lie on the table, and to be printed.

Mr. COOPER submitted an amendment, intended to be proposed by him, to Senate bill 3974, supra, which was ordered to lie on the table, and to be printed.

Mr. KNOWLAND. Mr. President, I submit an amendment, intended to be proposed by me, to Senate bill 3974, the labor bill, and ask that it be printed and lie on the table, and that it also be printed in the RECORD at this point as a part of my remarks.

The VICE PRESIDENT. The amendment will be received, printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment was ordered to lie on the table, as follows:

On page 24, between lines 24 and 25, insert the following:

"(f) (1) Every national, international, or local labor organization engaged in an industry affecting commerce shall, upon the filing with such organization of a petition therefor signed by at least 20 percent of the members of such organization, provide for the holding of a referendum within 60 days after receipt of such petition at which each member of such labor organization who would be entitled to vote in an election to which the provisions of subsection (c) are applicable shall be entitled to vote by secret ballot on the question of whether or not he favors any proposal specified in such petition—

"(A) to amend, modify, revise, or repeal any provision of the constitution, bylaws, or other governing rules or regulations of such labor organization; or

"(B) to recall any elected officer or officers of such labor organization named in such petition.

"(2) If a majority of the members voting in any such referendum vote in favor of the proposal specified in such petition, such labor organization shall take such action as will give effect to the proposal adopted in such referendum. Not less than 15 days prior to the referendum there shall be mailed to each member at his last known home address a notice of the time and place of the referendum, unless the referendum is held at the regular time specified in the constitution and bylaws of such organization on file with the Secretary of Labor. The election officials designated in the constitution and bylaws, or the secretary if no other official is designated, shall preserve for 1 year the ballots and all other records pertaining to the referendum. The referendum shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this act."

On page 25, line 11, insert "or referendum" after "election."

On page 25, line 22, insert "or referendum" after "election."

On page 25, line 23, insert "or referendum" after "election."

On page 26, line 6, insert "or referendum" after "election."

On page 26, line 7, insert "or referendum" after "election."

On page 26, line 8, insert "or referendum" after "election."

On page 26, line 11, strike out "The", and insert in lieu thereof "In the case of an election, the secretary shall promptly certify to the court the names of the persons elected which shall thereupon enter a decree declaring them to be the officers of the labor organization."

On page 26, after line 14, insert the following: "In the case of a referendum conducted under section 301 (f), the secretary shall certify to the court the results of such referendum which shall thereafter enter an appropriate decree giving effect to such results."

On page 26, line 17, insert "or giving effect to a referendum" after "organization."

On page 35, after line 25, insert the following new subsection:

"(k) 'Officer' includes a constitutional officer or a member of any board, council, committee, or other body established by the constitution or charter of a labor organization which is empowered by such constitution or charter to exercise governing or executive functions with respect to such labor organization."

On page 23, line 2, strike out the word "constitutional."

On page 23, line 8, strike out the word "constitutional."

AMENDMENT OF INTERNAL REVENUE CODE OF 1954, TO CORRECT UNINTENDED BENEFITS AND HARDSHIPS—AMENDMENT

Mr. SMATHERS (for himself and Mr. BRICKER) submitted an amendment, intended to be proposed by them, jointly, to the bill (H. R. 8381) to amend the Internal Revenue Code of 1954 to correct unintended benefits and hardships and to make technical amendments, and for other purposes, which was referred to the Committee on Finance, and ordered to be printed.

NATIONAL CAPITAL CENTER OF THE PERFORMING ARTS—ADDITIONAL COSPONSORS OF BILL

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that when the bill (S. 3335) to provide for a National Capital Center of the Performing Arts which will be constructed, with funds raised by voluntary contributions, on part of the land in the District of Columbia made available for the Smithsonian Gallery of Art is reported from the Committee on Public Works—I understand that it will be reported today—the names of the senior Senator from Wisconsin [Mr. WILEY], and the junior Senator from New Mexico [Mr. ANDERSON], be added as cosponsors of the bill.

The VICE PRESIDENT. Without objection, it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE RECORD

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the RECORD, as follows:

By Mr. WILEY:

Statement prepared by him entitled "The Impressive Step Forward in Establishing a National Cultural Center in Our Nation's Capital."

ADDRESS BY ADMIRAL BURKE BEFORE PROPELLER CLUB SEAPOWER LUNCHEON

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SCHOEPPEL. Mr. President, yesterday Adm. Arleigh A. Burke, Chief of Naval Operations, delivered an address at the Propeller Club seapower luncheon. The address is of such importance and is so compelling, especially at this time, that I ask unanimous consent to have the remarks the Admiral made printed in the body of the RECORD.

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

ADDRESS BY ADM. ARLEIGH A. BURKE, UNITED STATES NAVY, CHIEF OF NAVAL OPERATIONS, AT THE PROPELLER CLUB SEAPOWER LUNCHEON, STATLER HOTEL, WASHINGTON, D. C., TUESDAY, JUNE 10, 1958

Mr. President, members of the Propeller Club, and distinguished guests:

I appreciate this opportunity to be with you today to say a few words about seapower, and what it means to our country.

In a few moments we will see and hear the Navy's 1958 seapower presentation as it was delivered to the Congress of the United States.

This presentation carries a message of importance. It describes the real breadth and scope of seapower in all its meaning for the Free World today. It shows that seapower does not mean simply a navy alone.

Seapower is not just men-of-war. It includes freighters, tramp steamers, passenger liners, tankers, and the many other ships which make up the merchant marine.

But seapower is even more than this. It is the sum total of weapons, ships, shipbuilding capacity, and geography which enable a nation to use the sea advantageously during peace and war.

These are the physical things, the tools of seapower. They can be made effective only by a nation whose people are aware of the advantages offered by the sea, and whose government understands the employment of its maritime assets.

For all its scope in terms of diversification of ships, weapons systems, and industrial skills, seapower is not mysterious or complicated.

On the contrary, it is based upon simple physical facts. Water is an excellent and economical means of transportation. There is nothing to compare with water transport in terms of mass capacity and economy.

The sea reaches all islands and continents on earth, where people live and fight, and do business. Ships can carry large quantities of people and goods over the homogeneous surface of the oceans.

There are no bridges to build, no mountains to cross, no tunnels to dig, and a ship can alter its course at will.

These are very substantial advantages which have not been diminished with the advent of air travel or the prospects of space vehicles.

In fact, with the great progress the world has made in communications and transport between land masses, seapower has become progressively more important as free nations have become more interdependent economically and militarily.

As populations have grown, as world resources have developed, maritime commerce has also increased. In the past 10 years world commerce has increased 50 percent.

Ten years ago United States waterborne foreign commerce was 188 million short tons. By 1956 this had risen to 327 million short tons—and it is still going up.

This indicates not only a continuing, but an increasing need for shipping.

Yet, while our waterborne foreign commerce has nearly doubled in 10 years, the percentage of this traffic in ships flying the American flag has gone down rapidly.

In 1947 American-flag ships carried 54 percent of our foreign oceangoing commerce. This percentage has been decreasing steadily since then until it is now just 20 percent.

The implications of this trend are too serious to be ignored. The United States is the greatest trading nation in the world today. We exported last year one-fifth of the world's total export trade of $100 billion.

We are heavily dependent upon the sea, and this demands that we not only control the sea but also that we have the means to use those seas. This means ships under effective American control.

Both in peace and in war, a strong American merchant marine is essential to the strength and well-being of our country.

American merchant marine capabilities are an important part of our national defense planning, which means that our commercial maritime capabilities must have the attention, the same vigorous approach to modernization which we apply to our military forces.

This is why the Department of Defense has emphasized the need for construction of modern passenger ships, and why we have fully endorsed legislation which will authorize their prompt construction.

Modern technology has provided us with new opportunities to strengthen our merchant marine. Just the other day Mrs. Richard M. Nixon waved an electronic wand which gave the signal to lay the keel of the first commercial nuclear ship *Savannah*.

This was an important milestone in the maritime history of our country. The door has now been opened to an entirely new way of seagoing life.

Nuclear power—pioneered in practical application by the United States Navy—is now being extended to the merchant marine as well, with the same historic significance as the introduction of steam, and the passage of sails from the oceangoing ships of the world.

This step represents the vigor with which American maritime interests are keeping pace with modern developments in technology. But we cannot afford to rest in contemplation of this new first in maritime development.

We know that the Soviet Union has taken a keen interest in the sea, and the Russians have moved out to sea with unprecedented energy and determination to learn more about it.

There is so little known about the depths of the sea. The sea areas of the world present mankind with virgin territory for exploration with untold economic significance.

Underwater exploration and scientific knowledge of the sea and its potential resources are only in their infancy.

As you know, the maritime nations of the world only recently concluded a conference at Geneva on the law of the sea. Much was accomplished there, but most significantly that conference demonstrated the importance which nations attach to the Continental Shelf and the waters surrounding them.

There were discussions on fishing rights, mineral rights, transit rights, and rights to the known and unknown resources on the floor of the sea for miles out from the shoreline.

We do not know, of course, what resources may be untapped beneath the surface of the world's oceans. But the 70 percent of the earth's surface which is involved is reason enough to conclude that if we do not undertake to probe the world's maritime resources, somebody will. This could be costly for us in terms of the maritime advantages we now enjoy, and the headstart we have as the world's foremost seapower.

There is a lot of hard work ahead for all of us—for shipbuilders, for shipping lines, for the American Merchant Marine, and for the United States Navy—in keeping our country supreme on the seven seas of the world.

Our partnership in American seapower is essentially an investment in Free World security and progress. In this we all have an equal responsibility for generating more general public awareness of the vital role the seas will continue to play in the life of our Nation for many, many years to come.

REORGANIZATION OF DEFENSE DEPARTMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for 25 minutes.

The VICE PRESIDENT. Is there objection? Without objection the Senator may proceed.

Mr. MANSFIELD. In a message to Congress on April 3, 1958, President Eisenhower set forth his recommendations for reorganization of the Department of Defense. On April 16, 1958, a bill, H. R. 11958, was introduced which was announced as the administration's proposals to enact the President's proposals into law. The administration's bill was referred to the House Committee on Armed Services. Hearings were promptly held by that committee, at which major officials for the administration testified at length.

At the conclusion of these hearings the House Committee on Armed Services introduced a new bill, H. R. 12541. The committee bill was developed in consultation with administration representatives and with representatives of the White House. Before the bill was introduced, the President announced his congratulations to the committee and stated that "by and large the bill seems to deal positively with every major problem I presented to the Congress." He expressed reservations on two points.

In later strongly worded public statements, the President expressed his displeasure with three points in the committee's bill. Those three points are as follows:

First. Direction, authority, and control exercised through the respective Secretaries of the military departments.

Second. Roles and missions.

Third. Legalized insubordination.

I. DIRECTION, AUTHORITY, AND CONTROL EXERCISED THROUGH THE RESPECTIVE SECRETARIES OF THE MILITARY DEPARTMENTS

Under present law, the National Security Act of 1947, as amended, places the Departments of the Army, Navy, and Air Force, within the Department of Defense and makes them military departments in lieu of their prior status as executive departments. The Secretary of Defense is the head of the Department of Defense and is designated as the principal assistant to the President in all matters relating to the Department of Defense. The Secretary of Defense has, under the National Security Act, direction, authority, and control over the Department of Defense. Present law also prescribes—section 202 (c) (4)—that the Departments of the Army, Navy, and Air Force shall be separately administered by their respective Secretaries under the direction, authority, and control of the Secretary of Defense.

The President has contended vigorously that the provision that the military departments be "separately administered" is a "hindrance to efficient administration" and that it is "inconsistent and confusing." During the hearing on the administration's bill, witnesses were asked to cite instances where the authority of the Secretary of Defense was challenged or hampered in any way by these words. No convicing evidence could be produced. No single instance was cited wherein the authority of the Secretary of Defense was effectively challenged.

Nevertheless, the issue has been raised; and the Committee on Armed Services examined in detail the question of how the Secretary of Defense was to exercise his authority and what position the military departments were to have if they were not to be separately administered by their respective Secretaries.

As a result of this study, the committee bill provides that each military department shall be separately organized under its own Secretary and shall function under the direction, authority, and control of the Secretary of Defense exercised

through the respective Secretaries of such departments.

The committee had the firm assurance of the President and all of the administration witnesses that merger of the military departments was not contemplated. It was, in fact, unthinkable from an administrative point of view. If the military departments are not to be merged, it follows they must be separately organized.

The President stated in his message of April 3, that he did not question the necessity for continuing the military departments, and that there is a clear necessity for the Secretary of Defense to decentralize the administration of the huge defense organization.

In keeping with these feelings, which the Armed Services Committee apparently shared, the committee's bill removes the language found offensive by the President and substitutes language which provides for precisely the type of organization the administration contended was necessary.

However, the administration objected to the words "exercised through the respective Secretaries of such departments." It is contended that such language is ambiguous and can be interpreted in such a way as to make the Secretaries of the military departments administrative bottlenecks to effective, direct control by the Secretary of Defense.

If the military departments are to be separately organized, not merged into one conglomerate unmanageable mass, each department must have a head and that person must be responsible for the affairs of his department. Without such a responsible head who has clearly established boundaries of responsibility the integrity of each department is gone, and with it goes the decentralization which the President says is necessary.

Without the language requiring the Secretary of Defense to exercise his authority, direction, and control through the Secretaries of the military departments, the Secretaries of the military departments would lose their power and authority to administer their departments. The military departments would become one great amorphous mass with every official in the Department of Defense possessing a license to bypass the service Secretaries. Under these conditions, there would be no need for service Secretaries. They could not be held responsible for their respective departments. Either there will be three military Secretaries operating under the direction, authority, and control of the Secretary of Defense and responsible for their military departments, or there should no longer be three military Secretaries responsible for these military departments.

To provide that authority shall be exercised through the Secretaries of the military departments does nothing more than establish a chain of command which is clearly understood by every military man and by every person familiar with the principles of leadership and sound business organization. The chain of command prescribed in the language is the same as that prescribed in military organization manuals as a basic principle of sound organization. The commander exercises his command through his subordinate unit commanders. The validity of this doctrine has been established through centuries of military experience. When the doctrine is not followed there is chaos, confusion, and a disintegration of the organizational structure.

As the House Armed Services Committee observed in its Report No. 1765 of May 22, 1958:

> Elimination of this line of command and responsibility from the Secretary of Defense to the Secretaries of the military departments would mean, for all practical purposes, the commingling of the operations of all departments and services within the Office of the Secretary of Defense which would become a huge overcentralized, and unmanageable administrative conglomeration.

The chain of command prescribed in the committee bill pinpoints responsibility and clarifies beyond argument the civilian line of command within the Department of Defense. It in no way impinges upon the authority of the Secretary of Defense over his department, nor does it hamper in any way his and the President's direct control over unified and specified commands.

The administration would delete the prescription that the Secretary of Defense exercise his direction, authority, and control over the military departments through the respective Secretaries of those departments. Yet, spokesmen for the administration have affirmed and reaffirmed their intentions to preserve the integrity of the departments and their military services. The administration representatives have said merger is not planned nor would it be desirable. They have declared that decentralization is essential and that the Secretaries of the military departments must be responsible for their departments. It is impossible to reconcile such objections to this provision with the repeatedly expressed statements of administration intentions.

II. ROLES AND MISSIONS

The proposal of the President, with regard to certain aspects of the authority sought for the Secretary of Defense, would transfer a constitutional power exclusively legislative in nature to an appointed officer in the executive branch of the Government. The administration bill would permit the Secretary of Defense to transfer, reassign, abolish, or consolidate any function, including combatant functions, by simply notifying the Armed Services Committees 30 days before the change was to take effect.

If Congress were to thwart such a move, it would be necessary to pass a law prohibiting such action by the Secretary of Defense. Since the Secretary's proposal would undoubtedly have Presidential approval prior to its submission, then it could be expected that the President would veto such legislative action. Consequently it would be necessary for Congress to muster the necessary votes to override a veto in order to protect a statute on this subject.

H. R. 12541, the product of the House Armed Services Committee hearings and deliberations, would make some changes in this procedure. Under this bill, if a member of the Joint Chiefs of Staff were to object to the transfer of a function from one service to another, the matter would be brought to the attention of the Congress. If, within 60 session days, Congress were to pass a concurrent resolution in opposition to such a proposed plan, the action could not be taken. Thus, the difference between the two bills is that under the House version a majority of the Congress could thwart the nullification of a law by the Secretary of Defense, while under the President's proposal it would take two-thirds of each body of the Congress to prevent such action.

The President has taken violent exception to the provisions of H. R. 12541 on the basis that the language would vest "astonishing authority in one military man," would be an impediment to progress, subordinate civilian judgment, and repudiate flexibility of combat functions.

These objections of the President are indeed surprising when examined in context with the subject. For example, his first objection is that the House bill would vest too much authority in one military man. It is apparent that he refers to the ability of one member of the Joint Chiefs of Staff to bring the issue of the transfer of a combatant function from one service to another before the Congress. The fact that this is merely a statutory vehicle for presenting to Congress basic issues of military policy, which are properly the concern of Congress, escapes the President as does the more important fact that his bill would in truth vest even more astonishing authority in one man, the Secretary of Defense. This authority in the Secretary of Defense is indeed extraordinary because it is contrary to the explicit provisions of the Constitution and violates the fundamental philosophy upon which our Government is formed. The Constitution gives certain responsibilities with regard to our military forces to the Congress. They include the responsibility of providing for the common defense, of providing and maintaining a Navy and raising and supporting armies. In addition Congress has the exclusive legislative power. To deliver to the Secretary of Defense the responsibility for prescribing the broad and general roles and missions of our armed services would be in violation of each of these constitutional provisions.

The President's contention that it subordinates civilian judgment, authority, and responsibility and is an endorsement of the concept of military superiority over civilian authority is equally difficult to understand. To say that the fact that Congress would have a reasonable opportunity to act in prevention of the repudiation of a law by the Secretary of Defense constitutes in any way a derogation of civilian judgment or authority is almost beyond belief. The fact that the House bill would in some measure prevent the repeal of a law by unilateral executive fiat should leave no doubt that civilian authority is strengthened. It is not certain how much mili-

tary thought would be behind such a Pentagon plan but it is reasonably certain that very little military thought would be involved in the legislative action required to review such a proposal under the House bill.

The National Security Act sets forth in broad terms the general functions of each of the services. The President and the Secretary of Defense have the authority, and have frequently exercised it, to assign the details of these combatant functions. There is no evidence that this system has failed to meet the requirements of flexibility. Congress has indicated its willingness by repeated action to change or add to the National Security Act. If developments indicate that changes are required then the Executive, acting under the Constitution, should present such recommendations to the Congress. Now it might be said that this would not provide a system with sufficient speed. There is no reason to draw this conclusion because certainly if the matter were presented in its proper picture the Congress could and would act at least within the 30-day period which the President's bill sets forth. The important difference is that this would be compliance with our constitutional legislative process while the plan of the President would be in direct violation of this procedure.

It has been said that so long as Congress has the purse strings it need not worry about its ability to discharge its constitutional responsibilities with regard to the armed services. An examination of recent history discloses immediately the fallacy of this proposition. There are many instances whereby the will and intent of Congress, expressed by way of appropriations for particular purposes, has been denied by executive action. Congress may appropriate whatever it desires but unless the Executive will expend that money for those purposes the legislative action has little effect.

I invite the attention of Senators to the fact that in 1950 Congress added an additional amount of money to the request of the Defense Department in the appropriation bill to allow for a 70-group Air Force. Under a Democratic administration those extra funds, above the 48-group Air Force, were impounded and not used.

Under the present administration, 3 years ago the Senator from Missouri [Mr. SYMINGTON] offered, and the Congress approved, an amendment to allow the Marines $40 million in addition to the budget allowance so that the Marines could be kept at the statutory floor of 3 combat-size divisions and 3 air wings. Mr. Wilson, the Secretary of Defense, did not use that money, and tried to divert it to other purposes than those intended by the Congress. The result was that, due to the action of the distinguished Senator from Georgia [Mr. RUSSELL], chairman of the Armed Services Committee, those funds were returned to the Treasury.

This year, of the $33,200,000 which is supposed to be spent for facilities and equipment for the National Guard, something on the order of $10 million has been spent, and the other $23,200,000 has been impounded, or at least not used.

Also, in the past week the House allowed an additional sum of money to keep the Army at 900,000 men, rather than the 875,000 men proposed by the administration.

I quote from this week's Newsweek, dated June 16, 1958. This information has been carried in the press. This is a quotation relative to the action concerning the will of the Congress, and what may happen to that intent generally when the Executive takes over control:

> Undaunted by the House action, Secretary of Defense Neil McElroy carried the administration's fight for its original plan to the Senate Appropriations Subcommittee. He told the Senators frankly that the Defense Department doesn't intend to spend the extra $99 million voted to provide the 30,000 extra soldiers. Nor does it, he said, intend to spend $45 million voted for 25,000 additional marines, $82 million to restore a 10 percent cut in the National Guard and Reserve, and more than $683 million for 4 Polaris-missile submarines over 5 already planned.

If Congress is to perform its duties and live up to its constitutional responsibilities, control of the general missions and functions of the several services must be retained.

III. LEGALIZED INSUBORDINATION

The National Security Act of 1947, as amended, now provides in section 202 (c) (6) as follows:

> No provision of this act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendation relating to the Department of Defense that he may deem proper.

The bill which received the unanimous approval of the House Armed Services Committee (H. R. 12541), retains this provision.

President Eisenhower has declared that this section encourages and sanctions insubordination. He has labeled it "legalized insubordination."

The President's objection to this provision apparently rests upon the feeling that it legalizes an implied threat from any Secretary or service chief who dislikes a decision made by the Secretary of Defense; and that it is in derogation of the President's position as Commander in Chief.

There was no evidence presented to the committee to indicate that this provision of law had caused any difficulty in the past. In fact, there is no evidence that it has ever been used.

The administration's strong opposition to this feature of the committee's bill is very strange in light of the fact that since 1948 a Federal statute has prohibited the restriction of any member of an armed force in communicating with a Member of Congress, unless the communication is unlawful or violates a regulation necessary to the Security of the United States—title 10, United States Code, section 1034.

This provision has been the law of the land through the administrations of two Presidents. President Truman did not deem it necessary to recommend the repeal of either this provision or the one in the National Security Act. Apparently they did not constitute an onerous burden to his administration. Section 202 (c) (6) was in the National Security Act in 1953 when President Eisenhower adopted Reorganization Plan 6 and reorganized the Defense Department. No mention of it was made at that time. Apparently it did not constitute sand in the gearbox during his first term, for it has never been mentioned until now. No complaints have been lodged against this feature of the National Security Act until this time. One would think by now both the restriction in the National Security Act and the broader protection for all members of the Armed Forces in title 10 would have become festering sores to the orderly administration of the Defense Department. If the National Security Act provision is to be repealed why should not title 10, United States Code, section 1034, also be repealed?

Repeal of the provision guaranteeing the right of Secretaries of the military departments and the chiefs of services to come to Congress with their recommendations would present an anomalous situation indeed. The service chiefs, as members of the Armed Forces, would still enjoy the protection afforded by section 1034, title 10, United States Code, while the Secretaries of the military departments would be unprotected, for they are civilians.

It is passing strange that the administration should develop strong feelings about this provision at the same time that the public information and Congressional liaison activities of the military departments are being consolidated and centralized in the Office of the Secretary of Defense. While it may be pure coincidence, it encourages doubt and suspicion as to the aims of the administration.

It is likewise worthy of note that the administration's desire for repeal of this provision in the National Security Act reflects a lack of understanding of the constitutional powers and responsibilities of Congress in the field of military affairs and the Armed Forces. The President is Commander in Chief and has all of the awesome power of command that such a title implies; but the Constitution also places what appear to be larger and more varied responsibilities for military affairs upon the Congress. The officers of the Armed Forces and the Secretaries of the military departments take an oath to support and defend the Constitution. Thus, they are placed in an extremely difficult moral position if they do not have the right to go to Congress after first so informing the Secretary of Defense.

Mr. President, this concludes my statement on the three points in the House committee's bill with which the President expressed strong displeasure. I would also like to call to the attention of the Senate some recommendations which I made earlier this year in a series of speeches on the Defense Department. At that time I summarized the highlights of my remarks on the Defense Department Establishment as follows:

First. The power of Congress to prescribe roles and missions for the Armed

Forces must remain with the Congress and not be transferred to the Executive.

Second. The collective judgment of the Joint Chiefs of Staff is a superior mechanism than would be the creation of a single Chief of Staff or principal military advisory to the President.

Third. The number of Assistant Secretaries, their assistants, commissions and committees in the Pentagon should be reduced drastically and the civilian bureaucracy in the Department of Defense should be overhauled.

Fourth. The Cordiner report or something approximating it should be adopted.

Fifth. The minimum I. Q.'s of all enlistees and inductees should be raised to a more realistic standard.

Sixth. If the Cordiner report, or something similar to it, is adopted, the draft should be abolished.

It is to be noted that of those six recommendations, recommendation No. 4, having to do with the Cordiner report, has been adopted. I should like to urge the Senate to give serious consideration to the remaining proposals for strengthening the Department of Defense and for bringing about a reorganization within it to the end that greater efficiency, better management, and a more realistic recognition of what needs to be done will be the result.

I would think, Mr. President, that it would be advisable for the Senate Armed Services Committee to call before it, in its consideration of the House measure, such recognized experts on the subject as Ferdinand Eberstadt, Hanson Baldwin, former Secretary of Defense Charles E. Wilson, Adm. Robert Carney, Gen. Clifton B. Cates, former Commandant of the Marine Corps, and others who, on the basis of their expert knowledge, should be of great assistance to the committee in arriving at a reasonable, sound and constitutional conclusion.

Mr. President, I ask unanimous consent to include with my remarks two news analyses by Hanson W. Baldwin, of the New York Times, entitled "Pentagon Reorganization" and "Revised Pentagon Bill."

Mr. President, one of the most vital speches relative to the reorganization of the Department of Defense was given on the floor of the House of Representatives on June 5, 1958, by the Honorable PAUL KILDAY, one of the real Congressional authorities on defense matters. I ask unanimous consent that this speech by Mr. KILDAY be inserted at this point in the RECORD, and I would most strongly urge my colleagues to read it with great care.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point various articles published in the New York Times, and the text of a speech on the subject of the reorganization of the Department of Defense, delivered on the floor of the House on June 5 by Representative PAUL J. KILDAY, an outstanding Congressional authority on defense matters.

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

[From the New York Times of April 21, 1958]

PRESIDENT AND PENTAGON: REORGANIZATION FACES FIGHT IN CONGRESS AS TENDING TO PARTY-LINE CENTRALIZATION

(By Hanson W. Baldwin)

WASHINGTON, April 20.—After 13 substantial revisions or reorganizations in the last 9 years, the Pentagon starts on a stormy road this week toward still another change.

On Tuesday the House Armed Services Committee commences 4 to 6 weeks of hearings on the President's request for some sweeping legislative changes in military organization. The chairman of the committee, Representative CARL VINSON, Democrat, of Georgia, already has expressed in a fighting speech fundamental objections to many of the White House proposals.

Uncle CARL, the 74-year-old dean of the military experts in the House of Representatives, plans a line-by-line survey of the provisions in the requested legislation. Witnesses will testify under oath.

All of the top-ranking civilian and military leaders of the Armed Forces and many of the lesser lights will be called upon to explain, support, justify, or object to the latest administration proposals. For some it may be a painful experience, similar to the Spanish bullfighter's moment of truth, when he stands, sword in hand, before the horns of the charging bull.

PRESIDENT ASSERTS ACCORD

For the President's statement to the American Society of Newspaper Editors last week that "the convictions of senior civil and military leaders in all parts of the Defense Department closely parallel my own" is not supported by even a casual survey of the Pentagon.

There are profound misgivings—chiefly in the Navy, but also among some in the Army and Air Force—about certain aspects of the President's plan. Some of the witnesses, therefore, will be torn between loyalties. As military men they owe support to their Commander in Chief, the President, but they are also responsible to Congress, charged with the constitutional duty of raising and maintaining the Armed Forces.

The House hearings will probably be followed by similar, shorter hearings in the Senate; it is certain, therefore, that weeks or months will elapse before the President's plan comes to a vote.

PLAN AROUSES QUERIES

What the ultimate fate of the President's plan will be it is premature to judge. But the legislation that has been presented to Congress and the President's companion message already have aroused many comments and queries.

In the first place, the President's position—and his status as an expert on military organization—have been weakened by several factors. One question being asked in Washington is this:

Why, if things are as bad in the Pentagon as the President implies, did the White House wait to ask for such sweeping changes as are now proposed?

President Eisenhower has been in the White House for 5 years; why, some are asking, did he wait until he had less than 3 more years to serve before discovering such major faults?

The President, moreover, has reversed himself completely on the issue between 1953 and 1958. In 1953, when the President sent his Pentagon Reorganization Plan No. 6 to Congress, he outlined the desirable channel of responsibility and authority to a unified command as this:

From the President to the Secretary of Defense to an executive agency—the designated "civilian Secretary of a military department."

This chain of command, the President then said, would strengthen civilian control and would make it always possible to deal promptly with emergency or wartime conditions.

PROPOSES A REVERSAL

Today, the President in his message to Congress and his legislative suggestions, proposes elimination of the system he himself established in 1953. He now finds this system cumbersome and unreliable in time of peace and not usable in time of war.

More important, perhaps than this reversal are the omissions and the potential dangers of some of the proposals.

The omissions in the President's message and proposed reorganization are striking. The plan is narrowly limited to the Pentagon, and what is alleged to be wasteful interservice rivalry is held responsible for most of the Nation's military ills.

There is no acknowledgment of the profound influence in military policy and budgetary formulation of the While House, the Bureau of the Budget, the National Security Council, and other agencies of Government.

Military policy is not, and cannot be, made in the Pentagon. Yet there is no recognition in the proposal of the need not only for less civilian bureaucracy in the Pentagon but also for improved civilian-military relationships between the Pentagon and outside agencies and for a speedup outside the Pentagon in policy formulation and decisionmaking.

TOWARD CENTRALIZATION

The dangers of the proposed legislation are several. It reinforces powerfully the trend toward centralization in the Pentagon. It concentrates still more authority in one civilian—the Secretary of Defense—and one military man—the Chairman of the Joint Chiefs of Staff.

It would seem difficult to achieve much administrative efficiency if all the power now proposed is concentrated at Defense Department level unless the individual service departments are eliminated. And this is an objective the President disavows.

More important is the specter not of a man on horseback but of required military conformity to a military party line. The proposed system would not necessarily lead to this end. But it would certainly tend toward it, all the more since the President is known to have demanded unified opinions from the Joint Chiefs of Staff.

[From the New York Times of June 9, 1958]

RANDOM NOTES IN WASHINGTON: HOUSE MAT IS OUT FOR PRESIDENT

WASHINGTON, June 8.—President Eisenhower goes to the mat with the House Armed Services Committee this week to win critical changes in the Pentagon reorganization bill. When he does, his champions are going to have some embarrassing questions to answer on the House floor.

The first is:

When did the President discover that a clause permitting individual services to bring complaints and recommendations to Congress would create legalized insubordination?

When Neil H. McElroy, the Secretary of Defense, discussed this provision before the committee, he characterized it as a minor right, which had never been used and with which he had no real quarrel.

The second question:

If the President really believes the bill is as offensive as he suggested 10 days ago, why did he not speak out while it was being written?

It is now known that the bill was not written in secret by the committee. In fact, a member of the White House staff participated in the drafting and acted as liaison

man between White House, committee, and Pentagon to set up an agreeable compromise. When it was finished after three drafts, the White House gave the committee the impression that it was reasonably satisfied.

Embattled committee members will try to exploit these inconsistencies in the White House performance record to blunt the President's attack.

[From the New York Times]

PENTAGON REORGANIZATION: PRESIDENT'S ATTACK ON HOUSE VERSION RAISES QUESTION OF POLITICAL MOTIVES

(By Hanson W. Baldwin)

President Eisenhower fired a broadside last week against the House Armed Services Committee's version of the Pentagon Reorganization Act.

The White House, in words as unusual as they were sharp, objected specifically to three provisions of the bill that directly conflict with the administration's reorganization proposals. The President's message raises two issues—the substantive one of the controverial provisions, and the political one of why the White House, after blowing hot and cold on the reorganization program, has now emphasized it so greatly.

In no other single instance in recent years has the President brought so much pressure to bear as he has in the case of his Pentagon reorganization plan. Congressmen, even in Chairman CARL VINSON's House Armed Services Committee, have said the "heat is on," and one observer declared it was as "intense as a blow torch."

HEARINGS CUT SHORT

The committee's hearings, originally planned to continue for a far longer period, were cut short because of White House pressure. The President's legislative assistants have buttonholed individual Representatives and Senators; the President has written letters to business acquaintances and has mustered the support of chambers of commerce and many private organizations.

Last week his comments—obviously prepared by another pen—were brusque and intended to appeal for political support rather than to analyze the substantive issues.

In January at the beginning of this session of Congress, most Washington observers felt that Pentagon reorganization was not a popular or important political issue. But the President has obviously—after considerable initial hesitation—determined to make it so.

Part of the reason for this is clear. There was considerable, though perhaps temporary, impairment of the administration's prestige last fall when the Russians won the first lap of the race into space with the launching of their sputniks.

BLAME-LAYING SEEN

Some administration leaders felt this was a blow that must be repaired. Apparently they thought interservice rivalries rather than basic administration policy errors could be made to bear the responsibility.

And if the President, in the past accused of weak leadership, would lead a fight—in a field of his own specialty—for military reorganization, the issue of the Pentagon blueprint could become an important political issue, and perhaps an administration asset, rather than merely a narrow technical problem.

In any case the strength of the rather astonishing language used in the President's statement last week makes it clear that the appeal is now pitched in terms certain to be judged political by Congress, rather than confined to the more narrow but more accurate frame of technical efficiency.

The message also underlines reports that the President and the Secretary of Defense, Neil H. McElroy, do not clearly see eye to eye. The President even suggested that language employed in the House committee's version of the reorganization bill was "best described as legalized insubordination," and that Congress "hopes for disobedience and interservice rivalries."

ATTACK CALLED UNFAIR

Such generalized, unfair and extreme language may shift the focus of public attention from the Soviet lead in sputniks and long-range missiles to service whipping boys and to a White House battle with an apparently recalcitrant and backward Congress.

But to many Congressmen, such as Chairman VINSON and the House Republican whip, Representative LESLIE C. ARENDS, of Illinois, who sincerely believe in the constitutional prerogatives of Congress in relation to the Armed Forces and who are dedicated to the good of the services and the country such language is scarcely calculated to win friends and influence people.

Despite the political overtones, the substantive issue of the changes in language that the President demanded should be closely examined.

[From the New York Times]

REVISED PENTAGON BILL: PRESIDENT'S OBJECTIONS ARE REBUTTED—ADVERSE EFFECT ON EFFICIENCY DOUBTED

(By Hanson W. Baldwin)

The President's sharp statement last week on the defense reorganization bill underscores once again the fears of many observers who believe that the administration's intent goes far beyond the stated purposes of the bill.

The President objected to three specific clauses of the version of the bill approved by the House Armed Services Committee. His first objection was to a provision that the overriding direction, authority and control of the Secretary of Defense should be exercised through the respective Secretaries of the three military departments. The White House asked deletion of this last phrase, objecting to it as a legalized bottleneck, which would block normal staff processes.

The House committee report specifically pointed out, however, that if the authority of the Secretary of Defense were not exercised through the service Secretaries, the command line will be ambiguous, inefficient, and untenable.

COMMITTEE REPORT QUOTED

"It is difficult," the committee report said, "to fully comprehend the President's objections to the words, 'exercised through the respective Secretaries of such departments.' If it is intended that the military Secretaries are to be responsible for their military organizations, it is necessary that this language remain in the proposed legislation.

"On the other hand, if it is intended that the Assistant Secretaries of Defense on their own initiative shall have the power and authority to issue orders to the military departments, then there is no necessity for military Secretaries (of the individual services). The issue appears to be crystal clear—either there will be three military Secretaries operating under the direction, authority, and control of the Secretary of Defense and responsible for their military departments, or there should no longer be three military Secretaries responsible for these military departments.

"The separate identity of the services and the decentralization of the military departments would become a myth—inviting, almost demanding, complete merger, or the unacceptable creation of a fourth operating department.

"The Secretaries of the military departments are subordinate and directly responsible to the Secretary of Defense. It is simply sound organizational procedure for the Secretary of Defense to exercise his superior authority, direction, and control through the Secretaries of the military departments. If such a procedure were not followed, the Secretaries of the military departments would be bypassed, isolating them from the activities of their departments, with the result that administrative confusion would be assured."

CLASH IN AUTHORITY

The President's second objection was to the method by which major combatant functions of the services could be transferred or abolished. He described the procedure which, under the terms of the legislation, requires the tacit approval of Congress, as an endorsement of duplication and stand-pattism in defense and of the concept of military superiority over civilian authority.

But the real issue here which was not referred to by the President has nothing to do with these questions. The fundamental issue is the power of Congress to define the roles and missions of the services; the clash is between executive and legislative authority. The House committee report noted that "Congress must exercise its constitutional responsibility in this particular area."

The third Presidential objection to the House legislation was to a provision that would permit any Secretary of a military department or member of the Joint Chiefs of Staff to present his views to Congress. The President described this in extravagant terms as "legalized insubordination." The clause exists in present law but probably has never been invoked. Neither its abolition nor its retention would have any real effect on the administration of the Pentagon, but again the issue is squarely one of Congressional versus Executive power.

Thus, aside from the political implications, the issues in the Pentagon reorganization conflict really have little to do with more effective administration of the services. The possible intent of this administration and the broad permissive powers given future administrations, if the language the President desires is approved, have obviously worried the House Armed Services Committee.

This committee is determined to insist on its constitutional duty of providing "for the common defense."

[From the CONGRESSIONAL RECORD of June 5, 1958]

REORGANIZATION OF THE DEPARTMENT OF DEFENSE

The SPEAKER. Under previous order of the House the gentleman from Texas [Mr. KILDAY] is recognized for 60 minutes.

Mr. KILDAY. Mr. Speaker, I have taken this time for the purpose of discussing the pending bill for the reorganization of the Department of Defense. I am sure you all realize that there has been a good deal said with reference to the President's plan, with great agitation to accept it as submitted by the President.

I want to point out, Mr. Speaker, that this is the first occasion upon which anyone has taken the floor of the House to explain the issues which are involved in the reorganization of the Department of Defense or the provisions of the bill which has been reported, or the subsequent objections which have been made to the bill from the White House.

When this matter first came to the House, I was discussing it with one of the prominent newspaper correspondents here on the Hill, and after we had gone over it for a considerable period of time he asked me if I really thought that a serious constitutional question was involved in this proposal. I assured him that I did believe that it involved a very serious constitutional question. We discussed that question. Thereafter he said to me:

"Well, do you believe that you are going to be able to get the people to listen to you on a constitutional question which, after all,

will probably be rather technical, when you are faced with the all-out proposal by the President?"

I was forced to admit to him that he was probably correct, that it would be very difficult, if not impossible, to attract a great deal of attention, by the public at any rate, to a question involving the construction of our Constitution.

Mr. Speaker, I assure you that it made me feel rather badly to be forced to make that admission, although I am afraid that it is substantially true. I do not believe it will be true in the Congress of the United States when the opportunity has been had to discuss the entire question and those things which are involved.

I realize that in this day and time a great many people want to talk about their rights, their privileges, their powers, and their prerogatives. In connection with this bill, I am going to talk about Congressional responsibilities and obligations and the duties which confront us in connection with this matter. I believe I can point out to you that there is a specific duty upon the Congress of the United States which you and I cannot fail to discharge. It is one that we cannot avoid.

When we come to a discussion of constitutional provisions, in order that we may understand them thoroughly, I think it is necessary for us to review again some of those things which were said in the Declaration of Independence. You will recall that in that Declaration there were a number of reasons set out why the Continental Congress thought that a separation from the mother country was desirable and necessary. And we all probably remember from our high school civics that taxation without representation is tyranny and we have probably gone on thinking, perhaps, that was one of the principal causes of the American Revolution, as set out in the Declaration of Independence. But when we go to the instrument itself we find that taxation was mentioned one time and one time only. And it only said "for imposing taxes on us without our consent." In all there was a total of 27 reasons set out as the causes of the American Revolution—27 in all. And of those 27—note this—11 of the 27 had to do with interference of George III in the legislative process. Eleven of the 27 major causes are stated in the Declaration itself to be those things having to do with legislation within the colonies, interference with legislation, and interference with legislatures.

Of the remainder, five had to do with the military forces of Great Britain. Five of the causes set out in the Declaration of Independence were with reference to the persecution visited upon the people by the military.

So that out of the 27, 11 had to do with legislation, 1 with taxation, and 5 with reference to the military.

When we come to the Constitution we must remember that it was written by a group of men who had been loyal subjects of Great Britain, men who had been loyal Englishmen, who were very well informed indeed on the English constitutional system, men who knew they were setting up a Government in which they intended to establish a new basic concept of government and very specifically to confirm, perhaps, those things which were acceptable and with which they agreed but to change those things with which they did not agree. So we go to the document itself, and we find the very first article, the very first section, to be:

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Then we find further in section 8 of article I:

"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."

And then there is a general provision "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.

The Constitution of the United States is not a prolix instrument. It contains no unnecessary language. It contains no repetition. Every word placed in that document was placed there deliberately. It was placed there for a real, a true purpose, and for a very proper and a very important reason.

Then, after having vested all this legislative power, the power to pass all laws to carry this Constitution into execution, we find the further provision that Congress shall have the power—

"To raise and support armies, but no appropriation of money to that use shall be for a longer term than 2 years;

"To provide and maintain a navy;

"To make rules for the government and regulation of the land and naval forces."

The Congress had already been given power for all legislation, to make all laws necessary to carry the Constitution into execution. Then why do we have a separate provision that Congress shall have power to make rules for the government and regulation of the land and naval forces? Surely the laws would be binding upon all persons in the land and naval forces as well as those not a part of the land and naval forces. So we will have to go back to see what the situation was in England at the time of the American Revolution to determine the reason for the inclusion of that particular language.

We must remember that those members of the Constitutional Convention who were lawyers had learned their law primarily from Blackstone's Commentaries. It is not necessary for me to point out to those of the membership here who are lawyers the standing of Blackstone's Commentaries. But for others may I read to you from the Encyclopaedia Britannica, to make unnecessary a technical discussion of the standing of Blackstone:

"But the fame of Blackstone is greater in the United States than it is in his native land, and bids fair to continue to be, and justly so. After the Declaration of Independence and indeed before, the Commentaries were the chief, and in many parts of the country almost the only, source of the knowledge of English law for the great commonwealth of the West. A book which in the old country was and is a textbook became in the new an oracle of law, until as years went on the great students of the law in the United States began those deeper studies which have added such wonderful stores of learning and thought to legal literature."

So that when they met in the Constitutional Convention their concept of the English Constitution was that derived from Blackstone. What had Blackstone said with reference to the powers involving the raising and regulating armies? I am reading from Blackstone's Commentaries, first volume, page 262:

"In this capacity, therefore, of general of the kingdom, the King has the sole power of raising and regulating fleets and armies. Of the manner in which they are raised and regulated I shall speak more when I come to consider the military state. We are now only to consider the prerogative of enlisting and of governing them, which, indeed, was disputed and claimed, contrary to all reason and precedent, by the Long Parliament of King Charles I; but, upon the restoration of his son, was solemnly declared by statute (13 Car. II, c. 6) to be in the King alone; for that the sole supreme government and command of the militia within all His Majesty's realms and dominions, and of all forces by sea and land, and of all forts and places of strength, ever was and is the undoubted right of His Majesty, and his royal predecessors, kings and queens of England, and that both or either house of Parliament can not, nor ought to, pretend to the same."

That was the situation which had existed in the mother country, and as history shows, this was the struggle which had gone on for generations and centuries with regard to the power of the King, as the chief executive of the state, to control the military; or whether the Parliament had that power, and in that instance the Parliament lost. It was the law and constitution of England at the time of our Revolution, that that power resided in the King. So when our Founding Fathers came to writing the Constitution they made clear that that power did not reside in the Executive; I repeat, they made positive that that power did not reside in the Executive. By this instrument it was expressly and very deliberately transferred from the executive branch of government to the legislative branch of government. This has been the consistent holding of constitutional authorities in the United States.

I would like to discuss that point a little further: In Story's Commentaries on the Constitution—Cooley edition, section 1187—I read this:

"Our notions, indeed, of the dangers of standing armies, in time of peace, are derived in a great measure from the principles and examples of our English ancestors. In England, the king possessed the power of raising armies in the time of peace according to his own good pleasure. And this prerogative was justly esteemed dangerous to the public liberties. Upon the revolution of 1688, Parliament wisely insisted upon a bill of rights, which should furnish an adequate security for the future. But how was this done? Not by prohibiting standing armies altogether in time of peace; but (as has been already seen) by prohibiting them without the consent of Parliament. This is the very proposition contained in the Constitution; for Congress can alone raise armies; and may put them down, whenever they choose."

I suppose that the most carefully annotated work on the Constitution of the United States, and as reliable as any in existence happens to belong to the Congress itself. This is the annotated Constitution of the United States, prepared by the Legislative Reference Service of the Library of Congress. It includes practically every case heard by the Supreme Court construing the Constitution. A footnote annotation, which is not accredited to any case, but is taken from the annotated work, succinctly and properly cites the Constitution:

"The clauses of the Constitution which give Congress authority 'to raise and support armies, to provide and maintain a navy' and so forth, were not inserted for the purpose of endowing the National Government with power to do these things, but rather to designate the department of Government which should exercise such powers. Moreover, they permit Congress to take measures essential to the national defense in time of peace as well as during a period of actual conflict. That these provisions grew out of the conviction that the Executive should be deprived of the sole power of raising and regulating fleets and armies which Blackstone attributed to the King under the British Constitution, was emphasized by Story in his Commentaries."

Who presided over that Constitutional Convention, where the power to raise armies and provide rules for their governing were written? The greatest soldier of his day, George Washington, destined to be the first President of his country. He knew more about the difficulty of handling an army under the parliamentary system, of course, than anyone before or since, because he fought and won the American Revolution under the Continental Congress.

But, still, in that document, which was written by a convention of which George Washington was President, we find a very positive statement being inserted in the Constitution concerning the obligation and duty of the Congress to raise and support armies and provide for the rules and regulations of the land and naval forces. The Constitution does not say that if perhaps the time shall come when there is one who is thoroughly capable of doing this or may be regarded as more capable than others shall occupy the Presidency, that then he shall have that power. It does not say that. And we are not faced with a proposition as to who may do it better; we have here a positive rule of the Constitution which places this obligation on us. We cannot avoid it no matter how much we might wish we could, no matter how much we might wish the responsibility were not ours. It is ours, it is here, and it must be met. It cannot be avoided.

I would like to give you another little example of why this is true. Take the power of the President in foreign affairs and foreign relations, where he has wide powers, almost exclusive powers, in his power to make treaties by and with the advice and consent of the Senate. What was the situation immediately prior to the American Revolution in the mother country? And again Blackstone has said, and this is the basic law upon which that constitutional proposition was founded:

"II. It is also the King's prerogative to make treaties, leagues, and alliances with foreign states and princes; for it is by the law of nations essential to the goodness of a league, that it be made by the sovereign power, and then it is binding upon the whole community; and in England the sovereign power, quo ad hoc, is vested in the person of the King. Whatever contracts, therefore, he engages in, no other power in the kingdom can legally delay, resist, or annul; and let, lest this plenitude of authority should be abused to the detriment of the public, the Constitution (as was hinted before) hath here interposed a check, by the means of parliamentary impeachment, for the punishment of such ministers as from criminal motives advise or conclude any treaty which shall afterward be judged to derogate from the honor and interest of the nation." (1 Blackstone's Commentaries, 256 (Wendell edition, 1875).)

So that there was that great power existing at that time. But the Constitutional Convention did not want to take all that power away from the President, so they permitted it to reside there. It did not provide anything about who shall negotiate. In fact, in this field only the President can speak, and only the President can listen, because that was the rule that existed in the mother country at the time of the American Revolution. It was not changed by the Constitution except the proposition regarding delay, resist, or annul, because there it provided by and with the advice and consent of the Senate, two-thirds concurring, treaties may be ratified.

Let us see what the courts have said more recently on this subject. As a matter of fact in 1936 in the case of the *United States* v. *the Curtiss Wright Export Corporation* (299 U. S. 304–316), Justice Sutherland, speaking for the Court, said:

"As a result of the separation from Great Britain by the Colonies acting as a unit, the powers of external sovereignty passed from the Crown not to the Colonies severally, but to the Colonies in their collective and corporate capacity as the United States of America. Even before the Declaration, the Colonies were a unit in foreign affairs, acting through a common agency; namely, the Continental Congress, composed of delegates from the Thirteen Colonies. That agency exercised the powers of war and peace, raised an army, created a navy, and finally adopted the Declaration of Independence."

After other language, Justice Sutherland proceeds:

"It results that the investment of the Federl Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution.

"The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the Federal Government as necessary concomitants of nationality."

That would have been true also of the power to raise and support armies and to provide a navy and to provide rules for the governing of the land and naval forces. So, we have here a matter that, by the Constitution, has been committed to our care and a duty and an obligation which we here must discharge.

Of course, the President is the Commander in Chief, under the very same Constitution of the land and naval forces of the United States. The President has the absolute right to make recommendations to Congress for legislation on any subject and to have those recommendations considered and considered seriously.

The President, in the discharge of the absolute right which he has, sent a message to the Congress asking that we pass legislation for the reorganization of the Department of Defense. Had it not been something committed to our responsibility, it would not have been necessary for the President to send it here in the first place; but in recognition of the fact that we, and we alone, have this duty, the President sent it here. I believe you will probably remember the message from the President, which was read. It was a very fine message. Thereafter the President sent us a bill which had been drafted downtown purportedly for the purpose of carrying out the message which he had sent us. But when you read carefully, as did our Committee on Armed Services, the President's message of what he desired and what he proposed to do and compared it with the bill that their staff had prepared and sent here, they bore no relation to each other.

The bill which came here would have granted absolute power to those in the Department of Defense, not only to the President but to those in the Department of Defense, to organize it as they saw fit. It happens that we have in the United States four separate services that have been established by law and long maintained. I do not take the position that because we have always had these separate services we must retain them for all time in the future, but I certainly do contend that, if they are to be abolished as separate services, it shall be in accordance with the wish, the desire, and the views of the American people as expressed through their Representatives in the Congress of the United States. But under the bill that was sent to us and was heard by our committee, we find this: In answer to a question by me, Secretary McElroy stated that under the proposal they submitted it would be possible to transfer out of or remove from the jurisdiction of the Secretary of the Army, the Navy, or the Air Force and the Chief of Staff and the Chief of Naval Operations of the Navy every single individual within that service, including the aide and orderly of the Chief of Staff himself. That was only an example of how far their bill went.

Your committee held hearings for about 4 weeks on that bill. We then rewrote the bill and we rewrote it totally. When we had finished, we had what was generally regarded as being an excellent bill. When I say "generally regarded" I expect to say by whom in just a moment. We gave the President, in that bill, what he needed to have a combat-ready force with a sharp cutting edge to which reference was made on many occasions, because the testimony was to the effect that the heart and soul of their proposal is the unified command. We provided for unified commands, giving the absolute right to the President to establish unified combat commands and to fix the military composition of these commands. When that is done, the Secretaries of the three services and the Chief of Staff must assign to that command the forces needed. Once these forces have been assigned they cannot be removed by anyone except under procedures established by the Secretary of Defense, and approved by the President.

And we gave him much stronger authority than the clumsy way in which his staff had sent it to us. True, we did not grant the broad language which would have permitted action never intended to be used and power that was never intended to be exercised. True, we did not permit the Chairman of the Joint Chiefs of Staff to secure a position of elevation so as to make him the superior of the Joint Chiefs of Staff. Our provisions are adequate to keep the Joint Chiefs of Staff as a corporate body. And, as one of the Chiefs said in testimony before our committee, "We are not the subordinates of the Chairman of the Joint Chiefs of Staff." And, that is the true concept of the organization of the Joint Chiefs of Staff, that it should be composed of the Chief of Staff of each of the services, men who have succeeded in attaining the top main rung in their service, and that none of them is to be humiliated by being subordinate to another who for the time being may be acting as Chairman of the Joint Chiefs of Staff.

I am not going to attempt to go into all of the details of that bill. That will be done in the debate on the bill next week when it comes before us.

But, I would like to point out—and in doing this I violate no confidence, because if you will go to the printed record of the hearings and to that part taken in executive session when this bill was reported, you will find printed there, ready for public distribution, how this bill was written. And, it was not written in secret from the President. Those hearings show that a member of his staff participated with some members of the Committee on Armed Services and members of the staff of the Committee on Armed Services; and that a member of the White House staff acted as liaison between the committee and its staff and the President and the Secretary of Defense. This appears in the hearings. I am violating no confidence that this bill had gone through two other printings and that the one that was then before the committee was the third printing, the third confidential committee print through which the proposal had gone. And, when we met in executive session that day, our chairman had a member of the staff read to us a letter from the President of the United States, which I want to read at this time:

THE WHITE HOUSE,
May 16, 1958.

Hon. CARL VINSON,
Chairman, Committee on Armed Services, House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: I have just been shown your committee's revision of the defense reorganization legislation which I sent to the Congress 2 months ago. From a quick reading I have these impressions:

First, on the whole the bill clearly reflects constructive efforts to correct the main difficulties which have troubled our Defense Establishment in recent years. I congratulate you and your committee colleagues for the progress made toward developing a sound defense structure.

Second, by and large the bill seems to deal positively with every major problem I presented to the Congress.

Third, in certain respects—two quite important—I believe that changes would make the committee's revision clearer in intent and more clear cut in effect within the Defense

Department, and therefore would result in greater departmental and operational efficiency. I am requesting a member of my staff to give you my views on such items. I hope this language will be suitably adjusted on the House floor.

With warm regards.

Sincerely,

DWIGHT D. EISENHOWER.

Thereafter the Committee on Armed Services, in a more or less informal way, but by a true rollcall vote, voted 83 to none to report that bill. Thereafter, when the bill had been formally offered, there was another rollcall vote, and it was reported by a vote of 37 to none. Two members, it is true, stated they were voting with reservations.

Notwithstanding the letter that I have read to you and a feeling possessed by most people, I suppose, that all controversy about this matter had been eliminated, a rather intemperate statement was issued by the White House, written by whom I do not know. In that statement three questions were raised and some rather strong language used; far different from the complimentary language and congratulations which had been conveyed to us on May 16.

I have been asked by the press innumerable times what caused the change, and I have been forced to reply, very, very truthfully, that I have no idea. I cannot possibly imagine what caused the change.

But here are the questions. In our bill we had provided:

"Each military department shall be organized under its own secretary and shall function under the direction, authority, and control of the Secretary of Defense exercised through the respective secretaries of such departments."

I call your attention, just incidentally, to some language there which does not seem to be quite legislative language and was probably not written by legislators, but is contained there for reasons which legislators deem to be sufficient:

"Each military department shall be separately organized under its own secretary."

Legislative language would be such as appears below—respective secretaries. In legislative language we probably would have said, "organized under the respective secretaries thereof," and not "under its own secretary." But with all deference to the one who wrote it in in lead pencil on the confidential committee print, the language was retained.

This last language the President insists be removed—exercised through the respective secretaries of such departments. That would leave the provision reading as follows:

"Each military department shall be separately organized under its own secretary and shall function under the direction, authority and control of the Secretary of Defense."

There has never been any Congressional intent that the three military departments shall be administered by the Secretary of Defense. When the National Security Act was written in 1947 it was made abundantly clear that the Secretary of Defense would not administer directly the 3 military departments. Again, in 1949, it was made perfectly clear in the law that they shall be separately administered. That was the language of the law. It is the language of the law today, that those departments shall be separately administered. But it was stated that the words "separately administered" were more or less a psychological block and should be removed. As a result this language was accepted.

But should we remove the language "exercised through the respective secretaries of such departments," you will have created a colossus in a Secretary of Defense with no one intervening between himself and almost 3 million military men, because there will be no intervening authority in those departments unless this language is retained.

It has been the policy of the United States from the day this Nation was born that the military shall operate under civilian control. Civilian control is a basic doctrine of the Government of the United States. I ask you, how are you going to maintain civilian control of 3 million men—2,800,000, actually, is the figure I should use—scattered all over the world in 3 separate services and, when you take into consideration the Marine Corps, actually 4—with only 1 man in the Pentagon attempting to supervise them? How are you going to maintain civilian control?

I submit to you that it is not going to be possible for you to maintain civilian control with no closer liaison with the military forces than one man in the Pentagon.

After all, is it a military question as to how the Department of Defense shall be organized? Is the organization of any of the other Government departments to be controlled by Congress? Why, of course it is. Do we have the power to provide how the Department of Agriculture or the Post Office Department or any other department shall be organized? Why, certainly we do.

Remember that at the present time over half of the total budget of the United States, and approaching two-thirds of the total budget of the United States, is for the Military Establishment, so that you are going to have then the power of administration of almost two-thirds of the total budget of the United States in one appointive official in the Pentagon. That is what could result from removing this language. I submit to you that this is a question of the organization of the departments, the maintenance of civilian control over these departments and over the military. Civilian control of the military is as necessary in this year of 1958 as it has been in any other year in the history of democracies. Just as soon as you permit the military to get from under the control of the civilians, then you can be sure your democracy and your Government is in danger.

I am not talking to you as an enemy of the military. I think that my almost 20 years here and the almost innumerable times I have stood in the well of this House to defend the military, to defend their generals, and to insist that they be adequately compensated, that their services be adequately and properly recognized, make it unnecessary for me now to disclaim being an enemy of the military. I appreciate more than most their fine qualities and their tremendous ability, and I think I appreciate more than most their very real limitations.

But I know what has happened elsewhere, and we have seen it happen within the last 2 or 3 weeks. I am not going to get into any argument about the type of government that existed in France and whether it should have been replaced, but I am pointing out to you the danger of permitting military men, who have command and control of your combat forces and have within their possession all the munitions of war, to determine when a government has ceased to function properly or when an administration has ceased to function properly, and when a necessity exists to change either the form of government or the administration of that government.

I have lived within 150 miles of the Mexican border all my life. I know what happens in connection with trying to preserve democracy when the Military Establishment is not under a firm and an absolute chain of civilian control. Conceding absolute good faith to everyone involved in this matter—and I do it sincerely—who is in a better position to determine effective civilian control of the military, men who have spent all of their lives in the Military Establishment? Are they in a better position to determine what constitutes effective civilian control and the necessity for effective civilian control? Are they in a better position than 37 men with service in the Congress running from 44 years to 2 years, who deal almost exclusively as civilians with the problems and the organization and the civilian control of the Military Establishment?

We bring you this bill as men who for many, many years have devoted their time and their attention to military matters as civilians, and we tell you this is the maximum authority you can grant and still maintain the doctrine of civilian control within the United States.

Now we have in here another provision.

First of all, may I say that in the National Security Act, there has existed for a long time a provision which deals with the combatant functions of each of the military forces. They are not spelled out in rigid terms, but in rather general terms. But they are sufficient to insure that this is the type of combatant function which shall be the responsibility of the various services. It has been the law for almost 9 years that noncombatant functions could be transferred by the Secretary by notifying the Congress but without any specific period of time. He simply wrote a letter to the chairmen of the Committees on Armed Services saying: "This noncombatant function is transferred or reassigned or abolished," and that was that.

The President requested that we permit combatant and noncombatant functions to be transferred, abolished, consolidated, or reassigned as he might see fit, by giving notice to the chairmen of the two Committees on Armed Services and then waiting for a period of 30 days. We in the committee did not see fit to adopt that provision, but being realistic and knowing that a great deal of flexibility is required, we provided for the transfer of noncombatant functions on a period of 30 days' notice. We brought into the bill an entirely new grant of authority for the President by providing that "notwithstanding other provisions of this subsection, if the President determines that it is necessary because of hostilities or imminent threat of hostilities, any function, including those assigned to the military services by sections 205 (e), 206 (b), 206 (c), and 208 (f) hereof, may be transferred, reassigned, or consolidated and subject to the determination of the President shall remain so transferred, reassigned, or consolidated until the termination of such hostilities or threat of hostilities."

Thus, upon a finding of the President that hostilities are imminent he could reassign, consolidate, or transfer a combatant function.

Then we added another provision with reference to major combatant functions:

"(3) except as otherwise provided in paragraph (2) hereof, no major combatant function assigned to the military services by sections 205 (e), 206 (b), 206 (c), and 208 (f) hereof shall be transferred, reassigned, abolished, or consolidated until the first period of 60 calendar days of continuous session of the Congress following the date of report of such action to the Congress shall have expired without a concurrent resolution having been passed by the Congress in opposition to the proposed transfer, reassignment, abolition, or consolidation. No major combatant function shall be reported to the Congress for transfer, reassignment, abolition, or consolidation until after the Secretary of Defense shall have consulted in respect thereto with the Joint Chiefs of Staff. For the purposes of this subsection a combatant function shall be considered a 'major combatant function' whenever one or more members of the Joint Chiefs of Staff disagree to the transfer, reassignment, abolition, or consolidation of such combatant function: *Provided*, That the Secretary of Defense has authority to assign, or reassign, to one or more departments or services, the development and operational use of new weapons or weapons systems."

The President objects to this, and this I cannot understand. We suggest a provision of law that combatant functions, which are established by law, shall not be transferred until we have had a chance to look at them. What we say is "no major combatant function assigned to the military services by sections 205 (e), 206 (b), 206 (c), and 208 (f) hereof shall be transferred, reassigned, abolished," and so on. Those are references to existing provisions of law. The Congress, by solemn law, has provided the language in those sections. It is now demanded—and demanded is the proper word—it is now demanded that, notwithstanding those provisions of law, the executive branch of the Government be permitted to do exactly what it is now prohibited from doing, by simply giving us 30 days' notice.

In other words, 30 days from the date hereof, that law that you passed, with respect to section 205 (e) will still be there, but it is nullified because the Executive has seen fit to nullify it.

All in the world that we have asked is that we have a period of 60 days, while Congress is in session, to look at this proposal, and unless during that time a concurrent resolution is passed by Congress then the proposal will go into effect. So a majority of both Houses of Congress would have to act. True, the President would not have to sign it because it would be a concurrent resolution, but both Houses would have to take affirmative action before the executive branch could be prevented from nullifying the formal law of the land as enacted by Congress and signed by the President.

Under the Reorganization Acts, and we will pass over the question of whether they are constitutional—under the Reorganization Acts, the reorganization plans submitted by the President to the Congress, since the amendment of 1957, can be rejected by the majority vote of either House. Either House, by a majority vote, can reject a Presidential reorganization plan. So how much more difficult it is here to accomplish the defeat of the transfer, reassignment and abolition of a major combat function?

And what is a major combat function? First of all, it is one provided by law: Section 205, section 206, and those other sections to which I referred. In addition to that, if one of the members of the Joint Chiefs of Staff takes the position that it is a major combat function and should not be transferred as is proposed to be done by the executive department, can he prevent it? No. But he can delay it long enough for Congress, which passed the law putting that function where it now exists, to have a chance to look at it and for both Houses to take affirmative action to prevent this action by adopting a concurrent resolution. This avoids the necessity of overriding a veto, for if the President submitted a proposed change of existing law, it would otherwise have to be passed by both Houses with a majority vote, and go to the President where it would be promptly vetoed. Obviously, it would not have been submitted in the first place if the President didn't favor the action, so without our proposal a two-thirds vote of both Houses would be required to prevent the Executive from taking action opposed by the Congress. How ridiculous can we get, that the House of Representatives, in order to maintain on the law books a law which it passed, in order to protect it against an order of the executive branch of the Government, must muster a two-thirds vote? That is exactly what would be the practical situation with respect to the transfer of major combatant functions assigned by law, and established by law. In other words, to maintain what is already the law, we would have to pass, by a two-thirds vote, a law to protect our previous action.

I ask again: Just how ridiculous can you get? And I know you are getting a lot of letters from businessmen and others who probably would not recognize either the Constitution or this bill if they should meet it head on, yet they are writing, telling how we should vote on it.

There is another provision I wish to call to your attention:

"No provision of this act shall be so construed as to prevent a Secretary of a military department or a member of the Joint Chiefs of Staff from presenting to the Congress, on his own initiative, after first so informing the Secretary of Defense, any recommendations relating to the Department of Defense that he may deem proper."

This has been very severely attacked. This is now labeled as being legalized insubordination. It has been said that the committee recommended it. We did not recommend it on May 16. This is now the law, and has been the law since August 10, 1949. It was placed in the National Security Act of 1949 and is now the law, and the evidence before our committee is that so far as anyone in the Defense Department can recall, this privilege has never been exercised.

I asked Secretary McElroy: "Mr. Secretary, is it not perhaps correct that the very existence of this right renders resort to that right unnecessary."

He said: "That well may be."

Of course, when the Secretary of the Army, Navy, and Air Force and the Chief of Staff of the Army and Air Force and the Chief of Naval Operations of the Navy are in a position to make recommendations to Congress, they will not be pushed around quite as much as if they are not in that position. But you would think from what you read in the papers and periodicals that this provision authorized the Secretary and the Chief of Staff to just come up bearing tales and rumors. All that this provides is that he shall first notify the Secretary of Defense of his intention to come to Congress.

To do what? To make recommendations to the Congress.

Just what is wrong for the man who by law is held responsible for the military efficiency and organization of our military commands to be making recommendations to the only body which can pass laws for the improvement of those services? Just what can possibly be wrong with that?

There is a greater implication here and we might as well be frank about the whole thing. There is throughout the President's reorganization plan, whether so intended or not, the very positive implication that Congress shall not know what goes on within the Department of Defense and the military services. Let us see why I say that. First of all, a strong effort is being made to secure the repeal of an existing provision of law which permits the Secretary or the chief of a military department to make recommendations to Congress. Unless we are informed how are we to legislate? In addition to that, orders have already been issued to consolidate the public information offices in the Office of the Secretary of Defense so that when members of the press go to find what is the news in order that the American people might know—I take it they are entitled to know, in fact, I insist they are entitled to know—they go to the central public information office in the Department of Defense which does not have that information.

That office is going to have to go out and get it. Then they will, shall we say, censor it? They will decide if it is timely. They will go over it and decide what part of it they are going to permit to be published, what is going to be issued to the American people who are paying the bills.

In addition to that, the Congressional Liaison Service of the three departments is to be abolished, so that there will be no point of contact between Members of Congress and the three military departments. Again you will not be able to learn, Congress will not be able to know what is going on, what is proposed, or what needs to be done. That is the order already being issued.

So the implication here is clear that in the orders issued and to be issued and the request for the repeal of the provision of law concerning recommendations to Congress, the ability of Congress to know is to be minimized.

And still another fact: The law now provides that semiannually the Secretary of Defense shall submit a report to the Congress and that report shall contain a report by each of the three military departments. The bill as it came to us proposed that that be made an annual report but that the provision that reports be made by the three military departments be eliminated, that only the Secretary of Defense would report to the Congress on the activities of the military departments, again depriving the Congress of the ability to know what is going on within the Department of Defense.

This proposal of the President is in two parts, although it has never been separated in the message of the President nor any of the news releases, between those things which can be done by administrative action and those things which require law. All the publicity and the news releases that have been issued would lead you to believe that the unified commands cannot be set up until such time as the Congress acts. Unified commands are already in existence and have been in existence for a long period of time.

On the question of the removal of the service department Secretary from the chain of command, I am sure that the majority of you, just like the Chiefs who appeared before us, thought that the Congress by law had placed the Secretary of the military department in the chain of command between the President and the unified forces. In 1953 the present President of the United States placed the Secretary of the military department in the chain of command, not by law but by a directive from the President, and in his message to us he said, "I have directed the Secretary of Defense to cease utilizing the military departments as executive agencies." And later in the message: "So that now the chain of command goes directly from the President to the Secretary of Defense to the unified commander." Thirty days after that I learned, to my amazement, that as yet no Secretary had been removed from the chain of command, although it was condemned in very strong language as being cumbersome and unreliable; unreliable in time of peace and intolerable in time of war. As far as I know, each of the military Secretaries is still in the chain of command, although they were placed there by Executive directive and can be removed by Executive directive. But as far as I know, that has not been done yet. But they say, "Yes; to do this we have to have a larger staff than 210." I have never known a time in my experience with the military where they had a ceiling on the personnel that they could not assign officers for duty "with." And, that could have been done. But, of course, the appealing thing is the question of the sharp edge of the unified command. That is accomplished; that is in existence; it does not depend on any legislation.

May I say to you that as much admiration as I have for the military and as many times as I have spoken in their defense, we must constantly see to it that this civilian control is maintained. If you would read these hearings, you would think that the Prussian staff system was the most benign thing in the world. Maybe they think nobody on the committee reads any history or even newspapers from some of the silly claptrap that you read in these hearings with reference to the Prussian staff system. I do not contend that the recommendations of the President would create a Prussian staff system in the United States. Never has that contention been made. But I do say this, that as their

proposal was brought here, the prestige and the power of the Chairman of the Joint Chiefs of Staff was to be enhanced, and enhanced immeasurably; that the Chiefs of Staff of the various services were to be removed from their responsibility for their own services. It was provided that they may delegate their responsibility and authority over their services and the President stated he would issue orders that they shall delegate their responsibility. I know of no official in all Government who has never been permitted to delegate the responsibility of his office. The authority perhaps, but the responsibility never. The one who fills that office must take full responsibility for all that goes on below or within his organization. That was a very effective means by which, by removing the Chief of Staff of the service from day-to-day operations, you would be able to eliminate them as service chiefs. From the time of Scharnhorst until Von Moltke's retirement there was a period of about 75 years. That is how long it took to build up the power and prestige of the Prussian general staff. It did not come overnight. It did not come by the passage of law.

But by the constant accretion of power of the general staff and the chief of the general staff they became very powerful.

Mention was made here the other day of what Bismarck did when he heard that the Franco-Prussian War had started. He said, "Just open drawer No. 7." I wish the gentleman had gone a little further and told us what happened to Bismarck, the Iron Chancellor. Just what became of Bismarck the Iron Chancellor? Why did he cease to be chancellor of Germany? When Kaiser Wilhelm II came to power, Von Moltke had retired, and Bismarck was still there. But a man, who few in the United States have heard of, Von Waldersee, became chief of staff of the German Army and served only about 30 months. But in that short period of time he ousted the Iron Chancellor. The chief of staff of the German Army was so powerful, because of the power that had been built up in that office, that the Iron Chancellor of Germany fell when the chief of staff of the German Army decided it was time for him to fall.

Everyone agrees that we ought not to have a monolithic General Staff nor a self-perpetuating General Staff. But let us see what is proposed to be done by Executive order; and I hold in my hand the regulation, if anyone wants to see it, on the appointment of 3- and 4-star generals.

The SPEAKER pro tempore (Mr. DORN of South Carolina). The time of the gentleman from Texas [Mr. KILDAY] has expired.

Mr. VINSON. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 15 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. KILDAY. Mr. Speaker, of course, your Chief of Staff and your Chief of Naval Operations are 4-star officers. It is not essential that a man have 3 or 4 stars at the time he is designated as Chief, and there are instances in which that has happened. But those are the very rare occasions. But since April 25, 1958, the services are not going to be the sole ones to choose their 3- and 4-star officers. They are going to be chosen upon nomination, of course, of their own service, but upon recommendation of the Joint Chiefs of Staff. And it must be certified that they have shown an ability to deal with military problems without extreme service loyalties, or words to that effect.

So what do we have? They all condemn a self-perpetuating General Staff. But here is a system already established in which the Joint Chiefs of Staff from now and here on are going to pick, for all practical purposes, their own successors. So, from now on a self-perpetuating Joint Chiefs of Staff, a self-perpetuating top echelon will be provided.

Now how about this being monolithic? The monolithic that I am thinking about is not whether it comes from 1 service or the other services or all the 3 services. I am thinking about monolithic thinking and about who is going to be the brightest young general coming up the line. Of course, it is going to be that general who agrees with the thinking of the Joint Chiefs of Staff who are passing upon whether or not he is going to progress any farther than two stars. So condemn monolithic and self-perpetuating staffs and look at what you have coming up, and take heed.

Mr. Speaker, let me say to you we have reported from the Committee on Armed Services, after very serious consideration, a bill which provides for a proper reorganization of the Military Establishment so far as it goes.

Additional legislation is pending with reference to the layers of secretaries, under secretaries, assistant secretaries, deputy secretaries, deputy assistant secretaries, and assistant deputy secretaries, which still requires consideration and action by Congress. This is as far as we could go because of the exigencies of the situation. We had to move along with this portion of it.

It is my sincere belief, and I could not be more sincere on any matter I have ever brought before this House, that the bill we have brought is adequate, that it provides for the proper organization of your Military Establishment. It maintains civilian control. It does not permit to happen what has happened in many other places.

Many people have asked me if I thought could happen in the United States what has happened in France. I have told them "No, I do not think so." I do not think so, and I am sincere, I do not think so. But let me tell you what I know. I do not think that will happen, but I know it will not happen so long as you maintain civilian control of your armed services, and effective civilian control of your armed services as decreed and passed by the Congress of the United States. That I know. The other I only think. Maybe it is wishful thinking on my part.

Mr. MANSFIELD. Mr. President, in conclusion I should like to refer to what the President said to the American Society of Newspaper Editors on April 18, 1958. He assured them emphatically that there would be first, no single Chief of Staff; second, no czar; third, no $40 billion blank check; fourth, no swallowing up of the traditional services; and fifth, no undermining of the constitutional powers of the Congress.

It is my hope that the reorganization proposals now before the Congress will not lead to a constitutional crisis over the powers of the Executive versus the functions of the Congress.

OUR DEFENSE POLICY RECONSIDERED—VI—THE MISSIONS OF THE SERVICES

Mr. FLANDERS. Mr. President, I should like to inquire whether we are in the morning hour.

The PRESIDING OFFICER (Mr. HRUSKA in the chair). The Chair informs the Senator from Vermont that the Senate is still in the morning hour, subject to the 3-minute rule.

Mr. FLANDERS. I ask unanimous consent that I may address the Senate for 14 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Vermont may proceed.

Mr. FLANDERS. Mr. President, if we accept the atomic stalemate for long-range defense and graduated deterrence for the recurring small-scale military operations which are threatened or which actually develop from time to time, we are able to devise basic policies for solving the whole defense problem. The plea for accepting the atomic stalemate was made in my talk of June 6 and the advantages of graduated deterrence were discussed on June 9 and 10. With these basic elements accepted, it becomes possible to give a logically organized form to American defense. What follows is an example of such a form. It is given only as an example of what might well be the form of the annual report of the Defense Department as to its proposals for the coming year.

We have never had presented to us such an organized program. One could be picked out of the appropriations requests and glued together by the exercise of the imagination. Something better than this should come from the reorganized Defense Department and should be presented to the Armed Services Committees of the House and Senate for authorization, before the detailed budget requests go to the Appropriations Committee.

The missions of the services will be discussed separately in the two areas of the atomic stalemate and graduated deterrence. The assignment of missions in both cases will be on the assumption that the Air Force responsibility is primarily in the air, the Navy on and under the sea, except for the amphibious responsibilities of the Marine Corps, and the Army with operations on the land.

ORGANIZING THE ATOMIC STALEMATE

The maintenance of the massive deterrence of our nuclear defense should be sufficient in materiel and in manpower to destroy the military bases and the industrial potential of any nation which has launched an all-out atomic attack upon us. This sufficiency must be known. The efficiency of this sufficiency must be publicized, though many of the details will naturally remain restricted. It is not expected that this massive atomic deterrence will ever be used. If it has to be used, it has failed. Yet, to be effective it must be powerful and always ready. There must be no letdown.

The present primary dependence is on bombers carrying atomic warheads stationed at widely dispersed fields here and in Europe. Night and day, week in and week out, month in and month out, year in and year out there must be a suitable percentage of these bombers in the air. This instant readiness is an essential part of the massive deterrence of the atomic stalemate.

The Navy with its atomic submarines designed for launching of the subsurface Polaris constitutes the second element of massive deterrence. Some of these vessels must always be at sea and always be ready.

While we are accustomed to think of the intercontinental ballistic missile as eventually superseding the bombers, it is

in my own judgment questionable as to whether this will in fact take place. The immense complication of these bombers and the fact that missiles of intercontinental size have to be located at "hard bases" raises serious problems. The ideal of the Air Force for these ICBM's on hard bases has been that they should be manned on a 15-minute readiness. Now, that 15-minute period begins with the first sure information of the launching of an atomic attack. It is reasonable to suppose that the indication will be given by an initial attack on these hard bases, whose locations would be well known to an attacking enemy. It is true that if our services of detection succeed in their mission, the 15-minute notice might be valuable if the attack is by aircraft. It would be difficult to gain these 15 minutes if the initial attack on these bases is by intermediate range missiles for the European locations or by intercontinental missiles on the ones in America.

Is a better solution not to be found in the intermediate range missiles launched from planes? This new development would seem to warrant fast development not merely from the military standpoint but also from the danger of blundering into global atomic war. If the information which seems to warrant the release of the intercontinental missile turns out to have been a mistake, there is no way of recalling the missile. Bombers or missile launching planes can, for a short time, be recalled in the event a mistake has been made.

There would seem to be no mission for our Army in maintaining the atomic stalemate. However, an intermediate range missile might well be employed by our associated NATO forces as a counterpoise to threatened attack on European cities. There has always been danger that these centers of population, so close to the Soviet heartland and to its satellites, might by threats of destruction be blackmailed into the acceptance of Soviet domination. The knowledge that the NATO air bases were in instant readiness and that NATO armies were provided with intermediate range missiles would eliminate this danger. It is probable that European armies would prefer a missile launched from soft, mobile bases rather than from hard bases which would themselves be "sitting ducks" to atomic attack.

So much for atomic defense against atomic attack. As stated in my talk on atomic stalemate, this does not require unlimited provision of planes and bombs and missiles. It requires only the provision of sufficient bombers and missiles to get through in sufficient numbers to destroy the enemy's warmaking potential. More than this is too much. More than this wastes the taxpayers' money. Let the determination be made carefully and adhered to with determination.

There is one element of atomic defense which does not submit to the same determination of its limits. That element is the apparatus for detection of attack. It will be advisable still further to expand our ring of men and equipment for detecting and identifying approaching planes and missiles and it will furthermore continue to be necessary to perfect and likewise to increase intercepting planes, and ground-to-air missiles, and particularly to perfect the antimissile missile. Even here the requirements are not limitless.

ORGANIZING FOR GRADUATED DETERRENCE

The mission of the Army in the atomic stalemate is of minor importance. Its mission in handling the smaller scale attacks and threats of attack is of primary importance. The Army must be prepared as the major factor in a successful defense of these local emergencies.

The nature of its contribution to deterrence is as has been described. It and its associated NATO and other forces must be prepared to offer resistance sufficient to handle any local military threat. That means that it must be prepared to use conventional arms and armaments, or to use tactical atomic weapons to the degree required to ward off an attack. The tactical support of the Air Force must be organized about the Army's requirements. This tactical air support will include light bombers capable of delivering conventional warheads, or if necessary, atomic warheads as well, on definite targets.

The perfection of effective missiles of around 150 miles range capable of being fired from mobile bases will add greatly to the effectiveness of our Armies and those of our allies.

As has already been indicated, this meeting of local threats would be by means proportioned to the strength of the threat. The atomic arms would not necessarily come into use, but it must be known that they are available and will be used if necessary. It must also be known, however, that the massive atomic attack will not be employed for a local situation. Authoritative statement to this effect from the Western Powers is necessary if the local warfare is not to be an automatic entrance into a global conflict.

The Navy's mission is primarily to clear the seas for free transport of men and materiel to the trouble spot. The antisub sub must be in continuous development and must be provided in sufficient numbers. Patrol fleets including carriers of patrol and sub-destroying planes must be in sufficient number.

With the seas cleared sufficient merchant marine transport must be at hand for transporting the Armed Forces and their supporting materiel. In this connection, the authorization to build the three new supertransports to add to the facilities of the liner *United States* is of great importance. These ships are primarily military transports which are used as passenger liners during peace times. Their construction involves protection against submarine and air attack that greatly increases their usefulness in time of war.

It would seem as though the successful development of the Polaris and of the types of Air Force bombers and missiles already described would cast doubt in building any further supercarriers with their immense fleets of attending surface and submarine craft. Here is a point at which we may well conclude to cut down on the heavy defense expenses that we are incurring.

The mission of the Air Force in these smaller wars would seem to be largely in tactical support of the Army. This mission should be taken as a very serious one. The tactical wings should be adequately equipped and manned and the tactical processes given the most intense study and development.

GENERAL CONSIDERATIONS

As already stated, the above outlining of missions is tentative. It is given as an illustration only. The form of such an outline should be filled in by the Secretary of Defense and the Joint Chiefs of Staff and presented to the Armed Services Committees of the House and Senate annually for authorization of the overall defense plans. Based on the authorization, the detailed appropriations would go through the Appropriations Committees.

No program offered is definitive or static. In all the elements suggested, research must always be going on. The number of research projects will be limited by the precise definition of the missions rather than as a wide open invitation to spend money on anything and everything.

Mr. President, in a carefully worked out program of missions there seem to me to be opportunities for a better defensive posture at less expense than is given by our present procedures. I sincerely hope that the Department of Defense and the Congress will find in these suggestions some clues to more effective and less expensive military preparations and operations.

TRANSFER OF MAJ. GEN. JOE W. KELLY

Mrs. SMITH of Maine. Mr. President, Maj. Gen. Joe W. Kelly, director of legislative liaison for the Air Force, will be leaving Washington to report to his new assignment as commander of the Air Proving Ground Center at Eglin Air Force Base, Fla. I think it proper and fitting at this time that the Congress recognize General Kelly both for what he has done and for the manner in which he has worked toward the betterment not only of our Nation's defense but also for the mutual understanding of the Congress and the Air Force.

His departure is not only a loss to the Air Force, but to the Congress, as well, for never did a man do such an effective liaison performance for a military service and for Congress, as well, as has General Kelly. I truly hope that he will be returned to duty in Washington as soon as possible, and that some day he will become the Chief of Staff of the Air Force.

All of us who have seen and enjoyed the kind of effective and efficient service provided by General Kelly, all of us who have come to appreciate the value of his frank and sound advice, all of us who have shared the good humor and friendliness of General Kelly, could not overlook this opportunity to make known to him that his association with the Congress has left a deep, lasting, and profound impression. It will not soon be forgotten.

It is with a high sense of praise and admiration for General Kelly that I ask

the Members of the Senate to join me in expressing their thanks and appreciation for a job well done. We wish him well in his new assignment and in his future Air Force assignments. Our door will always be open to welcome him back among us.

Mr. President, the distinguished senior Senator from New Mexico [Mr. CHAVEZ], the chairman of the Department of Defense Appropriations Subcommittee of the Appropriations Committee is detained in the committee, where he is holding hearings on the appropriations for the Army. He has asked me to request unanimous consent to have printed at this point in the RECORD his statement regarding General Kelly. I ask unanimous consent that it be printed following my own remarks.

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

STATEMENT BY SENATOR CHAVEZ

I wish to wholeheartedly associate myself with the remarks of the distinguished Senator from Maine honoring Maj. Gen. Joe W. Kelly of the United States Air Force.

As chairman of the Department of Defense Subcommittee on Appropriations, I can testify to the effective and efficient service provided by General Kelly. Throughout the past 5 years of his Washington tour he has demonstrated his complete honesty, loyalty, and integrity in his dealings with all Members of the Congress.

I am sorry to see General Kelly leave his duties as director of legislative liaison for the Air Force. However, I agree with the distinguished Senator from Maine that someday he will be returned to Washington as the Chief of Staff of the Air Force.

I count General Kelly as a personal friend. I wish him the greatest success in his new assignment. I ask all Members to join me in expressing thanks and appreciation to Joe Kelly for a job well done.

Mr. THYE. Mr. President, will the Senator from Maine yield to me, so that I may concur in the remarks she has made in regard to General Kelly?

Mrs. SMITH of Maine. Yes, indeed; I shall be very glad to do so.

Mr. THYE. Mr. President, I wish to commend the Senator from Maine for bringing to our attention, on the floor of the Senate, the transfer of General Kelly.

He has served us so ably in Washington, in liaison work between the Armed Forces and the Congress, that it is with real regret that I have learned that he is to be transferred. We shall miss him very much.

We wish him well personally. We shall greatly miss the efficient service he has rendered to the Congress.

So again I commend the distinguished Senator from Maine for bringing this matter to our attention on the floor of the Senate.

Mrs. SMITH of Maine. I thank the Senator from Minnesota.

Mr. DIRKSEN. Mr. President, will the distinguished Senator from Maine yield to me?

Mrs. SMITH of Maine. I yield.

Mr. DIRKSEN. Mr. President, I should like to identify myself with the remarks which have been made by my distinguished colleague, the Senator from Maine.

I met General Kelly under rather extraordinary circumstances. At that time he was a first lieutenant in the Air Corps, and was on duty in Lima, Peru. He was at the airport when I arrived as a member of a committee which was making an investigation of air safety in Latin America. His very charming wife was with him, and expressed astonishment that I did not recognize her. She is the daughter of a very distinguished member of the Illinois State Senate who I claim as a close friend.

So not only is General Kelly a personal friend, but in his liaison capacity he has been extremely helpful to me and to my office. Seldom does one encounter one so amiable, so affable, and so diligent, with a desire always to help those in the legislative body to procure adequate answers to the problems which come to their desks.

Therefore, I join my esteemed colleague, the Senater from Maine, in saluting General Kelly and in wishing him well.

Mr. CARLSON. Mr. President, will the Senator from Maine yield to me?

Mrs. SMITH of Maine. Yes, I am very glad to yield.

Mr. CARLSON. Mr. President, I should like to concur in the commendation the senior Senator from Maine has made of General Kelly. I think all of us who have had opportunity to have contact with him, through liaison with the Defense Department, know of his fine work and his excellent service.

I shall miss him, and I know that my office, as well as the offices of other Senators, will also miss him.

We wish him well in his new appointment.

Mr. MANSFIELD. Mr. President, will the senior Senator from Maine yield to me?

Mrs. SMITH of Maine. I am glad to yield.

Mr. MANSFIELD. Mr. President, I do not wish this to be a one-sided show. I desire to say that General Kelly is to be commended for the excellent service he has rendered in an impartial manner over the years.

I join in the expressions of regret that General Kelly is leaving us. We shall miss him very much. If his successor is half so good as he is, we shall be doing very well.

Mrs. SMITH of Maine. I thank the Senator from Montana.

Mr. BRIDGES. Mr. President, it is with regret that the Senate is to lose the able services of Maj. Gen. Joe W. Kelly, director of legislative liaison for the Air Force.

General Kelly is an outstanding officer and has been most cooperative with the Members of Congress and his advice and counsel on Air Force affairs have been most helpful to this body.

General Kelly's work has been of such outstanding value that the Secretary of the Air Force extended his time in his present assignment for an additional year.

As he goes to his new assignment as commander of the Air Proving Grounds Center at Eglin Air Force Base, Fla., the good wishes of all of us go with him, knowing that he will give the same fine understanding and leadership as he has in the past.

I join in congratulating him in assuming the new responsibility which has been given him, and wish him every success in the future.

HELLS CANYON DAM AND COLUMBIA RIVER DEVELOPMENT

Mr. NEUBERGER. Mr. President, in the long battle to secure full development of the Columbia River Basin through construction of a high storage dam at Hells Canyon, the project's supporters have met with many reverses. Probably no other great water-resource project, except Grand Coulee Dam, has been declared a "dead duck" so many times. Yet Grand Coulee stands today as our Nation's largest source of hydroelectric energy.

The East Oregonian, of Pendleton, Oreg., has recognized this situation in a thoughtful editorial which analyzes the shambles to which Columbia Basin river planning has been reduced because of the adverse decision on Hells Canyon. "We doubt that the last has been heard of Hells Canyon," the editorial states. "The Federal Power Commission is up to its ears in trouble on the middle Snake. A way out must be found." I agree with that editorial emphasis. A tragic and wasteful loss of resources at Hells Canyon will be felt by all the Nation until the job can be done right, at whatever future time that will be possible.

I ask consent to include with my remarks the editorial from the East Oregonian of June 8, 1958 entitled "It Will Be Heard From Again and Again."

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

[From the East Oregonian, Pendleton, Oreg., of June 8, 1958]

IT WILL BE HEARD OF AGAIN AND AGAIN

When a House subcommittee this week defeated (15–13) a bill that would have authorized high Hells Canyon Dam almost everybody decided the project was as dead as a dodo bird. That it was failing fast was obvious before it got to the House subcommittee and that knockout punch.

Nevertheless, we strongly suspect that high Hells Canyon will be heard of again and again. The committee's action will not seal the lips of those who are convinced that the project is necessary. And future events could make their case look pretty good.

Through a combination of circumstances, some of which have been arrived at deliberately and others by inexcusable bungling, development of the resources of the middle Snake River is in a state of complete confusion.

Let's sketch the picture quickly. Pacific Northwest Power Co. made application to the Federal Power Commission for a permit to construct Pleasant Valley and Mountain Sheep Dams. While this application was under consideration Secretary of Interior Fred Seaton asked for sufficient time and funds to make a study of the possibility that the height of Pleasant Valley Dam could be increased in order to capture more storage. The FPC disregarded Secretary Seaton's request, and subsequently shocked everybody for miles around by deciding that Nez Perce Dam was preferable to Mountain Sheep and a higher Pleasant Valley.

It was a shocker because all but a few public power diehards had written off Nez Perce. The Corps of Engineers have for years looked upon Nez Perce as one of the most desirable projects in the Columbia Basin because of the vast storage it would provide, but they ruled it out because it would block fish runs to and from the Salmon River, one of the most valuable fish sanctuaries in the basin.

Without an iota of evidence that the fish migration problem at Nez Perce could be solved, the FPC said it was the best project in the middle Snake and by doing so in effect invited an application for a permit to build the dam.

Since the FPC decision there has been a scramble to come up with alternate projects. Pacific Northwest Power Co. is digging for a combination of projects on which to base application to the FPC again, hoping that in the interim the FPC will have concluded that it must take the fish problem at Nez Perce into consideration.

It is plain to anybody who has studied the middle Snake picture that the FPC by its decision on Nez Perce was trying to remove some of the error it made by refusing to grant a permit for high Hells Canyon. Recognizing that it had forsaken storage of tremendous value to downstream projects by forbidding construction of high Hells Canyon, the FPC wanted to belatedly get the maximum in storage out of what was left. Nez Perce does that. It was the old story of an umpire making a bad decision and then making another to even things up.

We doubt that the last has been heard of Hells Canyon. The Federal Power Commission is up to its ears in trouble on the middle Snake. A way out must be found. Certainly, the best combination of projects for full development on the middle Snake is high Hells Canyon and Nez Perce. If high Hells Canyon were built, Nez Perce could wait until the fish migration problem was solved.

It isn't too late to do the job right. Perhaps present members of the FPC will not concede to that statement. But a change in FPC membership could result in admission that it would be better to start all over again rather than to walk off and leave a complete mess.

ADMINISTRATION ECONOMICS—CRITICISM AND DEFENSE

Mr. BUSH. Mr. President, on May 29 the Washington Post published, under the heading "Administration Economics: A Critical Appraisal," a letter written by Seymour E. Harris, who is professor of economics at Harvard University, and is chairman of its economics department.

Subsequently, I wrote a letter to the Washington Post, which has printed under the headline "Administration Economics Defended" my observations concerning the letter written by Professor Harris.

I ask unanimous consent that both letters be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

[From the Washington Post and Times Herald of May 29, 1958]

ADMINISTRATION ECONOMICS: A CRITICAL APPRAISAL

We have now had 10 months of a recession, 10 months of a declining economy. Historians of the cycle tell us that a turning point generally comes within a year of the initial decline. Perhaps this command of history explains the reluctance of the administration to take positive measures to reverse business trends. But the administration may be gambling too much on the laws of history.

So far the antirecession measures have been inadequate; and most of those taken have been forced upon the reluctant administration by a Democratic Congress, or have been automatic results of built-in flexibility—e. g., the decline of the tax receipts with reduced income and the rise of unemployment benefits.

Even defense expenditures are not rising substantially. Despite the insecure state of the Nation, and the recession, the administration is not spending more on security in calendar year 1958 than in 1957. We have the word of the Chief Finance Office of the Defense Department for this.

In fact, the best estimate I can make does not suggest a rise of Federal outlays of more than $2 billion and certainly not more than $3 billion for the calendar year 1958. (I exclude the rise of transfer payments like unemployment compensation.) Even these estimates take account of the probable outlays under the road program, the unemployment compensation, the Housing Act, the Commodity Facilities Act, and proposed legislation on area redevelopment and education.

I do not believe these estimates are ungenerous. If the administration has other estimates, they have never revealed them. Is it not about time that the administration gave the country a monthly estimate of expected help from reduction of taxes, increase of expenditures, etc.—in fact, a survey the first of the month of the trends in the economy?

What is the administration afraid of? Indeed, they underestimated revenue for fiscal year 1959 by several billions. Had they shown historical sense at this point, they would not have made this mistake. In addition, expenditures will rise by a few billion beyond their January 1957, estimate for fiscal 1959. They seem to be scared of the rising deficit.

But they should have learned a long time ago, as most economists and an increasing group of businessmen have learned, that the way to keep a deficit down is to raise income; and the way to increase income is for the Government to reduce taxes and increase spending—in the midst of a recession. A continued economic decline can only further increase the deficit.

We are losing income at the rate of $30 billion to $50 billion a year. Is inactivity supportable under these conditions? Each month the administration waits, we lose $4 billion, and, perhaps, about 700,000 man-years of employment. We do not deal with a leak in a tank by allowing the water to escape; we plug the hole.

We lose this income despite the fact that there are all kinds of public services that need attention—housing, care of the unemployed, urban redevelopment, school construction, and river development.

The Government should favor especially the expenditures that yield the largest returns in the shortest period both in stimulating the economy and helping those in distress. On this score aid for unemployment-compensation funds, redevelopment, and school and college construction stand high. Those who are fearful of large public expenditures can be appeased by selecting outlays that put the smallest burden on the Treasury, namely, loans and guaranties against grants, small subsidies for loans against outright grants.

We expect a greater degree of intervention by the Federal Reserve than we have had so far. Indeed, the Federal Reserve has reversed its policy. For this we give them credit. But the reversal was slow in coming and has not been aggressive enough. It is not enough merely to reduce discount rates or even make possible the reduction of borrowing by member banks. What is needed is a rise of several billion dollars in the reserves of member banks, inclusive of excess reserves.

The open-market operations of the Federal Reserve have been most inadequate. They are excessively concerned over the dangers of inflation.

The present danger is recession. We cannot afford to lose face in the one area where we are still strong—a well-functioning economy. Hence, let us be bold in our fiscal and monetary policies.

How silly are these buying campaigns, these appeals to labor and capital to be sacrificial, the attempts of the Federal Government to shift the responsibilties for recovery to the weakened State and local governments, and, to the contrary to their interest, operations, of the private economy.

A saturation of the capital market contributed to the recession; but just as a dear money policy and a changeover from an excess of spending to an excess of receipts by the Federal Reserve aggravated the recession and helped hasten it, so a drastic reversal of these policies will soften the blows of the recession.

SEYMOUR E. HARRIS.

CAMBRIDGE, MASS.

(Professor Harris is chairman of the economics department at Harvard University.)

[From the Washington Post and Times Herald of June 11, 1958]

ADMINISTRATION ECONOMICS DEFENDED

In a letter to the editor on May 29, Prof. Seymour E. Harris (chairman of Harvard's department of economics) endeavored to comment on the administration's economic policy. It is not easy to divine what points he is trying to make or what policies he would have pursued, but he seems to be unhappy—apparently on three counts.

First, the administration has not taken vigorous fiscal measures, and those which have been taken have been forced upon the administration by a Democratic Congress or have been automatic results of built-in stabilizers. Second, because our productive capacity is not fully employed, we are losing a lot of production. Third, Federal Reserve actions have not been sufficiently aggressive.

The first charge is hardly based on the record. The administration months ago initiated a program to accelerate procurement and obligations for needed projects. The Director of the Bureau of the Budget recently estimated that Federal outlays in the next fiscal year would be at least $78 billion, an increase of $5 billion over the fiscal year now ending.

It is, of course, true that the President has opposed using recession as an excuse to initiate the kind of wholesale increase in Federal spending which would accomplish little except to leave the Federal budget in shambles for years to come. He has objected to some long-range spending programs disguised as so-called "antirecession" measures, pointing out that they could not be initiated quickly enough to help significantly in relieving the current unemployment.

The administration has also been cool to certain measures which would really have the effect of switching projects (most of which would be undertaken anyhow) from normal financing through the private bond market to financing through the Federal budget. But there has been no hesitation about accelerating expenditures on needed projects.

In a series of actions dating back to August 1957, for example, the administration has taken steps to encourage home building, and the outlook for housing construction is at present reasonably promising.

It's hard to understand Professor Harris' charges about a reluctant administration having to be pushed by a Democratic Congress when we look at one of the most sorely needed actions in the current recession—extension of unemployment compensation to

cover for a further period those who had exhausted their benefits. This measure became law on June 4, though the President's request to the Congress for this action was made on March 25. This is not the record of a reluctant administration and an eager Democratic Congress.

It is not completely clear from the letter whether Professor Harris is unhappy with the administration for not having sponsored a major tax reduction. If so, he must also be unhappy with the leadership of the Democratic Party to which he has so closely attached himself and which controls the Congress.

Professor Harris is concerned about the loss of production during the recession. So are we all. It is important, therefore, that the economic imbalances which have played a key role in the recession be corrected promptly, so that the economy can move on to a vigorous pace of balanced economic expansion. Though the letter contains no clear and explicit statement of what Professor Harris would do, he seems to be proposing that the economy be put under more forced draft through enlarged Federal deficits of little current benefit. If so, it is clear that he is really proposing chronic inflation, which could only lead to direct controls over wages and prices, a real economic smashup, or both.

Professor Harris is also unhappy about the Federal Reserve's policy. While the Federal Reserve has moved vigorously to ease credit, there can, of course, be a difference of judgment about the timing and extent of these actions. But there is no room for argument on one matter. The Federal Reserve is not responsible to the White House. The President cannot tell it what to do. It is the agent of Congress and reports to the Congress. Only the Congress can tell it what to do.

The Congress is controlled by Professor Harris' party, but to date the Democratic leadership on the Hill has not seen fit to direct the Federal Reserve to change what it's doing. I have openly challenged them on the floor of the Senate to do this, but, of course, they know better than to try it. All of this Professor Harris should know.

He may also know how curious some of his points must be. He charges the administration with having "underestimated revenue for fiscal year 1959 by several billions." This will be news to those who have been criticized for overestimating revenues for fiscal year 1959. He alleges that "a changeover from an excess of spending to an excess of receipts by the Federal Reserve aggravated the recession and helped hasten it, [and] a drastic reversal of these policies will soften the blows of the recession." Students of central banking would puzzle for a good long while at this curious jumble of meaningless words—except for the fact that they will probably ignore it.

PRESCOTT BUSH,
Senator from Connecticut.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TRANSPORTATION ACT OF 1958

Mr. SMATHERS obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I am happy to yield.

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of Senate bill 3778, to amend the Interstate Commerce Act so as to improve and strengthen the national transportation system.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. MANSFIELD. Mr. President, under the rules of the Senate, only a certain number of committee staff members are allowed to be on the floor during the debate on a bill. I wonder whether the distinguished Senator who is in charge of the bill cares to request unanimous consent that additional staff members be allowed the privilege of the floor.

Mr. SMATHERS. Mr. President, I so request. The bill is a highly complicated one, and covers a variety of subjects which are very technical in nature. For that reason, I ask unanimous consent that the staff members of the Subcommittee on Transportation be permitted the privilege of the floor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SMATHERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMATHERS. Is the morning hour concluded?

The PRESIDING OFFICER. The morning hour is concluded. The unfinished business is S. 3778.

Mr. SMATHERS. Does the Senator from New York desire to make a unanimous-consent request?

Mr. JAVITS. No, I do not.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NEUBERGER in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, the measure before the Senate is the Transportation Act of 1958, which started specifically as a railroad bill, a bill designed to see if we could not bring about some relief in the deteriorating railroad situation. Hearings were begun early in January, and they lasted until the middle of May.

Let me say for the benefit of Senators and others that it has never been my privilege before, either as a Member of this House or as a Member of the other body, to serve on a committee or a subcommittee in connection with which there was more faithful and loyal attendance. The members of the subcommittee evidenced a great interest, knowledge, and concern with respect to the problems which were raised. The very able Senator from Kansas [Mr. SCHOEPPEL] is senior to me in point of service in the Senate, but by virtue of the way the political chips fall, I happen to be chairman of the subcommittee rather than he. However, he sat in the hearings as a minority member of the subcommittee, and saw to it that no politics or partisanship was discussed or injected in any fashion whatever. There was none in this particular consideration.

I am grateful to the Senator from Kansas for his faithful and loyal attendance during the long series of hearings which were held; for his keen interest in and alertness to the problems which were presented; and for his very constructive suggestions as to how to meet the particular problems which arose. His services were greatly appreciated, not only by me, as chairman of the subcommittee, but by the other members of the subcommittee.

I am also grateful for the very faithful service of the junior Senator from Ohio [Mr. LAUSCHE]. We like to think of him as not only the conscience of the subcommittee, but to a considerable degree the conscience of the Senate. He is a man dedicated and devoted to fine principles. His understanding of these problems, in relation to his principles, in my judgment won the admiration not only of members of the subcommittee, but of all the witnesses who appeared. He was fair. He was straightforward. He was regular in his attendance. He was constructive when we were trying to solve problems. I am personally grateful to him, and I know that every other member of the subcommittee is equally grateful.

The able junior Senator from Connecticut [Mr. PURTELL], who is not now in the Chamber, was present on almost all occasions. He has a background of success in business in his State of Connecticut. By virtue of his experience he was able to be most helpful to us in connection with some of the highly complex financial problems which continued to arise in connection with the question of helping the railroads and improving our overall transportation system. He made some very constructive suggestions, and his contribution to what was finally arrived at by the subcommittee was indeed great.

Another member of the subcommittee was the junior Senator from Texas [Mr. YARBOROUGH]. He was involved in a campaign in his home State, but he attended our meetings whenever he could; and whenever he was present he made a fine and constructive effort, and contributed greatly to bringing about a good bill.

I should like also to mention two members of the full committee. The chairman of the full committee, the Senator from Washington [Mr. MAGNUSON], has an absolute genius for bringing together those representing diverse interests and Senators with conflicting ideas. He was always very helpful to us, and when we encountered a particularly difficult situation, it was the Senator from Wash-

ington who was able to bring us together and provide leadership at a time when it was needed. His part in the bill was very considerable, and in my judgment he deserves a great deal of the credit for what has been done.

I should like also to mention the senior Senator from Ohio [Mr. BRICKER], who has long been interested in the problem of transportation. He was formerly chairman of the full committee. He sat with us on many occasions; and when we were faced with particularly complex problems he was very helpful to us and very constructive in the suggestions he made and the questions which he raised. His contribution to the bill has been very great.

Mr. President, I have a brief general statement which I should like to make. However, I understand that the able senior Senator from Kansas [Mr. SCHOEPPEL], who is present in the Chamber, wishes to make a few remarks. I am very happy to yield to him.

Mr. SCHOEPPEL. Mr. President, I wish to say to the junior Senator from Florida, chairman of the subcommittee, that I genuinely and deeply appreciate what he said in his opening remarks with respect to the activities of the subcommittee, and his comments with respect to the Senator from Washington [Mr. MAGNUSON] and the Senator from Ohio [Mr. BRICKER], who are members of the full committee.

Let me say at the outset that this entire proceeding calls for a great deal of patience, understanding, and attention to the details involved in the hearings. I do not know that I have ever served on a subcommittee or on any full committee of which I have been privileged to be a member, where there has been any finer type of cooperation.

I commend the junior Senator from Florida for his understanding and patience in trying to focus attention upon the problems which developed as the witnesses testified.

Practically all Members of the Senate, and many persons who have followed the railroad situation, know that the railroads are in a precarious position. I shall not at this time go into subjects which I know the Senator from Florida will cover. However, I know that on many occasions conflicting interests sought to be heard. On a number of such occasions the junior Senator from Florida, after counseling with the representatives of conflicting groups, was able to bring them together on many points which will be before the Senate in the consideration of the bill. If the situation had not been handled in that way, I am sure we would not have such an excellent bill before the Senate today.

The railroad witnesses appearing before our subcommittee presented a broad picture of economic and financial problems facing the rails. Presidents representing most of our greatest railroads presented evidence of their own particular situations. While some railroads are in what may be termed a prosperous condition, they are, in the main, exceptions.

Generally, we found that the railroads were suffering from a loss or decline of traffic, caused by many factors, as the hearings will disclose to those who are interested in reading them. Their position has continued to decline for many months, and, for that matter, for several years. In my opinion, we are dealing with a sick industry.

If this continuing deterioration were to be permitted to continue, I fear the impact upon our Nation's economy would lead to dire consequences. I need not dwell upon what might happen if we should permit 2 or 3 or more of our country's large railroads to go bankrupt. Precisely that is what may happen unless we take action now, as we view it, to aid this industry. It is our obligation to prevent a serious weakening and threatened breakdown of our transportation system.

It is in the national interest to maintain a sound transportation system, not merely that afforded by the railroads, but for all modes of transportation. That was forcefully brought to our attention by witnesses who were not in the railroad-transportation business as such. The proposed legislation is not only for the benefit of the railroads, but for all modes of transportation.

Each mode has its particular advantages and some disadvantages. Each has made its great contribution to our economy, and I believe each is deserving of our attention. We must have a healthy and adequate transportation industry.

Our railroads have been outstanding examples of the American free-enterprise system. While regulated by law, they are private businesses. They have always been privately owned and financed. They have been privately operated and self-supporting generally. They have been paying taxes to local communities, States, and the Federal Government.

It would be hard for me to believe any of the Members of this distinguished body would want to see that situation changed.

I believe we have an opportunity here to pass a constructive bill which will help this industry regain its previous position. If we fail to do that, we have another alternative. I hope I shall never see the day when it appears that the only solution to such a complex problem is the nationalization of our railroads. Yet such a result may face this industry if it is permitted to deteriorate.

Our railroads perform a needed service in our economy. It is essential, if for no other reason than national defense, that our railroads maintain a strong competitive position in our transportation scheme of things.

I shall not attempt to cite additional statistics to prove the need for this proposed legislation. Freight and passenger traffic, along with resultant revenues, has declined. Labor and materials have, during the same time, increased in cost. Many railroads, particularly those in the eastern part of the United States, have been caught in this economic squeeze. Many of the western and southern roads have a larger territory to cover, more traffic, with higher earnings and additional sources of revenue from nonrailroad enterprises. While the western and southern lines have been better off, they, too, are feeling the decline in traffic and the additional increases in operating and maintenance costs, and as a result they too are facing reduced net earnings.

The railroad industry has had a difficult time maintaining adequate capital reserves. It is well known in the investment business that the rate of return has been very low in this industry. It has, as a consequence, had great difficulty in obtaining outside investment capital. That was repeatedly brought to the attention of the committee. Testimony was received by the subcommittee that certain railroads had exhausted credit resources available to them from private banking and lending institutions.

From what I have previously said, one might draw the conclusion that this industry has done little to help itself. Such a conclusion is not warranted. It is not the case. This industry has been taking advantage of every technological advance which could be utilized. From dieselization to electronic yards, these improvements have resulted in better service and reduced costs to the customer. But this advance has been slowed by the need for capital funds. Each large improvement program has cost vast sums of money. While some rate increases have been made in the postwar period, they have not provided sufficient funds to embark on large-scale improvements; in fact, the increases have not kept pace with advances in prices paid for services and goods during this period of rapid inflation.

We all know that the history of complex legislation is frequently one of compromise. In the pending bill, S. 3778, there are several such compromises which represent concerted and cooperative efforts by all parties, including members of the committee and representatives of the competing modes of transportation. Section 5, dealing with competitive ratemaking, is one such section.

With the present language in this section—which all modes of transportation now accept—material benefits can result to the railroad industry generally. I believe the industry must have greater freedom to make reduced rates. Under this section the Interstate Commerce Commission cannot hold up the rate of a carrier to any particular level in order to protect the traffic of another mode of transportation. Under this provision, any mode of transportation will continue to enjoy the advantages which accrue to it, whether it be by the nature of the service rendered or by lowered cost.

I have some reservations concerning section 6 of S. 3778. In the opinion of our committee a guaranteed loan program is essential. I am hopeful this program, if it is finally adopted, will never become permanent. It is designed for temporary relief, and I understand there may be some question about our approach to the problem. I am hopeful that the Interstate Commerce Commission will provide sufficient regulations so that the program can be effective. Such regulations need not be burdensome; but they should be strict enough to protect the taxpayers of the Nation, whose money is being used.

With reference to the provisions of section 8 of the bill, relating to the so-called agricultural commodities clause, I

believe that the intent and purpose of this section has been twisted by judicial interpretation and construction so that the present situation is far from what the framers of this provision intended. Originally, this was designed to be a protection for the farmer and the agricultural producer, as an aid in moving their produce and crops to market. Today, little, if any advantage accrues to the man on the farm. The packer or distributor or processor largely benefits. I believe we must take action to tighten up this and other provisions in the Interstate Commerce Act. By so doing we will not be prejudicing any interests of the farmer.

It is my firm conviction that section 9, as reported by our committee, is very much needed. What we will achieve by enactment of provisions based on the Brooks Transportation Co. case will in no way interfere with legitimate private carriage of goods.

It is appropriate at this stage to emphasize the intention of the committee to regulate motor transportation when such transportation is not clearly and specifically exempt, and to make certain that we preserve a necessary and realistic distinction between regulated transportation and private transportation. Originally we would have added to section 203 these words: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is solely related to and in furtherance of a primary business enterprise (other than transportation) of such person."

However, we were advised that the term "solely related to" is new and untried, while the substitute words "incidental to" are well understood and were employed by the court in the Brooks case when it approved and interpreted the Interstate Commerce Commission's "primary business" test. Accordingly, following precedent, we substituted "incidental to" for the term "solely related to." The "primary business test" would thus embrace both factors; "incidental to" and "in furtherance of" such primary business enterprise.

We intended to make it impossible for a private carrier to transport nonexempt goods of others for any form of compensation. The intention is to do no more and no less than the Commission and the Court did in the Brooks case. In doing so we wish to recognize private carriage in its proper role, and to discourage evasion of regulation by those intended to be included within its terms.

I earnestly hope that we will be able to pass the bill. It would be constructive transportation legislation. Passage of S. 3778 would benefit our transportation system.

I know that the chairman of the subcommittee [Mr. SMATHERS], as he has done on other occasions during the committee's deliberations, will discuss the measure section by section. I feel certain that with the history of the measure as it is contained in the report and in the RECORD, and with the colloquy on the part of those interested in the bill in various and sundry capacities, we can pass a realistic and, I hope, a constructive bill, which is urgently needed now, if anything constructive is to be done to save our great railroad transportation system, the only transportation system in the world today which is privately owned and operated and pays so large an amount of taxes to the Nation.

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

Mr. SCHOEPPEL. I yield.

Mr. AIKEN. I am glad to hear the Senator from Kansas express apprehension over section 6. I think my apprehension goes somewhat further than his does. I do not believe we should pass a bill which establishes a conflict of interest within an agency of the Government such as this bill will establish if it becomes law. I hope that a correction will be made in this section before the bill is passed, if it is passed.

The Interstate Commerce Commission was created to protect the public interest. It seems to me, however, that section 6 vests the Interstate Commerce Commission with the authority to make loans to the railroads under certain terms. It charges the Commission with looking after the welfare of the railroads. This represents a definite conflict of interest. This is the kind of provision which gave great concern to the Hoover Commission and to other regulatory agencies 10 years ago.

Steps have been taken to get the Interstate Commerce Commission, the Federal Power Commission, and the Maritime Commission out of the executive field. It is impossible for any regulatory agency to protect the public interest and at the same time to take the part of one of the litigants.

I hope the apprehension of the Senator from Kansas will be shared by a sufficient number of Senators so that this provision will be changed. I am not arguing against providing adequate financing for the railroads, if that is needed. I think such financing probably is necessary. But certainly I would never put the financing in the hands of an agency which is charged with regulating the carriers. I hope the provision will be changed before the bill is sent to the President for approval. If it is not changed, I hope the bill will not be signed, because this provision is one of the clearest violations of the principles of good government which could be devised.

Mr. SCHOEPPEL. The Senator from Vermont, who is the ranking Republican member of the Committee on Agriculture and Forestry, has pointed out some matters which gave the subcommittee concern in its consideration of the measure. I know there is a difference of opinion about it. But I feel certain that the chairman of the subcommittee will analyze certain phases of the discussions which were held and that this statement will help us to make determinations about the changes it may be necessary to make in the bill.

Mr. AIKEN. Certainly, however, a regulatory agency should never be charged with the financing of the industry which it is charged with regulating in the public interest.

Mr. SMATHERS. That particular question was raised before the subcommittee.

Mr. AIKEN. Yes.

Mr. SMATHERS. There was much debate about the channel which should be followed. It was finally determined that the best channel to follow was the one for which there was a precedent. The precedent which was followed was the Transportation Act of 1920. At that time the Government was in the business of lending money to the railroads, and the Interstate Commerce Commission was then given the authority actually to lend the money to the railroads. In this instance, I think it should be clearly understood that the Government itself will not lend the money; the Government will merely underwrite and guarantee the loans.

Mr. AIKEN. That is correct. It amounts to the same thing. It finances the railroads.

Mr. SMATHERS. The railroads will still have to procure the money from the regular sources from which money is ordinarily borrowed. The Government will not supply any money.

But the Interstate Commerce Commission has within it a Bureau of Finance which, in fact, knows more about the railroads and their actual financial conditions than does any other agency. The Bureau of Finance has set up its own system of bookkeeping, which is very different from the system followed by most corporations. So it was believed that that particular agency was the best one to recommend that a guaranteed loan should be made to a particular railroad. The Transportation Act of 1920 was followed in providing for this procedure.

Mr. AIKEN. If that line of reasoning is to be followed, then the Federal Power Commission should be handling the REA loans. I think this proposal is wrong. I hope Congress will correct the situation. Congress has worked hard in the past 10 years on this subject, and has undertaken, generally successfully, to take the regulatory agencies out of the business of financing the entities of which they are charged with regulating.

Mr. SMATHERS. The Maritime Commission, which actually has jurisdiction over the maritime industry, today is the particular instrumentality which recommends the loans which are to be made to the various maritime companies.

Mr. AIKEN. I would not say that Congress was 100 percent successful in taking the Maritime Commission out of the maritime industry. We were partially successful, because even though the Maritime Commission recommends in matters of finance, there is another agency which actually handles the business.

Mr. SMATHERS. It is the maritime agency which, of course, gives approval to whether or not a loan will be made to a certain company. It is the Maritime Commission which finally makes the decision.

The subcommittee shares the concern of the Senator from Vermont. We believe that in the light of the precedent of 1920, plus the precedent of the Mari-

time Commission, it is better to guide the proposal in this way than it would be to route it through some other agency.

Mr. AIKEN. Congress in the past 10 years has indicated its intention of not abiding by that precedent, which was established 35 years ago. I was wondering if any of the parties concerned were insisting that the lending or the guaranteeing authority be lodged with the Interstate Commerce Commission.

Mr. SMATHERS. No.

Mr. AIKEN. All the other financing and guaranteeing done by the Government is through agencies which are not regulatory agencies.

I think this proposal is a serious mistake. I am willing to go along with the proposal to finance the railroads. I think some of the railroads urgently need financing. I do not want my statement to be understood as opposition. It does not mean that I shall vote against the bill finally, because I realize that the House must act on it, and the House may be a bit more hardboiled and businesslike in this respect than was the Senate committee.

I appreciate the difficulties which the Senator from Florida and the other members of the subcommittee had in reporting a bill at all. I think the committee has done very well. But I think there are 2 or 3 errors in the bill, and this is the most glaring one, in my opinion. I hope that before the bill is sent to the President, the errors will be corrected.

Mr. LAUSCHE. Mr. President, the Senator from Vermont asked whether any particular interest had urged that the administrative power be placed in the Interstate Commerce Commission.

I am a member of the subcommittee; and I can say positively that I, at least, heard of no such urging by anyone.

From my standpoint, I supported the proposal that the Interstate Commerce Commission be given this administrative power, because I believe it has the basic information which should be used in determining whether a loan should or should not be guaranteed. I have no fixed judgment on the provision, except that rooted in the reasons I have just outlined.

However, a commission is somewhat insulated from responsibility to the public; and it might be argued that it is necessary to fix responsibility in someone in the administration who can be held responsible.

But I formed my judgment solely on the basis that whoever had the administrative power would in all probability have to go to the Interstate Commerce Commission and request it to supply the basic information which would disclose the fiscal standing of the railroad which had requested a loan.

Mr. AIKEN. I think there could be no objection to that, namely, to get the proper information from the Interstate Commerce Commission. However, if the bill as written is enacted, I believe it would be virtually impossible for a member of the Interstate Commerce Commission not to feel a rather grave responsibility to keep any railroad from going into bankruptcy. On the other hand, perhaps the time might come when bankruptcy for one railroad or another might be warranted; the railroad might have outlived its usefulness, and might have to give up the ghost. I do not think we should guarantee a railroad perpetual operation, regardless of cost.

Therefore I believe there is a real conflict of interest in this case.

Mr. LAUSCHE. What reason was advanced several years ago when it was urged that none of these lending powers be given to commissions, but that they be lodged in some department of the Federal Government administration?

Mr. AIKEN. Although I helped write the recommendations at the time, and have been trying to refresh my memory this morning, I am not in a position to go into all the details now.

But the Hoover Commission definitely took the position that regulatory commissions should not be engaged in executive business of any kind; and in that recommendation I thoroughly concur. We have been partially successful in having our recommendations adopted. I think the instance mentioned by the Senator from Florida in the case of the Maritime Administration probably relates to the recommendation which has been least fully complied with.

Mr. LAUSCHE. Did the Hoover Commission recommend that this power not be placed in the Commission?

Mr. AIKEN. Yes; that was the Hoover Commission's very strong recommendation, in its 1948 report, as I recall.

Mr. LAUSCHE. The last time I heard of any particular interest on the part of the administration in the agency in which this administrative power would be vested was through a letter which I received a few days ago from Secretary Weeks.

Mr. AIKEN. I have not seen a copy of the letter. However, this morning I communicated with representatives of the administration; and I find that they are opposed to this provision.

If I had Secretary Weeks' letter to read, I would know more about the matter in detail.

But I am simply going back 10 years to the study which was made by the Hoover Commission, as a result of which it was found that one of the bad things being done was that regulatory commissions were requested to perform administrative functions.

It may be that this proposal will be straightened out in some other way. I hope it will.

Mr. SCHOEPPEL. Mr. President——

The PRESIDING OFFICER (Mr. NEUBERGER in the chair). Does the Senator from Florida yield to the Senator from Kansas?

Mr. SMATHERS. I yield.

Mr. SCHOEPPEL. Apropos what the Senator from Vermont and the Senator from Ohio have said, I wish to state for the RECORD, for the benefit of my distinguished colleague, the Senator from Vermont [Mr. AIKEN], that in the deliberations of the committee on this matter and in its approach to it, at no time did we ever have any suggestion of any type or kind that this power should be placed in the Interstate Commerce Commission.

I say frankly and candidly to the Senate that we were trying to approach the matter in the proper way; and, so far as I was concerned, I was trying to think of it in terms of an operation of short duration in an emergency situation. We considered the bill to be a temporary measure, and not one of a permanent nature.

Personally, I had very decided feelings against establishing a new agency which would continue in being and would grow. As I have pointed out in my statement, I hesitated to think that there would be a continuing operation.

Once we establish an agency, we often have great difficulty getting rid of it.

We did not wish to provide for duplication of a present agency which has the necessary machinery and know-how available.

As has been pointed out by the Senator from Florida, there is also the accounting phase of the matter; and there were the proceedings, to which the Senator has referred, in connection with previous legislation during the war.

So we felt that, considering the temporary nature of this measure, the Interstate Commerce Commission would be in a better position to handle this particular phase of it, in making a temporary approach. On that basis, I was willing to go along with an approach of this kind.

Mr. AIKEN. Does the pending bill provide a termination date? It has been referred to as a temporary financing measure. From the bill, I find that loans can be made for periods up to 15 years.

Mr. SCHOEPPEL. I believe we were talking in terms of a 5-year period.

Mr. AIKEN. Somewhere in the bill I read a provision to the effect that loans could be made for a period up to 15 years, and could be extended if the condition of a railroad necessitated such extension and if in the view of the Interstate Commerce Commission it was warranted. Perhaps the 15-year limitation was included more as a guide regarding the length of the life of the loans.

Mr. SMATHERS. The bill contains the following provisions:

(4) No guaranty shall be made under this section—

(A) unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;

(B) unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

(C) if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof;

(D) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

(E) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure.

In other words, if they are of the opinion that a railroad is likely to go bankrupt, anyway, of course they will not make the loan.

Mr. AIKEN. I would not quarrel with the conditions laid down by the subcommittee in regard to the making of a loan, and I really am not arguing the merits of the bill. I am simply speaking from the standpoint of a desire to obtain a good, workable setup in the Federal Government. In my opinion, a regulatory commission should not be engaged in business.

Mr. SMATHERS. I think one of the greatest criticisms which can be directed against our Government and certain regulatory agencies is on the basis of the enormous amount of delay that occurs.

So when we can vest in an agency which already has the necessary information and, we might say, the know-how with respect to a specific problem, and some authority to deal with it, then of course we obviously eliminate much of the cause of delay which otherwise would occur if the necessary information had to be obtained from one commission, but another agency had to make the decision.

The Commission is obviously the best agency equipped to determine whether (a) a railroad is really in need of the loan, and (b) whether there is any prospect of the railroad repaying the loan, because the Commission is the body that fixes the freight rates, assigns the routes, prescribes what the railroads can carry and where the railroads can go. The Commission also knows what the competition is. So the Commission is really the agency that has all the information which is vital in order to arrive at a determination as to whether a loan is needed.

Rather than to take that authority away from the Commission, which in fact does have all that information, and is able to do the job competently, and provide that the Commission may make suggestions but that Congress will create another agency to do the same thing the Commission can do, establish another bureau, and go over the same procedure a second time, it was the subcommittee's judgment that it would be better, and would avoid unnecessary expense in Government operations, since there would be fewer Government employees, if we placed this particular work in the hands of the agency which now knows all about the problems which are involved. That was the conclusion of the subcommittee.

Mr. SCHOEPPEL. Mr. President, if the Senator from Florida will indulge me, with reference to the question asked by the Senator from Vermont, I refer to page 16 of the report as the basis for the Senator from Kansas referring to it as temporary legislation in certain respects. I read from that page of the report:

Other important features of the proposal include provisions that—

The Interstate Commerce Commission shall prescribe the security, if any, that is to be required; the term of a loan eligible for guaranty shall not exceed 15 years; no dividends shall be paid by a carrier so long as any loan guaranteed by the Government under this provision is outstanding—

This is the pertinent matter which I should like to point out—

the authority to guarantee loans shall terminate December 31, 1960, unless further extended by the Congress.

That is how we have tried to put safeguards around this temporary type of proposed legislation.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The first committee amendment was on page 7, after line 11, to strike out:

"(3) In a proceeding involving competition with another mode of transportation, the Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

And, in lieu thereof, to insert:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

Mr. WILLIAMS. Mr. President——

Mr. SMATHERS. Mr. President, if the Senator from Delaware will yield to me for a moment, I should like to say that the Senator from Kansas has ably discussed some of these sections. I should like to discuss them to some extent. I know the Senator from Delaware has a question he wants to raise, and I think the Senator from Maryland [Mr. BUTLER] has a question he desires to ask.

I may say I am grateful to the able Senator from Kansas, not only for his contributions to the deliberations of the committee, but for the kind remarks he has made about the junior Senator from Florida on this occasion. I recognize he has displayed his characteristic generosity toward his friends, and I am proud to be included as one of them.

Mr. President, briefly, I should like to make this statement. We are quite proud of the report of the committee on the bill. It was arranged in such a way that the problems of the railroads were first discussed. We had to decide whether there was a need for doing anything. The evidence was overwhelming that there did exist a real and urgent need for something to be done. That having been established, the question arose as to what should be done.

The report went into the decline of the railroad business, and also what the railroads could do to help themselves. We did not feel that the manner in which the railroad industry was operated was, like Ivory soap, 99.44 percent pure.

Mr. President, I yield now to the able senior Senator from Arizona [Mr. HAYDEN].

ADDITIONAL SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF LABOR

Mr. HAYDEN. Mr. President, I move that the Senate proceed to the consideration of House Joint Resolution 624, making additional supplemental appropriations for the Small Business Administration and the Department of Labor.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (H. J. Res. 624) making additional supplemental appropriations for the Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958, and for other purposes.

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). The question is on agreeing to the motion of the Senator from Arizona.

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations, with amendments.

Mr. HAYDEN. Mr. President, the joint resolution contains $20 million for the Small Business Administration. The additional funds are required at this time because of a recent unprecedented increase in business loan applications and a large number of excessive rainfall disaster applications. The request from the President for these additional funds was received too late to be considered in the House committee.

I am advised that the House will accept the provision which has been included in the bill affecting the Small Business Administration since we have agreed on $20 million, rather than $5 million as proposed in the budget estimate.

The committee concurred in the action of the House in recommending the full amount of the budget estimate of $665,700,000 authorized by the Temporary Unemployment Compensation Act of 1958 signed June 4, 1958. This program is needed to provide some measure of income maintenance to the large number of unemployed workers who have exhausted their rights to benefits under the unemployment insurance laws.

If all States participate in the program, it is estimated that 2,650,000 eligible workers will file claims for benefits. It is also estimated that these individuals will draw benefits for an average of 8½ weeks.

Mr. DIRKSEN. Mr. President, this matter has been discussed in the Appropriations Committee, and also with the leadership. Actually, this joint resolution is emergent in character and requires very expeditious action.

Mr. HAYDEN. That is why I am asking for the passage of the joint resolution at this time.

The PRESIDING OFFICER. The clerk will state the committee amendments.

The LEGISLATIVE CLERK. On page 1, line 4, after the words "for the", to strike out "Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958" and insert in lieu thereof "fiscal year ending June 30, 1958."

The amendment was agreed to.

The next amendment was at the top of page 2, to insert:

CHAPTER I

SMALL BUSINESS ADMINISTRATION

REVOLVING FUND

For additional capital for the revolving fund authorized by the Small Business Act of 1953, as amended, to be available without fiscal year limitation, $20 million.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time.

Mr. HOLLAND. Mr. President, in my judgment both of these items are not only emergency matters, but they are of such importance that I hope they will be enacted without effort at further amendment, so the joint resolution can go speedily back to the House. The funds are very badly needed by the Small Business Administration now, and will be of great importance in bolstering small business in many critical situations throughout the country.

The major part of the measure relates to the Temporary Unemployment Compensation Act of 1958, which was passed a few days ago, and the pending appropriation is necessary if that act is to mean anything.

I certainly commend the distinguished chairman of the committee for bringing up the joint resolution for early disposition by the Senate, and I hope the Senate will pass it without any further change whatsoever.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution was passed.

The title was amended so as to read: "Joint resolution making additional supplemental appropriations for the fiscal year 1958, and for other purposes."

ORDER FOR ADJOURNMENT UNTIL TOMORROW AT 10 A. M.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today, it stand in adjournment until tomorrow, at 10 a. m.

The PRESIDING OFFICER (Mr. PAYNE in the chair). Without objection, it is so ordered.

AUTHORITY FOR SPECIAL COMMITTEE ON SPACE AND ASTRONAUTICS TO FILE REPORT DURING ADJOURNMENT OF THE SENATE

Mr. JOHNSON of Texas. Mr. President, as chairman of the Committee on Space and Astronautics, I ask unanimous consent to file a report during the adjournment of the Senate following the session today.

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

Mr. JOHNSON of Texas. Mr. President, I announce that the committee, by unanimous vote of all the members present, has ordered reported to the Senate a space bill.

I further announce that we shall try to find a convenient time in the next few days for the Senate to consider the bill, so it may go to a conference with the House of Representatives.

TRANSPORTATION ACT OF 1958

The Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. SMATHERS. Mr. President, I have been asked to yield by the able junior Senator from Ohio [Mr. LAUSCHE] who is a member of the subcommittee.

Mr. WILLIAMS. Mr. President, will the Senator yield to me, before he yields to the Senator from Ohio, so that I may ask a couple of questions of the chairman of the subcommittee?

Mr. SMATHERS. I yield to the Senator from Delaware.

Mr. WILLIAMS. It is my understanding that in the bill there is provided the same exemption for poultry and poultry products which is carried in the existing law. Is my understanding correct?

Mr. SMATHERS. The Senator is correct.

Mr. WILLIAMS. A question has also been raised about the fact that many poultry products are now being shipped in a cooked form from the plants. This form of shipment may be expanded over the next few years. Would the product be covered in such a cooked form, in the same manner as in the other form?

Mr. SMATHERS. This matter was discussed in the subcommittee and in the full committee. It was impossible to list as a part of the proposed legislation all the specific items which are being sought to be exempted, but we discussed the particular item of cooked chicken. It appears that cooked chicken will in a short time become the standard type of chicken to be transported. It was the view of the members of the subcommittee that that particular product should be exempt.

Mr. WILLIAMS. Was it the understanding that the cooked product would be exempt without the necessity for any additional amendments being offered to the bill?

Mr. SMATHERS. That was our conclusion.

Mr. WILLIAMS. That was my understanding, but I merely wanted to have it clear in the RECORD because many persons engaged in the industry were somewhat concerned about this question. I wanted to be sure we were correct in believing the exemption was included.

Mr. SMATHERS. The Senator is correct in his understanding.

Mr. WILLIAMS. I thank the Senator from Florida. There is another question which has been raised with respect to amending the Revenue Code.

Mr. SMATHERS. If the Senator does not mind, I hope we can wait a moment for a discussion of that item.

Mr. YOUNG. Mr. President, will the Senator yield so that I may ask a question or two along the line of the questions of the Senator from Delaware?

Mr. SMATHERS. I yield.

Mr. YOUNG. At the present time a bona fide farmer can haul his commodities to market, whether it is 100 or 200 miles or more away, and can haul back some of the things he needs on the farm.

Mr. SMATHERS. The Senator is correct.

Mr. YOUNG. Has that provision of law been changed?

Mr. SMATHERS. No. The law with respect to haul-back for farmers was established when we considered the trip-leasing bill 2 years ago, and that is still the law. This bill would make no change in that law. A farmer or anybody else can at any time carry exempt products without having to check with the Commission. That statement refers to an exempt commodity.

We have even gone so far as to permit the farmer, when returning to his home, to haul back some nonexempt items. That was a provision in the trip-leasing law and is still the law. We did not change that provision. The farmer would be as well off under the provisions of this bill as he ever was.

Mr. YOUNG. I thank the Senator.

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

Mr. SMATHERS. I am happy to yield to the junior Senator from Ohio.

Mr. LAUSCHE. Mr. President, at the very beginning I want to express gratitude to my associates on the Surface Transportation Subcommittee for the courtesies extended to me while testimony was being taken with respect to the bill. I also commend the junior Senator from Florida for the able leadership he gave in the conduct of the hearings.

Mr. President, based upon the testimony which was submitted in intermittent hearings covering a period of about 4 months, I came to certain conclusions concerning the questions which were pending before the subcommittee.

First, the testimony showed that the railroad industry, from an economic standpoint, is in trouble in our country.

Second, the railroad industry, more than any other transportation industry, is circumscribed in its management by the Interstate Commerce Commission, the Congress of the United States, and labor-union requirements.

Third, the railroad industry is placed at a disadvantage in its fight for survival by the subsidies, direct and indirect, given by the United States Government to its competitors.

Fourth, without question, the railroad industry is the backbone of our transportation system.

Fifth, the railroad industry must provide and pay taxes on its own rights-of-way, terminals, and other facilities, suffering the travesty and injustice that in part the taxes which it pays are used to subsidize its competitors.

I have made the statement that my No. 1 finding is that the railroad industry from an economic standpoint is in trouble. The records of the Interstate Commerce Commission show that the rate of return on capital investment enjoyed by the regulated water carriers is 11.3 percent, by the trucking industry is 10.4 percent, and by the railroad industry is 4.16 percent.

I repeat those figures: The rate of return is 4.16 percent for the railroads, 10.4 percent for the motortruck carriers, and 11.3 percent for the water carriers.

A number of railroads in the East in particular are so close to the point of being defunct financially that their operating funds probably would not last them a week. Any adversity of a sudden nature would precipitate those railroads into receivership or other judicial or governmental control.

The second point I made is that the railroad industry more than any other transportation industry is circumscribed in its management by the Interstate Commerce Commission, the Congress, and labor-union requirements. It may astound some of my colleagues to hear me state that the railroads are not allowed to charge a low rate, even though the low rate produces a profit for them and is nondiscriminatory with respect to shippers, if the lowness of the rate has an adverse impact upon the truckers, the barge carriers, or the airlines. The railroads are not allowed, under the interpretations given by the Interstate Commerce Commission, to utilize to the fullest advantage their inherent power in delivering mass freight at a low rate.

The railroads are required to hold an umbrella over the heads of the truckers and barge lines. They are told, when they charge a rate which is low, even though it makes a profit for them, that such rate is not allowable if it will adversely affect the ability of the truckers or the barge lines to remain in business.

With regard to the operation of the railroad system, there are conditions in the operation of trains which I shall not undertake to explain. There is one condition under which a train crew working for 2 hours is paid for an 8-hour day. It is the result of a rather involved formula, but the net result is that that condition does exist.

I made the statement that Congress, by law—and frequently with justification—imposes conditions which become a burden. Those laws are tied to safety proposals, but in many instances are contemplated merely to create work.

Third, I made the statement that the railroads are placed at a disadvantage in their fight for competitive survival by the subsidies, direct and indirect, given by the United States Government to their competitors. Let us take a look at that issue.

With respect to the air carriers, since the commercial air-carrier bill was passed in 1939, down to June 30, 1958, there has been paid to them in subsidies the sum of $819,704,000. The general public does not ordinarily understand that, but for 20 years we have paid out each year a little more than $40 million a year, making a total of more than $819 million.

In addition, this session of Congress, about 3 months ago, we passed what was known as the capital-gains bill and in that bill we allowed to certain airlines $67 million, which, in my opinion, was a gift.

Since 1937, down to 1958, the Federal Government has expended $1,640 million in the management of the Federal airway system. It is conceded that 50 percent of that service is rendered for the Navy and the Army, but the remaining 50 percent of the service is rendered for the commercial air industry. So in that instance the air carriers have been subsidized to the extent of $800 million. At this point it might be well to say that all the communications on the railroads are financed by the railroads directly.

We now come to the subject of airport construction. Since 1946, when the Federal Airport Act was enacted, the Federal Government has expended $386,795,000 in the building of airports. They are primarily used by the commercial air carriers.

In this session of Congress we provided an additional $512 million for the building of airports to accommodate the commercial airlines.

The Federal Government does not recoup a single penny of those expenditures, except the sum of money which is received from the aviation gas tax revenues, which, in the year 1959, it is estimated, will be about $62 million.

With respect to highways, the figures show that in the period from 1921 through 1955, the total public expenditures for highways and streets by all units of government amounted to $93 billion. This grand total includes $52 billion for capital improvements, $29 billion for maintenance, and $12 billion for highway administration and interest payments. Moreover, the great bulk of these expenditures have been made in comparatively recent years within this period.

As compared with the total highway expenditures of $93 billion, user taxes paid by motor-vehicle operators on the highways in the 1921–55 period amounted to $45 billion, or 48 percent of the expenditures. Of the remainder, the Federal Government contributed $14 billion and $32 billion came from general tax funds of the States and their subdivisions. In addition to these sources of funds, some highway expenditures have been financed through borrowing.

There are 800,000 trucks on the highways at present. Studies of the Bureau of Public Roads show that on the basis of ton-miles of travel, the operator of the ordinary passenger car pays three times as much for the use of the highway as does the operator of a commercial truck. The 1956 Act sought to remedy that situation by imposing a user Federal tax on the trucking industry; but the query is properly made, What was the situation prior to 1956, when there was no Federal user tax charged against the trucking industry?

I should like to say a word about the barge lines. In the development of the inland navigation system through fiscal year 1954, our Government spent $2,096 million, divided $1,444 million for construction and $652 million for maintenance and operations. Since 1954 and through fiscal 1958, it is estimated that an additional $202 million will be expended for improvements and $176 million for maintenance and operation, making a total of nearly $2,500,000,000 of Federal funds spent for improving and operating the inland waterway system. This does not include any non-Federal expenditures, such as those for the New York State barge canal or local expenditures for piers, terminals, and other improvements.

In fiscal 1959 it is proposed that the Federal Government spend an estimated $67,681,000 for improvements and $37,612,000 for maintenance and operations.

These are the funds which have been spent in the development of the inland waterways. Those waterways are the highways of the barge lines. The Federal Government recoups no part of such expenditures made in the building of locks, the deepening of the inland streams, and construction of other facilities which are provided for the barge-line carriers.

What is the position of the railroads with respect to their importance in the transportation system of our country? All the impartial witnesses who testified expressed the opinion that the railroads were the backbone of the system. I believe that an examination of what took place in World War II will show that they multiplied their services to a degree which was simply astounding.

I do not believe it can be doubted in the least degree that our country cannot suffer the danger of losing the services which are provided by the railroads of the Nation.

I also made the statement that the railroads must provide for and pay taxes on their rights-of-way, terminals, and other facilities. They suffer the travesty and injustice that part of those taxes are used to subsidize their competitors. There can be no challenge to that statement. They pay taxes on their rights-of-way, their terminals, and other facilities. Those taxes in part are used to subsidize the airlines, the barge lines, and the truck lines.

I filed dissenting views with respect to some of the recommendations which were made by the Subcommittee on Surface Transportation. However, in substance, I am in agreement with the recommendations. I shall not attempt to discuss those instances in which I dissented. I hope the Senate will not further dilute the provisions of the bill pending before it. It would be unwise

to guarantee loans up to $700 million unless we also provided ways and means whereby the railroad industry could help lift itself out of its troubles. It would be wrong merely to dip into the Federal Treasury and give the railroads money if the prospect were that they would continue in the future operating on the dangerous economic grounds on which they have operated in the past.

I wish again to commend the Senator from Florida [Mr. SMATHERS] and to express my gratitude to the Senator from Kansas [Mr. SCHOEPPEL] for his courtesy to me. The proposed legislation is important. It is my sincere hope that the Senate will pass it substantially in the form in which it is pending before the Senate.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

TENTH ANNIVERSARY OF THE INDEPENDENCE OF ISRAEL

Mr. HUMPHREY. Mr. President, on May 11, 1958, I had the honor to deliver an address at the celebration in the Chicago Stadium, Chicago, Ill., of Israel's 10th anniversary. My address was entitled "Israel—Bastion of Freedom."

I ask unanimous consent that the text of my talk be printed at this point in the RECORD.

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

ISRAEL—BASTION OF FREEDOM

(Address by Senator HUBERT H. HUMPHREY, Democrat, Minnesota, at Independence Festival celebrating Israel's 10th anniversary, Chicago Stadium, Chicago, May 11, 1958)

We are gathered here to commemorate the 10th anniversary of the founding of the State of Israel. It is appropriate that we do so both by looking back over Israel's challenges and achievements during that decade, and by looking ahead to Israel's future.

The skeptics said there would never be a State of Israel. They have been proved wrong.

They said that Israel, surrounded by a sea of hostile forces, with arid land, depleted resources, and a divergent and impoverished people, could not survive. Again, they were wrong.

Even now, there are a few who say that Israel cannot survive. They, too, are wrong.

Israel has confounded the fears of the skeptics, and confirmed the faith of her friends.

Last year at this time I was in Israel. I know, first hand, the determination, the faith, and the courage that have made possible the historic achievements of the last 10 years.

Israel has had more than her share of handicaps and heartaches in these first years of independence. Yes, not one, but a hundred challenges have had to be met and mastered—and all of them at the same time.

Israel has had to establish a modern free government, create a strong defensive force, build an independent economy, and revive and renew a whole culture.

She has succeeded in doing so not by the brutal efficiency of a totalitarian machine, but through a democratic process which has respected, and promoted the rights of the individual.

HUMAN RIGHTS

For instance, today in Israel every child, Arab and Jewish, is entitled to a free education and medical care. Arabs are represented in Israel's parliament, both as members of Jewish parties, and as the representatives of Arab parties. It has always seemed wonderfully symbolic to me that the rights of the Arab minority in Israel have been safeguarded even while the state itself has been under siege from hostile neighbors.

DEFENSE

Yes, on the very day of Israel's birth as a nation, her land frontiers were under attack and her ports were blockaded.

The new state's baptism of fire was costly, but it established her right to live and she lives vigorously. The people of Israel have learned to live dangerously. They have learned to brace themselves for the difficult task of rebuilding their hard-won country, and making it a haven for refugees fleeing from other lands. Today Israel stands as the most powerful nation in the Middle East, exclusive of Turkey—a strong ally, without a formal treaty of alliance.

REFUGEES

In the past 10 years, Israel has performed the monumental task of receiving, rehabilitating, and resettling more than 900,000 immigrants—from displaced persons camps in Germany, Austria, Italy, from countries in North Africa and the Middle East, from behind the Iron Curtain, as well as from other parts of the world. Today the Jewish population numbers almost 2 million. Month after month, Israel continues to receive the homeless and persecuted in truly staggering numbers.

It is to Israel's everlasting credit that every one of the hundreds of thousands who came to make a new home—and a new life—each was and is provided with enough to get started on the road to self-sufficiency.

The new immigrants are not only provided with the basic necessities of life upon their arrival, but are integrated into the community. Many are retrained for jobs in industry. An even larger number are moved to agricultural settlements. But all are given work—yes, gainful work—designed to provide not only an income, but to enrich and develop the State of Israel. Israel has proved to the world that immigration is an asset, both in wealth and power. Israel has made the principle of the dignity of the individual a reality in the Middle East.

This magnificent achievement has always seemed to me an eloquent answer and object lesson for those in this country who set themselves so rigidly against liberalization of our own unfair and outmoded immigration laws.

FOOD

Because of the primary problem of feeding people, agriculture has held top priority in Israel's development program since the first year of statehood. At the beginning, much of the food had to be imported. Today, Israel can raise all the food she needs to feed her people, except for wheat, edible oils, and meat. She has begun to export vegetables, citrus fruits, and other foodstuffs to Europe. Our food surpluses can be used to fill the gap—to balance the food requirements.

Yes; American food can be a positive force in our foreign policy. It can be the life-saving ingredient of a political and economic policy designed to assist newborn nations. The shortage of food is a common denominator throughout many areas of the world. Therefore, our abundance of food is an asset. This asset, wisely used, can create new friendships and contribute to the building of peace and freedom. No American should ever say that our surplus of food is a problem. It is, indeed, rather a privilege and one to be shared generously and constructively.

Some of the latest, most advanced farming techniques are now being used by Israel's farmers. Agricultural and mining settlements have sprung up in wastes that had been desolate and uninhabited for centuries. About 500 new agricultural settlements have been established.

The next great planned development for Israel is the conquering of the Negev, the great desert in the southern areas of Israel. The Negev possesses a tremendous challenge to the determination, imagination, and technical competence of the Israelis. The Government of Israel and its people are determined that the Negev shall be made fruitful. The land is rich and fertile if the blessing of nourishing water can be brought to it. Water can be made available—the land is there to be tilled and planted. Thousands of people await the opportunity to build new homes in freedom and security in this great expanse of Israeli territory. To develop the Negev, however, will call for great investments of capital, labor, engineering, and planning.

Prime Minister Ben-Gurion told me that the Negev will be developed. This was not just an idle promise; it was a declaration of purpose. It will be developed, because Israel needs it. It is, in truth, Israel's underdeveloped area that awaits the magic touch of modern science and technology, inspired by the strength and determination of a people who refuse to incorporate in their vocabulary the word "impossible."

INDUSTRY

We know that the country's industrial progress has also been phenomenal. A look at the production and export figures tells the story.

Israel's industry represents an investment of more than $700 million. Old, established plants have been expanded and reequipped and new ones have been built. Through self-sacrifice, careful planning, loans, and reparations, Israel has greatly enlarged her productive capacity. The most modern kind of machinery capable of producing high quality products, is now being used.

New roads and harbors have been built, railways have been extended and modernized, and new power stations and telephone installations are in use—progress—growth everywhere.

FRONTIER

All this creativity, all this activity, and all this faith are reminiscent of our country in its early pioneer days. All Israel is a frontier, still highly vulnerable to attack. Just as our own ancestors did not have time to be afraid, so now Israel finds this frontier life a source of strength. The hard, austere life of the people makes them alert, ready for emergencies, but meanwhile carrying on the normal, everyday business of living. Yes, frontier Americans once had to improvise in the face of seemingly insurmountable problems. Like them, the Israelis today are inventive, daring, resourceful, and never take no for an answer.

Here, again, Prime Minister Ben-Gurion has declared the policy and philosophy of the State of Israel when he said: "First, define your objective; declare your need, say what you want. Then, and only then consider the obstacles. But even then the obstacles must be subordinated to the objective. Never must the objective be renounced in favor of the obstacles."

In other words, the people of Israel just refuse to be licked—they will not take no for an answer. I like that kind of spirit.

WORLD ROLE

Not only has Israel made giant strides in developing her own resources in 10 short years, but she has also steadily solidified her position among the family of nations. She has formulated 17 trade agreements and has established diplomatic relations with 50 countries, 11 of them in Africa and Asia. In fact, Israel has her own point 4 program for Burma and Ghana.

Israel is a living example to all underdeveloped countries of what determination and energy can accomplish. Israel's very existence is a major stumbling block to the Communist penetration of the Middle East and Africa. Hard-pressed herself, Israel is offering a helping and sympathetic hand to others—and all the time providing a living example that democracy works in practice—even in times of trial and difficulty.

Israel's youth, Israel's stability, and Israel's achievements are inspiring other new states in Asia and Africa to develop greater confidence in their ability to improve their own economies and societies. She leads by example and by doing.

HEALTH, EDUCATION, AND WELFARE

The real measure of the spirit and purpose of Israel and her people is to be found in the emphasis placed upon health, education, and welfare. This is within the great Jewish tradition of the highest respect for individual dignity and the belief in the brotherhood of man. Modern Israel is setting an example in these important areas of human endeavor that serve to challenge new nation states throughout the world.

The people and Government of Israel do not merely pay lip service to human dignity and welfare. They act to protect and insure it. With thousands of immigrants, many uneducated and untrained, sick and weary, the State of Israel has launched a program of education, health, and welfare that encompasses every citizen and every area. In the field of education, Israel today is known for its great technical schools, its research laboratories, and the great Hebrew University. In the field of health, the new Hadassah hospital and clinic is one of the finest medical institutions in the world.

Yes, Israel places a high priority upon health and education for the people. Every citizen is entitled by right of law to complete health and hospital protection and care. Every child is given the opportunity of education. Every family can look forward to occupancy of modern housing.

These great accomplishments in the field of health, education, and welfare serve not only to strengthen Israel, but by precept and example, inspire others in the Middle East and in Asia and Africa to do likewise. This emphasis upon people, progress, and freedom serves to enhance the possibilities of peace. A people engaged in developing a country, in expanding opportunities are always making a distinct contribution to peace and justice.

CULTURE

Finally, even while being preoccupied with the problems of survival, Israel has created a rich mosaic of culture. Even more remarkable is the penetration of that culture to every stratum of the population.

Out of a longing for peace has come a thirst for music, art, and literature. After one decade, Israel possesses the places to house her cultural activities—the museums, concert halls, theaters, cinemas, libraries, and universities. These are the mere physical repositories—the roots of Jewish culture are ancient and deep.

One of the world's great military men, Moshe Dayan, formerly Chief of the Army, not long ago relinquished his command to continue his study of humanities at Hebrew University. The most revered people in Jewish society have traditionally been scholars and teachers. So it is no wonder that the country's educational standards are very high.

THE FUTURE

Rarely, if ever before, has so much been accomplished in so short a time. But Israel has not yet reached the goals she seeks and wants. As Israel faces her second decade, the determination of her people was recently expressed by Premier Ben-Gurion, that sturdy 20th century pioneer of pioneers:

"Israel is determined to strengthen her military preparedness and persevere in her work of rebuilding and redemption; to bring in Jews from the lands of oppression and misery; to conquer the desert and make it flourish by the power of science and pioneering spirit; and to transform the country into a bastion of democracy, liberty, and universal cultural values based on the teaching of Israel's prophets and the achievements of modern science."

We in American can be proud of the role our country and our people have played in Israel's first 10 years. But there is more that we must do. We must continue to provide aid and assistance to help Israel develop her economy and extend her trade. We must resist diplomatic maneuvers to undermine Israel's hard won stability. We should make our aims in the Middle East so clear that everyone will understand that an Arab-Israel peace is a primary objective of United States policy. Israel will not be sacrificed.

While this is our primary objective, there are other measures that should be adopted as soon as possible to alleviate the tension on the borders with the Arab countries. What is needed, above all, is for all friendly powers to make an unqualified statement of determination to resist, under the United Nations Charter, any forceful attempt to overthrow the sovereignty or destroy the independence of Israel or its neighbors.

Such a declaration would introduce an element of stability into the Middle East that would then permit other pacifying factors to exercise a healing influence.

A number of important peacekeeping devices have already been established in the Middle East to help calm relations between the Arabs and the Israelis. The armistice committees, the demilitarized zones, and the United Nations Emergency Force, are some of the chief measures that have been accepted by the countries in the area in an effort to halt bloodshed and restore tranquillity. Thanks to the cooperation of the Israelis and their neighbors with United Nations peace machinery, quiet now reigns in the Middle Eastern region.

Yet, old hostilities and ancient fears still remain. An arms buildup relentlessly continues, and a final peace settlement does not appear to have approached any nearer than it ever was. There is still a latent danger that shots might again ring out across the sensitive Israeli-Arab borders. President Truman spoke of this.

We should continue to search for better methods to calm Middle Eastern fears and to promote a lasting settlement. One such method was suggested last month by Ben-Gurion of Israel. He announced that Israel would welcome an open-skies, aerial and ground inspection system in the Middle East, that could allay apprehension over the possibility of a surprise attack by one state upon another.

All of the countries of the Middle East should seriously consider this proposal.

The United States should take the initiative in calling it up for discussion before the United Nations.

Such an inspection system over the border areas of Israel, the United Arab Republic, Jordan and Saudi Arabia could be a pilot project of inestimable value for the cause of world disarmament.

The inauguration by the major powers of "open skies inspection" in such vital areas as the Arctic or Europe could be a major step toward a relaxation of tension between the two great power blocs. But thus far action has been blocked by Soviet obstruction and the veto.

The people of the Middle East, who have already shown their aspirations for peace by accepting new forms of peacekeeping machinery such as the United Nations Emergency Force, could make another significant contribution to world peace, if they would be the first to adopt, in their own region, the principle of inspection against surprise attack. That many of the Middle Eastern governments favor this principle was demonstrated in 1955 when they supported a United Nations resolution on the "open skies plan" and again a week or two ago when they continued their support of the concept in the Arctic debate in the United Nations. These same governments could now assist in reduction of tensions in their own area by agreeing to a "pilot inspection system" to be conducted by themselves or by outside parties as agreed upon.

But what the Middle East should aim at above all else, is a lasting settlement of the state of war which still exists between Israel and the Arab states, and a return of the area to a normally peaceful condition. With such a settlement the burden of arms now weighing heavily on Jew and Arab alike could be lightened and more resources could be devoted to the betterment of life for all.

The Middle East needs a period of tranquillity—it needs stability of borders and an opportunity, too, for the more constructive forces within the area to gain the ascendancy. The Middle East needs economic development—regional economic development.

It needs the guiding hand of the United Nations—a hand that insists upon peaceful pursuits and curbs violence and aggression. The Middle East needs Israel with her modern science and technology, with her genius at government and social organization. Israel needs her neighbors.

Again and again, the statesmen of the world need to remind the peoples of the Middle East that war and violence in that area, as elsewhere, settles nothing but could well destroy everything. A war in the Middle East can spread to the Middle West. What is needed is patience and a period of stability and tranquility. The people of the world need it. The future hope of the Middle East requires it.

In the crowded years since 1948, the sacrifices and achievements of Israel have been etched deeply and unforgettably in the story of civilization.

We commemorate these achievements today. Israel's success is highest testimony of all to the dedication and energy of her people. More than anything else, it is proof that the will to live and create can survive all the handicaps of history and can triumph through tears.

PROPOSED SCHOOL CONSTRUCTION LEGISLATION

Mr. HUMPHREY. Mr. President, one of the more exasperating failures of the administration during this session of Congress has been the President's failure to request a school-construction bill. This is particularly distressing in view of the fact that a school-construction program would be a very definite shot in the arm to the national economy through the providing of additional construction jobs and the providing of a market for heavy goods.

But principally it is a complete failure to see the essential role played in providing adequate facilities for our young children and the failure to see that the expanding population of these United States is far outstripping our physical plant for education.

One case in point illustrates the often desperate financial situation of the school districts in our country.

Independent School District No. 317 at Deer River, Minn., has been manfully striving with a poor financial position for years, and still managing to send on to college from 30 to 35 percent of its graduating seniors. This school district,

a large district with high transportation costs, no industry, and a low per capita income, has required special legislation to permit bonding itself in the amount of $400,000. This authority is exhausted, as is assistance under Public Law 815, which was made possible through the providing of education for Indian children living on Federal land.

This school district's problem illustrates the point that inadequate educational facilities are a national problem. These young people coming up from School District 317 are going to be voting participating citizens just exactly as the children coming up from the wealthiest school districts in the country. They are starting out life under a severe handicap, and the Nation is going to lose part of their potential.

I have been exploring every possible way of assisting this district, but I have come to the conclusion that there is no other way to aid School District No. 317, or any similar district in the United States, without passing a school-construction bill involving Federal aid to the school districts.

Because of the light that his letter throws upon the current financial situation of many school districts, I ask unanimous consent at this time to have printed in the RECORD, a letter from Supt. H. C. Hanson, of Independent School District No. 317, of Deer River, Minn.

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

INDEPENDENT SCHOOL DISTRICT No. 317,
Deer River, Minn., June 3, 1958.

Senator HUBERT H. HUMPHREY,
Senate Office Building,
Washington, D. C.

DEAR SENATOR HUMPHREY: Although your letter of May 21 was not hopeful as to solving our school problems, we appreciated hearing from you on this matter. We discussed your letter, along with Congressman BLATNIK'S letter, at a recent board meeting so that they are informed on what progress is being made.

In contemplating our needs for next fall, we definitely are going to have to utilize an old schoolhouse (one room) which is sitting behind our regular building for a classroom. We also may have to attempt fixing up temporary quarters in basement space to provide an additional classroom or two. It seems with this recession in this area that people are moving into the rural area on a marginal piece of ground to raise a small garden and endeavor to get by * * * this naturally throws an added burden on our schools which are presently overcrowded and with large class sizes per teacher. We give you this added information, as we want to keep you informed as to just how critical our particular situation really is.

Our needs overall are not too great in comparison to other expenditures. Construction needs estimated at $950,000 would take care of estimated needs for 20 years. Right now we need 8 elementary classrooms (roughly $200,000) to meet minimum elementary needs.

As we have explained previously, we intend to check with our State people too, as this problem is so extensive and beyond the ability and resources of our district to meet. If we should write to others, or make contacts elsewhere, we would be pleased to do so, as we want the children of this district to have minimum facilities at least. We appreciate whatever help you can give, and suggestions you might offer to us in presenting our case for financial aid.

Sincerely,

H. C. HANSON,
Superintendent.

Mr. HUMPHREY. Mr. President, I deeply regret that we have not so far had a request from the President for a school-construction program. I respectfully suggest that it is not too late for such a request, and I firmly believe that if the President would request legislation along the lines he requested last year, the Congress would take swift action to consider and approve it.

THE SOVIET NEW LOOK

Mr. HUMPHREY. Mr. President, during the week I have read some very interesting news items concerning the Soviet foreign policy and the Soviet economic offensive. The Soviet new look has been the subject of considerable comment at home and abroad. Several times I have taken the Senate floor to discuss the complication of this new Soviet challenge—a challenge more effective, I believe, than the strenuous, militaristic old Soviet cold war line.

Yesterday morning it was my privilege to address the members of the Women's National Press Corps, and at that meeting I discussed with them the new Soviet policy of trade and aid, as well as the Soviet policy of political infiltration. I believe that the Soviet policy on trade and aid is a very serious challenge to the United States and the Free World. I was particularly pleased to note that the Prime Minister of Great Britain underscored the importance of this challenge. I join with him and the President of the United States in urging that the free nations of the world make a much more strenuous effort in the field of world trade and economic development on a worldwide basis.

Mr. Thomas P. Whitney of the Associated Press has recently put together an interesting article with up-to-date examples of Soviet affability. An article entitled "Affable Soviet Salesmen Peddle Russian Ideas All Over the World" appeared in the Minneapolis Morning Tribune for June 1, 1958. I ask unanimous consent that the text of this article be printed at this point in the RECORD.

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

AFFABLE SOVIET SALESMEN PEDDLE RUSSIAN IDEAS ALL OVER THE WORLD

(By Thomas P. Whitney)

If Russia kept a log book on its worldwide buy-Russian ideas campaign, any given day would show entries like this:

A Soviet engineer in India invites his native servant to sit down at the table and addresses him as brother—speaking in Hindi.

A Soviet Ambassador in France tells a select social gathering that Russia would prefer to have France rather than the United States in North Africa.

The Soviet news agency Tass distributes a dispatch telling how pleased Egyptian guests were to find religious freedom for Moslems in central Asia.

A ballet troupe from the Bolshoi Theater plays to capacity audiences in Tokyo.

Joe Adamov, of Radio Moscow, answers letters from American and British listeners on the nightly program Moscow Mail Bag.

All this—plus the well-publicized affability of Soviet Ambassador Mikhail Menshikov in Washington—fits into a vast, meaningful pattern.

It is not new, but it has been growing steadily in scale. And particularly in the last 5 years since Stalin's death, the campaign has taken on much more skillful and novel forms.

Here's how it works in several corners of the world, as reported by Associated Press correspondents:

It's difficult to find any Soviet citizen, diplomat, engineer, journalist, or technician stationed in India who does not speak Hindi and who has not been thoroughly drilled in Indian customs and culture before he comes.

The magazine, Soviet Land, is printed in 200,000 copies every 2 weeks—in Bengali and other Indian languages. The Communist Chinese distribute 10 periodicals in India.

Helping Soviet and Communist Chinese propaganda work in India are Indian Communists who nowadays represent themselves as wholehearted constitutionalists. They are an active political force and control the government of one Indian state.

Soviet cultural, sports, and other delegations pour into India by the score every year and hundreds of Indians are invited to the Soviet Union.

The Russians are aiding the Indians with credits, equipment, and technical assistance on a number of important construction projects.

In Japan, Moscow is running a well-planned soft-sell campaign which mixes culture with technical and scientific achievements for a country deeply interested in both.

The bill last year alone came to an estimated 10 million dollars.

Red China has joined in the Soviet effort by sending dance teams, art exhibits, entertainers, and various delegations. The latter included trade groups which attempted to entice Japan into relaxing restrictions on strategic trade with the Chinese mainland by holding out prospects of a fabulous business in the China market.

Soviet propaganda material to Japan has stressed Russian proposals to suspend nuclear tests, a subject on which Japan is particularly sensitive.

With Britain the Russians go heavy on sports. The British and Russians are now negotiating an increase in cultural and sports exchanges.

In France the Communist-bloc countries, led by Russia, have the support of a big French Communist party.

Meanwhile the French Communist press hammers along Soviet propaganda lines and a fourth of the French population votes Communist.

The Soviet deputy minister of foreign affairs, Vasily Kuznetsov, toured several Latin American countries quietly and without incident, selling the notion that Russia is prepared for an enormous trade.

A quiet announcement that Leningrad University is inaugurating courses in Swahili, Congo, Amharic, and other African languages illustrates Soviet interest.

The intense activity of Russians in the Middle East—illustrated by the splendid reception of President Nasser of the United Arab Republic in Moscow recently—is effective.

Mr. HUMPHREY. Mr. President, in the same issue of the Minneapolis Tribune there was an Associated Press dispatch commenting on the excellent booklet published by the Committee for Economic Development, dealing with the Communist economic offensive. This Committee for Economic Development publication is worth immediate and serious attention. I am certain that every

Senator realizes that this is a very responsible and highly respected committee. Indeed, it has performed a great public service in outlining, in meticulous detail, the nature, scope, and dimensions of the Soviet economic offensive.

I ask unanimous consent to have printed at this point in the RECORD an article entitled "CED Says Russ Win Good Will With Trade," published in the Minneapolis Tribune of June 1, 1958.

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

[From the Minneapolis Tribune of June 1, 1958]

CED SAYS RUSS WIN GOOD WILL WITH TRADE

WASHINGTON.—A private study published Saturday says communism is threatening the West through an economic offensive characterized by hardheaded business techniques.

It says the Soviets are winning good will in underdeveloped countries through a significant expansion of commercial trade and the granting of loans that, while seemingly generous, give the Communists a powerful club.

The booklet was published by the Committee for Economic Development (CED), a nonprofit organization devoted to analyzing economic problems. It was written by Michael Sapir, an economist now working for the United Nations in Latin America.

He said the most striking result of the Communist effort has been a dramatic increase since 1952 in trade between the Communist bloc and the Free World. From 1952 through 1956, he said, trade through the Iron Curtain increased in value 77 percent.

Herbert Stein, CED's research director, told reporters the benefits which the Soviets have reaped through increased trade show, "You don't have to go around giving things to people; you can satisfy a lot of wants through trade."

Sapir said the Soviet bloc is augmenting its trade offensive through the familiar techniques of trade and payments agreements, trade promotion activities, long-term credit, and technical assistance.

He said Communist foreign aid already exceeds Free World assistance to seven underdeveloped countries—Afghanistan, Burma, Egypt, Indonesia, Nepal, Syria, and Yemen.

Soviet bloc loans to these and other countries usually call for repayment over 12 years, with a 1-year grace period before repayment begins, Sapir said. Interest rates run about 2½ percent, compared with 4½ to 5 percent on loans from the World Bank and Export-Import Bank.

Also, he noted, the Communists often give their debtors another break by allowing them to repay part of the debts with goods instead of cash.

However, he added, "where currency is involved, the Soviets are exacting." He said the Communist bloc will accept few, if any, genuinely soft currencies, in contrast to the practice under several United States aid programs. And he said they carefully hedge repayment provisions against possible devaluation of the debtor's currency.

Mr. HUMPHREY. Mr. President, I note that the other House has passed, by a substantial majority, the extension of the Reciprocal Trade Agreements Act. It has rejected efforts to weaken seriously that act or in any way to cripple its effectiveness.

This is an hour of rejoicing for the American Republic. Indeed, if the Senate does as well—and I hope the Senate will even strengthen the Reciprocal Trade Agreements Act—great strength will be added to our Nation in the field of international policy and international relations.

It is my intention to support the Reciprocal Trade Agreements Act, and to support it with every effort and every means at my command, because I sincerely believe the President of the United States is right in recommending the extension of the act along the lines which were set forth in the bill which was presented to the House. I feel that it is in the interest of the Nation and in the interest of national security and world peace that the bill be promptly enacted by Congress and signed by the President.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article entitled "The World Trade Issue," written by Edwin L. Dale, Jr., and published in the New York Times of June 10, 1958.

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

THE WORLD TRADE ISSUE—A SHORTAGE OF INTERNATIONAL LIQUIDITY IS BEHIND SURGE OF ECONOMIC COMMENT

(By Edwin L. Dale, Jr.)

WASHINGTON, June 9.—A complicated thing known in economists' jargon as insufficient international liquidity is behind the sudden surge of comment about the economic problems of the Free World.

It is at the heart of the economic portion of the talks between President Eisenhower and Harold Macmillan, the British Prime Minister. It is the problem that gave rise to recent speeches by Adlai E. Stevenson and Dean Acheson.

So far it is a problem that has mostly led to talk, with few concrete proposals. British officials stressed today that Mr. Macmillan himself was not now ready to make any proposals but merely wished to get the United States Government thinking about the problem.

In its broadest sense, the liquidity problem underlies the associated problems of keeping world trade growing and helping the underdeveloped countries to start the slow process of economic growth.

THE POTENTIAL PROBLEM

"Insufficient liquidity" for a corporation or a family means simply not enough cash to finance the volume of business or of consumption that the firm or family would like to undertake.

In the international sense, it is usually described as an insufficiency of gold and dollar holdings, outside the United States, to finance world trade and investment.

All sides are agreed that the problem is not of immediate urgency. Even Mr. Stevenson calls it a creeping crisis. But as the British and others see it, the potential problem is something like this:

Suppose there should be a prolonged American recession, with a resulting drop in American imports. Or suppose there should be a general industrial recession throughout the Western World. Or suppose there should be another Suez situation with its crisis of confidence for such a key currency as the pound sterling.

In any of these events a number of countries, from Britain through Brazil, would find their relatively meager hard currency and gold reserve quickly depleted. They would, quite literally, have not enough money in the bank to pay for their accustomed volume of imports.

Their only recourse would presumably be to shut off imports, either by physical controls on the movement of goods or by financial controls on the means of paying for them. But obviously one country's action of this kind would hurt its trading partners. The result would be a spreading of controls, a sharp contraction in trade, and impoverishment for everybody.

The issue of liquidity has arisen now for three reasons:

First, world trade has been expanding vigorously with no comparable growth in world financial reserves. A smaller world cash balance is financing a much bigger volume of business.

Second, twice in the last 18 months the British discovered just how slim a margin of reserves was behind the pound, which finances at least 40 percent, and probably more, of world trade. The Suez crisis in late 1956 and the franc crisis in September 1957 both caused runs on the pound that came near creating a disaster for Britain.

Third, a combination of the American recession, a mild business slowdown in Europe, and general oversupply has cut sharply into the demand for the products of the one-crop underdeveloped countries—copper, rubber, wool, tin, oil, coffee, and others.

The reserves of important importing countries, ranging from Brazil to Australia and from Malaya to Chile, have been seriously depleted from this cause and, in some cases, from overambitious development programs as well.

So far, emergency devices of various kinds have prevented these problems from developing into full-fledged crises. The International Monetary Fund and the United States Export-Import Bank have bailed out one situation after another.

But the feeling of those who are worried about the problem is that the resources of these two institutions are not unlimited, and that something more should be provided. If the world was and felt more liquid, these benefits would flow, according to the argument:

The British would not have to fear a run on the pound because no runs would occur as long as world traders and financiers knew that the pound was fully defended by ample reserves of gold and dollars.

The growth of world trade could proceed without fear of interruption by insufficient money in the bank by key importing nations.

The underdeveloped countries would have more of a financial cushion behind their development programs, which inevitably involve some excess of imports over exports in at least their earlier stages.

How, then, can the problem of insufficient liquidity be solved? A number of proposals have been made from such sources as The Economist of London, ranging from an increase in the dollar price of gold to wholly new international institutions.

But the proposal that appears to be receiving the most attention within governments—though none has yet reached a firm conclusion—is relatively simple. It is to increase substantially the resources of the International Monetary Fund. This would mean, among other things, another big injection of United States dollars into the fund.

The United States Government has not accepted the existence of a liquidity crisis. The position of both the Treasury and the State Department is that people who try to live beyond their means are always "illiquid," and that the best solution is to stop being profligate.

What is more, all sides, including the British Government, agree that there is no immediate problem. British reserves have been doing remarkably well for the last 6 months, having at last passed the $3 billion mark. World trade has survived the early stages of the American slump remarkably well.

But the United States Government does see a problem for the underdeveloped coun-

tries. And it has no wish to see the kind of spreading of depression that occurred in the industrial West in the nineteen thirties.

The merit of an approach like bolstering the reserves of the Monetary Fund, as many officials see it, is that it would kill both birds with one stone—the general problem of liquidity for the world as a whole and the special balance of payments problem of the underdeveloped countries in particular.

Mr. HUMPHREY. Mr. President, Mr. Dale discusses the issue of "insufficient liquidity," in the context of the recent concern over Free World economic plans voiced by Hon. Adlai Stevenson, Hon. Dean Acheson, and others; in other words, the ability of the Free World, especially many of the uncommitted nations and the new countries, to obtain adequate capital for development, and for extensive and intensive trade relationships. All these matters are of great concern to the American people, and need to be discussed whenever the opportunity is afforded in the Senate.

Mr. President——

The PRESIDING OFFICER. The Senator from Minnesota.

UNITED STATES CULTURAL RELATIONSHIPS WITH THE SOVIET UNION

Mr. HUMPHREY. Mr. President, the Senate may be interested to know, along the lines of Soviet-United States relationships, that considerable work is being done by our Government in the field of international cultural exchanges which I think is productive of good results. The other day I received a letter from Mr. Matthew P. Hyland, who is an International Organizations Exchange Specialist in the Exchange and Gift Division of the Library of Congress. Mr. Hyland's letter, dated June 2, 1958, is very interesting. He says:

It may interest you to know that the World Federation of Democratic Youth, a Communist organization with which the Library of Congress has for some time been exchanging publications, has, from its headquarters in Budapest, requested the following material from a list of publications offered to them by myself in the capacity of International Organizations Exchange Specialist in the Exchange and Gift Division of the Library. As an indication of attitudes behind the Iron Curtain with respect to the dissemination of ideas, their selection may be significant.

These are the items which were selected from the great variety of publications which were made available: The Four Freedoms, a poster; The United Nations Declaration of Human Rights; The United States Constitution; America, by Stephen Vincent Benet; United States Historical and Archeological Monuments; The Capitol in Story and Pictures; The Liberal Arts College; Theodore Roosevelt, Fighting Patriot; Up From Slavery, by Booker T. Washington, an autobiography; Great American Short Stores; The Best Short Stories of O. Henry; New Poems by American Poets; The Adventures of Tom Sawyer; Prose and Poetry of the World; Scholarship and Fellowship; and Youth, a Nation's Richest Resource.

I think it is important that we understand and know the kind of literature which organizations behind the Iron Curtain are requesting. I must say that their selection of poetry and prose, short stories, histories, biographies, and autobiographies was certainly a good one. If the Communist youth will read Theodore Roosevelt, Fighting Patriot, and then Up From Slavery, by Booker T. Washington, they will get a pretty good picture of the dynamic forces in American life. If they will read The Adventures of Tom Sawyer and the Short Stories by O. Henry, they will get a good idea of some of the folklore of American life and some of the great personalities in American literature.

I am very much pleased that the exchange program shows this kind of constructive, hopeful development. I hope we will do even more in the days to come.

THE BOOK MAINLINE—THE PINCERS MOVEMENT—ECONOMIC AND POLITICAL FREE TRADE—STATUS OF FORCES AGREEMENT—THE 1934 TRADE AGREEMENTS ACT AS EXTENDED TO JUNE 30, 1958

Mr. MALONE. Mr. President, on June 10, there was published in the Washington Post a very interesting comment by Drew Pearson on my recently published book Mainline.

One phrase—the distribution of anonymous literature—arrested my attention. The well-documented book Mainline is not exactly anonymous since, according to the publishers, the first printing is practically exhausted.

I therefore ask unanimous consent to have the article by Mr. Pearson printed at this point in the RECORD as indicated.

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

One loophole is to distribute anonymous literature. Latest illustration is a neatly bound book received through the mails by Congressmen from the Long House, a publishing firm in New Canaan, Conn. It is called Mainline and is authored by Senator "MOLLY" MALONE, the isolationist Republican from Nevada.

The book is a lengthy, rambling, bitter attack on the reciprocal trade treaties. It was sent to Congressmen for the obvious purpose of influencing them to vote against the Reciprocal Trade Treaty Act now before Congress. But the identity of the persons or organization mailing out this expensive book remains a secret. Someone is putting up the money. Not MALONE. He has taken to various outside means of raising money.

Finally Congressman CHARLES PORTER, of Oregon, wrote to Long House to see who was distributing the propaganda. "I note," he said, "that the book was sent as a gift with the compliments of an interested friend. I should like to know the name of this citizen and request that you give me his name and address."

Replied the publisher: "We were requested, and agreed, to keep in confidence this man's identity. Even the author of the book does not know who he is."

LETTER TO PUBLISHER BY CHARLES PORTER, OF OREGON, AND ANSWER

Mr. MALONE. Mr. President, in the article by the distinguished columnist, reference was made to an exchange of letters between Representative PORTER, of the House of Representatives, and The Long House Publishing Co. I ask unanimous consent that the letters be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 17, 1958.

The LONG HOUSE, INC.
Publishers,
New Canaan, Conn.

GENTLEMEN: Thank you for sending me a copy of Mainline by the Honorable GEORGE W. MALONE. I note that it was sent to me as a gift with the compliments of an interested citizen.

I should like to know the name of this citizen and am here requesting that you give me his name and address at your early convenience.

With best wishes
Sincerely,

CHARLES O. PORTER,
Member of Congress.

THE LONG HOUSE, INC., PUBLISHERS,
New Canaan, Conn., April 19, 1958.

Hon. CHARLES O. PORTER,
House Office Building,
Washington, D. C.

DEAR MR. PORTER: Thank you for your letter of the 17th. It is one of many which we have received whose writers wish to thank the gentleman who made possible the sending of Mainline to selected people.

We were requested, and agreed, to keep in confidence this man's identity. Even the author of the book does not know who he is.

We are keeping him posted, however, on the extent to which appreciation of the book is expressed.

Most cordially,

J. H. SNOW, *President.*

Mr. MALONE. Mr. President, I have a high regard for Congressman CHARLES O. PORTER, of Oregon, one of our neighboring States, and would enjoy discussing the free trade policy of our administration with him at his convenience, or in fact any subject of interest to our States or to the Nation.

Mr. President, I am informed that a copy of the book Mainline was sent to each Member of the Senate and each Member of the House by an interested citizen, and was so inscribed. A considerable number of the Members of Congress have since presented the book to me to be autographed. The publisher has furnished the author with very few copies of the work, and with little information about its distribution.

But since Mr. Pearson has opened the subject, I now ask unanimous consent that the following be printed at this point in the RECORD:

A review of the book, as published in the Salt Lake Tribune of May 25, 1958, under the headline "Malone Book Sets Forth Policy Views."

An item from the publication "Human Events" of April 28, 1958.

An article which was published in the Southern Conservative for February 1958.

A review published in the Nevada State Journal of May 18.

Three articles by George Todt, published in the Valley Times, of North Hollywood, Calif., on May 13, May 14, and May 15.

The Dan Smoot report in the book Mainline, May 19, 1958.

Walter Winchell: "United States Senator MALONE's new book Mainline is here. Will send." May 22, 1958.

The American Legion: National Adjutant's letter May 29, 1958.

An editorial entitled "To Taxpayers: Our Sympathy," published in the New York Daily News of June 10.

An editorial entitled "Billion-Dollar Boondoggle," written by Father Richard Ginder, and published in Our Sunday Visitor, the national Catholic Action weekly.

There being no objection, the letters, editorials, excerpts, and articles were ordered to be printed in the RECORD, as follows:

[From the Salt Lake Tribune of May 25, 1958]

MALONE BOOK SETS FORTH POLICY VIEWS

GEORGE W. MALONE, United States Senator from Nevada, in his first book-writing venture, has produced a compact and well organized summary of what he has been saying for many years about United States foreign and trade policies.

His main thesis is that the American concept of constitutional government is gradually being squeezed into an Old World state supremacy pattern by pincers, one jaw of which is political and the other economic.

STUDIES ECONOMIC JAW

He devotes most of his 125-page volume to the economic jaw which, because it is more subtle than the political jaw, is less likely to be recognized and resisted.

Although a Republican, the Nevada Senator does not charge the partisan opposition alone with operating the pincers. It is, he argues, a bipartisan movement which began pinching in 1934 when Congress abdicated one of its important responsibilities by passing the Trade Agreements Act (which is now before Congress for extension.)

APPLIED THE PRESSURE

Democratic administrations, he observes, applied the pressure for almost 20 years, after which a Republican administration took over and continued or even increased the pressure.

Surrender of trade responsibilities by Congress to the Executive and then by the Executive to international agencies is denounced by the author primarily on the grounds that it is destructive to the principle that the people are sovereign.

SLIGHTLY LESS VIGOR

But he denounces it with only slightly less vigor on the grounds that the policy is accomplishing the reverse of what it was supposed to accomplish—increased legitimate world trade. He supports this charge by a series of examples of its effects upon specific domestic industries.

The Senator's advice to United States citizens who want to prevent the jaws of the pincers from closing is to demand from every candidate for Congress an unequivocal "yes" or "no" answer as to whether they will support bills to restore to that representative body its constitutional powers—and then to vote accordingly in the next election.

[From Human Events]

RECIPROCAL TRADE

Those following the course of legislation on the Hill predict that important alterations in American trade policy may be forthcoming, as a result of the fight to renew the reciprocal trade agreement, due to expire unless Congress acts this year.

Conservatives poncering the tangle of legislation surrounding American trade policy cite, as an illuminating commentary, Nevada Senator GEORGE MALONE's recently published book, Mainline (The Long House; Post Office Box 3, New Canaan, Conn.; price: $3 clothbound; $2 paperback). Senator MALONE, long a foe of those seeking to knock down American tariff barriers, points out the folly of American trade policy—artificially shoring up foreign economies so that they can compete with our own, while simultaneously removing all protections that can be of assistance to American businesses.

Under the notorious GATT (General Agreement on Tariffs and Trade), MALONE points out, over 55,000 concessions have now been made, all of them to freeze or lower America's tariffs. An average reduction of 68 percent is now in effect, and our tariffs are the lowest of any major trading nation in the world.

Scoring GATT as our economic Yalta, the Nevada Republican points out that it ends our American policy of bilateral trade agreements, and that it is in no way responsible to the elected representatives of the people of these United States.

[From the Southern Conservative of February, 1958]

BOOK TELLS OF PINCERS MOVEMENT CLOSING IN ON US FROM TWO SIDES

Senator GEORGE W. MALONE of Nevada is one Member of the United States Senate who is a statesman, an informed patriot and who is interested primarily in the security and preservation of the American Republic.

He has always seemed to us to be one of the few in that great body who never talks, votes, or takes any other action relating to the interests of the American people until he has availed himself of all documented and factual information concerning the subject involved.

In these columns we have frequently called attention to the invaluable service he is rendering not only to the people of the State he represents but to those of all sections of the country.

We predict that a book he has written titled "Mainline" will be eagerly welcomed by those Americans who are greatly disturbed concerning the present state of the Union.

According to those who have seen the manuscript, the Senator has done a terrific job of writing and has produced a volume which should dissipate the apathy and indifference of that vast segment of the citizenship which has slumbered as corrupt internationalists have played games with their destiny and that of their children and their children's children.

He has taken GATT, the trade-agreements legislation, on the one hand and the status-of-forces agreements on the other, and set them out as a huge pincers movement which is pressing us from two sides.

He shows, coldly, clearly, and with impressive documentation, how we are being made dependent upon distant sources for materials critical to our defense; how industry after industry is being hurt; how agriculture is being forced to suffer; and—vitally—how this Nation is being prepared within for a federalized type of socialism even as it is being led into a world Socialist state, in strange contrast to the free and untrampled genius which erected the American Republic.

He notes that foreign-made machinery is being installed in tax-paid Government projects here, while counterpart funds—obtained from the sale of surplus products abroad—are being used to pay off foreign nations' debts.

But the essential thing, the constructive thing, is that Senator MALONE claims we can put an end to this pincers movement and that there still is time for us to do so. His thoughts in this regard will be welcomed by all who love our Constitution, and by every citizen who believes in and understands States rights.

[From the Reno (Nev.) Nevada State Journal of May 18, 1958]

SENATOR MALONE WRITES A BOOK

Students of economics and politics of the present and future owe a debt of gratitude to Nevada's Senator GEORGE W. MALONE for putting together his first book, Mainline, which has just come off the press in Connecticut.

The Republican Senator from Reno has turned his commendable energy to the preparation of a work which explains his theories on international trade and foreign aid. Any Nevadan who has heard the Senator speak during the past decade has been exposed to these views, but for the sake of leisurely study of these ideas and for the sake of future historians, Mainline puts these ideas into print in a compact and reasonably orderly form.

Even those who disagree completely with the Senator's pet ideas—and there are many ideas which deserve to be challenged—should agree he has made a contribution to the great debate of this generation over the questions of increasing American activity abroad, the constant growth of Federal executive power, and the tendency of the American democracy toward greater collective activity.

Senator MALONE regards himself as one of the rugged individualists, and he contends the developments of the last 20 years have reduced individualism. The American people, the only sovereign people in the world after 1789, have surrendered much of their sovereignty to the executive who in turn has passed this sovereignty to foreign diplomats, according to Senator MALONE.

A PANACEA

The Republican Senator, whose book appears at the politically-opportune (for himself) time when he is about to seek reelection, has a panacea for nearly all of the ills—economic and political—of the United States.

Kill the Reciprocal Trade Act of 1934. Put the responsibility for trade regulation back in the hands of Congress. Lower taxes. Utilize resources of the Western Hemisphere rather than those imported from around the world.

[From the North Hollywood (Calif.) Valley Times of May 13, 1958]

CHANCE TO BE INFORMED ON GATT

(By George Todt)

"Commerce is the equalizer of the wealth of nations."—Gladstone.

In order for my readers to get both sides of the story concerning reciprocal trade—which will be hammered on repeatedly in the months ahead on Capitol Hill in Washington—may I recommend a 120-page book called Mainline by Senator GEORGE W. MALONE, of Nevada.

The book is one of the best of its kind, and extremely well documented. Published by the Long House, Inc., Post Office Box 3, New Canaan, Conn., the important book may be ordered by mail; paperbound editions are $2 and cloth editions sell for $3 apiece.

Now, admittedly the book is biased in favor of the pro-American stand on world trade versus the theory of the internationalists and one-worlders. When I wrote earlier that the impartial reader, or thinker, needs this book to get both sides of the picture I meant exactly this: about the only information we ever get concerning such controversial items as the General Agreements on Tariffs and Trade (GATT) and reciprocal trade acts has been notoriously one-sided in the past. Frankly, it has been siphoned to the public from the internationalists, themselves. We have been getting a warped picture, perhaps.

At least, Senator MALONE—a forthright, rugged American patriot with deep convictions—seems to think so. And he tells a

very down-to-earth story which Joe Doakes ought to read. It is a story that is usually passed up by our communications media for some strange reason. Wonder what it could be? Is there more there than meets the eye?

Senator MALONE says that there is, indeed, a story-behind-the-story and tells us why it has been hushed up to such a considerable extent in the past. Regarding GATT, he says:

"The Executive alone agreed to this procedure. Not one word of mine is needed to tell you that here, in GATT's decision, is assumed a sovereignty which is as clear as it is simple and absolute.

"By gracious waiver, this international authority permitted the United States of America a course of action. This permission was conditional, too, for report cards must be submitted to the supreme authority. The American farmer was voiceless and he was helpless. He has become a peasant, beholden to the program of an international authority which he can neither meet with nor control.

"And what one authority—GATT—can do to farmers and growers, it and other global authorities can do to industrialists, to steamship operators, to men of business. They have no recourse. They may plead with the local executive, to be sure. The local executive is resident in Washington, D. C. But that executive, in turn, must plead with an international authority. It must plead with a supplicant's voice.

"The people of this Nation? They have no voice at all. They are to consider themselves citizens of the world. In education, in politics, and in economics there emerges the evidence of a plan, seemingly coordinated, to mold into a new order all of human endeavor. Its documentation to the contrary notwithstanding, all evidence is met with denial. The evidence mounts."

[From the North Hollywood (Calif.) Valley Times of May 14, 1958]

BOOK ON WHICH READERS DIFFER

(By George Todt)

"Such stuff the world is made of." (Cowper, Hope.)

Actually, it would be a good idea, albeit novel, if we were somehow able to send every internationalist "opinion moulder" of any stature within the press, radio, and TV a copy of Senator GEORGE F. MALONE's new book called Mainline—and then asked for their arguments counter to his own. What could we expect to hear? Would anything be forthcoming?

Perhaps this is something to be doubted. For the liberals in America seldom deign to reply to those who consider taxpayer Joe Doakes first. They seem to operate under the dictum of "the least said, the better!" Better to let sleeping dogs lie. Don't disturb.

But Senator MALONE doesn't mince his words. He has some powerful thinking contained within his instructive book—and it is something which all of us can afford to ponder a bit while we may still have time to do so. Consider these few passages on page 84 under his heading of "The Socialist Republic—The Socialist World State." Here Mr. MALONE has been discussing certain blighted areas in our country which had become distressed because of the aftereffects of free trade policies. He asks the questions:

"Do these areas receive gifts, lend-lease, or aid? Do they receive handouts such as are sent abroad from the pockets of the working citizens of these United States? Is there within the theory a Marshall plan for them? Does the FOA—now become a specialized agency of the United Nations—touch with its Midas wand the people who are affected?

"No, not yet. But there is a plan.

"The plan is a product of the executive branch. Its essence is a socialist economy for the United States. It proposes that workingmen whose jobs are lost to foreign competition be transferred to other areas; that investors be compensated for their losses, at taxpayer expense.

"The State Department suggests that the Government pay for moving workmen from one era to another and that owners be paid interest on their losses. When an American industry is destroyed, when unemployment is created, the plan proposes that Congress appropriate the citizens' money to provide unemployment relief for the men displaced.

"Further appropriations are to underwrite the transportation of displaced workingmen so they can migrate to other areas. The plan, in other words, assumes that the economic map of the United States is to be made over, and outlines steps for its finance. On its human side, in regard to homes and family ties, the plan itself is silent.

"The citizens of the Republic, the men and women whose proud heritage derives from the sovereign dignity of the individual—whose Nation was the first in history to by its Constitution set forth clearly the functions of Government and to strictly limit its just powers—are by this reactionary reversion to statism to be set back to the very status from which their forbears successfully rebelled."

This is one of the most thought-provoking books which any of us might find to read today. Some will agree with the author's concepts, others will not. Which is as it should be, of course. In the spirit of Voltaire, I suggest my readers look at Mainline's contents.

[From the North Hollywood (Calif.) Valley Times of May 15, 1958]

(By George Todt)

"The pomps and vanity of this wicked world."—Book of Common Prayer.

What do the overly ambitious international one-worlders propose to do with us, the people of the United States, in their hush-hush schemes of world government?

One man who is able to paint a picture for us in this regard is Senator GEORGE W. MALONE, of Nevada, in his new book Mainline, which every patriotic American ought to consider as "must" reading. It may be obtained by writing to Long House, Inc., P. O. Box 3, New Canaan, Conn. It provides some fascinating studies for all age groups.

Let me quote a few more passages from "Mainline," to give you some idea of its contents:

"Workers are to be moved about exactly as in Soviet Russia. Industry, agriculture, shipping, business and trade are to be dependent upon the State—exactly as in Soviet Russia. The citizens of this republic are to be shifted bodily, to homes which somehow, presumably, they will find—exactly as is done in Socialist Russia. And precisely as is set forth, more mildly and by law, in Socialist Britain. The pattern is global in its scope.

"The political arm of this pincers already has resulted in such pressures that our own laws—made pursuant to our society, framed within the body politic of our own firm Christian traditions, implemented according to our own codes—must be interpreted as being in accordance with the Charter and principles of the United Nations. Our men and women—and the civilian component—of our Armed Forces already are made subject to the jurisdiction of other nations, according to treaty law.

"The executive branch of the United States Government, together with the ideological advocates of a global theory, is meanwhile countenancing a gigantic economic mechanism which is designed to bring into being a completely Socialist political and economic government of the world.

"The program is being followed not by one major political party, but by both. Its theory is that peace can be achieved, and that universal prosperity can be brought forth, by abandoning the recently acquired sovereignty of nationhood and amalgamating all political authorities into one happy and carefree whole. To that theory are being subordinated the normal, natural interests of the citizens of the United States.

"Our Nation's Constitution, our Bill of Rights—those historic 10 amendments which set forth the great untappable reservoir of ultimate sovereignty which is reserved to our States and to our people—are being sacrificed, and to a dream world, presumptively governed by universal law.

"Our unique system of individual risk and profit-and-loss, our competitive free economy; our investors, large and small; our producers, workingmen, farmers, shippers; all are to be used as chips in an international poker game in the making of whose rules they have no voice. Yet without them, as the Secretary of State testified before the Senate Finance Committee in 1955, there would be no GATT (General Agreement on Tariffs and Trade); there would be no game.

"The elected representatives of these, our citizens, have no voice. Only the executive sits in the game. To play with such global chips, must be intriguing and great fun. Only the house can win. The house is no longer national. It is worldwide.

"The engaging possibilities of the situation were not overlooked by traders in Britain. In March of 1942 the Federation of British Industries published its plan. Here is the plan in part:

" 'Like the ITO (International Trade Organization), the British Clearing Union did not itself materialize. But exactly as the ITO was followed by GATT, the Clearing Union was followed by the International Bank and Fund. And in the House of Lords, John Maynard Keynes described the proposal for the Clearing House in these words: 'The Clearing Union might become the instrument of policies in addition to those which is its primary purpose to support. * * * The Union might become the pivot of the future economic government of the world.'

"Of this potential economic government of the world, the brilliant Garet Garrett immediately wrote: 'The ultimate purpose is political; namely, to redistribute the wealth of the world in favor of underprivileged nations.' "

"From each, according to his abilities," says the Communist Manifesto of Karl Marx, "and to each according to his needs."

Well, from just this much we may see that Senator MALONE lays it on the line to the liberal thinkers of the Nation—and the world. The question naturally evolves: Can the international one-worlders meet his arguments in honest debate? What do you think?

[From the Dan Smoot Report of May 19, 1958]

MAINLINE

The thesis I present is that a pincers movement is now in operation, both on the domestic and on the international scene. The first jaw of the pincers is political; the second is economic.

A clear illustration of the political jaw is the Status of Forces Agreement, a part of the NATO pact. This agreement puts the personnel of America's Armed Forces, and the civilian component, under the jurisdiction of foreign courts. An American involved can get no help from his own country—at whose orders he is stationed abroad. The rights of his citizenship—his rights to protection according to American practices of civil and criminal justice—have been surrendered.

While the situation is at present confined to military personnel and the civilian component, who shall say when the theory of its application will not be broadened? When will every American be included in its terms? Who can deny the possibility, now that the principle has been established?

Thus, in the Status of Force Agreement, we feel the pressure of the political jaw of the pincers.

The pressure of the economic jaw is more subtle. Yet, the economic jaw is closing down and hurting all of us. It is causing spotted unemployment, the closing of plants. It is causing some firms to transfer their bases, and others to open plants abroad.

Both jaws of the mighty pincers are covered with attractive velvet, but the jaws have teeth.

The political jaw of the pincers is hidden with such phrases as "the freedom-loving world," "the western allies," "international cooperation," "collective security," and "defense against aggression."

Expressions like "world trade" and "reciprocity" hide the economic jaw.

The teeth on both jaws of the pincers are gradually destroying the American independence which our forefathers fought to establish—making the American people subject to the laws and whims of foreign rulers, deliberately making our American economy strategically dependent on foreign supply, until we can no longer defend our Nation without the "cooperation" of turbulent political authorities who do not share our ideals and who are totally beyond the reach of American citizens.

The objective of the pincers movement is to make the American people so subject to foreign control, and so dependent on foreign economic and political decisions, that Americans will surrender what is left of their national independence and accept membership in a worldwide socialist dictatorship called World Government.

We can escape from the political jaw of this pincers by a reversal of our foreign policy. We cannot escape from the economic jaw until we discover what it is and how it works.

TOWARD THE INTERNATIONAL STATE

This article, abbreviated from Senator GEORGE MALONE'S Mainline, presents historical background to the pincers movement which is taking money out of American paychecks, taking jobs away from Americans, taking business and profits away from American firms and individuals to finance socialism abroad. All of this is done under the guise of promoting world peace and defending the "Free World" against communism, but its real purpose is to lower American living standards and raise foreign living standards until we produce the one-world economic system that all Communists and Socialists want:

"From the time of America's War of Independence to the present, there have been two broad ideas of government in the world. The American idea was new; the other, old.

"The American idea—basic in our Constitution—is that the people themselves, and not the head of government, are the source of all political power.

"Were I asked what was the single key to America's vast success, I would say it was this American idea of government as the carefully controlled servant of the people, for this idea unlocked the doors of the individual human mind.

"In their Constitution, the American people entrusted to Congress—not to the President or to any other agency—the protection of their liberty and sovereignty. Congress kept trade free within the States; and the people, unhampered by government, quickly built the American market into the greatest in the world.

"As soon as we had won our political independence from England, the political powers of Europe tried to capture our markets and make us economically dependent on the Old World.

"It was not a question of individual Europeans or of European businessmen trying to outtrade Americans. In the old nations of the world, foreign trade was considered a political instrumentality—a means by which political authority (that is, government) could jockey for advantage and control. In America, trade—foreign as well as domestic—was an individual enterprise.

"We set up our protective tariff system at the beginning of our national life, not to protect our business from the rigors of normal competition, but to protect our whole economy against the political-economic warfare being waged against it by foreign governments.

"The Reciprocal Trade Agreements Act of 1934 abandoned this American system and adopted the European politico-economic theory—namely, that the business and enterprise of individuals must be controlled and manipulated to promote the policies of government. Government would help individuals expand their foreign markets. Government would negotiate the terms of foreign trade.

"Thus, with the Reciprocal Trade Agreements Act of 1934, we took a great step backwards into the age-old practices of Europe—taking sovereignty and power away from the people and giving it to government.

"The act of 1934 gave to the executive branch of Government the power to regulate our foreign commerce—a power which the Constitution had been very careful to give exclusively to Congress.

"Some say that Congress merely 'delegated' this function to the Executive. That is not so. The Constitution gives Congress no right or power to delegate its constitutional responsibilities to someone else. The elected representatives of the people in 1934 abdicated, and the power passed into the hands of nameless appointed bureaucrats in the executive branch who are never subject to election or other control by the citizens of the Republic.

"Framers of the Constitution had learned from history that a people cannot be free if they trust any Executive power. That is why the framers entrusted the tariff power—and all other essential powers of the Federal Government—to the legislative branch. They bound the American Executive down with the chains of their Constitution.

"In 1934, Congress handed those chains over to the Executive so that they could be used to bind Congress and the people.

"Supporters of the 1934 Trade Agreements Act proclaimed it as 'progressive' and 'modern,' designed to meet the needs of the 'modern world.' But the act was reactionary, a reversion to the age-old theory of the supremacy of government.

"Why was this reactionary step taken? America was the only Nation on earth where people, and not executive government, had sovereign power. Hence, America could not be absorbed into the great one-world socialist state until her political structure was brought in line with the old political philosophies of Europe. The American Executive tive must be given unlimited power so that he could meet and deal with the rulers of other nations on an equal basis—that is, with as much sovereign power over the American people as other rulers had over theirs.

"Always before, it had been impossible for an American President (or his representative) to meet with foreign rulers on an equal footing, because the American Executive was bound down with the chains of a Constitution. He couldn't barter away markets or anything else belonging to the American people. Hence, he couldn't make international deals attractive to foreign powers. The Constitution protected American citizens against such bartering on the part of their Executive—and it set the Congress up as watchdog for the people.

"The Reciprocal Trade Agreements Act of 1934 was the first major step toward giving the American Executive the power to trade the rights and property and liberty of American citizens for imagined political gains in the age-old game of international politics.

"Since that time, the American Executive has been given, or has assumed, the power to meet with foreign executives whenever he chooses and to work out whatever deals he wants.

"All of this was done, of course, because it was going to help America. Has it helped? What have these Executive deals done for America since 1934?

"Suppose we begin with Roosevelt's announcement that we would quarantine the aggressors, at the outset of World War II. Congress had no part in this Executive declaration of policy. The quarantine announcement was followed by abrogation of our Neutrality Act, the destroyer deal with Britain, lend-lease, our convoying of foreign ships—our entry into the war.

"Operating under our newly adopted Old World theory that our national Executive must be free to act, on 'an equal footing' with other national executives, our executive agents made countless international deals during and following World War II.

"And our courts have declared that these deals take precedence over our own laws and Constitution.

"American citizens have been subjected to court interpretations which rest on 'the principles and purposes of the Charter of the United Nations.'

"In simulated invasion by 'United Nations troops,' nine communities in California, and others in Texas and New York, have been subjected to martial law, mayors imprisoned, police chiefs jailed, school teachers dragooned and their pupils ordered about at bayonet point. I know it is claimed that these were just 'exercises'; but they have happened; they are fact.

"Our men and women in the armed services abroad, and their civilian component, are subject to foreign law. Nearly 25,000 cases had been recorded by January 1957. Hundreds have been jailed. If at times punishment has been justified, that is not the point. American tradition and international law never questioned that jurisdiction rested with the sending country. But international law and American tradition have been set aside by formal treaty, sponsored by the United States Executive and approved by the United States Senate.

"Many deals which the American Executive now presumes to make are not even submitted to the Senate for approval as treaties. These deals are known as executive agreements. According to the one-world internationalist theory that our Executive must be free to negotiate whenever and whatever he likes with foreign powers, these executive agreements are also binding on our citizens as 'law of the land,' although the legal lawmakers for the whole American people—United States Congressmen and Senators—had no hand in the agreements and don't even know what they are. The Secretary of State in 1955 said there are 10,000 of these executive agreements.

"These are some of the teeth that have begun to show on the political jaw of the world-government pincers movement that is squeezing the life out of our once free and independent American republic.

"How about the economic jaw?

"Look at the Marshall plan for American foreign aid.

"We had already poured out billions in lend-lease and more billions in UNRRA (United Nations Relief and Rehabilitation Administration). We had sent $3,750 million to Britain in 1946.

"The Marshall plan was in addition to all that. It was announced as a '5-year' plan which would cost $17 billion. It would raise living standards abroad and rehabilitate war-torn economies in Europe—and would help America, of course, by greatly stimulating world trade.

"The American citizens who had to pay the bills for this vast scheme were never told that, before one penny of our Marshall plan money ever arrived overseas, the European economies that we were supposed to be rehabilitating were already rehabilitated: The production level of the war-torn European countries was already above their prewar production level.

"So, money was taken away from Americans and sent abroad to bolster economies already above their prewar levels. The plants and tools and machinery which Americans had to buy and send to industrial Europe were built to produce the same kind of products which kept our own people employed.

"As we thus built up the productive capacity of foreign industries, the foreign political powers which control and use those industries for political purposes had to find ever-widening markets. The European political industrialists knew that the richest market for their American-subsidized production was America.

"They called an international conference (at Habana, 1949) to divide up the American markets among the foreign producers. The American Executive (Truman at the time) sent representatives to the Habana Conference and helped draft a charter for a global political-economic authority to be known as ITO—the International Trade Organization.

"In recommending American membership in the ITO, the American Executive proposed to give to this nonelective international agency the power which Congress had abdicated to the President in 1934: the power to regulate American foreign commerce which our Constitution was careful to give only to the elected representatives of the people.

"The ITO Charter was acclaimed as a charter to 'Free World trade.' In fact, it was a charter for international governmental control of trade. It would have required our Government to plan and control the economy of the United States; and would have required our Government to subject its own planning and controlling to the global authority of ITO. The ITO would have set up a world cartel (controlled by nonelected international bureaucrats) to tell all peoples what they could export and import, what commodities they could produce, and what and how much they could buy and sell. The only thing free about the whole ITO scheme was the obvious intent to free the American market to wide-open exploitation by foreign producers subsidized by American taxpayers.

"Although the American executive helped write the ITO charter and urged American membership, the proposal never actually reached the Senate for consideration. The thing was so patently bad that the Senate would never have ratified the charter as a treaty.

"But it didn't matter greatly—because GATT was already doing what ITO proposed to do.

"The American Executive—without consulting Congress: again exercising its new-found Old World power to negotiate whatever deals it pleases with foreign executives—had entered GATT, the General Agreement on Tariffs and Trade in 1947.

"The Truman administration let the ITO charter die because it was apparent that the Senate would never approve the thing—and because we were already participating in the broad ITO scheme anyway, through GATT, by Executive agreements.

"The Eisenhower administration has continued our participation in GATT, by executive agreement, and has sponsored its own counterpart of ITO. OTC has now been proposed—the Organization for Trade Cooperation. Every year, the Eisenhower administration puts pressure on Congress to approve American membership in OTC. But OTC is nothing more than a rewording of the old ITO scheme—and, so far, Congress has not approved.

"GATT was supposed to cure the economic ills of the world and to help America by vastly stimulating world trade. What has GATT actually done since 1947?

"By participating in the General Agreement on Tariffs and Trade, the American Executive has sold out—or given away—the genuine national interests of America.

"American products are being displaced in our own markets by foreign products. These imports are made by labor which is low-paid in comparison with wages here, and the foreign labor is operating our latest model machines. The products are coming in in foreign hulls while our own merchant ships go out of service.

"Our avowed policy is to increase living standards everywhere. The policy is increasing foreign employment, at the expense of American employment; but it is not increasing foreign wages. The difference between the selling price of foreign goods in American stores and the selling price of American goods in the same American stores is largely due to the difference between the high wages of American workers and the low wages of foreign workers.

"No one wants a tariff that would free American producers from competition. All that any reasonable person wants is a flexible tariff that would equalize the differential between capital and labor costs abroad and costs at home.

"If a foreign producer pays low wages, the amount of tariff he will have to pay to get his goods on the American market should be equivalent to the amount he would have paid to his own workers if his wages had been competitive with American wages.

"If we had that kind of tariff, we would create real, free competition for the American market; and we would encourage foreign producers to pay wages comparable to our own—because surely foreign producers would rather pay the money to their own workers than to pay it into the Treasury of the United States, as a tariff.

"When the reciprocal trade agreements program first began, we were told that one of its primary purposes was to keep American industrialists from relocating their plants overseas—thus slowing down industrial development and throwing Americans out of work. The program has done the opposite of what it promised. The Government's foreign trade program encourages American industries to build plants abroad (with American Government guaranties against confiscation), to produce goods with low foreign wages, and then to ship those goods into the free American market in competition with home industries that pay high wages—and high taxes to support their foreign competitors.

"Sixty percent of our imports never did pay duties. American tariffs are the lowest of any major trading nation in the world. Yet, in addition to general tariff reductions made under the General Agreements on Tariffs and Trade, we have made over 55,000 special concessions under GATT. The only protection which the American executive has given to key American industries are those which are permitted by GATT. The American Government must be permitted by an international authority to make decisions which it deems important to American industries.

"Low-paid foreign workers are now operating the most modern American machines. Do the families of America's workingmen feel they can long compete under such conditions? Does any wheat or cotton grower in the United States dream that we can continue to send seed and fertilizer, money, equipment and technicians abroad—without creating self-sufficiencies in those markets, and crop surpluses and soil banks at home?

"Under GATT and other international authorities, the decision on such matters is not reached by the people, or by their representatives in Congress. These matters are decided by international bodies, responsible only to themselves.

"And as these economic decisions entwine our affairs with those of other nations, we find our citizens subject not only to the economic but also to the political—and ultimately military—decisions of international and foreign agencies.

"Laws made under our Federal or State Constitutions are thrown out if they conflict with the principles of some U. N. agency. UNESCO adopts a resolution concerning the equitable distribution of primary commodities throughout the world, and an official agency of the executive branch of our Government (the Paley Commission) declares that the United States is bound by this resolution, because the resolution is based on a provision of the ITO charter, although the ITO charter itself died, because it was so bad that Congress would not consider it.

"Because trade and equitable distribution of goods have been made a concern of international political authorities, Americans are pawns, not only in the ancient and endless trade wars of the Old World, but in the political brawls as well. To maintain peace and promote world trade, we must constantly be intervening in the political and economic affairs of other nations. This calls for military alliances, and mutual assistance, and collective defense, and it infects every local war with the fatal germ of worldwide, international conflict.

"We have sent the men and women of our Armed Forces into more than 60 foreign countries. We build apartment houses and schools for their families overseas, but we deprive them of their basic rights of citizenship and subject them to foreign laws.

"We have created a military establishment which charges our fighting men with the mission to protect the world.

"This global Department of Defense in 1955 employed 4,300,000 people—nearly 7 percent of our active labor force. The original cost of that Department's assets was about $140 billion. It owned almost 31 million acres of land. It operated some 2,500 separate business enterprises, in competition with taxpayers who foot its bills.

"We have loaned and given and spent in foreign countries a total which may never be known but which already is estimated at something like $143 billion—all of this out of the pockets of America's working people.

"We are importing foreign goods at a rate 50 percent greater than in 1948–49, while the percentage of our own exportable goods which are being shipped abroad as commercial trade is less than in 1934—when the whole thing began for the announced purpose of increasing our foreign trade.

"Why?

"Because we abandoned our American theory of government and adopted the ancient theory of government which our Founding Fathers had rejected and tried to protect us against.

"The new American theory was that the Federal Government must be strictly limited to the powers and functions specified in the Constitution which brought it into being—that Government must be bound by the chains of that Constitution so that individuals could deal and trade with each other as free men.

"We gave up that theory for one which says that government can do for a citizen

what government decides the citizen cannot do for himself. Then, the international state can do for our Nation what the international state determines we as a nation cannot do for ourselves.

"Power must first be transferred from individuals and State governments to the National Government. That started in 1934 with the Reciprocal Trade Agreements Act when Congress first started abdicating its constitutional powers.

"Then, power must be transferred from the National Government to the international state. That started with the war and postwar conferences which spawned a multitude of United Nations and international organizations and multilateral alliances and treaties and executive agreements."

THE WAY OUT

In the articles above, I have given, in paraphrased abbreviation, the broad outlines of the argument which Senator GEORGE MALONE makes in his little book, Mainline.

The startling specific facts, the tables of statistics, the documented history of what he calls the great pincers movement—all of these I had to omit.

An average reader could go through the whole book—facts and figures and all—in 3 hours.

I recommend it.

We must completely reverse American foreign policy if we are to preserve our independence and avoid war. This may take years of massive public education and intensive political action.

We must completely reverse the taxing and spending policies of the Federal Government if we are to keep our individual freedom and preserve our American system of sovereign States operating within a Federal Union. This will probably require a constitutional amendment—the Gwinn amendment, as proposed in H. J. Res. 355—and may also take years of massive public education and intensive political action.

We must—in our schools and colleges and churches and magazines and newspapers and movies and books and radio-TV programs—have an expression of American ideals to offset a quarter of a century of socialist-one-world propaganda that has brainwashed our people. That's a long and arduous road, too.

But the program which Senator MALONE refers to as the economic jaw of the great pincers movement could be dealt a stunning blow, this year, by a simple act of Congress.

Senator MALONE believes that Congress could pull most of the teeth out of the economic jaw of this pincers if it would just let the reciprocal trade agreements program die this year.

Senator MALONE tells me that Congress, for the first time since 1934, is actually in a mood to do just that—that all Congress needs right now is a little more push from the voters back home.

I believe the voters would give Congress that push if a substantial number of key people in every community would read Senator MALONE's little book.

[From Walter Winchell in the New York Mirror of May 22, 1958]

United States Senator MALONE's new book, Mainline, is here. Will send. Very interesting. He was appalled when he learned that a Vegas policeman was indifferent to that chorus girl whose father was slugged by an admitted "member of the mob."

[From the American Legion]

A new book has been presented to the National Headquarters Library by the authors. Senior Senator GEORGE W. MALONE, of Nevada, a former department commander and national vice commander, has presented an autographed copy of his new book entitled "Mainline." Published by Long House, Inc., of New Canaan, Conn., Mainline analyzes the effect on Americans of our foreign economic policies and is presented by the author objectively.

[From the New York Daily News of June 10, 1958]

TO TAXPAYERS: OUR SYMPATHY

Maybe we're just nastily suspicious isolationists, but we got an about-to-be-taken feeling from two commencement addresses delivered Sunday—one by British Prime Minister Harold Macmillan at Depauw, and the other by Adlai Stevenson at Michigan State University.

Mr. Macmillan, looking like a weary lion and making a beautifully phrased speech, was all for increased cooperation between the United States and Britain. He spoke of interdependence, and complained of still too many artificial barriers to the free flow of money and trade in the Free World.

Adlai pulled out all the stops for big free-trade and low-tariff areas in the Free World (and too bad about United States workers thrown out of work thereby), and whooped it up for years and years of international aid to and investments in backward nations.

Stevenson said we'd have to push and pull our allies into this project—which shows that even Adlai realizes that most of the money would come from the United States.

President Eisenhower is agitating for much the same things as are Macmillan and Stevenson, though in lesser degree. He wants almost $4 billion for foreign aid in the coming year, and broad Presidential tariff-cutting powers under a reciprocal trade agreements law extended for another 5 years.

And the Senate seems willing to go along, at least part way. It voted Friday to put Congress on record as favoring United States bankrolling of India's economic development indefinitely, and to keep Red Yugoslavia and Red Poland on our breadline.

The President and Mr. Macmillan are conferring this week; and altogether, we feel that condolences to the United States taxpayer are in order. It looks as if he's stuck for years to come with the job of financing much of the Free World and some of the unfree.

Another and less alarming commencement address was delivered Sunday by Canada's Prime Minister.

[From Our Sunday Visitor of February 9, 1958]

BILLION-DOLLAR BOONDOGGLE

(By Father Richard Ginder)

Under a London dateline, the daily papers recently carried a story by Ernie Hill stating that millions of dollars of military equipment given by us to the British in the last 10 years is being dumped back in our laps at the rate of $100,000 a day.

It is creating quite a problem, Hill says, because a tangle of legal technicalities make it impossible for either them or us to sell the stuff.

Some of it is obsolete. The British just have too much of other things and want to unload. They are cutting down the size of their military forces and can't possibly use it. The military aid bounty includes everything from knives and forks to tanks.

One Air Force officer said that some of the tanks were delivered 8 years ago and have never been taken out of their grease. He estimated that about $5 million worth of equipment is stacking up in 5 American depots and is creating a storage crisis.

When we gave it to the British we made them sign an agreement that they would not resell it. And we are not allowed to sell more than $50,000 worth per month without paying British import duty on it.

Scrap metal dealers can't touch it because they would be required to pay duty which is more than they would pay to haul it away. Some of the trucks and tractors turned back may be used by American forces, but most of the equipment is of no use to anybody.

It is estimated that the British may hand back some $50 million worth before they are through. Washington has been queried on what to do with the stuff as it is piling up. There seems to be no answer. It wouldn't be worth while to ship it back to the United States. One suggestion had been that we dig several big holes and get rid of the equipment by burying it.

And in his message to Congress last month, the President asked for an appropriation of several billion dollars to finance more of the same. Indeed, he has let it be known that he will fight to the finish for this particular point of his program. He is organizing a broad and costly public relations program to educate us more simple-minded Americans, presumably on the need for shipping more trucks and tractors, knives and forks to Britain.

When we read that the Government's foreign giveaway program now totals roughly $67 billion, the mind staggers in stupidity and passes on without comprehending. How much is $67 billion?

Well, some years ago when the total was something less, the distinguished diplomat Spruille Braden was asked the same question and here is his answer. You will have to make the appropriate adjustment to bring it up to date—i. e., add 22 percent to his reckoning:

"I grasp the value of $55 billion," he said, "when I add the assessed valuation, as reported by Moody's Municipal and Government Manual of 1956, of all the property, real and otherwise, in the 13 biggest cities of this country: New York, Chicago, Philadelphia, Los Angeles, Detroit, Baltimore, Cleveland, St. Louis, Washington, San Francisco, Boston, Houston, and Pittsburgh and arrive at a grand total of just over $55 billion.

"We would be appalled by the mere suggestion that these 13 cities, if it were possible, be shipped overseas to foreign nations. Yet we have done the equivalent of that. We have given away—in effect destroyed as if by nuclear bombing—the equivalent of our 13 biggest cities."

The testimony on how this money is being spent is well nigh fantastic. Give ear to Director John B. Hollister of the International Cooperation Administration, testifying before the Senate Foreign Relations Committee:

"There is a project which I think has considerable value, and that is the possibility of developing the communications, roads, and even conceivably something of a railroad connecting India with Nepal.

"Another possibility that I think would be most valuable to settle tensions, with which we are all familiar, is the possibility of a similar development of transportation between Pakistan and Afghanistan. This could make it a lot easier to ship Afghanistan goods out through Pakistan to Karachi."

This from an administration that won't give harried postal clerks another dime per hour, nor replace a wornout mailbag, without first trying to gouge it from the American taxpayer.

"I remember a plant which used silica," Senator ELLENDER, of Louisiana, told the Senate, with reference to a project built with giveaway dollars in Formosa. "Many thousands of dollars were spent to erect the plant," he said. "It was operated for about 30 days and then it had to close because it ran out of silica."

Was there an investigation of who bungled this expensive operation and wasted so many thousands of taxpayers' dollars? Not at all. If you will look on page 1 of your evening paper you will find that the Government was too busy investigating and prosecuting

some harried dentist from the next town for a $100 shortage in his tax payments. While the man who bungled on Formosa was doubtless rewarded by being made United States Ambassador to Ruritania.

Continuing his remarks on Formosa, Senator ELLENDER said, "When I was there I found to my surprise and disappointment that efforts were being made to have Uncle Sam foot the bill for a Nationalist Chinese GI bill of rights.

"The entire cost of this program was to be furnished by the United States Government. The amount necessary to undertake the initial program was estimated to be $38 million.

"I was told, without question, that our local mission would never consent to such a project, but I have learned lately that we are to undertake it, after all."

President Truman's widely touted point 4 program, started in 1950, has developed into another giveaway. Intended to furnish technical assistance to backward countries, here is what has happened, according to Eugene W. Castle, who has made a career of studying the great giveaway.

"Under point 4, 36,000 American technicians and their families have been shipped to some 60 foreign countries to scatter our know-how and our dollars. More than 31,000 foreign technicians have been imported to be trained in American methods and then returned home to spread the training among their fellows.

"Both ways, coming and going, the American taxpayer paid the fare, freight, and maintenance.

"A never-ending tidal flow of supposedly superior humanity takes place. In the autumn of 1956, according to ICA press release 229 of October 8, 'more than 4,000 United States technicians were serving overseas. Of these, 2,700 were United States Government employees and the remainder contract personnel.' Approximately 2,500 foreign technicians were receiving training in this country under the cooperative programs."

Where will it all end? In 1871, Germany had a surplus of several billion marks extracted from France in war indemnities. Then Bismarck chose to fight socialism by sinking Germany into socialism—his own brand. By 1913, there was a national deficit of 5 billion and the Finance Minister warned the Kaiser that "the stability of the empire is in danger." The First World War came as a reprieve, but in the end Germany was bankrupt and finally Hitler took over.

In 1938, our own country was on the verge of a second great depression. Then Hitler attacked Poland and we went into the arms business—eventually, into the war.

We ended with a debt of $250 billion, which grows greater every month; and through the manufacture of armaments, the foreign giveaway, point 4, and all the rest of it, we have continued in a war economy with its attendant expense and false prosperity.

Khrushchev, of course, is delighted, for he remembers the prophecy of Lenin: "We will make the United States spend herself into bankruptcy."

The debt will grow until the crash comes—when the United States will have lost its credit and our money will be worthless.

ADDRESS—NATIONAL MACHINE TOOL BUILDERS, CHICAGO, ILL.

Mr. MALONE. Mr. President, on the same subject, I ask unanimous permission to have the address that I delivered before the 56th spring meeting of the National Machine Tool Builders' Association at the Edgewater Beach Hotel, in Chicago, on April 25, 1958, printed at this point in the RECORD.

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

THE AMERICAN SYSTEM

(By Senator GEORGE W. MALONE, United States Senator from Nevada)

The United States is a greater economic colonial of the capitals of old Europe today than it was before the Declaration of Independence in 1776.

The 300-year-old European colonial system of England, France, Belgium, and the Netherlands was designed to control the markets of lesser nations, and included a certain responsibility. We were the first to break away from the system in 1776.

We reentered the system—including old Europe's trade wars—under the authority of the 1934 Trade Agreements Act (so-called reciprocal trade), under which the General Agreement on Tariffs and Trade was set up and is operating in Geneva, with 36 foreign competitive nations dividing our markets among themselves through multilateral trade agreements, without any responsibility.

Today the 36 foreign competitive nations are sitting in Geneva, Switzerland, completing the job.

They are operating under GATT, a brainchild of our own State Department formed in 1947 with the Alger Hiss crowd as the guiding spirit.

The gimmick in that arrangement is that the 36 foreign competitive nations do not need to keep their part of such agreements as long as they can show that they are short of dollar balance payments. It is a one-way street, since they can show such shortage until all of our markets and wealth are equally divided among them.

GATT is the offspring of the 1934 Trade Agreements Act, which is due to expire on June 30 of this year.

Let this nefarious act expire and the American workingmen and investors are back in business competing for the American markets.

No bilateral trade agreements negotiated by the State Department, or such multilateral agreements negotiated at Geneva can be made after the expiration of the act, and, following 6 months' notice the adjustment of the duties or tariffs on all products reverts to the Tariff Commission, an agent of Congress on the statutory rate to be adjusted on the basis of fair and reasonable competition.

CONSTITUTION SEPARATES POWERS

From the date of the first protective tariff act in 1789 the objective of Congress was to regulate foreign trade on the basis of fair and reasonable competition. No high or low tariff, but a tariff adjusted to represent the difference in living standards here and in the chief competing nation on each product.

The Constitution, in its separation of powers, pointedly places the regulation of foreign trade through the adjustment of the duties, imposts, and excises which we call tariffs, in the legislative branch under article I, section 8.

It places the fixing of foreign policy in the executive branch under article II, section 2.

AMENDED THE CONSTITUTION WITHOUT SUBMITTING TO STATES

The 1934 Trade Agreements Act tied the two together through the simple expedient of transferring the constitutional responsibility of Congress for the regulation of foreign trade and the national economy, to the executive with full power—according to the statement of Secretary of States Dulles before the Senate Finance Committee—to trade all or any part of any American industry to foreign nations if he believes that it will further his foreign policy. This the executive has proceeded to do since that date.

Congress then did, with the connivance of the President, amend the Constitution of the United States without the formality of submitting it to the States or to the people.

Let the act expire on June 30 and return to the principles of the Constitution.

INFLATION AND FREE TRADE

In 1933 we went off the gold standard and almost immediately priced ourselves out of the markets of the world.

In 1934 we passed the Trade Agreements Act and invited the influx of cheap labor goods through lowering our duties or tariffs and dividing our American markets among the foreign competitive nations of Europe and Asia.

We have furnished more than $70 billion to the nations of Europe and Asia to build manufacturing plants, mines, and mills to compete with our American workingmen and investors.

A NEW DECLARATION OF INDEPENDENCE

We have lived on a war economy through two wars and preparation for war, printing the money and expanding the debt to pick up the check.

What we need today is another Declaration of Independence.

With unemployment mounting because of imports of cheap labor products, with inflation inevitable as long as Congress continues to appropriate more money than it can squeeze out of the already exhausted American taxpayers, it should be evident to men in official positions that they have played the string out and that further inflation, free trade, and billions of dollars to Europe and Asia will only aggravate the beginning of a fatal disease.

The taxpayers of this Nation are years ahead of the Congress and the administration.

Neither Congress nor the administration has recognized the imported cheap labor products as the chief factor in the so-called recession.

THE AMERICAN SYSTEM

For 12 years I have fought on the Senate floor for a return to constitutional government—the American system.

The American system for a century of time meant sound money, protection of the American investor's money and the workingman's job with a duty or tariff equaling the difference in wages and taxes here and abroad, and States rights.

A return to the American system would mean, then, a return to the Constitution of the United States.

That immortal document says specifically:

1. That the "Congress shall have the power to coin money and fix the value thereof, and of foreign coin."

2. That "Congress shall have the power to regulate commerce with foreign nations" (foreign trade) and "to lay and collect taxes, duties, imposts and excises"—which we call tariffs.

3. That "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."

For a century and a half of time the Congress adjusted the duties or tariffs to equal the difference in the wages and the general costs of doing business here and in the chief competing nation on each product.

Under this principle the American investors and workingmen were assured equal access to the American markets.

The Tariff Commission was created as an agent of Congress to adjust the duty or tariff to represent the difference in the cost of producing an article or a like product here and in the chief competing nation, and to recommend that difference as a tariff.

Under this system America reached the highest standard of living in the world.

FREE TRADE THE OBJECTIVE

The duties or tariffs are reduced, under this system, to correspond to any rise in the standard of living of such nations, and when any nation has reached our approximate standard, then free trade would be automatic and immediate. I am for free trade on this principle—the basis of fair and reasonable competition.

Sound American investments can only be made on a principle established by Congress through adjusting the flexible duties or tariffs to give the American workingmen and investors equal access to American markets.

Such an adjusted duty or tariff, taking the profit out of cheap wages at the water's edge, does not prevent imports but brings them in when needed on a basis equaling our standard of living wages.

OLD WORLD CONTROL

It is plain that the plan for the nations of old Europe to control the American economy did not start yesterday.

It started with the abandonment of the gold standard in 1933 and the passage of the 1934 Trade Agreements Act. It continued with the so-called European recovery program and the 10 extensions of the 1934 Trade Agreements Act although that act was initially to be only emergency legislation of short duration.

DEAN ACHESON'S POLICIES

After Dean Acheson became Secretary of State in January 1949, he said that:

"It is hardly possible any longer to draw a sharp dividing line between the economic affairs and political affairs. * * * Each complements and supplements the other. They must be combined in a single unified and rounded policy."

Dean Acheson's assistant, Willard H. Thorpe, said in his testimony before the House Ways and Means Committee in January of 1949 in support of the 3-year extension of the 1934 Trade Agreements Act:

1. "The European recovery program (Marshall plan or ECA) extends immediate assistance on a short-term basis to put the European countries back on their feet."

2. "The trade agreements (act) program is an integral part of our overall program for world economic recovery."

3. "The International Trade Organization upon which Congress will soon be asked to take favorable action provides a long-term mechanism—each part of this program is important. Each contributes to an effective and consistent whole."

I quote now from a statement of the senior Senator from Nevada on June 17, 1950:

"FINAL ABANDONMENT OF WORKINGMEN AND INVESTORS

"These pronouncements (of Secretary Acheson in 1949) marked the final abandonment of the workingmen and investors of our own Nation in favor of the one-economic-world theory of averaging the living standards of the nations of the world, and no further venture capital for business development or stabilization could possibly be available since the State Department can choose the industries that are to survive and that are to be sacrificed on the altar of the one-economic-world theory."

I continue to quote from the statement of the senior Senator from Nevada on June 17:

"THE THREE-PART FREE-TRADE PROGRAM

"This then, is the three-part free-trade program tying the national economy to the foreign policy to which the administration is irrevocably committed and upon which they have staked their entire combined domestic and foreign policy. This is the well known bipartisan foreign policy—that is, moving toward merging this Nation with a foreign-controlled, one-economic-world.

"Spokesmen for the administration say that they have adopted this three-phase free-trade program to average our standard of living with the foreign nations of the world on the theory best expressed by one of their slogans 'that you cannot be prosperous in a starving world'; that we must divide our markets—the basis of our own income—with the nations of the world and average the living standard of nations of the world—they say—to avoid world war III.

"It is the administration's avowed method of establishing world peace."

TWO WARS AND PREPARATION FOR WAR

Since the 1934 Trade Agreements Act became effective we have had two wars—World War II and Korea—and are now preparing for a third world war. It would seem that the act has not been too effective in keeping us out of war.

CONGRESS NEVER APPROVED GATT

The adoption of the ITO (the International Trade Organization) by Congress was urged by the administration in 1950, which would have merely approved the operation of GATT in Geneva already operating under the authority of the 1934 Trade Agreements Act.

Congress refused to have anything to do with it.

The administration is now urging Congress to approve the Office of Trade Cooperation (OTC) which would also approve the operation of GATT in Geneva. Congress rejected it last year, 1957.

Congress has never approved the GATT operation in Geneva. However, Secretary Dulles has testified before the Senate Finance Committee that the administration has the authority to continue the GATT operation through the 1934 Trade Agreements Act without Congressional approval.

Many of you have heard of the "Status of Forces Treaty" that puts the personnel of America's Armed Forces, and the civilian component, under the jurisdiction of foreign courts and laws. This is a part of the political pincers movement.

All of this is a part of the economic and political pincers movement to force this Nation into a world government and is now operating on the domestic and international scene.

THE ECONOMIC PINCERS MOVEMENT

The economic pincers part of the movement is the subject matter today.

I am an engineer. They say that I am the only practicing engineer ever elected to the Senate in 180 years.

I did not go to the United States Senate for a career—I had my career—30 years in the engineering business. I went to the Senate to try to save the American system for a couple of grandchildren. It was the only office for which I ever ran.

I am a builder. I do not know how to tear anything down.

An engineer wants to know how things work—and why.

He wants to know what goes in and what comes out.

There used to be a time when a speaker addressing an American audience had a reasonably accurate idea of how that audience felt about the issues he was going to discuss.

In the United States today, however, there are few unspoken assumptions between people on the three key issues of our times—inflation, government spending, and tariffs.

Some speakers can talk on both sides of these issues, simultaneously and with great diplomacy.

But I was not trained as a diplomat.

As an engineer, I was trained to think functionally, and that is the only way my mind will work. This gets me into a lot of trouble with a lot of nice people who don't like the blunt way I get at my facts.

EMERGENCIES AND OBSOLETE EQUIPMENT

We have lived on emergencies since 1933; World War II, the Korean war and preparation of war.

There has been no indication nor implication that we will start to save the money which is now being expended on obsolete equipment on foot soldiers for the surface defense of Europe and Asia, who will all be lost when and if the fight starts; nor the billions poured into these same nations to buy agreements and treaties, none of which will be worth the paper they are written on when the chips are down.

The ultimate objective is inflation, free imports, a division of the taxpayers' money with foreign nations, and ultimately free immigration, with a world government at the end of the rainbow—all under the United Nations, with the United States having one vote.

Under this projected system, there is nowhere for our standard of living to go but down.

LIVING ON WAR ECONOMY

We are still living on a war economy.

If the amount given foreign nations to buy our goods, and that part of our shipments abroad that are subsidized by our American taxpayers be deducted, our foreign trade at this time includes a lower percentage of our exportable goods than we were exporting in 1934 when the whole program was started.

FIFTEEN BILLION DOLLARS SAVED

The next war, if and when it comes, will be fought in the air and under the sea.

Fifteen billion dollars can be saved through stopping our plans for surface defense of foreign nations and by stopping foreign aid.

This ignores, for the moment, the estimated saving of an additional $15 billion through the adoption of the Hoover Commission report and the Cordiner report, and taking the Government out of business.

SEVEN AND ONE-HALF BILLION DOLLARS FOR MISSILES AND PLANES

Out of the $15 billion saved through stopping the foreign aid and the obsolete plans for the surface defense of Europe and Asia, $7½ billion could be assigned to missiles production and to continued construction of the needed air equipment, including B–52's or the most advanced fighters and bombers, thus maintaining our air superiority until missiles can replace such manned equipment.

SEVEN AND ONE-HALF BILLION DOLLARS FOR REDUCING DEBT AND TAXES

The remaining $7½ billion could be used to pay on the national debt and to reduce personal income taxes.

EFFECT ON AMERICAN CITIES AND AREAS

If anyone questions the effect of this grandiose and international socialistic one-economic world theory let us study its effect on typical American cities and areas.

There are literally hundreds of areas throughout the United States today suffering from cheap labor imports and inflation resulting in reduced purchasing power of the dollar.

Such imports include textiles, machine tools, crockery, minerals, wool, precision instruments, and hundreds of other products.

Five such cities and areas in my own State of Nevada are pointed examples of American communities where the workingmen and investors had established a standard of living under the American system—purchasing their homes, building their schools, paying their taxes and becoming an integral part of the economic system of America—and now destroyed by action of Congress without their knowledge or consent.

These cities are Pioche and Caliente in Lincoln County, Winnemucca in Humboldt County, Henderson in Clark County, and Ely in White Pine County.

The Pioche and Caliente areas are suffering because of the imports of lead, zinc, and tungsten from cheaper labor nations.

Employment in the Winnemucca area is down because of the imports of tungsten from such areas.

In the Henderson area more than 500 men are out of work in one plant because of imports of titanium from Japan where 20 cents per hour is considered good pay for a first-class Japanese worker.

In Ely more than 1,200 men out of a total of 3,500 have been separated from their jobs in the copper mining industry because of copper imports from cheap labor countries and they have just been informed that further reductions are pending in the immediate future. Other metal mines have closed for the same reason in that area accounting for several hundred additional men.

The workingmen of Ely, understanding where their competition is located and knowing how it was promoted, passed the following resolution:

"Whereas since 1934 the legislative branch of the United States Government has steadily been legislating their constitutional responsibility to the executive branch; and

"Whereas the well being of our country is predicated on our Constitution; and

"Whereas the 1934 Trade Agreements Act is one that exemplifies the loss of the legislative branch's responsibility: Now, therefore, be it

Resolved, That the 1934 Trade Agreements Act not be renewed and the responsibility of tariff policy be restored to its rightful place, the Congress of the United States."

Our own State Department has long recognized that its policy of free trade and billions of dollars to Europe and Asia would close down and remake the industrial map of this Nation and has recommended that Congress appropriate money to train the resultant unemployed Americans for a different job and for transporting them to other areas. Also to reimburse stockholders of the destroyed industries.

What other jobs—and what other areas?

On the subject of just what kind of work our unemployed would be trained for and where they would go, and what other American products the American market could absorb under the system, the State Department is vague.

This is the Russian system. However, they do not need legislation to do the job.

With a flexible tariff the profit would be taken out of the foreign sweatshop labor at the water's edge, American men would go back to work and the money so collected would go into the general treasury to be used to lower taxes or to pay on the national debt, or both.

THE CONSTITUTION—THE AMERICAN SYSTEM

Return to the Constitution of the United States and the American system.

The American system for a century of time meant sound money; protection of the American investor's money and the workingman's job with a duty or tariff equaling the difference in wages and taxes here and abroad; and States rights.

1. Let the 1934 Trade Agreements Act expire on June 30, 1958—then the American workingmen and investors will again compete equally for the American markets.

2. Stop the annual pouring of billions of dollars into Europe and Asia.

3. Stop the obsolete defense operations throughout the world.

4. Lower taxes and pay on the national debt.

5. Make the American system work.

Remember the advice and warning of two great Presidents.

George Washington said, in his farewell address:

"* * * If in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

Abraham Lincoln said:

"* * * If this Nation is ever destroyed, it will not be from without, it will be from within."

The big drive is on—it started operating in 1933. The American economy has been supported by emergencies including two wars and the preparation for war since that time.

Time is running out. Let's make the American system work.

Mr. MALONE. Mr. President, I ask unanimous permission, on the same subject of foreign expenditure of the taxpayers' money, to build plants abroad to compete with American workingmen and investors, resulting in continued inflation, enabling such foreign nations to compete with American investors and American workingmen through the operation of the 1934 Trade Agreements Act, all operating against the economy of this Nation, with the assistance of the World Bank, to have printed at this point in the RECORD as a part of my remarks excerpts from a dispatch which appeared in the Wall Street Journal of June 10, 1958, under the heading "World Bank Steps Up Sideline Activities as Its Loan Total Mounts."

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

[From the Wall Street Journal of June 10, 1958]

WORLD BANK STEPS UP SIDELINE ACTIVITIES AS ITS LOAN TOTAL MOUNTS—IT ADVISES ITALY ON ATOM, EGYPT ON CANAL, PONDERS EASY-TERM CREDIT FUND—HOW TO SPLIT THE INDUS RIVER

(By John R. Gibson)

WASHINGTON.—The 66-nation World Bank, a major cog in the Free World's foreign-aid machinery, is greatly expanding its traditional role as an international financier—and is getting into some sidelines remote from the banker's usual routine.

More properly known as the International Bank for Reconstruction and Development, this 12-year-old institution will dispense a record $650 million in loans in the fiscal year ending June 30. That sum will represent an increase of nearly 70 percent over the outgo of the year before. The bank is financing such varying economic development ventures as an electric powerplant on the Djen Djen River in turbulent Algeria, road construction at the banana-land crossroads of El Empalme in Ecuador, and airplane purchases by the K. L. M. Royal Dutch Airline.

Seven new members—Ghana, Malaya, Morocco, the Sudan, Tunisia, Ireland, and Saudi Arabia—have joined up just since last July. Two more, Libya and Spain, may come in soon.

EASY-TERM LOANS

The bank also may sprout a new offshoot—a special fund for easy-term loans, to which such industrialized nations as the United States, Germany, Britain, and Japan would contribute. The bank's president, tall, 60-year-old, Atlanta-born Eugene Black, is the most influential partisan of the scheme. The United States State Department's top economic policymaker, Deputy Under Secretary C. Douglas Dillon, is now studying the possibility of United States participation in such a special fund.

SUBJECT MATTER THE BOOK MAINLINE—EXTENSION OF THE 1934 TRADE AGREEMENT ACT EXPIRES JUNE 30, 1958

Mr. MALONE. Mr. President, the question of the extension of the 1934 Trade Agreements Act, which expires on June 30 of this year, will shortly be before the Senate, since the House passed the bill this afternoon.

That act violates the Constitution of the United States. That great document, the Constitution, established the separation of powers of a three-branch Government.

It placed the regulation of foreign trade and the domestic economy, through the adjustment of duties, imposts and excises, which we have come to call tariffs, in the hands of the legislative branch, under article I, section 8. The Constitution lodged in the executive branch the responsibility of fixing foreign policy, under article II, section 2, of the Constitution.

The Trade Agreements Act of 1934, which has been extended 10 times since the first emergency period of 3 years, tied those 2 functions together, amending the Constitution without referring the question to the people as provided in that document.

This 11th extension, just voted by the House provides for another 5 years and an additional 25-percent reduction in the duties and tariffs. George Washington in his Farewell Address had this to say relative to the evasion or usurpation of the Constitution.

If in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Abraham Lincoln said:

If this Nation is ever destroyed, it will not be from without, it will be from within.

In this case the legislative branch transferred the constitutional responsibility of the Congress to regulate foreign trade and the national economy, through the adjustment of what are referred to as tariffs, to the Executive.

Mr. President, it would be just as reasonable, if the legislative branch today passed a bill transferring the constitutional responsibility of the Executive to fix the foreign policy, under article II, section 2, to the legislative branch.

SUBMIT A PROPOSED CONSTITUTIONAL AMENDMENT

Mr. President, I submit that the proper way to approach this question, if there are any Members in the Congress who believe the President should exercise both powers, who believe quoting George Washington that "the distribution or modification of the constitutional powers be in any particular wrong" is to submit a constitutional amendment to the people of the country and abide by their judgment.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 11451) to authorize the construction and sale by the Federal Maritime Board of a superliner passenger vessel equivalent to the steamship *United States*, and a superliner passenger vessel for operation in the Pacific Ocean, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BONNER, Mr. BOYKIN, Mr. GARMATZ, Mr. TOLLEFSON, and Mr. ALLEN of California 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. 7261. An act to amend the Federal Probation Act to make it applicable to the United States District Court for the District of Columbia; and

H. R. 7953. An act to facilitate and simplify the work of the Forest Service, and for other purposes.

TRANSPORTATION ACT OF 1958

The Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. DIRKSEN. Mr. President, I commend the distinguished Senator from Florida [Mr. SMATHERS] and the other members of the subcommittee and the full Committee on Interstate and Foreign Commerce for the diligence which they brought to bear on the troublesome problem of strengthening the transportation system. It is difficult enough to initiate and undertake a matter of this kind; but to carry it through to fruition is quite another matter.

I can readily understand, from my own experience as a member of the Committee on the Judiciary and the Committee on Appropriations, how much time and energy have been devoted to fashioning a measure which is reasonably acceptable in all quarters, and which now has an opportunity to receive approval by the Senate and, hopefully, by the other body in the legislative branch.

When the committee was meeting in the caucus room, on occasions I would wander in and sit with the crowd and listen to the testimony. Of course, it was of high interest to me, since the city of Chicago is probably the greatest railroad hub in the entire Nation.

The committee was confronted with two absolute values. The first was that the railroads are an industry which is a part of our surface transportation system. The other was that change is one of the eternal things which somehow we have failed to recognize fully.

Over the years, since I have been in the legislative branch, I think we have agreed that there are changes in our whole transportation setup and in community and national attitudes but we have done very little about them until one branch or another of the transportation system found itself in such a position that it fairly came to the door of Congress as a suppliant for some kind of relief.

Now the two absolute values of an indispensable transportation medium are in difficulty, and the system is confronted with problems which are the result of inevitable change. If the railroads are to continue to operate effectively, we can do either one thing or a combination of things.

First, we can create for them an atmosphere which is healthy, one in which they can do business and can stand on their own.

Second, we can subsidize them.

In that connection let me say that on yesterday when the Department of Commerce appropriation bill was before the Senate, I noted that the bill contained an item of $120 million for operating differential subsidies which represent the difference between the operating cost of our own maritime industry and the operating cost of the maritime industries of other countries. The purpose is to prevent American shipping from disappearing from the high seas.

So far as I know, and as indicated by those in the transportation industry with whom I have talked, the railroads do not want a subsidy. Moreover, the last thing they would like to see would be socialized railroads. I believe that would be an absolute tragedy. In that event, all the remaining railroads would be placed on the Federal Government's payroll, so to speak. Of course, we know what happened in the days when the railroads were under Government direction. So that is the last thing to which we want to resort; and I think subsidy would be equally bad.

I believe the need for relief is clear. Those who have prestige in the industry request relief only in the hope that something more affirmative and constructive, in the form of a modification of the ratemaking rule, can be worked out, so they can finally create a climate which will permit of the development of the revenues which are indispensable to a healthy railroad industry.

The pending bill is a reasonably felicitous combination of the essential things—a guaranty of loans, a construction reserve, and a ratemaking provision. Of course, the last one is always very troublesome. I have already discussed it with my very esteemed and able friend, the Senator from Ohio [Mr. BRICKER], whose advice in this field I have always prized.

The bill also provides that the Inter-State Commerce Commission shall have authority more expeditiously to dispose of the cases presented to it from time to time. After all, the problem confronting us today is a little more than merely a local one. I believe it is one that is inherent in many governmental agencies. We even find it in connection with the Federal court system. A Federal district judge whom I know quite well found that it would take 7 years to dispose of all the cases then pending before his court.

So it seems to me that sooner or later the Congress must come to grips with that problem, and must see what it can do, by means of personnel implementation and other matters, and probably by means of modifications of substantive law, to have the Government agencies handle more expeditiously the cases which come before them.

A short time ago it was announced that the House had passed the reciprocal-trade-agreements-program bill. I believe one of the difficulties in that connection is that an applicant for relief under the escape-clause provisions may make such an application, but even 2 years may pass before the making of a finding in the case, and it is conceivable that by that time the applicant may have had to go out of business.

If the fault lies in lack of adequate personnel or lack of sufficient funds, that is a responsibility of Congress, and we should face up to it.

A similar situation confronts us in this case. So expeditious action should be taken by the Interstate Commerce Commission when it deals with these problems, for, as the committee has indicated in its report, there is always the possibility that some of the carriers might go into bankruptcy; and that would be anything but wholesome insofar as the transportation system is concerned.

I do not see on the floor at this time my distinguished colleague, the junior Senator from Ohio [Mr. LAUSCHE]; but I read with interest his separate opinions in connection with the committee report. Among other things, he referred to greater freedom in the transportation area. I concur entirely in that sentiment.

So I expect to support the bill. It may contain some defects. If so, I am sure that either in the other body or by means of the conference or after the bill goes into effect, they can be ascertained and corrected.

The bill, when enacted, should be a very distinct contribution to the effectuation of the purpose indicated by its title, namely, the strengthening and improvement of the transportation system of the country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PAYNE in the chair). The question is on agreeing to the first committee amendment.

Mr. BRICKER. Mr. President, I wish to speak briefly on the bill as reported by the committee.

I desire to join the distinguished leader on this side in commendation of the chairman of the subcommittee, the chairman of the full committee, and the other members of the subcommittee, on both sides, for working out the bill.

Mr. President, the problem confronting us today is not at all a new one. It was some 6 or 7 years ago that the Interstate and Foreign Commerce Committee appointed a subcommittee to hold hearings on surface transportation. Extensive hearings were held. The conclusions reached—not unanimously, to be sure—as a result the hearings were

practically the same as the ones which have been reached by the membership of this committee.

The problem has been a growing one in recent years. The control of railroad transportation dates back to the 1870's. The first regulatory body created by the Federal Government had jurisdiction over railroads, railroad rates, and railroad transportation. That jurisdiction has expanded to the present time, until today the railroads charge rates which are fixed by the Federal Government, pay wages which are fixed by the Federal Government, and operate their transportation system and carry practically all of their business under the very strict supervision of the Federal Government. In addition, there is supervision at the local level, by the State authorities.

Since the original jurisdiction, which was established at a time when the railroads had practically a monopoly of the transportation business and imposed their power discriminately as among shippers and consumers, many other modes of transportation have evolved. At the present time the transportation business is highly competitive, as between the railroads, trucks, buses, airlines, water shippers, and pipelines. The result has been that the conditions which existed at the time of the original act no longer exist.

As a result of their strict supervision, the railroads have been limited in their opportunities to meet competitive conditions. Some of their competitors have been subsidized by the Government; some of them have been less strictly regulated than the railroads have been; and some of them have been entirely free of governmental regulation of any kind or character.

As a result, the railroads have been very rapidly losing their share or ratio of the shipping business. Much of the business the railroads formerly transported has gone to other modes of transportation.

The Transportation Act of 1920 was an expression by the Congress of its intent to have the facilities of each mode of transportation strengthened and preserved in the interest of the shipping public. That act has been interpreted by the Interstate Commerce Commission, in words, at least, in such ways as to carry out that intent; but the various applications have brought about further restrictions, which have been very burdensome on the railroads.

As a result of the hearings, the subcommittee extensively entered into the preparation of a bill. It was highly controversial. There were many sections that had to be threshed over time and again, and then submitted to the full committee.

The bill comes from the full committee with practically unanimous support, recognizing, first of all, that something must be done for the transportation industry of the country so as to carry out the intents and purposes expressed explicitly in the Transportation Act of 1920.

The worst thing that could happen to this country would be that the transportation system would be finally Government owned and operated. Yet that will be inevitable if the present trend continues many years in the future. One of the quickest ways of socializing the economy is to have the Government move into the transportation field. Let it be remembered that the Government cannot own and operate the railroads unless it also undertakes the operation of buses and trucks, and then water transportation and the other varied means of transporting people and property, because once the Government moves into one field of transportation, it cannot stand competition from private enterprise in other competing forms of transportation. So all forms of transportation will ultimately face Government operation and ownership, unless something is done about the problem with which we are confronted.

The bill was an attempt on the part of the committee to free the railroads from strict regulations which have reduced their earnings as a result of unfair competition that has depressed their share of the transportation business, and to help relieve the railroads from some of the situations which have been brought about by Government subsidies and Government aid to competing forms of transportation.

Many facets of this bill could be discussed at length. In the first place, we are dealing with rates to be fixed for the railroads. There was no effort made to do away with sections of the law in regard to discrimination as among shippers and unfair practices which brought about the interstate commerce law in the first place. There was only an effort to give the railroads a little better competitive position in regard to other modes of transportation.

The bill, in effect, states that insofar as rates are concerned, when competing with another mode of transportation, the railroads shall not be restricted by the Interstate Commerce Commission because of the effect of the rates upon a competing mode of transportation. The bill has no effect upon the discrimination prohibitions of the law. It has no effect upon carrying out the purposes of the Transportation Act as originally enacted.

There is another section which I think has much to commend it. Already the Interstate Commerce Commission has jurisdiction over intrastate rates if they are discriminatory and place an undue burden upon interstate commerce, but that is by appeal. We attempt to give to the ICC original jurisdiction to determine intrastate rates at the same time it considers the application of the rails for interstate rates.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question, or does he prefer to continue his remarks uninterrupted?

Mr. BRICKER. I yield for a question.

Mr. SALTONSTALL. I should like to point out that the commuting railroads in Massachusetts are in difficulty. The New York Central has given up one commuting line entirely. The New York, New Haven & Hartford is having difficulty. There is some reason to believe that it may try to give up another of the commuting lines completely. That would very materially handicap commuters to the city of Boston.

I am in favor of the committee bill. I think the committee has done a good job. I believe the railroads will be helped by the bill. But what is going to be the effect on commuting rates if State jurisdiction is completely taken away and given to the ICC?

Mr. BRICKER. Of course, if the ICC is given jurisdiction, there is no reason to believe it will not treat fairly the situation with regard to commuter rates. If that were not so and if commuter rates were maintained at less than compensatory rates the burden of the transportation of people of local communities would be placed upon the shippers of freight, because most of the railroad transportation of persons is carried at a loss.

The commuter problem is one of the most serious the railroads face at the present time. The carrying on of commuter service results in a heavy loss to the railroads. We have asked that a special committee be formed to study the problem of railroad transportation, and that includes local commuter service. Commuter rates ought to be compensatory, but if they are not compensatory, and if they cannot be raised to compensate the railroads, then there is involved a problem of a local nature, and a problem of the desirability of a subsidy to carry on a service which is necessary for a local community. The rate might be fixed at one level in one community, and at another level in another community; but it is a problem that cannot be solved in a general rate bill or in the bill now before the Senate.

I know the serious problem that confronts Boston, New York, Philadelphia, and possibly other cities such as Chicago. Certainly no one can ask the railroads to carry that burden endlessly, at a tremendously heavy loss, and ask the shippers of freight to make up the loss.

Mr. SALTONSTALL. I agree with the Senator. At the same time, I would dislike to see the local railroads, or any railroads, become subject to complete public ownership. In Boston the elevated and trolley car system today is completely publicly owned. The system is operated at a considerable loss. The great question is how to get commuters into and out of the city of Boston if the present railroad transportation service is abandoned.

Mr. BRICKER. Of course, when there is municipal ownership of a commuter service, or of a line furnishing such service, the taxpayers are asked to subsidize the cost of the service, unless the rates are compensatory. In the case of the railroads, shippers of freight throughout the country are being asked to subsidize the commuter service, rather than have those who get the service pay for it. Ultimately, that problem must be solved. It is not a factor in this bill. It was not important in arriving at the jurisdictional question as between the Interstate Commerce Commission and the State governments.

Mr. SALTONSTALL. So provision is made for a commission or some sort of a study group that will make an effort to

resolve this problem by another act of Congress?

Mr. BRICKER. That is correct.

Mr. SALTONSTALL. The bill now before the Senate, if enacted, would constitute a broad act designed to assist the railroads throughout the country, and to relieve them of certain restrictions which are now placed on them by Federal law, and would provide for a study group to see what can be done in special cases where railroads are being operated at a loss. Is that correct?

Mr. BRICKER. The Senator is correct. There are many other subjects on which we do not have complete information so that we can come to a legislative conclusion at the present time. The Senator from Massachusetts and I were at a hearing of the Committee on Space and Astronautics. I was not able to go to the Committee on Rules and Administration with the chairman of the subcommittee. Did the Committee on Rules and Administration authorize the appropriation?

Mr. SMATHERS. I understand the Committee on Rules and Administration did authorize the appropriation to provide for a committee to study the basic problems of total regulation of transportation, the adequacy of user charges, the problems of commuter service, and what should be done about things of that type. The answer to the Senator's question is "Yes."

Mr. BRICKER. I thank the Senator from Florida.

Mr. SALTONSTALL. I thank the Senator from Ohio.

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

Mr. BRICKER. I yield to the Senator from New York.

Mr. JAVITS. My senior colleague from New York [Mr. IVES] and I have a common interest with the Senator from Massachusetts. Based upon communication with the Public Service Commission of my State, we are very deeply disquieted by the provision now appearing in section 4 of the bill which, in giving authority to the Interstate Commerce Commission to act in commuter line matters, gives, in my opinion, a power to the Commission so circumscribed as to require the Commission to permit discontinuance of practically any commuter line as to which there is an application for discontinuance.

I shall ask the Senator a specific question on that subject. If my belief is correct, the language will put the regulatory body into a position of lacking flexibility to deal with a situation about which one cannot be precipitate. Whether we are considering New York or Boston, we can make an improvement in the situation which exists, and we can make progress, but certainly we cannot suddenly shut down the service.

My colleague from Ohio is an excellent lawyer, and I am glad, because we are discussing a question of legislative language. The language to which I should like to direct my question is shown on page 6, line 16.

I should like to read beginning with line 11, to cover the whole sentence and convey the full meaning.

> If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation—

And so forth. What troubles me is this question: Is the Commission absolutely bound to allow discontinuance of service the minute there is a showing of net loss upon a particular operation? I might say to my colleague that if that be so, then practically all passenger service in the congested northeastern area of the United States, certainly, could be shut down under the provision, because almost all such service is operated at a net loss.

Mr. BRICKER. That is one of the criteria of the Commission in coming to a judgment as to whether the operation shall or shall not continue. I do not know how far down one would go in the line of authority as to what is or is not a loss, or what segment of the operation would be considered in determining whether there is a loss. This is the same rule which applies at the present time to State commissions. If State commissions are compelling a railroad to operate at a loss, with a minor qualification by a recent Supreme Court decision, they are simply violating their responsibility, that is all. To compel a railroad to continue a passenger service at a loss is simply saying to the shippers of the Nation, "By additional freight charges you have to pay the cost of the losing service. You have to make up that loss." The shippers have been doing that. I will be frank with the Senator from New York. The shippers have been doing that for a long, long time.

The operating loss from passenger services last year amounted to hundreds of millions of dollars. If the railroads are to live, that revenue loss has to be made up from freight charges. I do not think the Senator from New York would ask that it be done that way. I think that would be an unfair advantage to take of the earning income of the railroads, buses, or any other form of transportation which carries passengers in the city of New York.

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

Mr. BRICKER. I yield.

Mr. JAVITS. What troubles me is that this statement of the bill is not a criterion, but is the criterion.

Mr. BRICKER. It is one of several.

Mr. JAVITS. I beg the Senator's pardon, but I disagree. If we pass the bill as it is written, this is the criterion. I believe the bill must be amended, because I think we cannot tie this matter down so tight. The provision reads:

> Such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce.

An essential criterion is net loss. If we are to pass the bill and have it become a statute, we should make that provision a criterion and not the criterion. If we do that we will be making great progress in giving ICC a power it does not now have. I am for doing that, notwithstanding the views of my own public-service commission, but I am concerned about absolutely tying the power to act down to only net loss.

In answer to a previous point, about paying for this kind of service, I suggest that a railroad is a public utility. There is always involved a question of economic philosophy as to whether a public utility has to operate at a profit overall or at a profit for each particular segment of its operations. There is a question whether that is the very reason the railroad is a public utility—because some of the things it does and may have to do at a loss it does to give public service.

I say to my colleague that in view of the very narrow restriction contained in the language, which will put every railroad in a position to discontinue any passenger services it wishes, without any recourse, I would very much favor making this provision a criterion, but not the sole or essential criterion, as I feel the language in the bill would make it.

Mr. BRICKER. As I have said, the decision is not limited to a section or a segment of a railroad. I do not think the interpretation placed upon the language by the Senator from New York is a proper one. I think more leeway is given. I do not consider this language to be the sole criterion, any more than it has been for the State commissions. We are talking about practically the same authority the State commissions have had heretofore, yet those commissions have required certain segments of the industry to operate as a part of the whole.

I would not say a railroad could continue a net loss forever as a subsidy to the city of New York, or Boston, or Philadelphia, or Cleveland, or any other city. As I said to the Senator from Massachussetts a moment ago, ultimately the problem of commuter service must be worked out in some way so that there will not be the terrific loss there is today. In many cities such transportation service has been taken over by the municipal governments. The losses then are absorbed by the general taxpayers. At present the losses have to be absorbed by the other operating income of the railroads.

Mr. JAVITS. Will my colleague yield further?

Mr. BRICKER. I yield.

Mr. JAVITS. I thank my colleague for yielding. If this language should be construed as being the criterion rather than a criterion, so that any section of the road which showed a net loss could be shut down ipso facto, and the Interstate Commerce Commission would have to go along with the action, would my colleague say that should not be done in this bill?

Mr. BRICKER. I do not think it is done, in the first place. In the second place, I do not think we can force the operation of a service at a continuing loss. I do not think it ought to be done by Government or any other authority. I think such charges ought to be made as to compensate for the particular service rendered.

We can segregate this service. It is not an indivisible part of the overall. It is a limited service, and it is one as to which the income can be determined and one as to which the expenses can be determined very well. As a result, the rates could be well determined so as to make the rates compensatory.

I do not think any carrier ought to be compelled to carry freight or passengers at a noncompensatory rate. Attainment of that goal has been prevented at times because of the competition such a course might bring about, but certainly the result is the placing of a heavier burden upon a segment of the traveling or using public.

Mr. JAVITS. If that is the basis on which the bill is written it must be opposed by Senators who come from large cities, as I do, because we cannot tie around the necks of our people this kind of noose whereby at one fell swoop service may be discontinued. I shall offer an amendment to make it clear this language may be a criterion, but not the sole criterion.

I thank the Senator.

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

Mr. BRICKER. I yield.

Mr. THYE. We must provide for the commuter trains entering and leaving the larger cities, because the congestion which automobile transportation would involve in the cities would be prohibitive, would it not?

Mr. BRICKER. They would be pretty crowded. Many cities are already pretty crowded.

Mr. THYE. That is true.

In Washington, but more especially in New York or Chicago, if the commuter trains were eliminated, and all those commuting to the city were to travel by automobile or bus, the highway system would be almost impassable for many hours, both morning and evening.

Mr. BRICKER. That is not going to happen, I assure the Senator from Minnesota, but the problem is essentially and primarily a local one. It is not a problem which we ought to deal with in connection with the pending bill. It is not a problem which will be thrust upon the cities all at once. The Interstate Commerce Commission will be as considerate as are the State utility commissions. If we put the problem on any other basis, we must put it on the basis of asking the State utilities commission for something we ought not to have.

Mr. THYE. The committee has done an excellent job. It recognizes the problems of the railroads, and it recognizes the difficulties in which the commuter trains have involved the railroads. If a loss were incurred in such an operation, it would have to be spread out among the users of the general transportation system, and in many cases upon those in the Middle West. Many railroad users in the Middle West were placed under a competitive situation which they could not meet, because freight rates were increased, and the higher rates had to be paid by the users of the railroads, whether farmers or manufacturers, and thereby they forced themselves, competitively, out of business.

I wish to commend the committee. Judging from a reading of the report, I think it has done an outstanding job of developing the facts and trying to solve the problems of the railroads in the pending legislation.

The 3 percent freight excise tax and the 10 percent excise tax on passenger transportation are handicapping those who must use the railroads. I commend the members of the committee for having done an outstanding job. I believe that the enactment of the proposed legislation would greatly assist in relieving the situation.

I believe the pending bill should be enacted. Our railroad system is exceedingly important. We must have it. If we do not correct the situation by legislative action, and if more railroads go out of existence, the Nation will suffer in the future.

I thank the Senator for yielding.

Mr. BRICKER. I thank the Senator for his contribution. He is exactly correct in the conclusion he reaches, that if one segment of the transportation industry is conducted at too great a loss, the shipping public in the Middle West and in other parts of the country must make up its portion of the loss.

Mr. THYE. We in the extreme Middle West, in Minnesota, the Dakotas, and Wisconsin, pay the bill.

Mr. BRICKER. We in Ohio pay our share, too.

Let me say further, in regard to the excise taxes, that I believe all members of the committee took the position that they should be repealed. They were placed in effect during the period of the war, in order to keep people from traveling, so that facilities would be available for the Defense Department. As proof of the need for such a measure, 97 percent of the personnel of the Second World War were carried on trains, and 90 percent of the materiel was carried on trains.

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

Mr. BRICKER. I yield.

Mr. YOUNG. First, I wish to commend the committee for tackling a very tough problem and coming up with what I think is a pretty good answer. Although I am not fully conversant with all the provisions of the bill, I intend to vote for it when they are clarified to my satisfaction.

In my own State the railroads have lost much of their business, and the only alternative they have left is to seek higher rates on the commodities left for them to haul.

In my State that happens to be mostly grain. Freight rates on grain have gone up considerably, to the extent that it is now all but impossible to get grain produced in North Dakota to the eastern seaboard by rail.

I was wondering to what extent the provisions of the bill would impinge upon the power and authority of the State Public Service Commission in fixing rates in the State.

Mr. BRICKER. There would be no more interference than there is at the present time. The railroads may make application initially to the State commission, if they wish. The States now have jurisdiction over intrastate rates, but the decisions of State commissions are appealable to the Interstate Commerce Commission if the rates fixed are a burden upon or discriminatory against the interstate transportation system.

Mr. YOUNG. In my State we have a sizable lignite coal industry. Most of the coal is consumed within the State, and not much of it is shipped outside the borders of the State. Is it true that under the provisions of the bill the State commission would no longer have authority?

Mr. BRICKER. It would have initial authority. There is no question about that. And it would have permanent authority unless the rate were a discrimination against interstate commerce. That is the authority which exists in the Interstate Commerce Commission at the present time, on appeal from the findings of the State commission.

Mr. YOUNG. Suppose the Interstate Commerce Commission were to raise the rate on lignite coal in my State. What recourse would we have?

Mr. BRICKER. An intrastate rate.

Mr. YOUNG. Thank you.

Mr. BRICKER. If it were not discriminatory and unduly burdensome upon interstate commerce, the State commission would still have authority.

Only one slight change is made, and that is that the application may contain a request that the intrastate be determined at the same time the interstate rate is determined. However, the rates are determined on the same basis.

Mr. YOUNG. Will the Senator explain briefly how the bill would change the authority of the State commission?

Mr. BRICKER. It would only give the carrier the right to appeal to the Interstate Commerce Commission initially, when the determination of an intrastate rate is a part of an interstate rate application. Now the carrier must go to the State commission secondarily, and if the State commission does not go along, the carrier must appeal under section 13, which is a long and burdensome procedure. The State still has jurisdiction over intrastate commerce, under the law, as is the case at present. The difference is a difference in procedure more than anything else.

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

Mr. BRICKER. I yield.

Mr. BARRETT. Is it proposed to give any new powers to the Interstate Commerce Commission with reference to discontinuance of service?

Mr. BRICKER. An appellate power would be given to the Interstate Commerce Commission, on the application of a railroad to abandon service. At the present time, if a railroad proposes to abandon all facilities, the Interstate

Commerce Commission has jurisdiction. However, under this provision, if the railroad proposed to take off a train, and the State commission should say, "No; you cannot do it," the carrier would have the right, under the provisions of the bill, to appeal to the Interstate Commerce Commission for the right to abandon the train, facility, station, or whatever it might be.

Mr. BARRETT. This bill gives the railroad and the Interstate Commerce Commission new authority with reference to discontinuance of service and also abandonment of facilities as I take it. Of course the carrier will not attempt to discontinue service if the rates can be increased so as to be compensatory for the service.

Mr. BRICKER. There are some rail lines which would not pay, regardless of rates. There is one State in the Union—I will not mention its name—which charges the railroads more in taxes than the entire income of the railroads on shipments in that State. So it would be pretty difficult to get a compensatory rate in that case, to offset the tax charge. The basis for abandonment is loss, or service no longer used.

I remember that when I was a member of the State commission there was a protest against the abandonment of a train running into a small college town in Ohio. Forty or fifty witnesses came to the hearing. None of them came by train. They all came by automobile. None of them had been on a train for many years, and none of them had been on that particular train for the previous 10 or 15 years.

Initially the Senator was asking about the abandonment of services and facilities. In that respect the bill does give additional jurisdiction, on appeal, to the Interstate Commerce Commission—the same jurisdiction it now has with respect to rates.

Mr. BARRETT. That is my understanding of the bill.

Mr. BRICKER. Under section 13 of the Interstate Commerce Act, the Interstate Commerce Commission has jurisdiction, on appeal, over rates fixed intrastate. We would now give it equal jurisdiction of questions involving the abandonment of facilities.

Mr. BARRETT. The effect of that provision, however, even in interstate lines is to give the Interstate Commerce Commission the ultimate decision in the matter of abandonment of service in all cases. Is that correct?

Mr. BRICKER. That is correct.

Mr. BARRETT. In my State I am more concerned about the transportation of freight since passenger transportation by rail has been largely discontinued except along the Union Pacific line.

Mr. BRICKER. That is true in many sections of the country. It is primarily due to the private automobile.

Mr. BARRETT. That is correct. I should like to ask the Senator about the provision in the bill which deals with guaranteed loans. I note that a little less than 20 percent of the money authorized for guaranteed loans can be used for operating expenses.

Mr. BRICKER. In the case of existing obligations; that is correct. It is $150 million out of $700 million, to be exact.

Mr. BARRETT. Did the committee hear any testimony to the effect that the railroads need any loans for operating purposes at this time?

Mr. BRICKER. There was some, but I do not believe that there would be an extensive use of that provision. Furthermore, it would be within the jurisdiction of the Commission to determine it. The Commission would have to recommend and guarantee the loan. I doubt very much that there would be a great deal of it used. However, it seemed to be a sort of backup protection for some roads which might get into a difficult situation, cashwise, and which had hopes of pulling out. Of course unless the Interstate Commerce Commission feels a road has such hopes and prospects, a loan cannot be made.

Mr. PURTELL. Mr. President, we have reason to believe that some railroads might shortly be forced into bankruptcy unless some financial aid were provided them for operating purposes.

Mr. BRICKER. The other provision also, it is hoped, will loosen up an opportunity for the railroads to increase their shipments, so that they will be able to pay back the loan.

Mr. PURTELL. That is the hope.

Mr. BRICKER. Yes; that is the hope. If it does not do that, there is not much use in passing the bill.

Mr. BARRETT. I believe it is a good bill. It is absolutely essential that we keep the railroads in operation. I do not see how we can protect the security of the country unless we do so. I did not think that we had come to the point where it was necessary for the railroads to borrow money for operating purposes, but, as the Senator from Connecticut has pointed out, it might be necessary in some isolated cases to do so and I shall not interpose any objection to that provision.

I wish to commend the subcommittee for its fine work on this bill, and the Senator from Ohio for his splendid presentation today. I shall vote for the measure.

With reference to the establishment of a construction reserve fund for a period of 5 years with the provision that the money shall be used for construction or acquisition of equipment and other property used in the transportation business.

Mr. BRICKER. The Senator has reference to capital construction.

Mr. BARRETT. Yes. What, in effect, is the overall limitation on the use of the construction reserve fund?

Mr. BRICKER. It must be used within 5 years and only for the purpose designated, under the rules of the Interstate Commerce Commission for fixing depreciation. At the present time the deferred maintenance of railroads is very high. It runs into hundreds of millions of dollars throughout the country. That means that the railroads are not laying rails. It means that they are not putting down any ties. It means that they are not keeping their rolling stock in the condition it ought to be to take care of the service properly. Therefore, the maintenance reserve will be set aside by the railroads, and must be used within 5 years' time for the purposes for which it was set aside, or it goes back into their income and is taxable, of course.

Mr. BARRETT. It seems to me the provision with reference to the guaranty loans and the provision for the construction reserve fund ought to be tied together, so that the carrier could accelerate its improvement program and anticipate the accretions to the construction reserve fund over the 5-year period and borrow the money under the guaranty loan provision and spend the money in the next year or so.

In other words, what I have in mind is that we should take steps which would provide employment for people, by having the railroads do the work this year or next year, rather than stretching it out over a 5-year period.

Mr. BRICKER. I believe the railroads will do that. They would have done it already if they had been able to do so. However, their income has been so depressed that they have not had the money with which to keep up their maintenance. I assure the Senator that the testimony sustains us in the view that any money the railroads are able to get for this purpose will be utilized as early as possible, because the railroad properties are depreciating.

Mr. BARRETT. Yes; I realize that, and perhaps they would take such action on their own motion. However, it seems to me that we should make it possible for them to do the work as quickly as possible and provide employment during this period when so many men are out of work.

Mr. BRICKER. Of course, they would have to get the money before they could use it. They would have to get it out of earnings, and it could be done only on the basis of depreciation as fixed by the rules of the Interstate Commerce Commission.

Mr. BARRETT. Could they not get it under the guaranteed-loan provision?

Mr. BRICKER. Oh, yes; they could use the loan money for that purpose. That is primarily the purpose of the loan money provision. The money has to be used for capital expenditures.

Mr. BARRETT. In other words, if a given railroad were permitted to borrow $50 million under the guaranteed-loan provision, it could make much-needed improvements.

Mr. BRICKER. Rebuild its rails; yes.

Mr. BARRETT. Rebuild its rails and charge off the cost over a period of 5 years under the construction reserve section.

Mr. BRICKER. No. I read from the bill:

> Such construction-reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed by the Interstate Commerce Commission and the Secretary of the Treasury and under the joint control of the carrier and the Commission. * * * All earnings of the fund shall be deposited in the fund. Such earnings may be withdrawn by the

carrier only for expenditures for the purposes established in paragraph (1).

That has reference to this language:

It is hereby declared to be the general policy of the Congress to promote and encourage, in the interest of national defense and public welfare, the construction, reconstruction, reconditioning, or acquisition of equipment and other property used in the transportation business by common carriers subject to the Interstate Commerce Act (in whole or in part) of debt incurred, after the effective date of this section, for such purposes. It is the purpose of this section to provide implementation of this general policy through the establishment by any such carrier of a construction-reserve fund, with the privileges and subject to the limitations herein prescribed.

That is the construction reserve fund. The other section could be used, but the money could not be paid out of this fund.

Mr. BARRETT. In other words, am I to understand that the construction reserve fund must be built up year by year and used only as it accrues?

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The Senator from Wyoming will suspend until the Senate is in order. The Senate will be in order. Senators desiring to converse will retire to the cloakrooms, so that the colloquy between the Senators may be heard.

The Senator from Wyoming may proceed.

Mr. BARRETT. As I understand, the construction reserve fund can be used only on a year-to-year basis over a period of 5 years. Is that correct?

Mr. BRICKER. Yes; and it is under the joint control of the carrier and the Interstate Commerce Commission.

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

Mr. BRICKER. I yield.

Mr. CARLSON. First, I wish to commend the distinguished Senator from Ohio for the splendid presentation he has made of the bill. I wish also to commend the Committee on Interstate and Foreign Commerce for the work it has done on the proposed legislation, which I believe is essential for the continuing operation of our railroads, which are so important to our defense and economy.

I should like to ask the Senator some questions with respect to section 6, which deals with guaranteed loans. I have received a telegram from the Topeka Chamber of Commerce. I shall read one sentence from the telegram, and then I shall ask that the entire telegram be printed in the RECORD. I read as follows:

The Chamber of Commerce of Topeka, Kans., has given careful consideration to Senate bill 3778, and urges passage of this bill with the exception of the Federal guaranteed loan provision.

Mr. President, I ask unanimous consent that the entire telegram be printed in the RECORD at this point.

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

TOPEKA, KANS., *June 10, 1958.*

Hon. FRANK CARLSON,
Senate Office Building,
Washington, D. C.:

The Chamber of Commerce of Topeka, Kans., has given careful consideration to Senate bill 3778, and urges passage of this bill with the exception of the Federal guaranteed loan provision. The serious condition of the railroads is very evident and is jeopardizing their position as the basic part of our national transportation industry. We are convinced that the more favorable competitive and financial provisions proposed in S. 3778 will enable the carriers to improve their status and benefit the public.

R. M. BUNTEN,
President, Topeka Chamber of Commerce.

Mr. CARLSON. I should like to ask the distinguished Senator if consideration was given to this provision, and what action——

Mr. BRICKER. Yes; it was. No one on the committee desires to put the Government in the loan field so far as the railroads are concerned, unless it is absolutely necessary. It has been done before, as the Senator knows. It was done through the RFC, and during the war. However, it will not accomplish the purpose unless the rails are given an opportunity to get higher income and can initiate more economical operation of their facilities, as well as get rid of some of their loss operations, and also obtain more control over their freight rates.

As I said before, railroad rates are fixed by the Federal Government and State governments. Railroad wages are fixed by the Government. Even the operation of their trains is determined by the Federal Government and the State governments. All safety appliances and all fixtures in relation to safety are determined by the Federal Government.

So they are very tightly regulated. They will have to be freed from some of the regulation, particularly in the field of ratemaking, or they cannot pay back their loans.

Mr. CARLSON. I raised the issue because it was raised with me in the telegram. When I suport the bill, with which I am heartily in accord, I want to have some answer to give these folks.

Mr. BRICKER. The western railroads are not in as bad a condition as are the eastern railroads. That is due to the fact that the eastern railroads operate in heavily populated territory, make shorter hauls, and have more intense competition from other modes of transportation. That is not true of the railroads which operate in the western area.

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

Mr. BRICKER. I am glad to yield to my distinguished colleague.

Mr. LAUSCHE. I wish to supplement the statement made by my senior colleague concerning the discussions which were had and the testimony which was received on the subject of finance. One of the first witnesses to testify was the president of an eastern railroad. He submitted the bold proposition that the Government should subsidize the railroads. He said that every other mode of transportation is being subsidized, and asked how the railroads could be expected to furnish commuter service without a loan.

Another witness, who was supported by several others who testified, urged that Congress create a $5 billion fund with which the Federal Government would buy equipment and then sell it to the railroads.

A third proposition was that the Government should make direct loans.

Culling from the three proposals, I, as a member of the subcommittee, came to the conclusion that the railroads in the East were in financial distress. I do not think that any challenge can be made of that conclusion.

Out of the four recommendations we adopted the thought that there was justification for having the Federal Government guarantee loans made to the railroads. I questioned the use the railroads might make of the fund, but generally I subscribed to the proposal. I do not feel that the railroads should pay dividends to their stockholders from the fund, and I do not think they should be permitted to pay operating expenses. I wanted to have the fund circumscribed, to be used only for investment in capital improvements.

Mr. CARLSON. The statement by the distinguished junior Senator from Ohio further helps me in replying to those who have been in communication with me. I thank the Senator very much.

Mr. LAUSCHE. We reluctantly—at least, I did—came to the conclusion that we should guarantee the loans; but I do not think there is any other escape.

Mr. POTTER. Mr. President, will the senior Senator from Ohio yield?

Mr. BRICKER. I yield to the Senator from Michigan.

Mr. POTTER. I commend the subcommittee, which worked so hard, so long, and so diligently to report a bill which has met with the acclaim which this bill has had, considering the highly competitive nature of the transportation industry, with its different modes of transportation.

The committee has reported a bill which deals with a complex problem; but its acceptance by all modes of transportation shows, I think, a high degree of statesmanship, not only on the part of the subcommittee, but also on the part of the leaders in the various modes of transportation who worked closely with the subcommittee.

I should like to have in the RECORD the comments of the distinguished senior Senator from Ohio, who is one of the knowledgeable members of the committee in the field of transportation, and who has had vast experience in the Senate, on the language which is contained in the ratemaking section of the bill. The language to which I refer reads:

Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act.

It is my understanding of the national transportation policy that the inherent advantages of each mode of transportation shall seek its level. In other words, one mode of transportation shall not be protected at the expense of another mode of transportation. Is that the Senator's concept of the meaning of this language?

Mr. BRICKER. That is a proper interpretation. The rates made by railroads should not be held at a certain level to protect a carrier in another mode of transportation; in other words, the rate should be considered as a part of the whole rate structure and a part of the rail structure, rather than as a part of the overall structure of the various other modes of transportation.

Mr. POTTER. Is it not the intention to recognize that each mode of transportation, whether it be rail, truck, or water, has its own inherent advantages?

Mr. BRICKER. It is.

Mr. POTTER. Because each mode of transportation has used the national transportation policy as its guide or bible, we wrote into the bill the provision that ratemaking shall be consistent with the national transportation policy. Therefore, the Commission will never be in the position of having to hold an umbrella over one mode of transportation at the expense of another.

Mr. BRICKER. That is correct.

Mr. LAUSCHE. Mr. President, will my colleague yield?

Mr. BRICKER. I yield.

Mr. LAUSCHE. I cite the Transportation Act of 1940, and certain statements which were made when that act was passed. The committee wrote into the report then that it was the "policy of Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act so administered as to recognize and preserve the inherent advantages of each."

The committee also said:

> The ratemaking rule has been amended to expressly provide adequate safeguards for the public and at the same time the Commission is directed in prescribing a rate to consider its effect on the movement of traffic only by the particular type of carrier for which the rate is prescribed. That is, in prescribing a rate for water carriers the Commission will not consider the effect of that rate on the movement of traffic by either rail or motor carrier.

Also, the report of the committee of conference stated:

> The conferees are unanimously in harmony in the viewpoint that the inherent advantages of each type of carrier should be preserved for the benefit of the Nation. Legitimate regulation must look to the protection of the economic advantage of each type of carrier against destructive competition of the other. No carriers should be required to charge unreasonable rates for the benefit or purpose of compelling diversion of traffic to a competitor.

So the purpose of the bill in 1940 was to preserve for each mode of transportation its inherent advantage, and the Commission was not required to hold an umbrella over competing modes—that is, airlines, bargelines, or trucklines.

Mr. POTTER. Mr. President, will the senior Senator from Ohio further yield?

Mr. BRICKER. I yield.

Mr. POTTER. As I understand, it is the intent of the ratemaking section of the bill really to reaffirm existing law—in other words, to reaffirm what the Congress already has said is to be the policy. This provision is included because at times the Commission has sought to stray from the declared policy of existing law; and therefore we wish to make sure that the Commission conforms to the national transportation policy. Is that correct?

Mr. LAUSCHE. Mr. President, the Senator from Michigan is exactly correct, and his statement is in strict conformity with the discussions had and with the purposes enunciated in the act of 1940.

Mr. BRICKER. Mr. President, I desire to thank both the Senator from Michigan and my colleague from Ohio, especially for bringing out the point that the bill applies equally and fairly to all modes of transportation.

Mr. THYE. Mr. President, will the Senator from Ohio yield to me?

The PRESIDING OFFICER (Mr. TALMADGE in the chair). Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. BRICKER. I yield.

Mr. THYE. Mr. President, I wish to ask a question: Will the bill exempt only the commodities listed as exempted from the application of rule 107?

It appears that fears have arisen in regard to some items as to which no controversy has developed. One of them may be soybeans, a commodity which is not included in the list, although it is generally recognized as being an exempt commodity.

Will the bill in any manner jeopardize the freight rates on grains, especially on soybeans, which are not specifically stated as being under the rule?

Mr. BRICKER. I do not think there will be any change in the Agricultural Exemption Act, if that is what the Senator from Minnesota is referring to.

Mr. THYE. Yes.

Mr. BRICKER. There will be no change. Under it, any agricultural commodity is exempt if it is hauled from the farm to the market.

Mr. THYE. But there has been some doubt in the Department of Agriculture and among the shippers, I believe, as to whether the bill might in some manner change the status of these grains, which are not specifically stipulated as being under the rule.

Mr. BRICKER. Certainly there was no intention on the part of the committee to do so; and I do not think the bill does, because the agricultural exemption applies to all agricultural commodities in their shipment from the farm—to the transportation to the processor, wherever he may be.

Mr. THYE. If the bill goes to conference, I assume that further consideration will be given there to that point.

Mr. BRICKER. Certainly. There is no desire to interfere with that exemption or to remove it.

Mr. YOUNG. Mr. President, will the Senator from Ohio yield to me?

Mr. BRICKER. I yield.

Mr. YOUNG. At the present time, if a railroad wishes to abandon a branch line or wishes to abandon passenger or other service on a branch line, the procedure is that it appeals to the public service commission of the State; is that correct?

Mr. BRICKER. That is correct.

Mr. YOUNG. And if the public service commission of the State renders an adverse opinion, the railroad can then appeal to the Interstate Commerce Commission; can it not?

Mr. BRICKER. No.

Mr. YOUNG. How would that procedure be changed by the pending bill?

Mr. BRICKER. Confusion arises when a railroad has, let us say, four trains running between Columbus, Ohio, and Indianapolis, Ind. Ohio might permit the railroad to take off 1 train, runing at 10 a. m. and Indiana might permit the railroad to take off 1 train running at 2 p. m. But in that event the railroad would have to continue the operation of all of them in order to meet the requirements of the local and State groups. That situation has led to interminable delay and confusion which would be relieved as a result of enactment of the pending bill in that then the railroads could appeal to the Interstate Commerce Commission.

In addition, there has been a great deal of pressure, because of local pride or otherwise, to maintain certain railroad service, even though it may have been highly unprofitable. Under the provisions of the bill, under such circumstances an appeal directly to the Interstate Commerce Commission, would be possible.

Mr. YOUNG. If there were a difference between the holdings or rulings, which one would prevail?

Mr. BRICKER. The ruling of the Interstate Commerce Commission would prevail.

Mr. YOUNG. Is that the case at the present time?

Mr. BRICKER. In the case of an application for complete abandonment, yes. But in the case of an application for limited or restricted service, no. At the present time, the Interstate Commerce Commission has jurisdiction over an application for the complete abandonment of a railroad.

Mr. YOUNG. So the State commissions would, as a result, lose some of the power they now have, would they?

Mr. BRICKER. Yes; some jurisdiction over local transportation.

Mr. President, if there are no other questions to be asked, let me say that it is my hope that the bill will be passed.

Let me give assurance to the Senator from New York [Mr. JAVITS] in regard to the fears he has expressed. Senate Resolution 303 particularly calls attention to the problem involved in commuter service. Therefore, I think the fears of the Senator from New York may be allayed, in view of the fact that a broad investigation will be made. The investigation was authorized today by the Committee on Rules and Administration, so I am advised by the Senator from New Jersey—and the necessary funds will be made available.

I assure the Senator from New York that the Committee on Interstate and Foreign Commerce will not do anything to prevent the working out of the problem.

Mr. JAVITS. Mr. President, I am a member of the Committee on Rules and Administration, and I was very much in favor of the investigation resolution.

What worries me—and later, when I can obtain recognition for that purpose, I shall endeavor to clarify the matter, by means of an amendment which I shall discuss—is the statutory language which will be involved if the bill as it now stands is enacted into law.

Perhaps the Senator from Ohio, who has been so gracious in yielding, would prefer to have me discuss that matter after I have obtained the floor in my own right. In any event, I wish to state that I am very grateful.

Mr. BRICKER. Mr. President, let me point out that under the resolution which was agreed to a year ago, a thorough exploration was made of that matter; and very full advice, information, and so forth, were obtained. Let me say that I hope the local governments will pursue their responsibilities in that connection.

Mr. President, I ask unanimous consent that there be printed in the RECORD as a part of my remarks two articles prepared by the staff of the committee, one dealing with intrastate rail rates and railroad services and facilities, and the other dealing with the competitive ratemaking section of the bill.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

S. 3778 (INTRASTATE RAIL RATES AND RAILROAD SERVICES AND FACILITIES)

Let me say a word about sections 3 and 4 of S. 3778, having to do with intrastate rail rates and railroad services and facilities. Section 3 of the bill contemplates amendment of section 13 of the Interstate Commerce Act; and section 4 of the bill contemplates the addition to the Interstate Commerce Act of a new section 13a.

Under section 13 of the Interstate Commerce Act the Interstate Commerce Commission is authorized, in certain cases, to require changes in intrastate rates. If it finds, after full hearing, that any rate made or imposed by State authority causes any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce on the one hand and interstate commerce on the other, or any undue, unreasonable, or unjust discrimination against interstate commerce, the Commission is empowered to prescribe for the future such rate as, in its judgment, will remove the advantage, preference, prejudice, or discrimination; and the rates so prescribed by it "shall be observed while in effect * * * the law of any State or the decision or order of any State authority to the contrary notwithstanding."

The Commission and the courts have construed the phrase "undue, unreasonable, or unjust discrimination against interstate * * * commerce" as encompassing discrimination against interstate commerce resulting from intrastate rate levels relatively so low that they fail to contribute their proportionate share of the revenues necessary for the maintenance of an adequate railroad system. The Commission has often availed itself of the power conferred upon it, so construed, and ordered increases in the level of intrastate rates.

There are certain difficulties, however. I will mention only one. Inordinate delays are often encountered. The ICC is hesitant to exercise its jurisdiction until application has been made to the State commission for authority to make the desired adjustment in intrastate rates, and until the matter has been finally disposed of at the State level. This is on the principle of what the ICC calls comity.

To overcome the matter of burdensome delay in obtaining prescription of lawful intrastate rates by the ICC (primarily this matter of comity) it is proposed to provide in section 13 of the Interstate Commerce Act that upon the filing of a proper petition involving any intrastate rate, the Commission shall forthwith institute its investigation (whether or not the rate has been considered by the State commission and without regard to the pendency of any State proceeding thereon) and act with special expedition. This is section 3 of the bill.

Turning now to the problem of rail services and facilities, meaning those of an unprofitable nature.

The Interstate Commerce Act does not, it appears, presently confer upon the ICC any jurisdiction with regard to the discontinuance or change of railroad services or facilities. To the extent that jurisdiction over such matters exists it is in the hands of the States, and the railroads find especially burdensome the delays and adverse rulings they often encounter at the State level in seeking to discontinue or otherwise deal with unprofitable operations.

To afford needed relief in this regard it is proposed to provide in section 4 of the bill that where State law or authority inhibits the discontinuance or change of any rail service or facility a railroad may nevertheless seek to effect the desired discontinuance or change notwithstanding any State law or order (and without regard to any pending State proceeding relating thereto) by filing a 30-day notice of intention with the ICC. Upon the filing of such a notice the ICC would then have jurisdiction in lieu of the State (there being no ICC jurisdiction unless such notice is filed), and could within the 30-day notice period upon complaint, or upon its own motion, enter upon an investigation. It could suspend the proposed effective date of the discontinuance or change for as long as 4 months (but no longer), pending investigation.

After its investigation (whether finished before or after the time the discontinuance or change became effective) the Commission could, if it made certain findings, order the continuation or restoration (whichever might be appropriate) of the service or facility. To do so it would have to be found that the operation and maintenance of the particular service or facility is required by public convenience and necessity and will not result in a net loss to the railroad or otherwise unduly burden interstate commerce. If the ICC made these findings it could require the service or facility to be operated for up to 1 year.

At the end of this period, the situation would revert to that existing prior to the filing of the notice with the ICC.

The disastrous extent of the railroad passenger deficit, $700 million a year or more, clearly demonstrates the necessity for enactment of legislation such as that here proposed.

SECTION 5 OF S. 3778 (COMPETITIVE RATEMAKING)

Section 5 of S. 3778 deals with the subject of competitive ratemaking. It would write into the Interstate Commerce Act a new section to be known as section 15a (3) as follows:

"In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

During the lengthy hearings conducted this session of the Congress by the Surface Transportation Subcommittee, and later by the full Committee on Interstate and Foreign Commerce, a subject that commanded particular attention was that of competitive ratemaking as between different forms of transportation subject to the Interstate Commerce Act. Spokesmen for the railroad industry urged enactment of a suggested amendment to the Interstate Commerce Act that—I think it must be conceded—would have rather severely restricted the authority and discretion of the Interstate Commerce Commission in its regulation of rates proposed by one form of transportation to meet competitive situations involving another form of transportation. While the committee has not seen fit to report a bill incorporating the proposal advanced by the railroads, it has become clear that amendatory language of some kind is necessary.

Witnesses appearing before the committee cited any number of instances in which the Interstate Commerce Commission (especially in recent years) has declared rates proposed by one form of transportation, particularly the railroads, to be unreasonably low even though the rates were demonstrated to be reasonably compensatory and even though they would have been nondiscriminatory as among shippers. It is fairly clear that in certain instances the ICC has required the rates of one form of transportation to be held up higher than the proposing form wished because of the effect it was felt the rates might have upon one or another of the competing forms of transportation.

It was of this that the railroads complained. Their complaint is that while the Interstate Commerce Act and the statement of national transportation policy which precedes it contemplate that each form of transportation is to be allowed to assert its inherent advantages there have nevertheless been unreasonable restraints imposed upon the railroads when they sought to avail themselves of their usual inherent advantage of low cost. To put it another way, the railroads' argument has been that when they tried in certain situations to make rates reflecting their lower cost of performing transportation service they have been prevented from doing so because of the impact those rates would or might have on motor carriers or water carriers.

The testimony before the Committee on Interstate and Foreign Commerce on this point showed, if it showed nothing else, that the Interstate Commerce Commission has been something less than consistent in the application of the rules and criteria it employs in determining whether a competitive rate proposed by one form of transportation is or is not within reasonable bounds. Cases were cited to show that the ICC, in determining the reasonableness of a rate, gives a great deal of weight to what the effect of the rate will be upon a competing form. On the other hand, cases were cited in which the Commission had said that the effect of the rate of one form of transportation on another form of transportation is as a matter of law immaterial. This inconsistency has made for a great deal of confusion in the ratemaking process of regulated carriers.

As I have said the committee did not feel that it would be justified in adopting so strong a remedy as that proposed by the railroads. The committee does feel, however, that the present state of administration of the Interstate Commerce Act in the area of regulation of competitive rates leaves much to be desired. For that reason we have, by favorably reporting section 5 of S. 3778, endeavored to lay down a rule which will more definitively spell out the intention of the Congress as to the criteria that ought to be followed by the Commission in cases involving competition between carriers of different modes of transportation.

No form of transportation, including the railroads, appears to quarrel extensively with the terms of the Interstate Commerce Act as it is now written in respect of ratemaking. The controversy arises because of differing views as to how the act ought to be construed and administered. As a starting point, then, we have tried to ascertain the intention of the Congress when it enacted the present law, that is to say when it enacted the Transportation Act of 1940.

We are convinced that Congress, in 1940, intended that for the most part the rates of each form of transportation would be determined and regulated in the light of the characteristics of that particular form. While it was not intended to exclude from the commission's consideration the relationship between the charges of one form of transportation and the charges of another form, certainly it was thought that primary weight and emphasis would be given to and placed upon the facts and circumstances surrounding the movement of the traffic by the form of transportation to which the rate was intended to apply.

No useful purpose would be served by recounting at length the various points of legislative history upon which we have relied in arriving at our conclusion. I do think, however, that it is worthwhile to point out that Congress in 1940 established for each of the forms of transportation subject to the Interstate Commerce Act a separate rule of ratemaking. For example, in that part of the Interstate Commerce Act having to do with the regulation of railroads it is provided that "in the exercise of its power to prescribe just and reasonable rates the commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed." Similar language is contained in the other parts of the act that apply to motor carriers and to water carriers and to freight forwarders.

This, it can be demonstrated, was thought to reflect an intention that each type of carrier would have questions as to the reasonableness of its rates decided on the basis of the conditions applying to its own form of transportation.

In an early case or two (see, for example, *Seatrain Lines* v. *Akron, C. & Y. Ry.* (243 ICC 199, decided in 1940)) the Interstate Commerce Commission itself said that no carrier should be required to hold its rates up for the purpose of protecting the traffic of its competitor. But the Commission failed to adhere to this principle. Later, in 1945, in a case which you will find cited in the committee's report on this bill (*New Automobiles in Interstate Commerce* (259 ICC 475)) the Commission undertook to reexamine the criteria that ought to be used by it in deciding competitive ratemaking cases. Recognizing that there had been "occasional deviations" it stated in clear language what it considered at that time to be a proper interpretation of the law. The Commission said:

"As Congress enacted separately stated ratemaking rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve a motor-rate structure, or vice versa." [259 ICC at p. 538.]

This statement by the Interstate Commerce Commission in 1945 reflects a proper interpretation of the original Congressional intent. That intent ought to be reaffirmed; and it is by section 5 of S. 3778 that we propose to reaffirm it. By reaffirming it we are hopeful that future decisions of the Interstate Commerce Commission in cases involving rates in situations where two forms of transportation are competitive will follow a consistent line and that all may know what the proper rule of competitive ratemaking is.

The whole purpose is to say in fairly clear terms that each form of transportation should have full opportunity to make such rates as reflect its own inherent advantages so that the public may in every case have the ability and the opportunity to exercise its choice of the form of transportation to be used, cost and service considered, in the light of the transportation task to be performed. This will encourage fair and constructive competition. I emphasize the words "fair and constructive" because by the language in section 5 of the bill we are now considering the Commission, even though it is not to hold the rate of any carrier up to any particular level for the purpose of protecting the traffic of some other mode of transportation, is nevertheless to give due consideration to the objectives of the declaration of national transportation policy which prefaces the Interstate Commerce Act. That declaration of policy, I need not tell you, discourages unfair and destructive competitive practices.

Under the rule of ratemaking proposed by this bill to be incorporated into the Interstate Commerce Act the Interstate Commerce Commission will not be precluded from looking into facts and circumstances attending the movement of traffic by some carrier other than that proposing the rate; but it is the purpose of the proposed new rule to insure that the principal and primary emphasis is placed by the Commission upon the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable.

All in all what is here proposed to be done seems a happy solution to what started out as, and for some time continued to be, a raging controversy between the railroads on the one hand and other forms of transportation on the other. It is not a drastic proposal, but it is intended to serve as and should serve as an admonition to the Interstate Commerce Commission to follow what was the intention of Congress at the time the present law was written on the statute books in 1940.

What we propose to do, in a word, is make it crystal-clear that the Interstate Commerce Commission itself was correct when it said in 1945 in the New Automobiles case that the rates of each transport agency should be determined always according to the facts and circumstances attending the movement of the traffic by that agency, and that the rates of one form of transportation should not be held up or increased to a particular level in the interest of some other form.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Is an amendment in order to another section of the bill?

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment. An amendment to that amendment would be in order, but not to any other part of the bill at this time.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. PASTORE in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill be considered as an original text for the purpose of further amendment.

Mr. RUSSELL. Mr. President——

The PRESIDING OFFICER. The Senator from Georgia.

Mr. RUSSELL. Reserving the right to object, I desire to address an inquiry to the distinguished Senator from Florida with reference to some language appearing on page 18 of the bill, lines 9 and 10. Any legislation which has to do with the complicated rate structures of this country with respect to transportation systems is rather complex.

I ask the Senator from Florida as to the effect of the language, which refers to "cooked or uncooked—including breaded—fish or shellfish, when frozen or fresh." What effect will that language have on the seafood packers of the country? Did those packers make any representations to the committee headed by the distinguished Senator from Florida, giving their views on the subject?

Mr. SMATHERS. We afforded the opportunity for those people to appear on two occasions before our committee, in an endeavor to arrive at language which would satisfy them. The national president of the seafood association happens to be from Sea Island, Ga., one of the more attractive places in the very attractive State of Georgia. However, he was originally a Floridian.

We endeavored to work out language which would permit this kind of fish product to be transported in unregulated carriers. We felt that was important because obviously this type of fish, even when frozen, and certainly when fresh, is very perishable.

When the packers are limited to regulated carriers which run on certain schedules, for the transportation of their product, frequently they cannot obtain service from the carriers when needed. When the packers make a big catch of fish, since the fish are perishable it is necessary to start them on their way. These packers have to have complete flexibility.

We wanted to make it extremely clear that under no circumstances would such commodities be regulated. Those commodities will receive the benefit of the exemption which was applied to them in the original section 305.

Mr. RUSSELL. I assume the language was completely satisfactory to the seafood industry.

Mr. SMATHERS. The language was completely satisfactory to the seafood industry. The Senator from Massachusetts [Mr. KENNEDY] propounded a question to me with regard to that matter. We will make the RECORD a little more complete on some other seafood matters, as to which interest has been expressed

by the people from the New England States.

Mr. RUSSELL. Mr. President, I appreciate the comments of the Senator. I wish to express my gratification that the seafood industry in my section had the precaution to elect a Georgian who had his origin in Florida as the president of the industry. [Laughter.]

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

Mr. SMATHERS. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Is it the interpretation of the Senator from Florida that the bill attempts to exempt such frozen fisheries products as cod fish cakes, deviled crab, fish with sauce, fish dinners, and similar sea food products, even though they are shown as "not exempt" in ICC ruling No. 107?

Mr. SMATHERS. The answer to that question is in the affirmative, "Yes." It was our intention that the items be exempt. We could not write into the law, Mr. President, all these various items which have seafood in them. If we had, the bill would have had to be longer than some of the tax laws. As best we could we made references to these subjects in the report and in the colloquy on the floor. I am very happy to say "Yes," it is our understanding such products would be exempt under the provisions of the bill.

Mr. KENNEDY. In other words, seafoods which are preserved, such as canned or smoked fish, for example, are not exempt, but fresh or frozen seafoods which are perishable are exempt?

Mr. SMATHERS. The answer is "Yes." The factor which governs whether the article is exempt or not exempt is how perishable it is. If the seafood is canned, as is true with respect to some salmon and other fish of that nature, then the item does not need an exemption, because it can be held to await the service of regulated carriers. When the food is perishable or in a perishable state, obviously flexibility is needed.

Mr. KENNEDY. I thank the Senator. It will be good news in New England tonight when the word goes out about the codfish cakes.

Mr. SMATHERS. I am delighted the people of Massachusetts like those codfish cakes.

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

Mr. SMATHERS. I am happy to yield to the Senator from Vermont.

Mr. AIKEN. I should like to have a clarification of the provision on line 18, page 17:

Provided, That the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt."

I think the reference to "property shown therein as 'Not exempt'" is perfectly plain. However, as I understand, this language would freeze exemptions to commodities which are now exempt, with a few—particularly frozen foods and vegetables—frozen out of the exempt list. As I understand, the exempt list specifies, we will say, "peaches in 8-pound bags," or "peaches in baskets," or "peaches shipped this way," or "other fruits." These fruits are mentioned in connection with the container or the manner in which they are shipped. The language does not make reference to the fruits themselves.

Is it possible that in the future this language could be so interpreted as to take from the exempt list those fruits and vegetables, should someone desire to ship them in some other type of container, or in some manner which is not customary at the present time.

Mr. SMATHERS. The question was raised by certain fresh fruit and vegetable growers, as to whether or not, certain products not having been mentioned, they might at some future time be subjected to regulation which no one intended. We have written into the report some language which we believe makes it perfectly clear that all exemptions originally granted in the 1935 act with respect to basic products, agricultural products, including fish, and certain types of meat, will stand fast. Such products shall have the privilege of exemption, no matter what type of container they are shipped in. They will still maintain their exemption, so long as they maintain their original form.

Mr. AIKEN. I asked for clarification of the RECORD at this point because a question had been raised by the Department of Agriculture as to what interpretation might be placed on this wording later.

Mr. SMATHERS. I thank the Senator.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. CASE of New Jersey. I refer to the same section. In lines 6, 7, 8, and 9 on page 18, there is language which would exclude from the exempt category frozen fruits, frozen berries, or frozen vegetables now exempt from regulation.

Mr. SMATHERS. Yes.

Mr. CASE of New Jersey. This is a matter which has been brought to my attention as being of serious concern to important segments of the industry in New Jersey.

The statement has been made that this provision would be a serious deterrent to the efficiency and economical conduct of the operations of that industry. It does not involve much in the way of additional revenue to the transportation industry.

I am here expressing for my constituents—and I believe the same consideration applies to the constituents of a number of other Senators who are not now present; I believe the Senator from Texas [Mr. YARBOROUGH] and other Senators have an interest—their concern over the situation. I wonder if there is a possibility that the committee might consider an amendment—and one has been submitted by the Senator from Maryland [Mr. BEALL]—to strike that language and leave in, as exempt, frozen fruits, frozen berries, and frozen vegetables. I do not possess the same degree of eloquence as does the Senator from Massachusetts [Mr. KENNEDY], who has spoken in regard to the products of the sea. However, I have the same deep feeling in regard to the products of the soil included in this bill, and I think they should be treated in the same way, because the same conditions apply—the need for flexibility of transportation, speed, and so forth. It is not a matter of significance to the transportation industry, as I have been informally advised by several in the industry with whom I have talked.

Mr. SMATHERS. The Senator from New Jersey need not apologize for any lack of eloquence. I think his eloquence far exceeds the justification for his case in this particular instance.

Mr. CASE of New Jersey. That is a compliment of which I can accept only half.

Mr. SMATHERS. We have wrestled with every one of these problems. Everyone wanted something a little different. However, it was the conclusion of the subcommittee, after listening to the witnesses representing specific industries, not only from New Jersey and Maryland, but from other States that there should be a rollback. The Sea Crest concern is the largest packer and shipper of frozen fruits. We talked with its representatives many times, and listened to their suggestions. However, it was the conclusion of the subcommittee and the full committee that we needed a rollback with respect to frozen fruits and vegetables, so as to make them what we thought they were originally intended to be, namely, nonexempt.

The reason for that, very simply, is this: The very man who originates the request referred to by the able Senator from New Jersey undoubtedly has in his packing plant an operation in which he cans a part of the vegetables he receives. He freezes another part. He puts another part into frozen concentrates, and so forth. He has a big operation, in which the canned fruit, the concentrated juices, and things of that nature, must be carried by regulated transportation.

Up until about a year ago, even frozen fruits and vegetables were carried by regulated transportation; but by virtue of a court decision they were suddenly deregulated in that particular area. So we did not feel that it was fair to those who must compete with the producers of frozen fruit and vegetables, that is, those who are not in the canning business, and those in the concentrate business—who, in effect, are in the same business—to require them to ship by regulated transportation, whereas, the frozen vegetable dealers would be permitted to ship by unregulated transportation.

There was some objection to that conclusion on the part of certain interests. We adopted the program knowing that it was not the kind that would satisfy everyone, even though in this particular connection we had gone as far as we could to satisfy all interests.

So I asked the able Senator from New Jersey to withhold pressing that particular point. We have gone into the subject, and we do not think we are in a position to accept an amendment which would, in effect, give to the frozen fruit and vegetable dealers the exemption which they seek.

Mr. CASE of New Jersey. I am sure the able Senator and the other members of his subcommittee have given what, in their judgment, is adequate and fair consideration to the problem. However, it is a little difficult for one in my position to accept a result which continues the exemption for everyone else, adds exemptions for products of the sea, and leaves only my constituents and the constituents of Senators from a few other States out in the cold.

Mr. SMATHERS. I would not want the Senator to base his argument on that point. The Senator represents the people of New Jersey, the great State in which I was born.

Mr. CASE of New Jersey. We are very proud of that fact.

Mr. SMATHERS. I was greatly concerned about the exemption for products of the sea. In addition, there is also a great canning industry in the Senator's State; and canners do not want what the Senator is asking for. Some of the concentrate dealers do not seek that for which the Senator is asking. They make the very fair argument, "So long as we are basically competitors, why should we be put on one standard of competition, while others are put on another standard of competition?"

In effect, this provision merely places all those in the fresh fruit and vegetable business—the products being once removed from their original State—on the same platform, on which they can compete.

Mr. CASE of New Jersey. I do not wish to take the time of the Senator unduly, but it seems very clear to me that it is impossible to avoid a comparison between the treatment which is given—I think properly—to seafood and the like, as well as to poultry products from Arkansas and other States, and the treatment which is not given to frozen fruits, frozen berries, and frozen vegetables. The difference between canned and permanently packed fruits and vegetables is the same as the difference between canned and permanently packed seafood and frozen food. If one is perishable, the other is perishable; and the need for rapid and flexible transportation applies in both cases.

Mr. SMATHERS. The able Senator's State is not alone. I would not want him to think that this bill represents any discrimination against him.

Mr. CASE of New Jersey. I do not think it was so intended.

Mr. SMATHERS. We in Florida have this problem to as great an extent as do the people of New Jersey, and we can thoroughly understand it. However, the subcommittee and the full committee, after wrestling with this problem for many weeks, decided that all these people should be placed on the same basis, so that they can compete from the same basis.

Mr. CASE of New Jersey. I thank the Senator for indulging me during this colloquy. I cannot honestly say that I have been persuaded—not that there is any intentional or vicious attack on the industry, but, rather, that there is a mistake being made in its treatment—and I should like to reserve for a little while longer the question of whether the amendment should be pressed.

Mr. SMATHERS. I thank the Senator.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). Is there objection to the unanimous-consent request of the Senator from Florida, that the committee amendments be agreed to en bloc? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 7, after line 11, to strike out:

"(3) In a proceeding involving competition with another mode of transportation, the Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

And, in lieu thereof, to insert:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

On page 13, line 11, after the word "Treasury", to insert "and under the joint control of the carrier and the Commission"; in line 18, after the word "section", to insert "and only after the expenditure for the purposes established in paragraph (1) of this section of the principal amount on which such earnings accrued"; in line 22, after the word "deposit", to insert "of such earnings"; on page 14, line 6, after the word "the", where it appears the first time, to strike out "filing of the income tax return of such common carrier for such" and insert "fifteenth day of the third month following the end of such common carrier's"; after line 14, to strike out:

"(4) In computing the gross income under section 61 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this act there shall be included all amounts withdrawn during the taxable year from the said construction reserve fund for purposes other than those specified in paragraph (1) of this section: *Provided*, That any amount deposited in the reserve fund which shall be permitted to remain in such fund for 5 years after having been deposited therein shall be considered to have been so withdrawn from such fund on the first day following the expiration of such 5-year period. Such amounts shall be subject to tax at the rate or rates and shall be subject to the provisions of the Internal Revenue Code of 1954 as amended, applicable to the year in which such amounts were deducted under paragraph (3) of this section (including the interest provisions of such Code as amended, as if a tax deficiency for such year, whether or not a tax deficiency would exist for such year otherwise). For the purpose of this section, any amounts expended or withdrawn from the reserve fund shall be applied against amounts deposited therein in order of the deposits."

And, in lieu thereof, to insert:

"(4) In computing the gross income under section 61 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this act there shall be included all principal amounts—

"(a) withdrawn during the taxable year from the said construction reserve fund for purposes other than those specified in paragraph (1) of this section, and

"(b) deposited in the reserve fund which shall be permitted to remain in such fund for 5 years after having been deposited therein shall be considered to have been so withdrawn from such fund on the first day following the expiration of such 5-year period.

All such principal amounts shall be subject to tax at the rate or rates and shall be subject to the provisions of the Internal Revenue Code of 1954, as amended, applicable to the taxable year in which such amounts were deducted in computing taxable income pursuant to paragraph (3) of this section including the interest under section 6601 of such code as amended, as if a tax deficiency had existed for the year for which the deduction was taken, whether or not a tax deficiency would otherwise exist for such year. For the purpose of this section, any principal amounts expended or withdrawn from the reserve fund shall be applied against principal amounts deposited therein in order of the deposits."

On page 16, line 16, after the word "tax", to strike out "deficiency" and insert "liability", and in the same line, after the word "thereon", to insert "as computed"; on page 17, line 1, after the word "by", to strike out "that portion of the deposits in the" and insert "the amount from the construction reserve"; in line 22, after the word "include", to strike out "only those commodities" and insert "property"; on page 18, line 1, after the word "Commission", to insert "but shall not include property shown therein as 'Not exempt' "; in line 8, after the word "vegetables", to strike out the comma and "or property imported from any foreign country;" and insert "and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh;"; on page 19, line 6, after the word "territory", to strike out "as a common or contract carrier" and insert "as a common, contract, or exempt carrier"; and on page 20, line 18, after the word "is", to strike out "solely within the scope" and insert "incidental to."

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I call up my amendment to section 4 of the bill.

The LEGISLATIVE CLERK. On page 6, line 13, beginning with the word "that", it is proposed to strike out all language down to and including the word "otherwise" on line 17 and insert the following: "considering the public convenience and necessity and the losses incurred by the carrier or carriers, that the public interest requires the operation or service of such train, ferry, station, depot, or other facility, and it will not".

Mr. JAVITS. Mr. President, the purpose of my amendment is to remove from the bill the present definition of a situation in which a railroad may discontinue a branch line or commuter line—and that is what the amendment refers to—where such operation results in a net loss, and to substitute for that sole criterion now contained in the bill a more general criterion: "Considering the public convenience and necessity and the losses incurred by the carrier or carriers." In other words I would set

up two specific standards. First, loss; second, public convenience and necessity.

My point, Mr. President, is that as the bill is written the public convenience and necessity consideration does not control even as a part of the determination of the Commission.

There is no question about the plight of the railroads. I am entirely sympathetic with the work which has been done by the committee, and the committee has served remarkably well in terms of the welfare of the country in trying to produce some solutions to the situation which confronts the railroads.

There is no question also about the fact that one of the problems of the railroads is the loss operation of commuter services. Of course I come from a part of the country, New York State, where we have a number of large cities, especially New York City, where commuters are a very important segment of our population, and the railroad service they get is a paramount question of public interest.

I might say, so that my colleagues will understand the significance of this matter, that my amendment applies not only to New York City and other great cities of my State, but it applies also to any other great city in the country, whether it be Atlanta or Philadelphia or Detroit or San Francisco, or any other large city. To those cities this is a very important matter.

I say it is vital for this reason. I know very well that the pending bill will be acted on by the Senate and will then have to go to the other House. Then it will have to go to conference, and the differences will have to be settled in conference. However, unless we flag the situation at this stage, it may never get done, or done with the impact that is required under the circumstances.

My objection to the provision as written by the committee is that it moves too far too fast. I invite the attention of the Senate to the words themselves in section 4 of the bill. A carrier is permitted to terminate or discontinue a service, and the Interstate Commerce Commission is given authority to require the railroad to restore service or to continue it, and there is a provision for the temporary stay of the railroad's determination to discontinue a service.

The question then becomes what criterion the Commission shall use in respect to an order to require the continuance of service. The criterion is contained at page 6 of the bill, at lines 15 to 18. I read them:

> That such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce.

I respectfully submit to my colleagues in the Senate that the only criterion which is therein set forth is net loss, because the question of the burden on interstate and foreign commerce has nothing to do with a particular operation; if it is a net loss, it does not matter whether or not it is construed as a burden on either interstate or foreign commerce. Therefore, if the Commission could find that public convenience and necessity required nonetheless, despite the fact of the net loss, operation of the particular commuter section which is sought to be discontinued, it is my view, as the bill is written, that it would have no legal power to require it. The discontinuance would be left to the entire discretion of the individual carrier.

It seems to me this is an objective which it is not wise, in the public interest, to legislate into law quite so flatly and absolutely; nor is it an objective which ought to be sought by the pending bill, because it is inconsistent with the general context of other authority which we have given to the Interstate Commerce Commission with reference to abandonment.

Why do I say that the bill tries to move too far too fast? It is because the question of what constitutes net loss will have to be determined by some one somewhere as a matter of law. It is my view, as the bill is now written, that question of law will be decided in terms of a net loss on the particular section of a railroad which is sought to be discontinued, rather than the net loss on the total operations of the carrier of which that section of the road is a part.

Should that happen, I am advised by the Public Service Commission of the State of New York, the carriers could discontinue all passenger service in the whole east, because almost all passenger service in the east operates at a loss. It is a fact that we do not expect anyone to operate at a loss. However, the question I am raising is one not with respect to a situation where there is an overall loss, but where there is a loss upon a particular section of a railroad. As the bill is written, if a loss is shown on a particular section of a railroad, that railroad can discontinue that section of the railroad, and the Interstate Commerce Commission cannot stop it.

I say that is writing a law far more strictly than we have a right to do, or have any business doing, in fairness to millions of people. The Interstate Commerce Commission does not have this power now. It is now in the hands of State commissions, and the State commissions have very different standards and criteria which they employ. For example, let me cite what applies in my State of New York. I quote from article 3 of the Public Service Law, section 51 (b), which sets up this criterion:

> The commission shall have power * * * to determine whether the existing service provided by any such train is reasonably required to provide adequate transportation service. Upon the institution of such an investigation, the commission is authorized by order to require the railroad corporation to continue existing service, pending the holding of public hearings and decision thereon—

And so forth. The bill endeavors to legislate a criterion which is very much restricted and which, if adopted, especially in view of the factual situation with respect to passenger service generally, would be a very dangerous exercise of our power. We would be absolutely binding the Interstate Commerce Commission.

I call attention to the fact that the Interstate Commerce Commission, which today has the right to deal with abandonment of all or any part of a line of a railroad, according to title 49 of the United States Code, section 1, paragraph 18, has this criterion, that "the present or future public convenience and necessity permit of such abandonment."

Let me repeat that, because I think it is very important in this debate, "the present or future public convenience and necessity permit of such abandonment."

That is a very different criterion from the sole criterion of net loss. The fact is that in most of these cases the Interstate Commerce Commission does not have the power today to allow discontinuance. It does have the power to increase rates, where intrastate rates represent an unjust discrimination or burden on interstate commerce.

The committee report itself says, at pages 10 and 11, that the mere increase of rates is not enough; first, because rates may go out of sight; and if they are passed on, patronage will so diminish that the operation will become a nonviable economic operation; second, merely permitting a rate increase is not practical; that some authority, other than the authority in the State, has to have the right to allow a section of a railroad to be discontinued.

I think we who come from the cities and are concerned with the probable discontinuances of sections of road are going a long way in recognition of the national urgency of the city, by agreeing to give to the Interstate Commerce Commission the power to bring about discontinuance, a power which it does not have now.

I am perfectly willing to go that distance, although I ask unanimous consent to have printed at this point in the RECORD a telegram from the Public Service Commission of my State opposing that very thing.

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

ALBANY, N. Y., *June 11, 1958.*

SIDNEY KELLY, Jr.,
Administrative Assistant to Senator Javits, Senate Office Building, Washington, D. C.:

The New York Public Service Commission strongly opposes enactment of sections 3 and 4 of S. 3778 and H. R. 12488—the proposed Transportation Act of 1958—in their present form.

Section 3 would confer upon the Interstate Commerce Commission the power to regulate rates, fares, and charges for all intrastate transportation of persons or property by rail. In terms which would be tantamount to complete Federal preemption of the subject. Section 4 would permit any rail carrier to effect summarily change or discontinuance of any passenger or freight services or facilities without reference to or compliance with State laws, authority or public need. The stated conditions under with the Interstate Commerce Commission might restrain such are completely illusory. Enactment of this section might well, in effect, occasion the termination of virtually all passenger service in the East.

Local rail services and fares are of vital concern to thousands of New York State citizens. Substitution of the type of Federal control which these sections contemplate for the present local regulation of these services would be a distinct disservice to the commuting public and might preclude further local efforts, of which the Long Island Railroad rehabilitation is illustrative, to meet

the passenger deficit and other pressing railroad problems.

The Commission urgently solicits your assistance in preventing the enactment of these two provisions of the bill. The same request has been made of all members of the Senate and House Committees on Interstate and Foreign Commerce and of each Congressional Representative from this State.

Sincerely,

BENJAMIN F. FEINBERG,
Chairman.

Mr. JAVITS. However, if we are going to go some distance toward helping in the national dilemma with respect to the railroads, we should not go to such an extent as to destroy ourselves in the big cities. I respectfully submit that by making the sole criterion "net loss" for the discontinuance of commuter roads, no less are we engaging in a destructive action in terms of the big cities. That is something which we have no right to do.

It is argued that no one should be required to carry on an operation at a loss. I join in that view, but I point out that in the case of a public utility it is almost Hornbook law that a public utility is the concern of everyone, and that the only time a public utility can be allowed to discontinue a branch of service upon which it is suffering a loss is if the operation seriously prejudices the whole financial picture of the utility. If we were to allow every public utility to discontinue service because it suffered a loss, we could not operate on a public utility basis, because many aspects of service would necessarily be discontinued. Yet if we allow the bill to stand as it is, that is exactly what we will be doing. I have very grave doubt that that is the fundamental intention of the Senate.

What we shall be doing, if we act in this drastic way, is to move too far, too fast. We are trying to help the railroads solve their commuter problems; but we shall be trying to help them, if we pass the bill as it is, by setting a standard which puts the public absolutely at the mercy of any railroad which can show a loss on any particular section of its line. That, I respectfully submit, is not and should not be our purpose. Certainly it is not in the national interest.

I do not believe that the adoption of the amendment will in any way seriously prejudice the bill. The amendment gives jurisdiction to the Interstate Commerce Commission, jurisdiction which it lacks under present law. It provides the Commission with a more flexible criterion than is provided in the bill, but a criterion, nevertheless, which gives the Commission power to save any road from serious, drastic financial injury because of the operation of an unprofitable commuter service.

I think the amendment gives the Commission the kind of authority which it ought to have; at the same time, it does not vest the Commission with life-and-death authority over commuter service based on a narrow criterion which is not based on the context of general public utility law, and is not found in other phases of Interstate Commerce Commission authority or regulation not justified by the public interest.

I refer to page 22 of the committee report, in which there is a complaint, as follows:

Without reciting individual cases the subcommittee is satisfied that State regulatory bodies all too often have been excessively conservative and unduly repressive in requiring the maintenance of uneconomic and unnecessary services and facilities. * * * In many such cases, State regulatory commissions have shown a definite lack of appreciation for the serious impact on a railroad's financial condition resulting from prolonged loss-producing operations.

I have read those words because I think they are all important in this discussion—"on a railroad's financial condition."

Those are the words, however, in the bill as presented to us.

"On a railroad's financial condition" is the basis which I am willing to accept; but on a net loss basis for a particular operation sought to be discontinued is not a basis which I or the people or the Senate ought to accept.

This is not a light matter. We are dealing with one of the fundamental and very basic problems involved in the railroading business. I am more than happy that we are now acting in the matter. I think the time has long since passed when we could do anything to meet the situation fairly and squarely. But I respectfully submit to my colleagues that meeting it fairly and squarely does not mean that we should go to such extremes under cover of doing something which is the right thing to do at this particular time as to give ourselves great cause for grief if we pass the bill.

Although, I repeat, we may be able to do something about this particular provision in conference, when the bill goes to the other body, still it is our bound and duty, when we see something wrong with a piece of proposed legislation, to put it in proper shape.

I submit to the Senator from Florida [Mr. SMATHERS], to whom I have appealed in the hope that he might be able to take this amendment to conference, that I think it truly perfects section 4, and may very well, if the motion to strike out the whole of section 4 is to be pressed, as I understand it is, result in saving this particular section which is of tremendous advantage to the railroad industry in terms of its really fundamental problems.

I had a colloquy with the Senator from Ohio [Mr. BRICKER], who is a distinguished lawyer, about this matter a while ago. I received the distinct impression from the colloquy that the Interstate Commerce Commission will not exercise authority because we are going into a very deep study of the whole transportation system, which was voted by the Rules Committee this morning. It is my understanding that he feels that the Commission is going to wait on that study before they act. But I do not see how we, as lawyers, can be satisfied with that.

Under the criterion which is set forth in the bill, if I were a lawyer representing a railroad, I would act as follows:

I would give notice of discontinuance and go before the Interstate Commerce Commission. I would accept even an adverse decision, if the Commission wanted to make it. I would then go to the court to have the decision reversed. I am confident that I could reverse the Commission upon this language, on the ground that the Congressional purpose as specified in the express words of the law, were that any railroad showing a net loss for the operation of a particular section of the road should have the right to discontinue that section. No court will overturn a Congressional purpose so clearly expressed, unless we express what is really our purpose accurately, and that is the aim of my amendment.

In summary, therefore, as the matter now stands, the bill is completely vulnerable to arbitrary construction; it is completely vulnerable to arbitrary use by the railroads. I do not believe that is in the public interest.

If the bill is amended in the way I have suggested in the amendment I have submitted, it will result in giving to the Interstate Commerce Commission a balanced authority to deal with the situation, both in respect to losses and in respect to the public in the way of convenience and necessity.

My amendment is consistent with all the other regulatory powers given the Interstate Commerce Commission in respect to the abandonment of sections of railroads.

For these reasons, I hope my amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

Mr. SMATHERS. Mr. President, I hope the Senate will not support the amendment offered by the Senator from New York. I am in sympathy with the problem which the Senator from New York recognizes and is trying to meet by his amendment. Commuter trains in metropolitan areas are obviously operating at a great loss. Nevertheless, they render great service to many people. However, the commuter problem is a problem which, it was the opinion of the committee, should be referred to our study committee, because it is essentially a problem within the States; it is not an interstate problem.

If we should adopt the language that the able Senator from New York recommends, all it would mean would be that for the first time in history a Government agency would be saying to the owners of private business, "You will have to operate your business whether you can make a profit with it or not. You will have to run the business whether you take all the stockholders' money, or whether you have to take up your tracks or cars and sell them for scrap. Nevertheless, you must run the business."

I do not think we have come to such a point in our history. I do not think Senators would want to see that happen.

If ours were a nationalistic form of government, and if it were a fact that the system were a complete monopolistic operation, then I think the argument might have some persuasiveness. But the fact is that on these particular op-

erations, it is the privately owned railroads who are losing money.

The testimony of witness after witness conclusively shows, over and over again, that very few people are patronizing the trains; yet the railroads cannot discontinue their operation. Because they have to continue to run the trains, we find that the class I railroads have sustained losses of $726 million.

In view of the importance of the railroads to the country, if we wish them to continue in operation, certainly we should not require them to continue operations of this type, and certainly we should not have the Government require them to continue their service, regardless of whether they make a profit.

So we recognize the existence of the problem. We also recognize that the study subcommittee which has been appointed will, within 18 months, make recommendations regarding what should be done about the commuter problem.

Mr. JAVITS. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). Does the Senator from Florida yield to the Senator from New York?

Mr. SMATHERS. I yield.

Mr. JAVITS. From the argument of the Senator from Florida in opposition, do I correctly understand that he construes—and that the subcommittee construes, if the Senator from Florida is able to say that—that the words "net loss," as they appear on page 6 of the bill, in line 16, refer to a railroad's financial condition—and I am now using the words of the committee report—rather than to the net loss on the particular operation which is sought to be discontinued?

Mr. SMATHERS. We construe the words "net loss" to mean the loss from the particular operation the railroad is rendering.

But to go one step further, not only do we find there is a net loss on the basis of the particular specifics the Senator from New York has in mind, which relate to the general proposition, and not only do we find there is a net loss with respect to some of the specific trips the Senator from New York has in mind, but we find there is also a net loss in many instances with respect to the entire company which is operating the commuter service.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMATHERS. 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 agreeing to the amendment submitted by the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, on this question, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were not ordered.

Mr. JAVITS. Mr. President, at this time I shall speak for only 1 additional minute; I shall do so for the benefit of Senators who were not present during the previous debate.

I believe it has now been made clear, by means of the response which has been made by the chairman of the subcommittee to my question, that the definition of the words "net loss", as they appear on page 6 of the bill, in line 16, is that they relate to the net loss on the particular operation or the particular section of a line which a carrier is seeking to discontinue.

Therefore, I submit that the Interstate Commerce Commission is given no flexibility whatsoever. The Interstate Commerce Commission is not subject to reversal in the courts if it fails as a matter of law to require the continued operation of a line as to which there is proof of a net loss. I say that is contrary to fundamental public policy and the public interest in areas which are served by lines which may sustain a net loss; and I also say that what is sought to be done by the bill is far more than is necessary in fairness to the railroads. Certainly it is proper to look to the overall financial condition of the railroads, inasmuch as they are public utilities, rather than to a loss on a particular operation.

I believe this issue has been boiled down and pinpointed by the Senator from Florida to such an extent that it is clear that we would be providing relief and authority which we would have no business to provide in the national interest and in the interest of millions of the people of the country. If we provided for such relief and authority, I maintain that we would regret it, because it would not be reasonable to do so.

To give the Interstate Commerce Commission authority it does not have at the present time is in itself a mark of progress, because in that way we shall remove these decisions from the State or local scene, by providing that they shall be made on the national scene, where we have a right to assume there will be greater objectivity.

But if we wish to have greater objectivity, let us permit the Interstate Commerce Commission to have the power to exercise that responsibility by means of the criteria which are stated.

Therefore, I urge that my amendment, with these criteria be adopted, that is, considering the need for financial assistance, and also public convenience and necessity. Given the two criteria, the ICC will have an opportunity to make just decisions, in the public interest, and the railroads will have justice done to them and be given relief in their very acute situation.

Mr. President, I ask for a division on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

On a division, the amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. RUSSELL. Mr. President, I send an amendment to the desk, which I ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Georgia will be stated.

The LEGISLATIVE CLERK. It is proposed to strike out section 4, beginning on line 21, page 4, and to renumber the remaining sections accordingly.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, it is proposed to strike out beginning with line 21 on page 4 and ending with line 8 on page 7, as follows:

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"SEC. 13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign, and intrastate commerce, or any of them, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot or other facility directly affected thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train, ferry, station, depot or other facility to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train, ferry, station, depot or other facility, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless

notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall not longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers."

Mr. RUSSELL. Mr. President, I think I am as keenly alive as to the importance of the railroad industry to our national economy and to the requirements of national defense as is any other Senator. I realize this industry is of vital importance to our civilization. I desire to assist the railroads in their difficulties in any way that I properly can, and am willing to support any reasonable proposition whereby the Federal Government may properly extend assistance to the railroad industry.

I do not, however, believe that the provisions of the pending bill, as found in section 4, are necessary to the salvation of the railroad industry. I do know that the provisions of section 4 of the bill are a tremendous blow to our dual form of Government and the rights of the several States. The section is a blow to local self-government and to the public interest of the smaller communities of the United States. This section is a direct and drastic blow to the authority of the State regulatory bodies, which are created, in most instances, by the constitutions of the several States.

Section 4 of the bill moves the local functions of government from the State capitals to the banks of the Potomac River, and is a far stride forward in the move to further centralize all the powers of government in a strong central government here in Washington.

This whole provision, as a casual reading of it will reveal, is in derogation of local self-government. It is an arrogant and contemptuous disregard of the very existence of local institutions of government that are created by the States to serve the people of the several States.

I hope every Senator who votes on the amendment will have taken care to read the provisions of section 4 of the bill. I desire to read from them briefly:

A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign, and intrastate commerce, or any of them, or of the operation or service of any station, depot, or other facility where passengers or property are received for transportation—

I eliminate some words—

are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train, ferry, station, depot, or other facility is operated, and post in every station, depot, or other facility directly affected thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission—

That is the Interstate Commerce Commission—

pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding.

I have never before seen a section in any bill presented to the Senate that more specifically proposes to wipe out sections of the constitutions of the States, or strike down State laws, including State regulatory bodies, and go into the courts of the States and take jurisdiction of matters pending there under State law and bring them here to Washington. I cannot conceive of any legislative proposal that makes a more forthright assault upon the right of local self-government and the rights of States than is conveyed by this section of the bill.

I repeat, officials in the Federal Government would not even have to write a letter to a governor or to a State commission, but could act in contemptuous disregard of the very existence of a State commission. They would be able to take a matter away from the control of that local government, and bring it here to Washington, without even writing a letter to tell the State officials about it, if they wanted to, under this section of the bill.

State regulatory bodies are not perfect in all instances. I know that when application is made in my own State for the discontinuance of a railroad station in a small town, it may take a little time for the lawyers for the railroads to act, and it may take a little trouble, but they usually succeed in closing the station. But under this provision the people in small towns would even be denied their day in court. Take a town having 500 or 600 people who depend on a railroad for the delivery of fertilizer or farm machinery or other commodities essential to their way of life. How are they going to get the money to hire a lawyer to go all the way to Washington and contend with the railroads before the Interstate Commerce Commission? At least, in their own State, they can get in their cars and ride to the State capital. In almost any State they can do that in half a day. Even in the great State of Texas people can ride to the capital in half a day, or at least in a day. A citizen can have his day in court before the State commission and present whatever right he is claiming. He could not do that if we transferred all of the proceedings to Washington.

It would not only be an invasion of the rights of the States, Mr. President—it would not only be an assault on our dual form of Government—it would not only be in derogation of the whole concept of local self-government, but it would be a very grievous wrong perpetrated upon the people of these smaller communities, by refusing to permit them their day in court.

I know, Mr. President, we have gone a long way toward centralization of Government, but we should not completely reverse the concept we have heretofore held that the local public service bodies shall regulate intrastate commerce and that they shall have the right to say when a local station can or cannot be discontinued.

I have never seen anything that goes further than this proposal, which would simply wipe out constitutions in the States, wipe out laws of the States, and tell the local commissions, without even the writing of a letter or paying the courtesy of notifying them, what is to be done. That would be the result of bringing these matters to Washington for a determination by the Interstate Commerce Commission.

I do not think such a provision is necessary to the salvation of the railroads of this Nation, Mr. President. I can understand why the railroads might prefer to have all of these matters handled in the Interstate Commerce Commission, but in the long run the railroads usually have their way before most of the local State regulatory bodies, if they have a good and sufficient case.

This provision will almost have the effect of denying the people of the smaller communities due process of law. It would require those people to come to Washington in the first instance to complain about the closing of a station on an intrastate railroad line.

As I say, that would be going very, very far. Mr. President, I hope the Senate will at least take notice of the significant departure and change from existing procedure by having a record vote on this issue; and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, like any reasonably junior Senator, I feel some compunction and a great deal of hesitation about ever standing up to contest with or debate with one who is probably the Senate's greatest parliamentarian and undoubtedly one of the finest, if not the finest, constitutional lawyers in this body; a man who, so far as I know, has always been consistent in his advocacy of States rights; and a man for whom, I must say, I have personally the highest respect and warmest affection. Naturally it grieves me to be competing with him on this occasion.

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

Mr. SMATHERS. I yield.

Mr. RUSSELL. I wish to sincerely thank the Senator for his undeserved tribute. I have been around the Senate long enough to know such tribute usually precedes a good stout knock upon the head. His complimentary statement will enable me to bear that with equanimity.

I can assure the Senator that one of my chief regrets about the situation is that I find myself at variance with the distinguished Senator with respect to a provision of a bill identified with his name.

Mr. SMATHERS. I thank the able Senator. Of course, the Senator from Georgia is indeed flattering to me to even suggest I could knock him on the head, or that if I could I would. I could not; certainly if I could I would not.

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

Mr. SMATHERS. I am happy to yield to the able Senator from North Dakota.

Mr. YOUNG. I think the bill now under consideration by the Senate in most respects is a very good bill. Most of the provisions of the bill are necessary to help the railroads. I plan to support the bill, but I want to associate myself with the remarks made by the Senator for Georgia [Mr. RUSSELL], for I believe the provision to which the Senator refers is objectionable, and that matter could well wait for consideration at some future time.

Mr. SMATHERS. I thank the able Senator. I hurriedly state to the rest of the Senators, before they commit themselves I hope they will at least listen to the other side for just a second. After all, as is always the case, there are two sides.

Perhaps the committee was in error. We do not profess for a moment to have all knowledge. We do not say we are the only ones who can draft any legislation. Certainly that is not the case. However, we have tried to draft good legislation.

I should like also to associate myself with the remarks of the able Senator about his high respect for States' rights. I think it has been clear in the short time I have served in the Senate that I have endeavored to hold up the banner of the States rights philosophy wherever and whenever I could possibly do so. However, I think a couple of points ought to be made.

We should all remember that the Constitution of the United States, after all, is supreme. Despite the fact that we had a so-called war between the States, I think the people of the South recognize that the Constitution is supreme, and the Constitution has only one thing to say with respect to interstate commerce, which is that the Federal Government has the absolute authority over interstate commerce.

Then we come to consideration of "What do we mean by 'interstate commerce'?" Or "What is 'interstate commerce,' over which the Federal Government has authority?"

As we study the matter we find a long series of cases in which the courts have construed that whenever a certain amount of intrastate commerce has an adverse effect on interstate commerce the Federal Government has jurisdiction over even the intrastate commerce.

We go back to 1926, to study the Colorado case. We find that this very same question arose, and the Supreme Court of the United States said, "We are going to assist in the abandoning of a certain route solely within the boundaries of the State, because there is an adverse effect on interstate commerce." The Interstate Commerce Commission was given the right, which it has at this moment and which it has had for 32 years, to completely bring about an abandonment of an entire railroad, for that matter, within a State, and the facilities within the State. Why was that done? Because there was a bearing on interstate commerce, that was the ruling in the Colorado case.

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

Mr. SMATHERS. I am happy to yield.

Mr. RUSSELL. Why is it necessary to write the language in this bill, if the authority has already been established in that case?

Mr. SMATHERS. I will get to that point. That seemed to me to be a question about which I was concerned at the time of consideration. We shall come to that question.

That is the law which is already on the books. It is not something which the Senator from Kansas [Mr. SCHOEPPEL], the Senator from Connecticut [Mr. PURTELL], the Senator from Ohio [Mr. LAUSCHE], the junior Senator from Florida, or anybody else tried to write. That is the law, which has been recognized.

We now come to the question of whether if we have a whole, we have a part of the whole. We find that if the Federal Government, represented by the Interstate Commerce Commission, has the right to bring about an abandonment of an intrastate line and even the facilities on that intrastate line, because of a bearing on interstate commerce, then it would be more intelligent, it would be more wise, and it would be better, insofar as the preserving of the line in the State is concerned, to give the Commission a lesser right to say, "You can discontinue a train over that particular route." If the Commission is able to discontinue the train it is possible the railroad will not have to ask for a complete abandonment of the whole line.

That is all we have attempted to do. We have attempted to fill in a little gap to say, "If you have authority to discontinue the train on this little line, perhaps you will not have to use the authority which you already have to bring about a total abandonment."

That is what we have done. We are charged with having violated States rights. We respectfully submit we do not believe we have. Certainly we did not intend to bring about a great violation of anybody's States rights.

That is the legal point. The practical point is this: We find that last year the class I railroads in America lost $726 million, and they lost practically all of it from the uneconomic operation of certain trains. In the present situation the railroad management cannot discontinue a train, even though it is an interstate train—although we think it has the right to do so; but we have not attempted to argue that point—unless the discontinuance is approved by a local public utilities commission.

Someone comes forward with the argument, "All the State public utilities commissions are doing a good job. They grant 87 percent of the applications which are made for discontinuance of an uneconomical operation." But those figures overlook 2 or 3 things.

First, the carriers have lost many millions of dollars; obviously they are still compelled to continue a great many uneconomical operations, which will mean a loss of $726 million this year. The loss last year was $730 million.

The eastern railroads are in such condition that their presidents tell us that they are about to go under.

What happens in the case of the State public utilities commissions? We do not wish to treat them unkindly. We invited public utilities commissioners to attend our hearings. We asked all of them to come and testify. How many do Senators suppose came? There were two who came from the State of Florida, as a personal favor to me. Another who came was the national chairman, from the State of Iowa. That is all we heard from. That is how much interested they were in the preservation of States rights. They have become more interested since. I will tell Senators why.

What happens with respect to trains which the railroads wish to discontinue?

The Public Utilities Commission in Maryland does a good job. The Public Utilities Commission in Delaware does a good job. The same can be said for the Public Utilities Commissions of New York and Pennsylvania. Their record is pretty good.

Using the Pennsylvania Railroad as an illustration, it says, "We operate five or more trains between New York and Washington. We want to abandon some of those trains, but we must have approval from the public utilities commissions."

What happens? The Public Utilities Commission of New York will approve the discontinuance of trains numbered 1, 6, and 12. The Public Utilities Commission of Pennsylvania will approve the discontinuance of trains numbered 2, 9, and 13. The Public Utilities Commission of Delaware will approve the discontinuance of trains numbered 16, 19, and 8. They are never the same trains; with the result that, while the record of the public utilities commissions is pretty good with respect to the number of applications they have granted, those trains are still operating. Why? Because the railroad cannot get the public utilities commissions to agree on the same trains. I do not suggest that there is any collusion, but I do suggest that it is coincidental. That is what happens in many instances, with the result that the same trains continue to operate.

Many witnesses appeared before us. One, in particular, testified that his railroad operated a train from New York to somewhere in New England. One afternoon the train broke down. The engine would not run. A crew was sent out to try to repair the engine so that the passengers could be carried to their destination. The crew could not repair it. This witness said, "Do you know what we did? We had a train with six cars in it. We hired one taxicab and took everyone home."

One of the witnesses said, "We would be willing to buy cars for the passengers if we could have permission to discontinue the operation of uneconomic trains. The uneconomic operation is taking money away from us." No wonder they are broke. That is the problem we are up against.

We talk about States rights. We certainly should protect States rights. Legally there is no real basis for anyone concluding that this bill represents a great invasion of States rights; so far as practicalities are concerned, it is clear

that some relief must be granted to the railroads in this particular area if we believe, first, that they are in trouble—and our subcommittee and the full committee so believe—and, second, they being in trouble, if we believe we should try to help them.

So I hope the Senate, despite the very persuasive argument of my dear friend, whom I respect as much as any other man I know, will nevertheless follow the committee's position on this particular subject and reject the amendment.

Mr. RUSSELL. Mr. President, I am far from an expert in the field of transportation. It is one of the most highly complex subjects on which we legislate. I should say that tax legislation, rate structures, and transportation questions are never completely within the grasp of any one person.

I think the argument of the distinguished Senator from Florida is rather tenuous from the standpoint of plain common sense. He says that because there have been some difficulties with certain interstate trains, it is necessary for the Congress to legislate to give the Interstate Commerce Commission power over intrastate trains. It is suggested that such power be given not only to the Interstate Commerce Commission, but in fact given to the railroads, unless the Commission takes affirmative action to set aside or put an estoppel upon what the railroads seek to do.

I freely confess that the Congress has the right to legislate to its heart's content in the field of interstate commerce. If the bill provided only that the Interstate Commerce Commission should have control over trains which operate in two or more States, I would not raise my voice against such a provision in the bill.

Mr. SMATHERS. Mr. President, will the Senator yield at that point?

Mr. RUSSELL. I yield.

Mr. SMATHERS. I dislike very much to interrupt. In recognition of the persuasiveness and power of the distinguished Senator from Georgia, I have checked with the members of our subcommittee and some other members of the full committee, and I can say to the Senator that we would be perfectly agreeable, if the Senator from Georgia would accept the amendment, to offer an amendment which would state specifically that, with respect to any train which operates within a State, whose origin and destination are within the State—that is, any train with intrastate characteristics—together with the facilities used by the train, shall be completely under the authority of the State public utilities commission, and shall not be in any way affected by the language of this particular proposal, to which the Senator from Georgia objects.

Mr. RUSSELL. That would go a long way toward removing my objection. I do not like a Congressional declaration that all interstate trains are a burden on interstate commerce, but certainly the Congress has the constitutional right so to declare, if we wish to do so.

However, I do not believe that we have the right to give a railroad company authority to abandon a train which operates wholly intrastate.

What would be the effect of your proposal on the stations? Would it deny the right of the State public service commission to pass upon the closing of stations, depots, or other facilities—however the provision is spelled out in the bill—which are served by intrastate services?

Mr. SMATHERS. This amendment would provide that any train having its origin and destination in the same State, together with the facilities—specifically the terminals—serving that particular train, should be completely under the jurisdiction of the State regulatory body.

Mr. RUSSELL. The language applies to the train.

Mr. SMATHERS. It applies also to the facilities which serve the train.

Mr. RUSSELL. Facilities which are wholly intrastate in character?

Mr. SMATHERS. That is correct.

Mr. RUSSELL. I shall not debate the question further if we can obtain recognition of the right of the States to control matters wholly within their borders. I do not believe it is necessary that the railroads have the right to discontinue trains. I yield to the Interstate Commerce Commission in that field. When it comes to closing down a station in a small town which is served by a local freight train, I do not believe it is necessary to bring that question to Washington for decision. I am delighted that the Senator from Florida is willing to leave that question to the State regulatory bodies.

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

Mr. RUSSELL. I yield.

Mr. KUCHEL. I should like to ask a question of either the Senator from Georgia or the Senator from Florida with respect to some technical and legal points. For example, where there are two contiguous States, and a railroad train originating in one of them, State A, makes several stops in State A, and then crosses into State B, where it makes several stops also, what is the understanding of the Senator from Georgia with respect to the jurisdiction over that train by either the State utility commissions of State A and State B, on the one hand, and of the Interstate Commerce Commission on the other hand?

Mr. RUSSELL. I would say that, as to the train, jurisdiction would be vested in the Interstate Commerce Commission.

Mr. KUCHEL. Under the law today, where is that jurisdiction vested?

Mr. RUSSELL. I am sorry, but I cannot answer that question. If the Senator will permit me to yield to the Senator from North Dakota for a question, I shall yield the floor.

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

Mr. RUSSELL. I yield.

Mr. YOUNG. The amendment of the Senator from Florida to the amendment offered by the Senator from Georgia meets with my approval, and I believe would remove my objection.

Mr. RUSSELL. I thank the Senator. I appreciate his statement. He will always be found on the side of the little fellow.

Mr. YOUNG. I thank the Senator.

Mr. KUCHEL. Mr. President, will the Senator from Florida yield for a question? I should like to ask a question or two of the Senator from Florida, if he will yield for that purpose.

Mr. SMATHERS. I yield.

Mr. KUCHEL. Under the present law, when a railroad operates in two contiguous States, if a train originates in one of the States and stops in the State, and then crosses the State line and stops in the other State, what jurisdiction, under the present law, does the Interstate Commerce Commission exercise over that operation?

Mr. SMATHERS. It exercises all jurisdiction with respect to the rates, and things of that character. With respect to a discontinuance, at the moment the Commission does not exercise any jurisdiction with respect to the discontinuance of a specific train, although they have complete authority with respect to bringing about a total abandonment of the whole line or any part of it.

Mr. KUCHEL. Does the jurisdiction over how and when that railroad shall run its trains in State A and State B rest in the discretion of the State public utilities commissions in State A and State B?

Mr. SMATHERS. Only with respect to discontinuance; yes. The answer is "Yes."

Mr. KUCHEL. Only with respect to discontinuance?

Mr. SMATHERS. Only with respect to discontinuance.

Mr. KUCHEL. In what respect does the Interstate Commerce Commission, under the present law, have any jurisdiction over that railroad with respect to that type of operation?

Mr. SMATHERS. With respect to rates, and with respect to total abandonment.

Mr. KUCHEL. The Senator has suggested an amendment to meet the objection of the Senator from Georgia [Mr. RUSSELL]. How would his latest suggestion affect the example I have pointed out to him?

Mr. SMATHERS. If a train originated within a State and then ran across that State to the other side of the State and ended there, within that State, and never got outside that State, then with respect to discontinuance, the State public utility commission would have sole and exclusive jurisdiction.

Mr. KUCHEL. With respect to the example I cited earlier, where a railroad originated a train in State A and that train crossed State A and went into State B, what would be the effect of the proposal of the able Senator from Florida as to jurisdiction?

Mr. SMATHERS. If it crossed the State line, then of course the Interstate Commerce Commission would have the authority not only to authorize the total abandonment, but to bring about a discontinuance.

Mr. KUCHEL. Therefore, to that extent the Senator's new proposal would eliminate State jurisdiction over any railroad operating within its borders, if a particular operation crossed a State line?

Mr. SMATHERS. If its characteristic is interstate commerce. Of course, most

lines will drop trains at the State line. However, if the train runs from one State into another State, and thus crosses the State line, that train would be properly construed to be a train operating in interstate commerce, and therefore would come under the jurisdiction of the Interstate Commerce Commission.

Mr. KUCHEL. The Senator's amendment would then preclude further control by the State public utilities commission; is that correct?

Mr. SMATHERS. That is right. They do not have any jurisdiction now.

Mr. KUCHEL. I am referring to the problem raised by the Senator from Georgia with respect to discontinuance.

Mr. SMATHERS. It would preclude the State having any further authority with respect to discontinuing an interstate train.

Mr. KUCHEL. To that extent it would preempt the field and lodge discretion in the Interstate Commerce Commission with respect to discontinuance of any train. Is that correct?

Mr. SMATHERS. In interstate commerce; yes.

Mr. KUCHEL. If it crossed a State line.

Mr. SMATHERS. Because that train is operating in interstate commerce. We give authority to the Interstate Commerce Commission only over interstate commerce trains. We more clearly define that the public utilities commission has authority over completely intrastate trains and facilities.

Mr. KUCHEL. Yet, up to 1958, Congress has not seen fit to preempt the field, but, to the contrary, until 1958 Congress has recognized that each State, through its utilities commission, should sit in judgment on what services should be performed. Is that correct?

Mr. SMATHERS. This is the first time that Congress has become concerned about the $26 million deficit. It is the first time that Congress has begun to wonder what is going to happen to the railroads, and this is the first time that we thought perhaps we had better start doing something about the problem. That is why we are considering it now.

Mr. KUCHEL. I do not believe we can get along without the railroads. I believe that we need to do something to help the railroads. However, I have a difficult problem in my own mind on this matter, and that problem has been pretty well indicated on the floor by what the able Senator from Georgia has said. That is why I wished to develop some guide lines under the situation the Senator from Florida contemplates.

Mr. SMATHERS. I thank the Senator. I appreciate his asking me questions. I would merely add that the amendment we have offered to the amendment of the Senator from Georgia more precisely divides the authority between the Interstate Commerce Commission and the State utility commissions, putting each in authority where it more properly belongs.

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

Mr. SMATHERS. I yield.

Mr. BRIDGES. Does not the compromise amendment, which the Senator from Florida has discussed with the Senator from Georgia, almost completely eliminate the problem of being able to discontinue commuter trains, which are one of the chief financial burdens of the railroads?

Mr. SMATHERS. With respect to commuter trains, where the commuter trains operate wholly within a State, it of course does, yes. The answer is "Yes."

Mr. BRIDGES. So far as relief for the railroads is concerned, the amendment would do only a partial job.

Mr. SMATHERS. It is not as strong, I will say to the Senator. It is not what we started out to do. It is something which, under a practical situation, we had to do in view of the fact that there are a number of Senators who are persuaded by the theory of States rights.

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

Mr. SMATHERS. I yield.

Mr. RUSSELL. I wish the Senator would make a statement which would outline wherein the language he proposes would leave the jurisdiction of the State regulatory bodies. I think I understand the statement about the operation of trains. While Congress unquestionably has the constitutional right to legislate concerning trains which cross State lines, the wisdom of doing so may be another question. But we have the right and power to legislate.

I am not at all clear about the question of the closing of stations. Would the amendment which has been offered affect the right of the local regulatory bodies and deny them jurisdiction which they have heretofore exercised?

Mr. SMATHERS. The amendment would give State public utility commissions jurisdiction over not only intrastate trains, but also facilities. We have mentioned stations. Stations would be under the jurisdiction of the State public utility commissions wherever the stations are serving intrastate trains.

Mr. RUSSELL. Of course. As I recall, there was a case in Kansas which held that the feeding of wheat to a man's chickens was a burden on interstate commerce. We have gone quite a long way in the development of the law.

I am quite clear, I think, about the jurisdiction of State regulatory bodies over trains, but I am not clear as to their control over the facilities.

Mr. SMATHERS. As a practical matter. I do not think the Senator from Georgia need worry about that. If a terminal is used by both interstate and intrastate trains, those particular operations are usually the ones which are quite profitable; for example, the terminals in Atlanta and Savannah, Ga.

Mr. RUSSELL. I am not concerned about them; they get enough business to keep going. I am concerned about the stations in rural communities.

Mr. SMATHERS. Stations located on major lines, which operate through the big cities, are ordinarily used by interstate trains. Terminals or station facilities not ordinarily used by interstate trains, and which are located in small areas or towns, which is what the Senator from Georgia is concerned about, would, under this language, be completely under the jurisdiction of the State regulatory agencies.

Mr. RUSSELL. I thank the Senator.

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

Mr. SMATHERS. I yield.

Mr. BRIDGES. I want to get this clear. Trains or service operated wholly within a State—trains originating and terminating within a State—would be under the jurisdiction of that State regulatory body. That would include most of the commuting trains. If they were exempted from the Senator's original amendment, and the railroads were forced to continue their local commuter operation, but were free to proceed to discontinue service in other places, it would mean that areas like the small State of New Hampshire, and similar places, would bear the burden of the commuting service which operates into the big cities, like Boston, New York, and Chicago. Those cities would occupy a preeminent position.

Mr. SMATHERS. The Interstate Commerce Commission would still have the authority to recommend the total abandonment of commuter service.

Mr. BRIDGES. I understand that.

Mr. SMATHERS. Commuter service, however, is essentially an intrastate operation. Commuter trains operate around big cities, such as Boston, New York, Philadelphia, and Chicago. Such service is almost exclusively a local operation.

Earlier today we spoke of the condition in the State of the able junior Senator from New York. That is a matter which needs considerable study, because we do not think the Committee on Interstate and Foreign Commerce actually has particular jurisdiction over that situation. Yet that operation is so much a part of interstate commerce that somewhere along the line Congress will have to face up to the problem and determine what shall be done about it.

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

Mr. SMATHERS. I yield.

Mr. REVERCOMB. Suppose a railroad had a line running through several States, and that a branch line within a State connected with the interstate line. Suppose that on the branch line and on the main line a train was operated which began and terminated its run within the State. Do I correctly understand that such a train could be discontinued only with the approval of the State commission?

Mr. SMATHERS. That is correct; that is because the train originates and terminates within a State.

Mr. REVERCOMB. The language applies to the train, irrespective of the fact that it runs on tracks which are a part of an interstate line.

Mr. SMATHERS. That is our understanding.

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

Mr. SMATHERS. I yield.

Mr. CARROLL. I came to the Chamber late. When I arrived, the Senator from Florida was talking about a Colorado case, which I believe had to do with

the complete abandonment of a railroad line.

Mr. SMATHERS. In that case, there was complete abandonment of an intrastate segment of a railroad which ran interstate. The Supreme Court, in a case decided in 1926, held that the Interstate Commerce Commission could order or could permit the complete abandonment of what amounted to an intrastate branch, because it was connected with and was considered to be a part of interstate railroad operations.

Mr. CARROLL. It was a burden on interstate commerce.

The New York, New Haven & Hartford Railroad begins in Connecticut and runs over many leased lines into Massachusetts. The leased lines operate intrastate. Suppose the New Haven Railroad desired to abandon its Boston-Providence line because it was uneconomical, but sought to maintain its leased lines because they were economical. Is it the Senator's understanding that if there were to be a complete abandonment, the ICC would have jurisdiction?

Mr. SMATHERS. Yes; they have jurisdiction now.

Mr. CARROLL. That would be for the complete abandonment of the New Haven. But if there were one segment which they sought to abandon, the ICC would not have jurisdiction today.

Mr. SMATHERS. That is correct. If a train originates within a State, whether it be Connecticut or Massachusetts, and ends within the State, without crossing a State line, that particular train could be discontinued only with the approval of the State regulatory agency, under the amendment.

Mr. CARROLL. Yes; under the amendment. But I think the Senator from New Hampshire asked the question, If the New Haven decided to abandon its Boston-Providence line, under existing law does the Interstate Commerce Commission have jurisdiction? If the amendment shall be agreed to, the bill may confer jurisdiction on the Interstate Commerce Commission.

Mr. SMATHERS. No. At present the Interstate Commerce Commission has the authority to authorize abandonment, even in interstate commerce. The difference is between the abandonment of train service as a whole, including the tracks and equipment, and the discontinuance of the operation of a train. Under the present law, the Interstate Commerce Commission now has the authority to permit the total abandonment of the Boston-Providence line. But under the present law the Commission cannot permit or authorize the discontinuance of one train, which may run every day up and down that particular track.

Mr. CARROLL. I appreciate the Senator's comment. He has made the matter very clear in the RECORD. The Interstate Commerce Commission has the right to authorize the abandonment of a railroad, but it cannot authorize the discontinuance of certain trains.

Mr. SMATHERS. That is correct.

Mr. CARROLL. What is suggested now by the Senator from Florida will permit the Interstate Commerce Commission to authorize the discontinuance——

Mr. SMATHERS. It will allow the Interstate Commerce Commission to authorize the discontinuance of interstate trains.

Mr. MARTIN of Pennsylvania. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER (Mr. CHURCH in the chair). Does the Senator from Florida yield to the Senator from Pennsylvania?

Mr. SMATHERS. I am happy to yield.

Mr. MARTIN of Pennsylvania. I should like to ask a question: According to the newspapers, recently the Baltimore & Ohio Railroad abandoned its passenger service between Baltimore and New York. How was that accomplished?

Mr. SMATHERS. It was accomplished by obtaining permission from the regulatory bodies of each of the States through which the Baltimore & Ohio Railroad has operated in rendering that service.

Mr. MARTIN of Pennsylvania. That was my understanding, but I wished to be certain about the matter.

Mr. WILLIAMS. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I yield.

Mr. WILLIAMS. Mr. President, it is my understanding that the Senator from Florida is attempting to work out a compromise version of the amendment of the Senator from Georgia [Mr. RUSSELL].

In the meantime, in order that those Senators may have time to perfect the amendment, will the Senator from Florida agree that the amendment may be temporarily laid aside, and that the Senate may proceed to the consideration of an amendment which I have previously discussed, and which I think will be acceptable to the committee?

I have already discussed this matter with the Senator from Georgia [Mr. RUSSELL], and I believe he has no objection.

Mr. SMATHERS. Very well; we shall be happy to have that course followed, Mr. President.

Mr. WILLIAMS. Then, Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside, and that the Senate proceed to the consideration of the amendment which I have sent to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have discussed this matter with the Senator from Florida.

I have noticed that section 7 would amend the Internal Revenue Code. Question has been raised—and on yesterday we discussed the matter at length—as to the advisability of establishing a precedent by having the Senate act, in the course of the passage of a Senate bill, on amendments to the Internal Revenue Code.

Therefore, I have submitted, and sent to the desk, an amendment which provides that section 7 of the bill be stricken out, without prejudice.

It is my understanding that perhaps the members of the committee subsequently will offer this section as an amendment to a bill which will be passed by the House of Representatives and, in due course, will be referred to the Senate Finance Committee, in the course of the orderly legislative procedure.

Therefore, Mr. President, I ask that the amendment which I have sent to the desk be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed to strike out all of section 7, without prejudice, beginning on page 12, in line 17, through page 17, in line 14, and to renumber the following sections accordingly.

Mr. WILLIAMS. Mr. President, it is my understanding that although the chairman of the subcommittee feels very strongly about this section, in the interest of orderly legislative procedure he is willing to accept the amendment.

Mr. SMATHERS. Mr. President, I would say "Yes."

I believe the committee is entitled to make a brief statement for the RECORD; and it has authorized me to make the following statement: This section has to do with the establishment of a construction reserve. The reason why we shall accept the amendment of the able Senator from Delaware is that both he and the distinguished Chairman of the Finance Committee, the senior Senator from Virginia [Mr. BYRD] believe that the committee has not proceeded in exactly the proper way in bringing before this body a proposal which, in essence, has to do with the tax program of the railroads. Or, for that matter, they do not believe that the Committee on Interstate and Foreign Commerce should report a measure which deals with a tax program. Instead, they believe that such proposals should be handled by the Finance Committee.

On the other hand, there is some authority which we believe justified the procedure our committee followed. We do have some opinions from the Parliamentarian; and we do not wish to yield on that particular point.

We understand that the other body has raised some objection to our reporting a provision with respect to setting aside such a construction reserve, not only for the railroads, but also for the motor carriers and the other common carriers. We understand that the other body did not wish to go on record as saying that it disapproves the provision; but we understand that the other body did not like the procedure which has been followed in this connection. Apparently the Ways and Means Committee of the House of Representatives wished to consider the provision first.

So at about 10 o'clock this morning it became obvious to us that even if the Senate passed the bill with the inclusion of the construction-reserve provision, it would run into a dead end in the other body.

Therefore, in the interest of saving time, and in order to quiet the anxiety and concern of some of our very dis-

tinguished colleagues, we are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. WILLIAMS. Mr. President, first, I wish to thank the Senator from Florida.

I assure him that I have offered the amendment without prejudice, because I am very much in favor of the principles of the pending bill. I think such legislation is long overdue, in order to recognize the plight of the railroads.

But I did feel—and I believe, as he has pointed out, that he recognizes my position—that if some legislation of this type is to be enacted, the Senate should follow the orderly legislative procedure, and should have such a provision considered by the appropriate committee in connection with an appropriate bill which had previously been passed by the other body.

Mr. LAUSCHE. Mr. President, will the Senator from Delaware yield to me?

Mr. WILLIAMS. I yield.

Mr. LAUSCHE. During the debate today there was some indication that the entire committee concurred in the proposal that the various modes of transportation should be permitted to establish construction reserves.

I have dissented from the committee's report. Attached to the committee's report will be found my dissenting views; they appear beginning on page 27. In those views I take the following position:

CONSTRUCTION RESERVE FUNDS

I do not join in the recommendation that the rail, air, and barge, and truck carriers, should be permitted to establish a construction reserve fund to be exempt from income-tax assessments until such time, not to exceed 5 years, when the fund is invested in the acquisition of capital equipment. I oppose the adoption of this new method of deferred taxation in the isolated method proposed. If the establishment by business and industry of construction reserve funds, with the right to defer payment of income taxes until the time, not to exceed 5 years, such funds are invested in capital equipment, is economically sound, then the right ought to be made available, not only to the common carriers, consisting of the truckers, the railroads, the airlines, and the barge carriers, but also to all other types of business and industry.

In addition, Mr. President, my view was that the problem ought not be approached in an isolated way, but should be approached through a centralized attack, which could be done only through the standing Senate committee which has jurisdiction of this general subject.

Mr. WILLIAMS. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. BRIDGES. Mr. President, I wish to compliment the distinguished chairman of the subcommittee, the junior Senator from Florida [Mr. SMATHERS], and his associates on the subcommittee, on both the members of the majority and minority, for the job they have done.

They have recognized a problem which is basic, namely, to keep the railroads running, not only in time of peace, but also as an absolute necessity in time of war or other great emergency.

New Hampshire is a small State which has one major railroad. There is other railroad service, but the State is served principally by only one railroad. Like all other railroads in the East, it is sick. It needs the financial help which the bill will provide. Without it, the Boston & Maine Railroad, to which I refer, may have major difficulties.

It is true, of course, that the Nation's railroads no longer have a monopoly in the transportation field. New Hampshire and all the rest of the New England States are fortunate to have truck and air transportation service also. But these services in themselves are not enough. For a great many years to come, the railroads will play an important part in the economic life of our Nation.

Mr. BRICKER. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. BRIDGES. Certainly.

Mr. BRICKER. Does the Senator from New Hampshire know that the record shows that the representative of one of the railroads which operates in New Hampshire testified that it was necessary to keep its passenger trains running regularly in order to provide service for students at holiday times when there is snowfall?

Mr. BRIDGES. No; I did not realize that there had been such testimony.

Mr. BRICKER. The testimony was that the students use the railroads when there is snowfall; but when there is no snowfall, the students use the airlines or the highways. In other words, the testimony was that the railroads have to maintain the service, because when there is snow the students use the railroads. When it does not snow, they use the airlines or the highways. So the railroads have to keep the trains running, because the Commission orders them to be kept running as a reserve against the time when there is snow and when the students are traveling during holidays.

Mr. BRIDGES. Mr. President, I think the committee has done an excellent job, one that had to be done to forestall the further deterioration of our Nation's railroads, a problem which has been discussed here today, and which most thoughtful people in the country understand.

One of the biggest problems is commuter service, which the railroads are unable to operate profitably. The Senator from Ohio has referred to that briefly.

This is not condemning the railroads as a whole or the Boston & Maine Railroad as one line. The Boston & Maine has a very energetic and able president, Mr. Patrick McGinnis, who has worked diligently to solve these problems. Obviously the solution is to be found, if indeed there is a solution, outside of subsidies, which I would prefer not to see.

Sections 3 and 4, which have been discussed here, give me some concern. I have received information from the New Hampshire Public Utilities Commission, of which I served as a member for 5 years, that they are opposed to the inclusion of these sections. I have had a good deal of correspondence on it both for and against.

What bothers me is the compromise amendment which is being discussed as a result of the objection of the senior Senator from Georgia and the contributions of other Senators. One of the major problems is commuter service in the big cities. Of course, when we force the railroads to continue commuter service and give them the privilege of discontinuing other services, it means that some of the small sections of the country will have to bear the burden, while the big cities will get the benefits. I am not sure I am for the compromise, by any means, although I think it is being worked on with the best of intentions.

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

Mr. BRIDGES. I yield.

Mr. BRICKER. The Senator from New Hampshire agrees with the Senator from Ohio, then, that commuter service is something that has to be worked out at the local level?

Mr. BRIDGES. I believe that people and the cities served must help meet that problem.

Mr. BRICKER. If the railroads are permitted to charge the shippers of the country so as to make up the loss of maintaining commuter service, the benefits will accrue only to those areas that get the benefit of commuter service.

Mr. BRIDGES. I think some way must be found to work out the commuter service problem. I do not think those who ship freight or who travel long distances should be called upon to bear the burden. Neither do I think the railroads should or can be forced indefinitely to carry that loss.

Mr. BRICKER. Of the approximately $700 million loss in passenger business last year, a great deal of it came from the commuter service.

Mr. BRIDGES. I am not entirely convinced the pending legislation will put the railroad industry back on the track, but I know it will make a substantial contribution in that direction. I know a great many of our railroads are sick. I know they need assistance. I know it is for the good of this Nation that they be kept running, not only in peacetime, but in time of emergency or war, when they are absolutely essential. We cannot let them deteriorate to the point where the railroad service of the country will be no more.

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

Mr. BRIDGES. I yield.

Mr. COTTON. I should like to say, as a colleague of the distinguished senior Senator from New Hampshire, that I am much interested in his comments. As a member, not of the subcommittee, but of the full Committee on Interstate and Foreign Commerce, I have followed this proposed legislation most carefully. I feel exactly as the senior Senator from New Hampshire feels about the needs of our State and the necessity for protecting, so far as we can, the needs of the rural sections with regard to mail service and general service. I have felt, and the feeling has been strengthened by advice from the professional staff of our

committee, that sections 3 and 4 in their original form as they came to the Senate would not have had any serious effect upon our State. There is a natural apprehension on the part of the public utilities commission of our State, which I understand, and which I am taking into consideration, but which I think was not entirely warranted as to the provisions in the original form. I doubt if either of those sections seriously impaired the authority of our State commission.

I share with my senior colleague his apprehensions about the possibilities of a subsidy. I confess I am not sure exactly what it would do. I commend the Senator for raising this question. I think it should be considered most carefully, because it would be unconscionable to take away protection given our rural sections and regular service in favor of commuter service, as the Senator has so well stated.

I desire to associate myself with his expressions at this time, and shall follow with some care a further explanation of the proposed subsidy.

Mr. BRIDGES. I thank the Senator. I agree with my colleague. His remarks give extension to my own thoughts in the matter.

We in New Hampshire have an excellent public utilities commission. Its members are able men and have done a good job. I think if all State commissions were as efficient, there would not be so much trouble in the transportation field.

I want to be sure I know where we are going. I thought I knew where we were going, but with the compromise amendment before the Senate, I am not sure we will not complicate the situation, rather than help it.

I hope we may have consideration of the question by other members of the committee who had this matter under study. It seems to me the commuter question is one of the big problems, and if steps are taken to cure that problem, by its very nature a greater burden will be placed on the shorter lines, and lines serving rural sections.

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

Mr. BRIDGES. I yield.

Mr. PASTORE. I assume the Senator from New Hampshire is opposed to section 4 as it was reported by the committee. Is that correct?

Mr. BRIDGES. No; but I wonder if we will not complicate it more by this compromise amendment.

Mr. PASTORE. The reason why I asked the question is that I have a sense of apprehension as to how far we are actually going with relation to the discontinuance of trains and stations and with relation to interstate and intrastate regulation. Preliminarily to asking a question or two, inasmuch as the distinguished Senator from Colorado took occasion to mention Providence, R. I., and how the proposal would affect Rhode Island, I feel compelled to complete the record. I have in my hand a letter dated June 3, 1958. It is addressed to me by Mr. Thomas A. Kennelly, administrator of public utilities of the State of Rhode Island. The letter reads as follows:

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
DEPARTMENT OF BUSINESS REGULATION,
OFFICE OF PUBLIC UTILITY ADMINISTRATOR,
Providence, R. I., June 3, 1958.

Senator JOHN O. PASTORE,
United States Senate,
Washington, D. C.

DEAR SENATOR PASTORE: There is presently pending before the honorable Senate of the United States, a bill, S. 3778, which, as you are aware, was drafted and introduced to provide a measure of relief to the railroad industry. I realize that you are familiar with the provisions of this bill and the reasons which prompted its introduction. I am taking this means, however, of respectfully directing your attention to certain provisions of this bill contained in sections 3 and 4 thereof which, if they became law, would have the effect of rescinding all State authority and regulation over intrastate railroad rates for both passenger and freight operations. In lieu thereof, this bill would empower the Interstate Commerce Commission with original jurisdiction over intrastate passenger service including train, ferry, station, depot, or other facilities notwithstanding the status or pendency of any litigation proceeding before any State commission.

The members of this division who have dealt with railroad problems recognize the fact that the railroads of this Nation are presently facing a serious financial crisis; and this is particularly true in the case of the New Haven Railroad. I do not believe, however, that the present financial condition of the New Haven Railroad is due to any laxity of State regulation by the public utilities division of this State. In practically every instance this division has permitted the railroad to effect economies such as the discontinuation of trains, the raising of intrastate rail passenger fares and freight tariffs, and the elimination of both passenger and freight stations where it is evident that the public did not require their continued use. It is my belief that the loss of passenger traffic to the New Haven Railroad is due primarily to the greater use of the private automobile, and to the construction of superhighways for the use of the private automobile; and it seems evident that the New Haven Railroad, together with all other railroads, have certain embedded operational costs which are underlying factors in the railroads not being able to reduce expenses.

To my way of thinking, the provisions of sections 3 and 4 of S. 3778, which provide for placing all regulation in the hands of the Interstate Commerce Commission and wresting it away from State regulatory authority, will not increase the railroads' revenue nor will it tend to decrease the railroads' expenses.

Accordingly, as the head of the State division that is charged with regulation of the railroad within this State, I feel that it is my obligation to bring these facts to your attention for your careful consideration in order that the rights of States to regulate the intrastate phases of railroad activity will not be sacrificed needlessly under the guise of strengthening the railroad industry.

Very truly yours,

THOMAS A. KENNELLY,
Administrator.

I should like to ask a question of the distinguished Senator from New Hampshire [Mr. BRIDGES], and I also ask for the attention of the distinguished Senator from Florida [Mr. SMATHERS]. As I understand the present law, without regard to the bill reported, and without regard to the amendment offered by the distinguished Senator from Georgia, at the present time a complete abandonment of any interstate railroad can be effected by the Interstate Commerce Commission. However, if there is on that same line a discontinuance of one train, 2 trains, or a half dozen trains—or of all the trains—with the exception of 1 train there is a jurisdiction which today lies within the State authority.

Under the bill as reported by the committee with respect to intrastate and interstate authority, if the intrastate operation is connected in any way or fashion with the interstate operation all the jurisdiction would be preempted by the Interstate Commerce Commission. Under the amendment proposed to the amendment offered by the Senator from Georgia, insofar as a completely and exclusively intrastate operation is concerned the jurisdiction would remain with the State authority.

Mr. SMATHERS. The Senator is correct.

Mr. PASTORE. Insofar as the interstate operation in any shape or form is concerned, all of the authority on the discontinuance of the line or the discontinuance of even one train would pass from the State authority to the Federal authority. Am I correct in that understanding?

Mr. SMATHERS. The Senator is correct.

Mr. PASTORE. The justification for this, on the part of the able Senator, is the fact that the railroads have suffered such a tremendous loss over past years, and unless we give them authority to discontinue schedules there will have to be more subsidies on the part of the Federal Government?

Mr. SMATHERS. The Senator is correct.

Mr. BRIDGES. Or complete abandonments.

Mr. PASTORE. Or complete abandonments of railroads?

Mr. SMATHERS. Or complete abandonments.

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

Mr. BRIDGES. I yield.

Mr. CARROLL. I raise a question for the distinguished Senator, because it occurs to me that the Boston to Providence line is a lessor line, and the New Haven Railroad is a lessee line. The New Haven travels from Boston to Providence and Providence to Boston. That is pretty much an interstate line in a sense, the Boston to Providence line.

Suppose the New Haven Railroad should say, "It it uneconomical for us to use the line from Boston to Providence. We can go another way. This operation is uneconomic." Would the bill give the full jurisdiction to the ICC for a discontinuance of perhaps a half dozen trains, or one train?

I think it is clear in the record that the ICC has the jurisdiction with respect to the right to abandon. That is the reason I raise this question. I do not know much about eastern railroads, except that I serve on an ad hoc subcommittee looking into the Boston, Providence, New Haven situation.

Mr. PASTORE. Mr. President, will the Senator yield to me so that I may make an observation, and may I again ask the attention of the distinguished Senator from Florida [Mr. SMATHERS]?

Mr. BRIDGES. I yield.

Mr. PASTORE. With relation to the Boston to Providence line, I understand the law today to be that the Interstate Commerce Commission could discontinue the line completely if it found the line to be an unprofitable operation. However, if there were a question of discontinuing 1, 2, or a half-dozen trains, the jurisdiction would be in both public utilities commissioners of the State of Massachusetts and the State of Rhode Island; is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. CARROLL. Does the bill change the existing jurisdiction in any way?

Mr. PASTORE. Yes. The discontinuance of a train would become a Federal jurisdictional matter, rather than a matter for the public utilities administrators of Massachusetts and Rhode Island.

Mr. SMATHERS. On interstate matters.

SEVERAL SENATORS. Vote! Vote!

Mr. BRIDGES. Mr. President, to briefly finish my remarks, I do not believe any Senator present in the Chamber or any thoughtful person in the country wants to see the railroads of this Nation forced into bankruptcy. If the bill can—and there is considerable evidence to show it can—provide an impetus toward a healthier climate for our Nation's railroads, it should be adopted. I again congratulate the committee for forthrightness in bringing the bill forward.

Mr. KEFAUVER. Mr. President, all of us appreciate the great value of our railroads to the Nation, both in peacetime and in wartime.

I think the evidence is fairly well established that a great many railroads are in bad condition and need some assistance. The causes for that situation, the background, and the determination of whose fault it was is not a matter of controversy or interest now. I feel that most citizens want to have the railroads treated fairly, as I do. Most citizens want to be of some assistance to the railroads in enabling them to survive.

I am not a member of the Committee on Interstate and Foreign Commerce, but I have taken the opportunity to study the bill and the report, and, of course, I have received a great deal of correspondence concerning the matter. Generally, I think the committee has done a very good job in carefully preparing a bill which will be of assistance to the railroads which need help and which, at the same time, will protect the public interest.

Many of these provisions should have been adopted. They are fair provisions, even if some of the railroads were not in a sick condition. Some of the provisions are justified under the special circumstances, to enable the railroads to get back on their feet.

My staff and I have prepared a brief analysis of the various sections of the bill, which I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks.

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

MEMORANDUM ON S. 3778, TO AMEND THE INTERSTATE COMMERCE ACT REGARDING INTERSTATE CARRIERS—SECTION-BY-SECTION ANALYSIS

Section 3: This section concerns the authority of the Interstate Commerce Commission over intrastate rates. In the Interstate Commerce Act the ICC, when it finds that rates, charges, or classifications charged in intrastate traffic cause undue, unjust, or unreasonable discrimination against interstate or foreign commerce, shall prescribe rates, charges, and classifications which will remove the discrimination. The committee report asserts that the attempts to revise these rates by the ICC have been hesitant and have occasioned much delay. Ordinarily the ICC has not taken action until the State regulatory commission has completed action on intrastate rates.

This amendment directs the Commission, upon the filing of a petition by a carrier, to institute an investigation into intrastate rates, etc., whether or not the State commission has studied the matter or has action pending before it, and give special expedition to the hearing and decision therein.

This provision would also add the words "undue burden" to the grounds upon which the ICC may make adjustments in intrastate rates. The ICC would thus be able to adjust intrastate rates when they create an undue, unreasonable, or unjust discrimination against, or undue burden on, interstate commerce. The committee feels this is necessary to more clearly define the grounds for making adjustments, since it is oftentimes impossible under present cicumstances to make a showing on which rate adjustments can be justified. It is difficult to see how this addition defines the grounds more clearly; it appears only to expand the discretion of the ICC.

This provision also allows the ICC to make a determination of what constitutes an undue, unreasonable, or unjust discrimination against, or undue burden on, interstate commerce without considering the totality of operations of the carrier within the State. This would allow the ICC to make adjustment of rates without referring to the relation of the rate in question to the carrier's entire State operations. It would eliminate the possibility that a rate could be adjusted only if the carrier's intrastate rate structure as a whole imposed a burden on interstate commerce.

Section 3: Also provides that in any proceeding before the ICC in which the carriers are seeking a general adjustment in rates, the carriers may petition for authority to make comparable adjustments in intrastate rates. If the ICC finds that a general adjustment in interstate rates without a comparable adjustment in intrastate rates would create a circumstance of advantage, preference, or discrimination or burden on interstate commerce, it may make a comparable adjustment in intrastate rates; these adjustments will be observed, any State laws or orders to the contrary notwithstanding.

Section 4: This provision relates to discontinuance of service. It provides that a carrier, after notifying the Commission, the governor of the State and posting other notices to public at least 30 days in advance, may discontinue service to an area. The carrier can discontinue operations unless the ICC issues an order to the contrary, the laws or orders of the State to the contrary notwithstanding. The ICC can prohibit such discontinuance upon beginning an investigation for 4 months and may require the continuation of such service if necessary for public convenience and necessity. State laws or orders remain in effect unless the carriers file with the ICC. The committee feels that the State commissions have been too slow and too unwilling to eliminate costly and unnecessary service, and therefore feels that the jurisdiction should be given to the ICC when discontinuance is applied for in that agency.

Section 5: This is the ratemaking amendment which provides that in proceedings involving competition between different modes of transportation subject to the ICC, the Commission shall consider the facts and circumstances attending the movement of the traffic by the carriers to which the rates are applicable when determining whether a rate is lower than a reasonable minimum rate Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy in this act.

This is a highly controversial provision and represents a compromise which the truckers, at least, are willing to support. The railroads apparently desired a restriction on the authority of the ICC in this field. The committee did not accept this view which was opposed by all the competing modes of transportation. The committee felt that each mode of transportation should be given opportunity to set rates which reflect the inherent advantages of each, but that the ICC should retain the power to prevent unfair destructive practices. This provision, in effect, would admonish the ICC to allow rate setting which would encourage competition between different modes of transportation, but would prohibit practices which would be destructive and unfair. The committee notes that under this amendment, the principal, although not the exclusive emphasis in ratemaking proceedings between different types of transportation would be on the conditions surrounding the movement of the traffic by the mode to which the rate applies, thus stressing the inherent advantage of each mode.

This amendment is revised from the original Smathers proposal which stated only that the ICC "shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

Section 6: Provides assistance to the railroads in obtaining funds to finance or refinance the acquisition or construction of equipment or betterments, in obtaining funds for operating expenses, working capital, and interest on existing obligations. The United States would guarantee loans by private commercial institutions up to $700 million including unpaid interest. The ICC would administer the program, the conditions for participation being that the railroad could not obtain other financing without the guaranty; prospective earnings of the railroad are such that there is a reasonable expectation of repayment; and the applicant carrier is not in need of reorganization of its capital structure. Only $150 million could be used to guarantee loans for operating expenses and interest on obligations. Terms for loans cannot exceed 15 years; no dividends may be paid during the life of the loans; the ICC shall prescribe the security; the authority to guarantee loans would expire December 31, 1960.

The committee considers these loans a palliative to meet the short-range emergent fiscal problems of a few of the major railroads and will be helpful only if taken in conjunction with other long-range constructive programs. It feels this step must be taken to stave off bankruptcy of several of these roads.

Senator LAUSCHE objected to the use of money for paying interest on debt or for operating expenses, asserting that this would be an unjustified boon to the bondholders and a bad precedent.

Section 7: Provides for the creation of a construction reserve fund on which taxes are deferred. The purpose of the reserve fund is to encourage the replacement of physical facilities and for modernization of railroad plant. In computing Federal income tax, a deduction would be allowed equal to the amount in the fund but not to exceed in any 1 year the amount allowed for depreciation by the ICC. Funds could be used only for acquisition of equipment or reduction of debt for equipment obtained after passage of the act. These funds would have to be used in 5 years and any funds plus interest not so used would be subjected to taxation as of the date of deposit in the fund. The committee asserts that this provision is necessary to assist the railroads to maintain operational efficiency. Taxes will be deferred, not forgiven, until the funds are invested in physical plant.

Senator LAUSCHE maintained that this privilege should not be extended to an isolated industry, such as the regulated carriers. If the proposal has merit, he suggested, then all business and industry should be given similar opportunity.

Section 8: This amendment restricts the exemption for motor transportation of agricultural products by providing that such exemption shall not apply to frozen fruits, frozen berries, or frozen vegetables. The committee states that the original exemption contained in the Interstate Commerce Act was intended to aid farmers by relieving them of some of the burdens of regulation and to facilitate movement of agricultural products. This exemption has been extended to commodities having undergone varying degrees of processing and to transportation of them in ordinary commerce. This has had a serious impact on the regulated carriers, and the committee is not convinced that the exemption is helping the farmers, either. This is a first step in reversing the trend toward further exemptions. Motor carriers brought under regulation by this amendment would be entitled to a permit allowing them to continue, under regulation, hauling the same commodities within the same areas or between the same points.

Section 9: This amendment would prohibit any person in commercial enterprise from transporting property by motor vehicle unless such transportation is incidental to and in furtherance of, a primary business enterprise.

This amendment is designed to prevent the use of private, unregulated motor carriers in commercial transportation. These practices usually involve such devices as a private carrier purchasing commodities and then selling them at the other end of the line, when in fact the carrier is actually only transporting the goods similar to a common carrier; or a private carrier transports its own goods to market and then purchases commodities for the return trip in order to avoid an empty haul. These practices, which have been growing, are detrimental to the regulated carriers and should be prohibited, in the committee's opinion. These private carriers also evade the transportation tax in this way.

Other recommendations beyond the scope of the committee's jurisdiction and not in the bill: (1) Repeal of the transportation excise taxes; (2) 20-year depreciation for railroad property; (3) revamping mail transportation legislation; (4) general study of transportation policy by the Senate Interstate and Foreign Commerce Committee.

Mr. KEFAUVER. Mr. President, I have some questions to ask the Senator from Florida with respect to two sections of the bill which give me some concern.

What is the latest provision with reference to the part which State commissions will play in connection with the discontinuance of service? I ask this question because I feel that people in local communities have become accustomed to going to their State commissions in connection with questions relating to railroad service. I am speaking now more about service rather than rates.

We hear a great deal of talk about decentralizing operations, on a States rights basis. I think it is important that local people have available to them some forum before which they can present the pros and cons with reference to proposed discontinuance of service which affects them. I understand that an amendment to section 4 has been informally accepted. I should like to know the present interpretation of section 4, in the light of the amendment which has been accepted.

Mr. SMATHERS. Let me say to the able Senator from Tennessee that we have endeavored to meet the concern which he has so well expressed by an amendment to the amendment originally offered by the Senator from Georgia. His amendment would have stricken the entire section 4.

I understand that since that time the Senator from Georgia has considered the acceptance of an amendment to his amendment, which would leave State public utilities commissions completely in control of intrastate trains, trains which originate within the borders of a State and whose destination is within the borders of the State. The public utilities commission would control such trains, with respect to discontinuance, and so forth, and also the facilities, including the terminals and the depots which serve such intrastate trains.

Mr. KEFAUVER. That question would still be under the exclusive jurisdiction of the State utilities commission; is that correct?

Mr. SMATHERS. That is correct.

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

Mr. KEFAUVER. I yield.

Mr. RUSSELL. I am no expert in this field, but the Senator from Florida has suggested language to change the original committee language so as to reserve jurisdiction in the State public utilities commission over all purely intrastate trains.

Mr. SMATHERS. I will go further and say that if it should develop that the language does not accomplish that purpose, in the light of the statements which have been made, we shall endeavor to modify it so as to make the purpose clear.

Mr. RUSSELL. I hope I did not say anything that could be interpreted as questioning the good faith of the Senator from Florida.

Mr. SMATHERS. The Senator knows that frequently we try to draft language which expresses our thoughts, and later it is interpreted in some other way. However, I think we have made the intention clear.

Mr. KEFAUVER. I am glad that an effort is being made to reach a satisfactory compromise. I feel that that would be an improvement. Particularly in connection with the matter of service, so far as intrastate operations are concerned, I think it is an important principle that the local people should have some local agency before which they can go to present their position.

I should like to have the distinguished chairman of the subcommittee, the Senator from Florida, answer another question. This question relates to interstate operations, discontinuances, and rates which come within the jurisdiction of the Interstate Commerce Commission.

It is the policy of the Interstate Commerce Commission, and is the right of the Interstate Commerce Commission, to send hearing examiners into the various communities to enable local people to present their position in their own States, without having to come to Washington. Is that correct?

Mr. SMATHERS. The Senator is correct. That is done frequently.

Mr. KEFAUVER. Does not the Interstate Commerce Commission itself have jurisdiction to divide into hearings groups, to go into the States and hold hearings on these particular matters?

Mr. SMATHERS. The Senator is correct.

Mr. KEFAUVER. I assume it would be contemplated that probably there would have to be more examiners, and probably the Commission itself would have to hold hearings in the various States to a greater extent than it has done in the past. Is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. KEFAUVER. I thank the Senator from Florida.

There is one further provision in the bill with respect to which I had some doubts. It relates to section 5, the rate-making provision. I think the provision has been improved by the language now contained in the bill. I am sure we all feel that every form of transportation has certain advantages. All forms of transportation are entitled to be protected in the economies which they can effect. There are certain benefits in water transportation, truck transportation, rail transportation, and air transportation. We wish to try to be fair to each one of them, so that they can all compete fairly in the public interest.

My question with relation to section 5 is this: A barge line competes with a railroad in all of its services; but a railroad may compete with a barge line only with respect to a very small part of the railroad service.

As I understand section 5, the Interstate Commerce Commission may allow a railroad to make a rate to compete with a barge line, with respect to that part of the system where it does compete with barge lines, on the basis of its out-of-pocket expense, without considering its overhead. The overhead may be made up in that part of its operations with respect to which it does not compete with the barge line.

Is that situation still possible under section 5, or does the language giving due consideration to the objectives of the national transportation policy declared in this act require the railroad to take into consideration a part of its overhead in making its rate to compete with the barge line?

Mr. SMATHERS. Let me say to the Senator from Tennessee that, first, the rate section was one with which we wrestled probably longer than any other. The water carriers were very much opposed to the original language. With respect to the language we now have in the bill, so far as I know they have expressed neither public nor private objection to it. I conclude, therefore, that they feel that they are adequately protected.

Personally, I am of the opinion that they are adequately protected. The testimony before our subcommittee was that they were properly protected, in the light of the fact that in part III of the Interstate Commerce Act, which has to do specifically only with water carriers, we find this language:

> Differences in the classifications, rates, fares, charges, rules, regulations, and practices of a water carrier, in respect of water transportation, from those in effect by a rail carrier, with respect to rail transportation, shall not be deemed to constitute unjust discrimination, prejudice, or disadvantage, or an unfair or destructive competitive practice, within the meaning of any provision of this act.

In other words, they can set their own rates, irrespective of the effect upon other modes of transportation. By the present language we would permit the Interstate Commerce Commission to approve of rates of a given mode of transportation, irrespective of the direct relationship it may have to another mode of transportation, so long as such rates do not result in unfair competitive practices.

Mr. KEFAUVER. We know that in the past some efforts were made by some carriers to reduce their rates on a part of a system where they were competing with a water carrier, with the point in mind of almost eliminating the competition of the water carrier. It was alleged that that might be done in order to get the water carrier out of business, and then to raise rates later, and also making up the losses on some other parts of the system. I am sure that that is not being contemplated under the language of the provision we have been discussing, or that that is the intention of the language.

However, I should like to ask the Senator a question. We know that each form of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer, so that in every case the public may exercise its choice, cost, and service considered, in the light of the particular transportation task to be performed.

Is it the intention of the subcommittee that nothing should interfere with the public's realizing the beneficial or lower cost of each form of transportation that is offered?

Mr. SMATHERS. The Senator is correct. We do not expect anything to interfere with it. We say in our report that emphasis is placed on the fact that each mode of transportation has an inherent advantage over other modes of transportation. Water carriers, for example, have a certain inherent advantage over any other type of carrier. It is, that a water carrier can carry cargo cheaper in bulk than almost any other type of transportation.

We want the public to be the beneficiary of each mode of transportation, and we ask the ICC to recognize the inherent advantages of the various modes of transportation.

Mr. LAUSCHE. Mr. President, will the Senator yield at that point?

Mr. SMATHERS. I yield.

Mr. LAUSCHE. The report of Senator Wheeler, who was chairman of the committee which wrote the report in 1940, setting forth the principle that each mode of transportation shall enjoy fully its inherent advantages, pointed out that the water carriers at that time were specifically interested in not being deprived of using to the fullest their advantage in being able to carry cargo at low rates. It was on the basis of the arguments made by the water carriers that the declaration of policy was made that all modes of transportation shall be protected, to make certain that the public will enjoy the inherent advantages of each.

I must say to the Senator from Florida and to the Senator from Tennessee that it was the purpose of the subcommittee to carry into effect, through the language used, the identical thoughts expressed by the Senator from Tennessee, that each mode of transportation is to be insured the fullest enjoyment of its inherent advantages in transporting passengers and cargo, to the end that the public shall be served.

Mr. KEFAUVER. I am very happy to have that statement by the distinguished Senator from Ohio, who has given this matter such great and full study. I know it has been on the basis of his statement and that of the chairman of the subcommittee that the water carriers have not, as I understand, raised any objection to section 5 as it is now written. Is that correct?

Mr. LAUSCHE. That is correct. The arguments which were advanced against the definite redeclaration of the policy of the 1940 act were presented primarily by the truckers; that is, they wanted the purposes and the objectives which were originally intended to protect the inherent advantages to be diluted. However, the language used, although it may not seem clear, is definitely intended to redeclare this policy of the 1940 act.

Mr. KEFAUVER. So that the National Transportation Act and the policies with reference to the inherent advantages of each form of transportation—and in order that they may not be impaired—are fully sustained in the pending bill.

Mr. LAUSCHE. That is my belief, that the letter of the bill sustains that purpose, and it definitely has been the intention of the subcommittee, and of the entire committee, I believe, to sustain that objective.

Mr. KEFAUVER. I should like to ask a question of the Senator from Florida. Some people have expressed the belief that under the provisions of section 5 it would be possible for one type of carrier to lower its rate to such an extent that another carrier would not be able to compete fairly on the basis of charging the overhead to that other carrier. There is nothing in the provision contained in section 5, is there, which would enable one carrier to take undue advantage of another carrier, beyond the general policy set forth in the National Transportation Act?

Mr. SMATHERS. No. The answer is no.

Mr. KEFAUVER. I thank the Senator from Florida. The Senator from Florida and his colleagues on the subcommittee deserve a great deal of credit for the careful consideration they have given the pending bill. I must say it is difficult to understand what will happen with reference to some sections of the bill, and I believe it will place a very heavy burden on the Interstate Commerce Commission to make sure that no form of transportation is being unfairly or unjustly discriminated against by virtue of the provisions of the bill.

I am encouraged in my support of the general principles of the bill by an editorial published in a newspaper on which I always rely to take a thoughtful and sound position on matters of public interest. I refer to the Chattanooga Times. In an editorial published a few days ago, the Chattanooga Times discussed the various provisions of the bill, and it comes to the conclusion that it is in the public interest. I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

RAILROAD HELP A MUST

The evident prospect that the Senate will follow the House's lead and refuse to repeal the wartime transportation excise taxes on freight and passengers increases the urgency of the so-called Smathers bill to help the railroads.

That such help is needed is overwhelmingly conceded. The complexities are great. But Senator SMATHERS, of Florida, put the problem clearly when he said:

"Times have changed. The public prefers to ride bumper-to-bumper in its own automobiles, and when it doesn't have the time for traffic snarls it rushes to the faster, subsidy-assured airlines. Shippers like the flexibility of trucks rolling over tax-supported highways. And at the same time the Government insists on the railroads being regulated as the monopoly that they were before the advent of the Model-T Ford."

Not only are the Nation's railroads no longer a monopoly. Their situation is that total net working capital has declined from $1.6 billion in 1945 to $396 million at the first of this year. Last year income shrunk an estimated 19 percent from 1956. Passenger traffic continues its decline. Several eastern roads face bankruptcy unless remedies are found for commuter and other problems. Admitted featherbedding practices by some unions have added to costs.

Among other provisions, the Smathers bill, which may come up for Senate action next week, proposes to free the railroads

from some of the severe and outdated restrictions imposed upon them. Guaranteed loans would be made available on a basis similar to that for other modes of transport. Depreciation allowances would be strengthened.

An important, though politically sensitive, provision is for added authority to the Interstate Commerce Commission in matters governing intrastate service as they affect, directly and indirectly, interstate commerce.

If a railroad wants to abandon a consistently unprofitable operation within a State, for example, the St. Louis Post-Dispatch has said: "It is unfortunate that the State commissions are the ones to decide. They are most vulnerable to local pressures. It would, we believe, be an improvement if jurisdiction over all applications to discontinue service were vested in the ICC, as has been proposed in the subcommittee hearings."

The issue here is a difficult one. Improvement in the procedures of the State commissions, with close understanding of the railroads' real problems, would be an ideal solution. If the ICC would use some of the powers it already has, the proposal would be less significant.

There is some valid public belief that the railroads have not adequately explained their obvious indifference to passenger traffic in some instances. On the other hand, Federal curbs often tie their hands.

The Smathers bill should receive general approval as the most feasible means at present of relieving the plight of the railroads. Even more broadly, the whole scope of modern competitive transportation, vital to the Nation, needs to be studied in detail with the railroad situation in mind.

Mr. NEUBERGER. Mr. President, I realize that the Members of the Senate are ready to vote on the proposed legislation, and I shall not take more than a minute or two to express my views.

The Senator from Florida and his colleagues on the subcommittee have rendered a national service in bringing forth the pending bill. I come from a State in which there are many railroad employees and many miles of main-line and branch-line railroads. I realize the concern of not only the employees of the railroads and of the management of those railroads, but also of the communities which the railroads serve.

Our State has been particularly hard hit in the past 4 or 5 years by the recession in the lumber industry. The recession, in turn, has been accentuated by the economic adversity suffered by the railroads. The railroads have had their revenues reduced by the fact that lumber, which is the principal tonnage emanating in our State, has been very sharply curtailed by the throttling of new housing construction, on which the lumber industry is so dependent.

Therefore, for all those reasons, and many others, I believe the Subcommittee on Surface Transportation, headed by the able Senator from Florida [Mr. SMATHERS], deserves a great deal of credit for bringing forth a program which promises to offer relief to the railroad industry and to the whole transportation system in general—although some of us may disagree with certain details of the program.

I should like to ask a question of the distinguished Senator from Florida, who deserves so much credit and approbation for the proposed legislation which is now before the Senate.

Mr. SMATHERS. I am deeply grateful to the junior Senator from Oregon for his characteristic generosity, but it is undeserved. We have a wonderful committee, which has faithfully and loyally worked on the bill: The Senator from Kansas [Mr. SCHOEPPEL], the Senator from Connecticut [Mr. PURTELL], and the Senator from Ohio [Mr. LAUSCHE]. The bill represents the best efforts of all of us.

Mr. NEUBERGER. The Senator from Florida is unduly modest as to his own role, however.

I feel quite certain that the bill will pass the Senate very shortly, perhaps this afternoon. I trust that its passage will not in any way diminish the efforts of the Senator from Florida and his colleagues on the Committee on Interstate and Foreign Commerce to try to bring about the elimination of the 3-percent Federal tax on freight shipments, and the 10-percent Federal tax on travel which, in my opinion, and I am certain in the opinion of the Senator from Florida, have so greatly and devastatingly contributed to the plight in which the railroads find themselves.

The other day the Senator from Florida delivered one of the finest speeches ever made in the Senate on this issue. I simply want to have reassurance from him that he will continue his efforts with respect to the elimination of the freight and travel tax.

Mr. SMATHERS. The Senator from Oregon can be absolutely certain that we shall vigorously continue our efforts in that direction.

Mr. NEUBERGER. I thank the Senator from Florida for that reassurance, which is so comforting.

Mr. LAUSCHE. Mr. President, I regret that I cannot answer in the same tone. In my dissenting views, I recommended to the Committee on Finance the elimination of the 3 percent excise tax on freight shipments, but against the elimination of the 10 percent excise tax on passenger travel. I did so on the basis that the testimony showed that freight shipments were being diverted to private carriers.

Mr. NEUBERGER. And to carriers in Canada.

Mr. LAUSCHE. In order to avoid the payment of the 3 percent excise tax. But nothing in the testimony showed that there was any loss of passenger revenue because of the 10 percent excise tax. So I agreed to recommend the elimination of the 3 percent freight tax, but not the 10 percent passenger travel tax.

Mr. NEUBERGER. I am grateful that the Senator from Ohio has joined in the recommendation to eliminate the 3 percent tax on freight. So far as the Pacific Northwest is concerned—that is the region from which I come—it is the freight tax which is the most onerous. We are farther from our major markets than is any other part of the United States. Therefore, not only does the freight tax hurt the railroads, but it damages every single industry in the Northwest which has to ship its products so far to find markets.

It is my hope that in time we can pass a bill to eliminate the travel tax, as well. But I am grateful to the Senator from Ohio for the position he has taken concerning the elimination of the 3 percent tax on freight.

Mr. LAUSCHE. I did not join in the recommendation to eliminate the tax on travel because I was concerned with the general fiscal problem confronting the Committee on Finance, headed by the Senator from Virginia [Mr. BYRD], and confronting the administration, as well.

Mr. NEUBERGER. If at this session we can legislate to eliminate the Federal tax of 3 percent on freight, which is so bad for the State of the Senator from New Mexico, the Senator from California, and the other Senators from the Western States, I for one, will consider it to be a major advancement for all the industries located west of the Continental Divide.

Mr. POTTER. Mr. President, although I am not a member of the subcommittee which held hearings on the bill, I am a member of the full Committee on Interstate and Foreign Commerce. The full committee held additional hearings on the bill.

I wish to comment on the colloquy which took place a few minutes ago among the Senator from Tennessee, the Senator from Florida, and the Senator from Ohio, concerning the inherent advantages of having a national transportation policy written into the law. I believe it was on my suggestion that the full committee included in the bill language to correspond with the objectives of a national transportation policy. Under that policy, every mode of transportation is included.

Representatives of each mode of transportation testified before the committee that they would be perfectly happy to have their rate sections considered according to the national transportation policy. So in determining a rate, whether it be the rate for trucks, barge lines, or railroads, we stated that it had to be consistent with the national transportation policy.

The hearings on the so-called railroad problem held during this session of the Congress were lengthy and exhaustive in nature. From the statements and the testimony of those who appeared during the course of the hearings it is quite evident that the situation of the railroads is critical, indeed. Moreover, the most recent available data show that further deterioration of a serious nature is continuing right up to the present. How extremely vulnerable the railroads are to downturns in general economic activity, such as that recently experienced, is clearly indicated, for example, by recent and current data on carloading, employment, and earnings.

The conditions which one may observe in the railroad industry are urgent signals of real distress. They merit the most serious concern and obviously require immediate remedial steps. This is particularly evident when it is recognized, as it must be, that the present precarious situation of the railroads has not resulted only from the general economic downturn we have seen in past months. It is not to be expected that general economic recovery alone will suffice to relieve the basic problems which beset the railroad industry and other common carriers as

well. The deterioration of the railroad situation and the transportation situation in general has not actually been so sudden as might appear from developments occurring during the past months of economic recession. The difficulties have been persistent and they are deep-seated; consequently, their circumstances must be taken into account in determining appropriate remedial measures.

All of this has serious implications extending far beyond mere concern for the future of the railroads as such. The railroads are a part of the great transportation industry. They are essential to the Nation's commerce and are vital to the defense of our country. They are, in a word, indispensable.

Thus it is of the utmost public interest that all modes of transportation be preserved and maintained in full vigor as efficient, economical, progressive, and financially sound instrumentalities of transportation. To permit their weakening and decline is to court disaster and the sheerest folly. The gravity of the present situation of the railroads makes it imperative that they be given relief from at least some of the pressures and restrictions to which they are subject; for precarious and threatening as the present situation is, the future holds little promise of improvement unless constructive action is taken to enable them better to help themselves. Should they be allowed to deteriorate to the point where they could no longer adequately and efficiently perform their indispensable task under private ownership and management there could be only one result: Government ownership and operation. That, of course, is unthinkable so long as any alternative remains.

I and my colleagues on the committee believe that positive legislative action by the Congress is necessary in order to stave off an intolerable worsening of the railroad situation. In order to afford an opportunity for improvement in that situation, we have carefully considered a number of suggestions advanced during the hearings for dealing with certain aspects of the railroads' problems. While neither I nor my other colleagues are prepared at this time to endorse all, by any means, or even most, of the suggestions for remedial legislation received, the failure to include in S. 3778 any suggestion or proposal advanced should not be taken as a rejection by me or my colleagues of that suggestion or proposal. I believe, with my colleagues, that there should be action by Congress at once to provide at least a limited measure of relief, and that certain of the more readily apparent inequities and burdens may be alleviated in appreciable degree by means which are clearly constructive and which would effectively benefit the railroads—and to a substantial extent other common carriers as well—without having any unduly adverse effect on competing forms of transportation or the economy and without jeopardizing in any way the interests of shippers or the public generally.

Let me say that the pending bill, S. 3778, does not represent an effort at wholesale or comprehensive overhaul of our transportation policies. I recognize that, in a sense, this is only a patchwork approach, designed to deal in an incomplete and piecemeal fashion with merely a few individual facets of the overall transportation situation which urgently demand immediate action and which are susceptible of it.

Let us not delude ourselves that the limited measures recommended at this time will by any means be a panacea for the many troubles which beset the railroads and other common carriers. No panacea is intended. Many areas of trouble which quite obviously require corrective action will remain for the present untouched, for further consideration and later cure. In certain other areas additional study is needed before it can be determined whether there is or is not justification for the enactment of remedial legislation.

The urgencies of the situation justify immediate action, even though it be limited and incomplete. It is the purpose of the bill, in the interest of immediate action, to provide only a bare minimum of simple and easily understood partial remedies which are directed to readily apparent ills and which are, or should be, noncontroversial.

Mr. CURTIS. Mr. President, will the Senator from Michigan yield?

The PRESIDING OFFICER (Mr. MORTON in the chair). Does the Senator from Michigan yield to the Senator from Nebraska?

Mr. POTTER. I yield.

Mr. CURTIS. I concur in much, if not all, of what the Senator has said. In my opinion this proposed legislation is a "must." It is in the interest of every American citizen that the transportation companies continue as taxpaying, private-enterprise operations.

Perhaps the bill is not all it should be, and I would not vouch for the correctness of every detail of it; but in the main I think the bill should be enacted, and I am supporting it.

Mr. POTTER. I thank the Senator from Nebraska.

I think a high degree of statesmanship has been demonstrated by the leaders of all modes of transportation—the railroads, the bus and truck lines, and the airlines—in arriving at a bill which we can support.

Mr. RUSSELL. Mr. President, as I understand the present parliamentary situation, the pending question is on agreeing to my amendment to strike out all of section 4 of the bill.

Objections have been made to the amendments in the nature of perfecting amendments to the text of the committee print of section 4. If those perfecting amendments are agreed to, even though they are not all that I would desire, I shall withdraw my original amendment by way of a perfecting amendment, if I am permitted to do so by the Senate.

So I ask whether the pending question is on agreeing to the amendment to strike the entire section from the bill.

The PRESIDING OFFICER. That is correct; the pending question is on agreeing to the amendment to strike out section 4 of the bill.

A substitute has been discussed, but it has not been offered.

Mr. RUSSELL. Perfecting amendments to the original text would have priority over the amendment to strike out, would they not?

The PRESIDING OFFICER. That is correct.

Mr. RUSSELL. Mr. President, I have another amendment, which I have discussed with the Senator from Florida and the Senator from Ohio. The amendment is with respect to the rather cavalier treatment given in the original bill to the officials of the States.

The effect of the amendment, which I ask to have read at the desk, is to require that the Governor of a State at least shall be notified before proceedings are removed from a State commission, thus invading a field which heretofore has been reserved to the States. I believe the amendment is important, because at least it will give the State commissions an opportunity to appear before the Interstate Commerce Commission and submit a protest.

I do not believe the amendment is controversial, and I ask that it be stated.

The PRESIDING OFFICER. The amendment submitted by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 5, beginning in line 10, it is proposed to strike out the words "may, but shall not be required to, file with the Commission," and to insert in lieu thereof the words "shall be required, prior to filing with the Commission, to."

So the text at that point will read:

> Any court or an administrative or regulatory agency of any State shall be required, prior to filing with the Commission, to mail to the Governor—

And so forth.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment which has been submitted by the Senator from Georgia.

Mr. KUCHEL. Mr. President, I certainly think the amendment submitted by the Senator from Georgia is a good one. But I do not understand the parliamentary situation. Has unanimous consent been given to void the ordering of the yeas and nays on the question of agreeing to the original amendment of the Senator from Georgia?

Mr. RUSSELL. No. We are now in the process of perfecting the original text; and it will be necessary to do that before action is taken on the amendment to strike out the entire section.

Mr. KUCHEL. I thank the Senator from Georgia.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment submitted by the Senator from Georgia.

The amendment was agreed to.

Mr. RUSSELL. Mr. President, I now submit, and send to the desk, amendments to the original text which were first suggested by the Senator from Florida, and were prepared, I assume, by the Senator from Florida and the committee staff. Of course, the Senate is familiar with the debate on the effect of these various amendments.

The PRESIDING OFFICER. The amendments submitted by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 4, in line 24, after "13a", it is proposed to insert "(1)."

On page 5, in line 3, after the word "interstate", it is proposed to strike out the comma and to insert in lieu thereof "or"; and after the word "foreign", it is proposed to strike out the comma and the words "and intrastate"; and after the word "commerce", it is proposed to strike out the words "or any of them" and the following comma.

On page 5, in line 6, after the word "interstate", it is proposed to strike out the comma and to insert in lieu thereof the word "or"; and to strike out the words "and intrastate", and to strike out the final word "or."

On page 5, in line 7, it is proposed to strike out the words "any of them" and the following comma.

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

Mr. RUSSELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I understand that these particular amendments deal with the problem I raised this morning about the sole criterion in regard to "net loss" as a basis for Interstate Commerce Commission action insofar as a train which operates strictly intrastate is concerned, in that it will be removed from Interstate Commerce Commission jurisdiction. Am I correct as to that?

Mr. RUSSELL. Mr. President, I am not familiar with the first part of the Senator's statement with respect to controls; but the aim of the amendments is to remove from what I call the railroad's determination the right to abandon a train or service that is purely intrastate in character.

Mr. JAVITS. I believe I understood the Senator's purpose.

My point—if I may explain it; and certainly I believe it is important to the Senate—is that if the amendments were not added to the bill—of course, I have no doubt that they will be added to it—a railroad would have the right to discontinue a particular train, although it was intrastate, and the Interstate Commerce Commission would have the right to stop it only if the Interstate Commerce Commission could show that the operation of the train represented no net loss. And the purpose of my previous amendment is to try to broaden the criterion for that consideration.

I am trying to spell this out, because I believe it important in terms of the effect on the bill.

Therefore, I so understand the effect of the removal from the bill itself of the jurisdiction in respect to intrastate trains.

But if a train operates from one State into another State, notwithstanding that it is a commuter service preponderantly in only one State, it will nevertheless come under the provisions of this particular section of the bill, even after adoption of the amendments of the Senator from Georgia. Is that correct?

Mr. RUSSELL. That is my understanding of the provisions.

In the course of the debate, I said there is no question as to the constitutional power of Congress to legislate with respect to a train which goes from one State to another State—in other words, a train which crosses State lines. There may be some question as to the wisdom of Congressional delegation of these powers; but there is no question as to the right of Congress under the Constitution to authorize the railroads to discontinue these trains, unless they are stopped by a rule nisi on a motion by the Interstate Commerce Commission.

But I do not think Congress has a right to deal in so cavalier a fashion—and I certainly gravely question the advisability of it—with a purely intrastate operation.

If I may state my views—although I am sure a court would go further to obtain the views of an expert on interstate commerce—let me say that I believe that a train which operates from New York City to Connecticut is subject to the provisions of this law, but one which operates from New York City to White Plains, N. Y., would not be subject to the provisions of this law.

Mr. JAVITS. I thank the Senator from Georgia.

Mr. RUSSELL. That is my construction of the amendments as applied to the problem the Senator from New York has raised.

Mr. JAVITS. Mr. President, at this point will the Senator from Georgia yield to me?

Mr. RUSSELL. I yield.

Mr. JAVITS. I wish to say a word about the amendments. Is the Senator from Georgia willing to have me do so now, or does he prefer that I speak on them later?

Mr. RUSSELL. I am perfectly willing to have the Senator from New York make his statement now. I do not desire to discuss these matters further. I only wish to say that I hope the Senator from Florida and the Senator from Georgia have correctly understood what the amendments would accomplish.

Mr. JAVITS. I thank the Senator from Georgia.

Mr. President, I believe these amendments emphasize exactly what I was seeking to accomplish by means of the amendment I offered previously. I should like to redefine the purpose, so it will be crystal clear. In terms of jurisdiction, as well as in terms of substantive fact, this matter affects every Member of Congress who represents an area in which there is commuter service which is interstate; and I beg all my colleagues to listen closely, because they will hear more about this matter:

Where there is an interstate branch which comes under this section of the bill, the section provides that any railroad may discontinue that service; and the ICC can stop it, says this section, only if it shows that that particular train or branch is not operating at a net loss.

It seems to me this is giving a grant of power which we should not give, and certainly which we do not have any intention of giving.

If there is any doubt about it, I point out that the Senator from Florida [Mr. SMATHERS], the chairman of the subcommittee, said specifically in answer to my question, "Yes; if there is a net loss on the particular operation which is discontinued, then the ICC must permit it to be discontinued."

Under that interpretation, neither the public utilities commission of a State, nor the ICC, if that is to be the criterion, could prevent a discontinuation of any passenger service in the East, from Boston to New York, for instance, or from London to New York. Any line could be operating at a net loss under that standard.

I merely wish to call that matter to the attention of the Senate.

Mr. President, I ask unanimous consent to have incorporated in the RECORD a telegram from the counsel of the Public Service Commission of the State of New York, specially commenting on the amendment which I proposed, and which did not carry, setting forth the situation just as I described it to the Senate.

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

ALBANY, N. Y., *June 11, 1958.*

Hon. JACOB K. JAVITS,
Senate Office Building,
Washington, D. C.:

The amendment of section 4 of S. 3778 which you propose is addressed to one of the most objectionable features of the present bill. The "net loss" clause. No one knows its meaning. Under ICC accounting principles, however, virtually every passenger facility produces net loss and hence the ICC would be powerless to halt any threatened discontinuance. Your proposal would permit the continuity of essential services. The present bill would not.

The New York commission opposes vesting supervening control of purely local services in the ICC and hence opposes enactment of the section. Nevertheless your proposed amendment is a marked improvement of it.

KENT H. BROWN,
Counsel, Public Service Commission.

Mr. JAVITS. Mr. President, I emphasize that point a little for this reason: Knowing a little about how legislation works, I have no doubt, if my contention is sound, that after reflection and consideration it will have attention, whether it is attention by amendment here or not. Therefore, I think it important to emphasize the matter by way of demonstrating that the amendment offered by the Senator from Georgia does not meet the particular issue I have raised. It may meet it in part, in the sense that it excludes strictly intrastate operations, but operations of commuter service trains, whether they be around Chicago or New York, are interstate, and not intrastate, and are not met by that amendment. The situation could have been met by the amendment I proposed.

Mr. President, I do not propose to take any more time of the Senate on the proposition. If I am right, the mere fact that it has been sharply called to the attention of the Senate and that the record on it is clear, is, to my mind, satisfactory. If I am right, and the situation were not changed, it would be scandalous. Therefore, I want to post that statement to the action on the amendment which has been offered by the Senator from Georgia. If the subcommittee considered the words "net loss" to mean net loss in consideration of the overall

operations of a carrier—something broader than the net loss on the operation being discontinued—the provision might be tolerated and we could live with it.

Personally, I am for taking that jurisdiction out of the State level and putting it in the Federal level. I think we should help the railroads, but in doing it we should not swing the other way too far, and, as a matter of law, and not as a matter of discretion, permit the railroads to discontinue such service, and provide that the ICC cannot stop them, by leaving the language this way, because if the ICC tries to stop it the courts will stop the ICC.

I know the matter will be cleared, but I attempt to make the record clear by presenting my statement on the amendment offered by the Senator from Georgia, which I shall not oppose, and which I think does to some extent help the situation.

Mr. KUCHEL. Mr. President——

The PRESIDING OFFICER. The Senator from California.

Mr. KUCHEL. I do not see the able junior Senator from Florida [Mr. SMATHERS] present on the floor, but I would appreciate it if I might have the attention of the able Senator from Georgia.

Quite aside from the language which would be changed by the amendment of the Senator from Georgia, my reading of the text of this amendment leads me to interpret the amendment in its later language as providing the following procedure, to me unorthodox and questionable: That X Railroad in the Senator's State or in my State would have a choice of jurisdiction if, indeed, it desired to avail itself of jurisdiction at all. X Railroad could, after announcing that it was abandoning a particular train service, have the matter heard before the State regulatory body and pursue such a course to finality in the State courts, and, being deprived of what it believed was its just due under State jurisdiction, could then come to the Interstate Commerce Commission and have a second hearing by the Interstate Commerce Commission. Is that the understanding of the Senator?

Mr. RUSSELL. That would be true as to any interstate operation, but it would not be true as to an intrastate operation. The Senator speaks about a hearing before the Interstate Commerce Commission. On the notifications which are filed with the Interstate Commerce Commission, there is no hearing, unless the Interstate Commerce Commission, within a certain period of time, determines that one should be had. Unless the Interstate Commerce Commission takes affirmative action to stop the railroad's action within a certain period of time, the railroad determines such action.

Mr. KUCHEL. The able Senator is stating, even assuming that his amendment is adopted today, the bill would still provide that the X Railroad, on its own ipse dixit, could determine completely to abandon runs of a certain train, and to that extent the matter would be final, unless the Interstate Commerce Commission took affirmative action and the State utilities commission, acting pursuant to its State constitution and State laws would be powerless to do anything at all.

Mr. RUSSELL. That is my interpretation of this provision. I may say I am not an expert in this field, but I am confident that interpretation is correct. A reading of the provision will indicate that is so. Unless the Interstate Commerce Commission takes affirmative action—I have forgotten the time limit; I think within 30 days—the notification by the railroad is effective.

Mr. KUCHEL. If the able Senator from Georgia agrees with the able Senator from New York, it would mean after an abandonment had been made the Interstate Commerce Commission could not overrule that decision unless it found that there was no net loss in that particular operation. Is that correct?

Mr. RUSSELL. I would not want to undertake to interpret that. I am not sure there would have to be a loss as to that particular operation or whether there would have to be a loss on the overall operation of the service. I have not studied the bill from that angle. I went into the bill from the angle of its constitutionality and its impact on the State regulatory bodies and State commissions. The distinguished Senator from New York can perhaps give the Senator from California a more satisfactory answer because he has studied the question from the standpoint of income. I have approached it from the standpoint of the desire to protect the States in their control over local matters.

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

Mr. KUCHEL. Yes. If there is anything in the record which bears on the telling question which the Senator has raised as to what is meant by the phrase "net loss," as used on page 6, I think it will be helpful to have that pointed out.

Mr. JAVITS. The Senator from Florida left us in no doubt. I asked the question. He stated, in answer, that "net loss" refers to net loss on the particular operation sought to be discontinued. After he had said that and sat down, I again argued for my amendment and pointed out this was the whole ball game, that this was what we were talking about. He says it is so, and therefore we should correct it.

Mr. KUCHEL. Mr. President, I said earlier today I want to help the railroads of America, but the Senate and the Government of the United States must consider the public interest. I simply do not agree that the manner in which the amendment is written, even after the proposal of the Senator from Georgia is adopted, represents the interests of the public.

Mr. RUSSELL. Mr. President, let me say to the Senator from California that I am far from happy about the language. I try to be realistic about legislation. My original proposal was to strike the section from the bill. I have had some little familiarity with similar problems in the past, and I know something about the extent of the negotiation which has gone on between constituents and Members of this body with respect to the proposed legislation.

I determined at an early date that if I could get a quarter loaf from this situation it would be the part of wisdom to accept it. I have come out of it with that quarter loaf, which consists of the right of the States to control purely intrastate operations.

There is much in the bill and in the section of the bill we are discussing of which I do not approve. I decided it was better to salvage a quarter loaf than to lose everything.

Mr. KUCHEL. I thank the very able Senator from Georgia. I support his proposal, but I shall object to the original provision of the bill even as it will be amended by the modification of the Senator from Georgia.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, a letter from the Public Utilities Commission of California dated May 29, 1958.

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

PUBLIC UTILITIES COMMISSION,
STATE OF CALIFORNIA,
May 29, 1958.

Hon. THOMAS H. KUCHEL,
Member of the Senate,
Senate Office Building,
Washington, D. C.

DEAR SENATOR KUCHEL: Your attention is respectfully called to S. 3778 and H. R. 12488, which latter bill is a companion bill to S. 3778. These bills, now pending in the Congress, would amend several sections of the Interstate Commerce Act.

This Commission is particularly concerned over the provisions of sections 2, 3, and 4 of S. 3778, which would greatly extend the present authority of the Interstate Commerce Commission over purely intrastate operations of the railroads and completely nullify the authority of the several States to regulate intrastate rates and service.

This Commission recognizes the essentially unitary character of the railroads and the desirability of consistent nationwide regulation. We are convinced, however, that sections 2, 3, and 4 of this bill go much further than necessary to accomplish this objective and would make it quite impossible for State commissions to effectively protect even the most vital local interests. Indispensable commuter service could be abandoned, for example, without any public hearing. So could any other service or facility.

We believe it to be feasible to develop legislation by which cooperation between the Federal and State regulatory agencies can be so perfected that the advantages of uniformity will be combined with the advantages of State participation in the solution of those problems which have great impact on the welfare of the State and its people. Particularly in California, because of the vast area of the State and the consequent significance of transportation in its economic development, it is essential that State authorities, with their special interest in and information about local problems, should retain a measure of authority and responsibility.

We urge, therefore, that you use your best efforts to eliminate sections 2, 3, and 4 of the said bill, if the bill is to be enacted into the law.

Very truly yours,

PETER E. MITCHELL,
President.

Mr. CARROLL. Mr. President, I desire to commend the very able Senator from Georgia for giving us an opportunity to vote for this bill. I think I would have opposed the bill had it not been for the amendment offered by the Senator from Georgia.

Mr. President, I have received a telegram from the Public Utilities Commission of the State of Colorado, and I ask unanimous consent that it be printed in the RECORD at this point.

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

DENVER, COLO., *June 2, 1958.*

JOHN CARROLL,
Senator from Colorado,
Senate Building, Washington, D. C.

Strongly protest portions bill S. 3778 as relates to section 13 making ICC powers more complete over intrastate rail rates and giving ICC original jurisdiction over intrastate rail service. Proposed act would usurp State functions, open door for discriminatory rates and ruinous competition. Would also permit abandonment of passenger field that is purely local problem. Urge your determined opposition.

RALPH C. HORTON,
JOHN P. THOMPSON,
JOSEPH F. NIGRO,
Commissioners, the Public Utilities Commission of the State of Colorado.

Mr. CARROLL. Mr. President, the telegram vigorously protests portions of the bill. It is felt that the bill would usurp State functions, open the door for discriminatory rates and bring about ruinous competition, as well as permitting the abandonment of a passenger field which is purely a local problem.

I suggest to the very able and distinguished lawyer, the Senator from Florida [Mr. SMATHERS], that the comments of the junior Senator from New York [Mr. JAVITS] are very pertinent. The record is clearly made with regard to the bill. I think we have to pay attention to the matter, because there can be a net loss and thereafter the abandonment of a railroad line which may affect the public interest.

I associate myself with the fine argument made by the distinguished Senator from Georgia [Mr. RUSSELL]. The bill is not all that we desire, but it can go forward so that we can give the relief which seems to be necessary for the railroads of this country.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendments offered by the Senator from Georgia.

The amendments were agreed to.

Mr. RUSSELL. Mr. President, in view of the statements I have made heretofore, and the action taken by the Senate, I now ask unanimous consent of the Senate to withdraw my original amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The yeas and nays have been ordered.

Mr. RUSSELL. Mr. President, in view of the fact that the yeas and nays have been ordered on the amendment, it is necessary to ask unanimous consent to withdraw the amendment. The amendment is out of my custody and is in the custody of the Senate. If the Senate grants my unanimous-consent request to withdraw the amendment, the order for the yeas and nays will fall of its own weight.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The Chair hears none; and, without objection, the amendment is withdrawn.

Mr. BEALL. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 18, beginning with the world "shall" after the single quotation mark on line 6, it is proposed to strike out all language down to and including the word "and" on line 9 of page 18.

Mr. BEALL. Mr. President, the purpose of the amendment is to keep the frozen fruits and vegetables under the Department of Agriculture and to exempt them from the provisions of this bill. It is necessary to do this, Mr. President, because frozen vegetables and fruits are very often sold and shipped in less-than-carload lots. Sometimes shipments are as small as 1,000 or 2,000 pounds at a time. It is not practicable or profitable for these items to be shipped in carload lots. They are joined with other shipments in smaller trucks.

I hope the amendment will be agreed to.

Mr. SMATHERS. Mr. President, I completely sympathize with the problem which has been presented by the able junior Senator from Maryland. It is a problem which was also raised by the senior Senator from Maryland in the committee. We wrestled with the problem to see if we could provide some relief, but the wisdom of the subcommittee and the full committee was that we had better hold our ground.

Briefly, the reason we oppose the amendment is that if we accede to the wishes of the Senator from Maryland we shall be giving to the frozen fruit and vegetable people an advantage over the concentrate people and canners, which we do not believe anybody is entitled to have. It was the wish of the committee that we retain the language, with all deference to the Senator, and I hope the Senate will reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

Mr. PROXMIRE. Mr. President, I hesitate very much to speak on the amendment or on the bill. I do so only because I think it is vitally necessary for the record to be complete. I have the hearings before me. The Department of Agriculture, the Department of Commerce, the Farm Bureau, the Farmers' Union, the National Grange, and the National Council of Farmers' Co-ops all indicated they opposed any change in the language of the present law of the kind the bill provides, and therefore it would seem to me on any kind of interpretation of their position they would support the amendment offered by the Senator from Maryland.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment was rejected.

Mr. BEALL. Mr. President, I should like to ask the chairman of the subcommittee a question.

It is my understanding that the intent of section 8 (a) of the bill is to exempt such items as deviled crab and what is known as "imperial crab," crab cakes, hard shell crabs, fish with sauce or prepared for food, or fish frozen and shipped ready for serving. Is my understanding correct?

Mr. SMATHERS. The Senator is correct. We kept those items in the exempt status.

Mr. BEALL. I thank the Senator.

Mr. NEUBERGER. Mr. President, I offer an amendment to the bill (S. 3778) which I discussed earlier with the able Senator from Florida, the chairman of the subcommittee [Mr. SMATHERS].

My amendment would amend lines 6, 14, and 20 on page 6, in section 4, by inserting the word "or" between the words "train" and "ferry" and striking the words "station, depot or other facility."

The essential purpose of the amendment is to leave these particular items under State jurisdiction, as they are at present.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 6, it is proposed to amend lines 6, 14, and 20 of section 4 by inserting the word "or" between the words "train" and "ferry" and striking the words "station, depot, or other facility."

Mr. SMATHERS. Mr. President I will accept the amendment, with the understanding that it will be the subject of a conference which we anticipate will ultimately result.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. NEUBERGER].

The amendment was agreed to.

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a statement which I have prepared relating to Senate bill 3778.

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

STATEMENT BY SENATOR SMATHERS

During the past month or so, some newspapers and magazines carried the now-familiar advertisement with the provocative tag line: "If the railroads didn't exist, we'd have to invent them."

This ad was designed to flash an image across the mind—briefly but vividly—of the paralysis which would result to our Nation if the railroads were suddenly whisked away.

I am sure those advertisements succeeded very effectively in what they set out to do. For it is clearly impossible to visualize the 20th century as we know it without the network of steel which is both its body skeleton and its central nervous system.

Without the railroads, there could be no quantity movement of heavy goods and con-

sequently a stagnation of commerce. The great span of continent between the Atlantic and the Pacific would be chopped up into economic principalities and no doubt into different governments.

Each section would be walled up naturally within itself, living on its own limited resources and supplying its own needs as best it could.

Perhaps now, without the rails which bound us into one insoluble union and with trucks and airlines just now coming into their maturity, we might be discussing tentatively the revolutionary concept of an economic union. This Congress might be meeting, as a convention of ambassadors, to consider ways of removing restrictions on trade.

Such is the image that leaps to mind, when we think of what would have happened without railroads (before the advent of trucks and airplanes).

However, there is an ironic aspect to this fantasy. If there were no railroads to this day or if they were still in the process of being built, we would at least be freed of certain preconceptions which today work against intelligent reform of our transportation system.

To a great extent, modern efforts to meet the changing conditions in the railroad industry have had to contend against the dead weight of the past.

This is true, equally in the board rooms of the major railroad companies and in the opinion-making forums of the Nation. You have only to wander through the reading room of any major library in the United States to find how considerable is the body of literature, created near the turn of the century, in which the railroads appear as a villainous monster, dwarfing the economy.

But those days are gone. However, it is difficult to erase their memory. Generations have been nourished on this lore, and minds resist weaning from comfortable long accepted tradition.

There are still railroad men who shy away from fact and dream fondly of glories that are past. And regretably, too, there are still some among the public who would punish the railroads for the sins of old, who would have us put chains on the shadow of a colossus which is dead.

But the memories of 1890 ought not to influence the deliberations of 1958.

The choice before us is not between Federal regulation or arrogant monopoly. That decision was made irrevocably in 1887 when railroads were first put under regulation.

Today the threat is not monopoly—but, strangulation of a vital part of the Nation's transportation system.

The choice now is between a transportation industry operated under the traditional system of free enterprise, with its safeguard of decentralized control—and Government ownership or complete Government direction.

The evidence before our committee showed conclusively that the railroads are a sick and declining industry. The Government must either take them over or we the Congress must help them to help themselves.

There is no third choice. This is the common verdict of 20th century experience.

In nation after nation, the declining transportation industry has been the first—or among the first—to succumb to State control. I don't know how it strikes others, but it sends a cold chill down my spine to recall Mussolini's proud boast that, "I have made the railroads run on time."

This discomforting fact is that today the United States is the only major Nation that still has a privately owned system of railroads.

Lacking the warning—and therefore the opportunities which remain to us—each of the nations in Europe has long since been forced to nationalize its railroads. Even on our own continent, Canada has had to place all of its railroads, except the Canadian-Pacific, under state ownership.

I think we are agreed that nationalization is not the answer which commends itself to Americans.

The crisis has been developing for some time. It was already well into an advanced stage when the Surface Transportation Subcommittee of the Committee on Interstate and Foreign Commerce announced its studies last November.

Railroad carloadings had steadily declined. Employment was falling precipitously 5,800 a month for 5 years. Railroad bond and stock issues were going begging. Orders for new equipment had been temporarily suspended. Maintenance work had dropped below the safe minimum.

Today—June 1958—conditions in the railroad industry are, if anything, worse—though it scarcely seems possible. The general recession has something to do with it—of course, but there is, in fact, cause to believe that the present recession is at least as much a railroad recession as it is a general recession.

The subcommittee began hearings in January on what we termed the deteriorating railroad situation. The hearings took 3 months. There was testimony from 110 witnesses.

Six months have gone by since the hearings began. And today the deteriorating situation has further deteriorated.

It is not a pleasant story to tell. I refer to our report, section on need for action for statistics and factual administration.

Our hearings produced two fundamental facts—which were restated or reiterated in one form or another by virtually every witness be he railroad man, or shipper, or expert, or representative of competing mill.

First, a basically healthy railroad system is absolutely essential to the defense and to the economic vitality of this Nation. Railroads are the backbone of our national transportation system which includes motor trucks, airlines, buses, and water carriers.

Second, there can be no doubt whatsoever that America's railroads are—without significant exception—in worsening financial condition. Defense Department witnesses, other Government spokesmen, consumers, and shippers—even the railroads' competitors—all were agreed: The railroads are essential and they are in trouble.

IMPORTANCE OF THE RAILROADS

To be sure, the railroads are not a very glamorous form of transportation.

But considering all costs, they remain far and away the cheapest means of transporting goods or equipment overland.

Railroads can haul a ton of freight 1 mile for less than a cent and a half. The cost on competitive forms of transportation ranges from 5 cents to more than 12 cents per ton-mile.

The average freight train is manned by a crew of five and carries a net load of 1,400 tons. To move the same volume by motor freight would require approximately 140 trucks and 140 drivers.

It costs roughly 6 cents to move a ton of freight 1 mile by motor carrier. That is four times the ton-mile cost of railway carriage. And it requires nearly three times as much fuel—obviously a matter to be considered in case of national emergency.

Research in the Army War College has revealed that Germany's collapse in World War II may be traced in part to der fuehrer's excessive faith in the total sufficiency of motor transportation.

Hitler had the notion that a streamlined network of "autobahnan" and "auto-strassen" or motor roads would do a better job for Germany than would railroads.

He launched a campaign to convert the German people to use of the motor instead of the rail. Deep in that odd and twisted brain of his, Hitler was already preparing for the war which he alone knew was coming.

It seemed quite plausible—even logical. But it turned out to be a fatal mistake.

Once the war began, Germany's thirst for gasoline became insatiable. It was a relatively easy matter for the Allies to shut off the major lines of fuel supply. Stocks were quickly exhausted, and before long Hitler's magnificent roads and his fleets of automotive equipment were utterly useless.

Had Hitler relied to a greater extent on Germany's railroads, his military position, we are told, would have been far stronger. Railroads are the backbone of any national transportation system—a fact, I might add, which the Russians clearly understand.

They are putting their major emphasis on development of a complete automated railway system—and already, although they are far behind us in track mileage, they are carrying more freight on their railroads than we are able to move on ours.

Low-cost, high-volume service—such as only the railroads can provide—is without question the cornerstone of defense production.

Consider the remarkable job that the railroads did during World War II in response to national need. From 1939 to 1944 the railroads more than doubled freight traffic. They increased passenger service fourfold. In both cases the increases were accomplished with only modest additions of manpower, equipment, and fuel.

At subcommittee hearings Defense Department representatives testified that during World War II the Government called upon the railroad industry to carry 90 percent of all military freight and to handle more than 97 percent of all personnel movements.

Without belaboring the obvious, I think it is clear that the railroads are equally important to agriculture and industry. They carry the bulk of the agricultural products of the Midwest and South to the consuming areas of the Nation. They transport the products of industry from the East to the West and from the North to the South.

SERIOUSNESS OF THE RAILROADS' FINANCIAL PLIGHT

Approximately 40 years ago the railroads transported three-fourths of all intercity ton freight traffic. Today they carry less than half this traffic—report 70 percent in 1929, 30 percent today.

The resulting loss of revenue has made it harder for the railroads to modernize and thus to effect cost savings.

A National City Bank of New York chart shows net return on investment of 73 industries—rails next to last.

Today one of the witnesses during the subcommittee hearings testified that for 1958 the rate of return on net investment to the country's class I railroads would probably not exceed 2.9 percent.

Consequently, the railroads are finding it increasingly difficult to attract investors.

Lacking both revenue and investment capital, the country's major railroads are today faced with a serious shortage of funds which must be available to meet current operating costs.

Just 3 years ago the class I railroads had net working capital amounting to $938 million. By the end of last year, they had only half this amount.

This is about what it takes the railroads to operate for just over 2 weeks.

Today, the situation has become so serious that a couple of larger eastern carriers are afraid they may, at any time, have to skip a payroll.

The effect such drastic action would have on local communities and on individual families, on the general economy, would be nearly catastrophic.

In February 1957 class I railroads realized a $47.5 million profit, but in February 1958 the same railroads lost $10.7 million.

The task before us is to arrest this decline and give to this important segment of

our transportation industry a new breath of economic oxygen.

It is imperative that we not delay.

No doubt there are many among us who dislike the idea of subsidizing the railroads, no matter how briefly. What ought we to say about the subsidies which we give, through foreign aid, to socialized transportation systems abroad?

The Miami Herald reported recently that we have handed out $1.3 billion in such aid, including $220.8 million to Italy, part of which was used to construct a mile-long marble and glass railroad station which is as big as the New York, Chicago, and Cleveland terminals combined.

We subsidize foreign transportation on the ground that it is essential to the common defense and to the economies of our allies.

Can we do less for our own national economy, for our own national safety?

I am hopeful that the Senate, in its wisdom, will see fit to accept our recommendations and enact S. 3778.

The hour is late and becoming later all the time.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement I have prepared concerning my views on the transportation bill.

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

STATEMENT BY SENATOR HUMPHREY

I take this occasion to state my own support for S. 3778. The distinguished junior Senator from Florida [Mr. SMATHERS] and the other members of the Senate subcommittee and committee which have labored long and successfully on this legislation deserve the warmest congratulations.

The railroad industry is essential to our national economy. Its modernization and effective operation, the provision of competitive ratemaking, the possibilities for greater employment and better service, and other significant provisions of this bill, are important to the health and well-being of our entire country.

It has been a particular pleasure for me to work with the distinguished junior Senator from Florida. I am grateful to him for taking into consideration the views of many of my own constituents which I have communicated to him. I am glad to support this bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a statement prepared by the Senator from South Carolina [Mr. THURMOND] with reference to Senate bill 3778, which is about to be voted on.

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

STATEMENT BY SENATOR S. THURMOND WITH REFERENCE TO S. 3778

The railroad bill which we are considering is essential for the continued existence of our rail transportation. I do not believe that anyone could doubt that our railroads are in a perilous position, and that we must take action that will permit the railroads to improve their economic health.

It is only because of the drastic condition of the railroads that I can bring myself to support this measure since it embodies a substantial increase in authority for the Interstate Commerce Commission over intrastate rates and services. The Russell amendment as amended, in my opinion, did much to delete the objectionable features of section 4, with respect to intrastate services. I am delighted that this amendment was agreed to. Section 3 with regard to intrastate rates is still embodied in the bill, however. I feel very strongly that as a matter of principle, Federal regulation should be decreased in all fields rather than increased. Responsible action at the State level can never be fostered and encouraged by additional Federal regulation. The State agencies are closer to, and better acquainted with, the problems of intrastate transportation, and I am convinced that the State agencies are, therefore, better equipped to regulate intrastate carriers in the public interest.

Only the urgency of the situation as shown during the hearings before the Surface Transportation Subcommittee could command my support of legislation containing the provisions of section 3 of this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That this act may be cited as the "Transportation Act of 1958."

SEC. 2. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following "and except as otherwise provided in this part."

SEC. 3. (a) The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein."

(b) Section 13 of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (4) thereof a new paragraph (5) as follows:

"(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, of carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or 1 or more of the 3 major rate classification territories thereof (official, western, or southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission for a comparable adjustment of rates, fares, or charges for the transportation of like property or passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges, and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"SEC. 13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate or foreign commerce, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate or foreign commerce, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, shall be required prior to filing with the Commission to mail to the Governor of each State in which such train, ferry, station, depot, or other facility is operated, and post in every station, depot, or other facility directly affected thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or

change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers."

SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

SEC. 6. The Interstate Commerce Act, as amended, is hereby amended by inserting immediately after section 20c thereof the following new section:

"SEC. 20d. (1) It is the purpose of this section to aid common carriers by railroad subject to this part in rendering proper transportation service to the public by providing temporary financial assistance to them in obtaining funds to finance or refinance the acquisition or construction of equipment or additions and betterments for use in transportation service and in obtaining funds needed for operating expenses, working capital, and interest on existing obligations, all to the end of fostering the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and national defense.

"(2) In order to carry out the purpose declared in this section, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this section, may guarantee any lender, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made for the purposes set forth in this section, except that there shall be no guarantee of a loan to be used in reduction of the principal of an obligation other than in connection with the refinancing of an equipment obligation: *Provided*, That in no event shall the aggregate of all loans guaranteed by the Commission, including unpaid interest, exceed $700 million, of which no more than $150 million may be loans for operating expenses and interest on existing obligations.

"(3) Any such carrier may, prior to December 31, 1960, make application to the Commission, in such form as the Commission may prescribe, requesting guaranty by the Commission as herein authorized and setting forth the amount and term of the loan to be guaranteed; the purpose of the loan and the use to which the proceeds therefrom will be applied; the inability of the applicant to obtain such funds on reasonable terms without such guaranty; the character and value of the security, if any, that the applicant will pledge as collateral for the loan; and that the loan is necessary or appropriate to effectuate the purpose of this section. The application shall be accompanied by statements showing in detail such facts as the Commission may require with regard to the situation of the applicant. The Commission shall give preference to and expedite the consideration of any such application.

"(4) No guaranty shall be made under this section—

"(A) unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;

"(B) unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

"(C) if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof;

"(D) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection of the United States.

"(E) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure.

"(F) unless the applicant carrier agrees that it will declare no dividends on its capital stock as long as the loan remains unpaid.

"(5) The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this section, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"(6) Payments required to be made as a consequence of any guaranty by the Commission pursuant to the provisions of this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this section.

"(7) The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this section. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(8) (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this section, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this section.

"(9) Administrative expenses under this section shall be paid from appropriations made to the Commission for administrative expenses.

"(10) Except with respect to such applications as may then be pending, the authority granted by this section shall terminate at the close of December 31, 1960: *Provided*, That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission."

SEC. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "*Provided*, That the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further, however*, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh."

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions, and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on January 1, 1958, over any route or routes or within any territory, as a common, contract, or exempt carrier engaged in the transportation of property by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on January 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the case may be, authorizing such operations if application therefor is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but

was not engaged in such operation on January 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

SEC. 8. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

Mr. BRICKER. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. SMATHERS. Mr. President, I move to lay that motion on the table.

The motion to reconsider was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 624) making additional supplemental appropriations for the Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958, and for other purposes.

MAJ. GEN. JOSEPH WILLIAM KELLY

Mr. CAPEHART. Mr. President, I assume most Senators are aware that the gentleman who has been a fine friend of all of us, Maj. Gen. Joseph William Kelly, Director of Legislative Liaison for the Air Force, will leave us in July to assume new and greater responsibilities as another step in what has been a very distinguished military career.

Gen. Joe Kelly, as we all know him, will become commanding officer of the Air Proving Ground Center, Air Research and Development Command, at Eglin Field, Fla.

I know that all Senators will be as happy as I am for this promotion. At the same time, I am just as sure that all will be as sorry as I am to see Joe Kelly leave our midst.

Mr. President, it is a matter of great personal pride with me that General Kelly is a fellow Hoosier. He was born at Waverly in Morgan County, Ind., was graduated from the Martinsville, Ind., High School, and for a year attended DePauw University at Greencastle, Ind., before entering United States Military Academy in July of 1928.

That was the beginning of a brilliant military career which took General Kelly to many parts of the world. General Kelly had a very distinguished record in World War II and in the Korean war.

It was a fortunate thing for the Congress when General Kelly, in August of 1953, was assigned as Director of Legislative Liaison. He has done an outstanding job through his very excellent staff and I simply want to say to him through these remarks that he has our heartiest congratulations and best wishes for the future.

APPROPRIATIONS FOR DEPARTMENTS OF STATE AND JUSTICE, THE JUDICIARY, AND RELATED AGENCIES, 1959

Mr. SMATHERS. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1714, House bill 12428, a bill making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for 1959.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 12428) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1959, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. 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 agreeing to the motion of the Senator from Florida that the Senate proceed to the consideration of House bill 12428.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 12428) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1959, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of amendment, and that points of order shall not be waived.

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

The amendments of the Committee on Appropriations agreed to en bloc are as follows:

On page 3, line 19, after the word "aids," to strike out "$100,000,000" and insert "$102,000,000"; on page 4, line 2, after the word "exceed," to strike out "$3,000" and insert "$4,000", and in line 4, after the word "exceed", to strike out "$5,000" and insert "$6,000."

On page 4, line 10, after "(22 U. S. C. 1131)", to strike out "$650,000" and insert "$1,000,000."

On page 6, line 10, after the word "chauffeurs", to strike out "$1,646,000" and insert "$1,692,500: *Provided*, That, hereafter, Senate delegates to Conferences of the Interparliamentary Union shall be designated by the Presiding Officer of the Senate."

On page 7, at the beginning of line 3, to strike out "$1,500,000" and insert "$1,950,000."

On page 9, line 4, after the numerals "1944", to strike out "$750,000" and insert "$1,000,000."

On page 12, line 22, after the word "amended", to strike out "$20,800,000" and insert "$30,800,000"; in line 23 after the word "than", to strike out "$6,750,000" and insert "$8,750,000", and on page 13, line 1, after the word "exceed", to strike out "$1,387,500" and insert "$1,766,607."

On page 18, line 21, after the word "ammunition", to insert "attendance at firearms matches", and on page 19, line 12, after the words "Attorney General", to strike out the colon and *"Provided further*, That, hereafter the compensation of the Commissioner of the Immigation and Naturalization Service shall be $20,000 per annum."

On page 20, line 9, after "(5 U. S. C. 341f)", to strike out "$32,800,000" and insert "$33,707,000."

On page 27, line 19, after "section 3041", to strike out "$4,925,000" and insert "$4,995,000: *Provided*, That $70,000 of the foregoing amount shall be immediately available."

On page 28, line 5, after the word "case", to strike out "$2,950,000" and insert "$3,000,000", and at the beginning of line 7, to strike out "$12,000" and insert "$15,000."

On page 28, line 15, after the word "elsewhere", to strike out "$925,000" and insert "$975,000."

On page 32, line 10, after the word "organizations", to strike out "$97,000,000" and insert "$100,000,000"; in line 13, after the word "States", to insert "and of which sum not less than $650,000 shall be available by contracts with one or more private international broadcasting licensees for the purpose of developing and broadcasting under private auspices, but under the general supervision of the United States Information Agency radio programs to Latin America, Western Europe, Africa, as well as other areas of the Free World, which programs shall be designed to cultivate friendship with the peoples of the countries in those areas, and to build improved international understanding", and in line 22, after the word "exceed", to strike out "$75,000" and insert "$135,000."

On page 35, line 6, after the numerals "1956", to strike out "$6,000,000" and insert "$6,821,000", and in line 8, after the word "of", to strike out "$25,000" and insert "$50,000."

Mr. JOHNSON of Texas. Mr. President, there is before the Senate a report covering all of the items in this bill. The overall facts can be stated simply and quickly.

The overall amount recommended by the committee is $588,717,113. This is under the budget estimate by $567,898 and over the House figure by $17,994,500.

The division of this sum between the Department of State, the Department of Justice, the Judiciary, and related agencies is set forth in the report. I wish to make only a few brief comments.

In arriving at our recommendations, the committee sought to apply only one test. It was whether a sum was adequate to do the job required for the safeguarding of the security of the United States.

I believe most of us are aware of an elementary fact. It is that in this very uncertain and troubled world, our first line of security is the personnel of the Foreign Service.

We are not dealing here with the men who must fight the physical battles in event of war. But we are dealing with men and women who must succeed in their daily tasks lest other Americans be faced with the necessity of armed conflict.

In this situation, it seemed to us that we should neither pinch pennies nor scatter dollars to the winds. We must act as prudent men who realize that a certain amount of effort and a certain amount of money must be spent to reach our goals.

It has been my observation that by and large the members of the Foreign Service are dedicated people. They perform difficult tasks under exacting circumstances.

They are not entitled to any more credit than other Americans who are equally dedicated and who perform equally exacting tasks. But neither are they entitled to any less credit.

And they are certainly entitled to the tools that are needed to do the job.

The committee has not allowed all the recommendations of the State Department. We cut the item for salaries and expenses $3 million below the budget estimate.

But there were some items upon which we granted the full amount. And there was one item which we increased because we were convinced that the best interests of our country called for a substantial increase.

On the latter item, I am referring to our recommendation of $30,800,000 for international educational exchange activities. According to responsible testimony, this is one of our most effective foreign policy programs.

In this field, the facts are quite simple. It has been demonstrated that our most effective good will ambassadors are people of foreign lands who have an opportunity to come to this country and observe America for themselves.

This is a country where we have nothing to hide—nothing to conceal. We have our faults. But they are faults which are human and which are understandable.

We hope this program can be expanded—particularly in Latin America. We hope that the Department of State will make the best possible use of foreign credits and currencies that are available.

This is a program which has proven its benefits to the people of our country. It should be encouraged.

We have also recommended the full sum asked by the Budget Bureau for representation allowances. This is an issue which I believe should be met head on without any effort to conceal or hide the facts.

The total recommended for this item is $1 million. This amount would be spread among Foreign Service officers at 80 diplomatic missions and 200 consular posts abroad.

This sum will not permit any lavish entertainment. Nor will it lead to wild spending which is unchecked by any independent audit.

All of the money must be spent on the basis of a voucher. All of the vouchers are subject to audit by the General Accounting Office—an agency noted for its detailed scrutiny.

Every grown man who has had experience in the business world is aware of the fact that some social entertainment is essential to the operation of any flourishing business. Private industry, almost without exception, sets aside some of its funds for that purpose.

I think it is just as important that we sell America as that we sell soap.

We can, if we wish, avoid this issue. We can, if we wish, withhold funds which are granted to the diplomatic representatives of almost every other country in the world.

But if we do, we must resign ourselves to a foreign service composed of men of independent means—without regard to their skill in the field of foreign policy.

I think most Americans are fair-minded. I think they want their diplomatic representatives to have the same dignity and the same standing as the diplomatic representatives of other nations.

The money we are recommending for this purpose is inadequate by most standards. But it is a step forward that should be taken.

There is very little that need be said at this point about other provisions of the bill. The committee, of course, stands ready to answer any questions and to clear up any points which may not be fully explained in the report.

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

Mr. JOHNSON of Texas. I yield to my friend from Massachusetts.

Mr. SALTONSTALL. First of all, I wish to commend the chairman of the subcommittee for the very careful work he has done on the pending bill. While I am a little disappointed on several matters relating to the State Department, I hope that the bill will be adequate and satisfactory. I should like to ask a question for the purpose of clarifying the record. On page 4 of the committee report, under the heading "International Contingencies," the report states:

> There is no provision made in the committee's recommendation for any costs growing out of possible meetings of heads of state or foreign ministers.

If my memory serves me correctly—and I should like to have the statement of the chairman of the subcommittee in confirmation—that statement was placed in the report to make it clear that the amounts we recommended did not include any amount for a meeting of heads of state; however, the committee took no position as to whether there should be or should not be such a meeting. The language means, simply, that if there is such a meeting, there would have to be a supplemental appropriation made for that purpose. Is that a correct statement?

Mr. JOHNSON of Texas. The distinguished Senator from Massachusetts, as usual, is correct, and his memory is correct with respect to what the committee did and its reasons therefor. It was felt that it would be presumptuous on the part of the subcommittee to recommend the appropriation of money for a meeting which had not been agreed upon. If such a meeting is agreed upon, and it is found that a fund is necessary for such a meeting, we will expect the State Department to ask Congress for it, and I would expect that Congress would act favorably on such a request.

Mr. SALTONSTALL. I thank the Senator.

Mr. JOHNSON of Texas. I wish to express my deep appreciation to the Senator from Massachusetts and to the Senator from Illinois [Mr. DIRKSEN], and to all the minority Members for their dedication to service, as demonstrated by their attendance at the hearings and by their helpfulness to me in bringing the bill to the floor of the Senate.

For the Department of Justice, we recommend an increase of $907,000 over the House figure. This deals solely with the care and custody of Federal prisoners.

An additional prison camp is essential to permit outdoor work projects to help relieve overcrowding of facilities in the Southwest. Some $707,000 would be set aside for this purpose.

The committee recommends $100 million for the salaries and expenses of the United States Information Agency. We also recommend $4,750,000 for the acquisition and construction of radio facilities.

The committee has also approved an increase in the limitation for the Agency's representation allowances to the requested amount of $135,000, as compared with the $75,000 approved by the House. In addition, the committee has approved an amount of $650,000 to be utilized for contracts with private radio licensees. Testimony on the effectiveness of the operation of station WRUL in broadcasting into Latin America was most persuasive, as was the evidence presented urging that the activities of this station be enlarged in Latin America and expanded to the continent of Africa. Accordingly, the committee has recommended an increase of $300,000 for contracts with radio licensees over the amount allowed by the Congress for fiscal 1958.

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

Mr. JOHNSON of Texas. If the Senator will permit me to do so, I should like to complete my statement. Then I shall be glad to yield for detailed questioning.

In this connection, I should like to comment that the committee was favorably impressed by the testimony of the Agency's Director. He displayed in his testimony a knowledge of the problems faced by the USIA.

He also displayed a realistic awareness of the proper relationship between a nation's foreign policy and the necessary explanation of that policy.

In the vernacular, he realizes that a saleman must have something to sell. He made quite an impression on the committee, and as a result of his testimony I believe the committee dealt very reasonably with this Agency.

Mr. President, I hope this measure will receive the favorable consideration of the Senate.

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

Mr. JOHNSON of Texas. I yield.

Mr. DWORSHAK. I share the sentiments just expressed by the chairman of the subcommittee that the United States Information Agency is undergoing a reappraisal of its program, under the leadership of the new Director, and that we may hope for some beneficial changes. However, the report of the committee provides $3 million more than the House figure and about $8.5 million more than the amount which was available in this fiscal year for that agency.

In view of the uprisings which occurred in many countries during the past year, when libraries of the United States Information Agency were destroyed, and expressions and demonstrations of anti-Americanism were indulged in, does the chairman of the subcommittee have some reasonable assurance that the increase in funds will be used to good advantage, and that some of the inept policies which have been followed by this agency in the past will be corrected?

Mr. JOHNSON of Texas. No. I should like to look upon the world of tomorrow as one which will be free from any troubles, and in which there will be no anti-Americanism. However, I am fearful that the picture will be considerably bleaker than that.

Nevertheless, I have confidence in the Director of this Agency. I think we have supplied him with reasonable tools with which to deal with the problem he faces. I think if we pass the appropriation as recommended to the Senate, Ambassador Allen will get value received for the dollars he spends, and that he will do a good job.

I do not know that he will correct all the mistakes which may have been made in all the fields in which we have been dealing. I do not know that he can overnight make us popular throughout the world. It may be that we shall have to engage in a little introspection and reevaluating. But I do say something which I could not say when I last presented the request of the United States Information Agency on the floor of the Senate, and that is that the testimony this year with respect to every item in the bill was adequate, was thorough, and was freely given; and when it could not be spelled out in detail immediately, the witnesses asked for a few minutes until they could gather the facts. Then they presented them to the committee.

Before the hearings started, the Director conferred with the chairman of the subcommittee and said, "The sky is the limit, so far as questions are concerned. If there is anything you want to know about this Agency, we will tell you about it." I have never been more impressed with the candor or frankness of any witness than I was with the Director of the United States Information Agency.

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

Mr. JOHNSON of Texas. I yield.

Mr. HUMPHREY. I wish to compliment the Senator from Texas on his great work in preparing this important appropriation bill.

Mr. JOHNSON of Texas. I thank the Senator from Minnesota.

Mr. President, I point out that there are approximately a thousand fewer employees in the Agency than there were last year. I think the Director read the testimony given in the hearings before our committee last year and also the statements made on the floor of the Senate. Months before the appropriation was presented, he had followed the suggestions made by several Members of Congress.

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

Mr. JOHNSON of Texas. I yield.

Mr. DWORSHAK. I heard much of the testimony presented by Mr. Allen.

Mr. JOHNSON of Texas. I know the Senator did. I appreciate his attendance and his cooperation.

Mr. DWORSHAK. I was equally impressed by his candor and his apparent knowledge of the extensive program of the USIA. I recall that a year ago the chairman of the subcommittee was very insistent that corrections be made and was quite critical of the then Director of the USIA. I feel certain that much good was accomplished by pointing out some of the inherent weaknesses in the operations of the USIA during the past several years.

If there has been an improvement, and if the chairman of the subcommittee will maintain his thorough interests in seeing to it that Mr. Allen makes the needed improvements, we can look forward to many innovations which, I think, will prove most beneficial in combating some of the anti-Americanism which exists in many countries today.

Mr. JOHNSON of Texas. I thank the Senator from Idaho for the undeserved credit he gives me. I must share it with every member of the subcommittee, of which the distinguished Senator is a member. Our action last year was unanimous on both sides of the aisle. Whenever we needed information, we tried to get it. Finally, we acted upon the information we had, as we saw it. I do not say that everything we did was correct, but I believe we have brought before the Senate a good and effective bill. I think that if our colleagues in the House will accept some of the amendments we have made, we will have provided the funds which are needed to deal adequately with the very important services for which they are intended.

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

Mr. JOHNSON of Texas. I yield.

Mr. CLARK. I commend the majority leader for the splendid work he has done in bringing this appropriation bill before the Senate with the amounts which are contained therein. Personally, I am particularly happy that, as a result of the advent of Mr. Allen as the head of the United States Information Agency, the committee has renewed its confidence in that Agency and has undertaken to increase its appropriation.

It has been my good fortune to have seen some of the work of that Agency, particularly in Italy, although in several other countries, too. But I think it is fair to say that the type of employee which that Agency has—frequently newspaper reporters of considerable experience—is sometimes better able to get at the grassroots of the views and sentiments of the country to which they are accredited, particularly through their exchanges of views with other reporters, in a way which is not so easily done by members of the State Department. I feel very strongly that this is an Agency which deserves the support of Congress.

I am happy to see that the committee has increased, modestly, to be sure, but nonetheless significantly, the appropriations voted by the House. I am particularly happy, as I know the majority leader is aware, about the action of the committee in increasing representation allowances, because the chairman was kind enough to afford me the opportunity to appear before his committee when that matter was under consideration.

Mr. JOHNSON of Texas. The Senator from Pennsylvania gave us very excellent testimony. We always welcome his suggestions.

Mr. CLARK. I thank the Senator. I hope that when the time comes to confer with the House, the Senate conferees will stand firm on the increase in those allowances, which, to my way of thinking, are very important in order to keep the position of the United States abroad at a level where our representatives can really do their work effectively.

I congratulate the chairman of the subcommittee, my good friend, the majority leader, upon what seems to me to be a statesmanlike and mature job. I hope that the conferees will be able to hold the position of the Senate when the bill reaches the conferees of the other body.

Mr. JOHNSON of Texas. I assure the Senator from Pennsylvania that we will present the Senate's position as effectively as we possibly can.

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

Mr. JOHNSON of Texas. I yield.

Mr. DIRKSEN. I must say for the majority leader that the bill has had a very vigorous and at once a very circumspectly fair hearing. I believe I was in attendance at most of the sessions.

Mr. JOHNSON of Texas. The Senator from Illinois was in attendance.

Mr. DIRKSEN. I think I attended all of them last year. I think I know some of the difficulties we had with the United States Information Agency. I share and associate myself with the comment made by the chairman of the subcommittee with respect to the improvement in the USIA and its Administrative Director.

I think the majority leader will agree that it is never easy to measure, in terms of dollars, the impact of functions which come before us in the appropriation bill for the State Department and for the United States Information Service. The impact, of course, is abroad. How to evaluate it from the Nation's capital, unless one is out in the field, is never easy to do. But I believe we have done what is reasonable. I believe this is a well-rounded bill.

There were some items I would have increased slightly; but I am not unhappy about the overall result.

So I compliment the distinguished Senator from Texas for a job well done.

Mr. JOHNSON of Texas. I thank the Senator from Illinois.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill (H. R. 12428) was read the third time and passed.

Mr. DIRKSEN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. JOHNSON of Texas. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the motion of the Senator from Illinois to reconsider.

The motion to lay on the table was agreed to.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate insist on its amendments and request a conference thereon with the House of Representatives, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. MORTON in the chair) appointed Mr. JOHNSON of Texas, Mr. ELLENDER, Mr. HAYDEN, Mr. FULBRIGHT, Mr. BRIDGES, Mr. SALTONSTALL, and Mr. HICKENLOOPER the conferees on the part of the Senate.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1958

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1715, Senate bill 3974.

The PRESIDING OFFICER. The bill will be stated by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 3974) to provide for the reporting and disclosure of certain financial transactions and administrative practices of labor organizations and employers, to prevent abuses in the administration of trusteeships by labor organizations, to provide standards with respect to the election of officers of labor organizations, and for other purposes.

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, which had been reported from the Committee on Labor and Public Welfare.

PROGRAM FOR CONSIDERATION OF THE SPACE AND ASTRONAUTICS BILL

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. JOHNSON of Texas. Earlier in the day, was unanimous consent of the Senate given to my request for authority to file a report on the space bill following the session of the Senate today?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSON of Texas. Mr. President, I desire to announce that sometime in the next few days, after that bill and the hearings on it are available, I shall confer about it with the distinguished minority leader. I plan to have the bill brought up by motion at an early date. I do not know just when that will be; but I shall give advance notice to the minority leadership.

Mr. President——

The PRESIDING OFFICER. The Senator from Texas has the floor.

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, before moving that the Senate adjourn, I should like to announce that tomorrow, following the morning hour, we expect to have a quorum call, and then to have the Senate proceed to general debate on the labor bill, which now has been made the unfinished business.

We expect to have the session tomorrow continue until late in the evening; and I hope that we may be able to dispose of some amendments to the bill.

I like to think that it will be possible for the Senate to complete its action on the bill on Friday. We expect the session on Friday to continue until a rather late hour in the evening, unless action on the bill has been completed at an earlier hour. I would say that Senators should be prepared to be present until 10:30 or 11 p. m. on Friday.

If action on the bill is completed on Friday, I would not request that a session be held on Saturday. But if action on the bill is not completed on Friday, then I expect to have a session held on Saturday, and to have the session continue until a late hour, until final action is taken on the bill.

We expect to have consideration of that bill followed by consideration of the atomic energy bill, on which there is a deadline. That measure is a very important piece of proposed legislation.

In addition, there is a tax bill which will be reported by the Finance Committee; and there is a deadline on it.

Today, the House of Representatives passed the trade bill; and there is a deadline on it.

There are also a number of appropriation bills on which we must act before June 30.

So I should like to have all Senators on notice that there is a strong possibility that the Senate will be in session from Monday through Saturday every week between now and the end of the session, with the exception of the weekend of the 4th of July; and there will be evening sessions whenever it will be possible to make any progress by holding them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 10 A. M. TOMORROW

Mr. KNOWLAND. Mr. President, pursuant to the order previously entered, I move that the Senate now stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 17 minutes p. m.) the Senate adjourned, the adjournment being, under the order previously entered, until tomorrow, Thursday, June 12, 1958, at 10 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate June 11, 1958:

UNITED STATES DISTRICT COURT OF GUAM

Eugene R. Gilmartin, of Rhode Island, to be United States judge for the District Court of Guam for the term of 8 years, vice Paul D. Shriver, term expired.

CIRCUIT COURTS, TERRITORY OF HAWAII

William Z. Fairbanks, of Hawaii, to be second judge of the first circuit, circuit courts, Territory of Hawaii, for a term of 6 years. He is now serving in this office under an appointment which expires August 20, 1958.

UNITED STATES ATTORNEY

Paul W. Cress, of Oklahoma, to be United States attorney for the western district of Oklahoma for the term of 4 years. He is now serving in this office under an appointment which expires August 3, 1958.

UNITED STATES MARSHALS

The following-named persons to the positions indicated:

Charles Swann Prescott, of Alabama, to be United States marshal for the middle district of Alabama for a term of 4 years. (Reappointment.)

Jay Neal, of Arkansas, to be United States marshal for the western district of Arkansas for a term of 4 years. (Reappointment.)

William C. Littlefield, of Georgia, to be United States marshal for the northern district of Georgia for a term of 4 years. (Reappointment.)

William A. O'Brien, of Pennsylvania, to be United States marshal for the eastern district of Pennsylvania for a term of 4 years. (Reappointment.)

Harry R. Tenborg, of North Dakota, to be United States marshal for the district of North Dakota for a term of 4 years. (Reappointment.)

COLLECTOR OF CUSTOMS

Bligh A. Dodds, of New York, to be collector of customs for customs collection district No. 7, with headquarters at Ogdensburg, N. Y. (Reappointment.)

IN THE COAST GUARD

The following-named person to be a lieutenant commander in the United States Coast Guard:

Theodore S. Pattison, Jr.

The following-named persons to be chief warrant officers, 4–2, in the United States Coast Guard:

William H. Blaylock, Jr.
William P. East
Leroy F. Bent
Perry Christiansen
Lester W. Willis
Jay E. Law

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

I. FOR APPOINTMENT

To be surgeon

Jose L. Silva

II. FOR PERMANENT PROMOTION

To be senior assistant dental surgeon

Edward M. Campbell

IN THE REGULAR ARMY

The following-named officers for appointment in the Medical Service Corps, Regular Army of the United States, in the grades specified under the provisions of Public Law 737, 84th Congress, subject to physical examination required by law:

To be lieutenant colonels

Miller, James Ball, O1547403.
Nolan, Patrick Theodore, O1639873.
Smith, Orne Douglas, O1541288.
Watson, Bascomb Rannell, O1894517.

To be majors

Drotning, Theodore Benedik, O2049871.
Hoffman, Edgar Franklin, O453820.

To be captains

Fels, Robert Donovan, O2048912.
Greene, Philip Densmore, O954242.
Grimes, Cecil Herrin, O1917802.
Kilby, Albert Brown, O1057484.
McCauley, James Edward, O1546536.
Medcalf, Rex Mercer, O1703983.
Mueller, Louis Carl, O2263374.
Swieter, Kenneth Luverne, O1545192.
Williamson, Robert Luther, O996661.
Wright, Dallas Porter, O978863.

To be first lieutenant

Walker, Richard William, Jr., O2273987.

To be second lieutenant

Halladay, Robert Joseph, O4077064.

The following-named officers for appointment in the Judge Advocate General's Corps, Regular Army of the United States, in the grades specified under the provisions of title 10, United States Code, section 3292, and Public Law 737, 84th Congress, subject to physical examination required by law:

To be lieutenant colonels

Haefele, Joseph Lynn, O284499.
Marmon, Thomas Carlyle, O375208.

To be majors

Rogers, William Thomas, O1305114.
Wofford, Ralph Webb, O1845374.

The following-named officers for appointment as chaplain in the Regular Army of the United States, in grades specified, under the provisions of Public Law 737, 84th Congress, subject to physical examination required by law:

To be majors

Goss, Charles Allan, O540376.
Hunt, Frederick Olen, Jr., O1101506.
Krug, Clement Peter Joseph, O522387.
Lam, Alfred Paul, O434979.
Underwood, Carmah Curfew, O527992.
Waldie, Thomas Edward, O514642.

To be captains

Brady, John Charles, O996290.
Brady, Lawrence Kennedy, O997021.

The following-named persons for appointment in the Women's Army Corps, Regular Army of the United States, in the grade specified, under the provisions of title 10, United States Code, section 3311, and Public Law 737, 84th Congress, subject to physical examination required by law:

To be captains

Long, Alice Agnes, L117528.
McWilliams, Bonnie Jean, L1010490.

The following-named officers for appointment in the Regular Army of the United States in the grades specified under the provisions of Public Law 737, 84th Congress, subject to physical examination required by law:

To be lieutenant colonels

Collins, Charles Everett, Jr., O313943.
Temme, George Henry, Jr., O375407.

To be majors

Arnold, Edwin Yates, O380581.
Cordes, Walter Frederick, O1577045.
Hipp, Macon Alexander, O363711.
Kellogg, James Payson, O1299574.
Lutjens, Paul Richard, O888449.
Munroe, Donald Allison, O1041404.
Panisnick, George Gregory, O455737.
Schvaneveldt, Clyde Joseph, O425760.

To be captains

Askin, Henry Warren, O1305178.
Bolak, Aloysius, O1876313.
Bradley, Wrag Erickson, O1919293.
Conley, Richard Hopkins, O1295673.
Eggers, John Frederick, O2100281.
Frye, Wayne Eugene, O1688411.
Hylton, Alvin Roy, O2102869.
Jansen, Frank Joseph, O1052830.
Kouten, James Joseph, O998354.
Lawing, Clarence Edward, O1101542.
Leach, Charles Robert, O967285.
Madsen, Charles Gordon, O2266265.
Miller, Amory Atwater, Jr., O549051.
Moore, Sterlin Clifton, O453557.
Richie, Howard Mouzon, O424993.
Saylor, Paul, O2028950.
Toulme, Clarence Victor, Jr., O2026559.
Young, Robert Peter, O1948085.

To be first lieutenants

Luling, Charles Henry, 3d, O2021274.
Puckette, Cecil Logwood, O4001670.
Shugart, Henry Gerald, O4011980.
Walters, Howard Corey, Jr., O1341202.
Williams, James David, O1939604.

To be second lieutenants

Barber, Harry Kenneth, O4044997.
Bell, Charles Stuart, O4035822.
Bruce, William Arthur, O4048301.
Champlin, William Arthur, O4046067.
Chapman, Donald Gary, O4059169.
Chase, Charles Richard, O4056848.
Conneely, Martin Francis Xavier, O4045308.
Courtney, Guy Clifford, O4059141.
Davison, William Harris, O4052197.
Eddy, Burton Anderson, O4041336.
Foley, Michael Joseph, O4036117.
Gannon, Edwin Wals, O4010787.
Grann, Richard Arthur, O4064207.
Herlik, Querin Edward, O4041610.
Hoke, Richard Vernon, O4004346.
Hunter, Clarence Frederick, O4018250.
Kakazu, Yoshiaki, O4040100.
Kelley, Horace Stanley, Jr., O4059170.
King, Charles Murray, O4075853.
Kovarik, David Frank, O2202363.
Maidment, Richard Charles, O4048644.
May, Richard Lee, O4059328.
Medina, Othon, Jr., O4049126.
Moore, William Alexander, O4044887.
Munster, Conrad Harold, O4051876.
Murphy, Charles Thomas, O4024807.
Neely, Joe Edd, O4059194.
Newbill, James Price, O4045276.
O'Connell, Maurice Patrick, O4051402.
Ohlemueller, William Adam, O4042094.
Praides, John Peter, O4039645.
Rabdau, James Louis, O4074318.
Rehberger, Arthur John, O4057730.
Richey, Wayne Burts, O4062693.
Rosenberg, Theodore Roy, O4052979.
Sellers, Douglas Jackson, Jr., O4029057.
Sharron, Paul Arthur, O4035540.
Sheriff, Robert Merle, O4031367.
Sullivan, Daniel Denis, O4056439.
Turain, George Anthony, O4052056.
Vye, George Dennis, O4049771.
Walsh, James Patrick, O4039014.
Wheeler, Lester McFarland, O4044825.

WITHDRAWALS

Executive nominations withdrawn from the Senate June 11, 1958:

UNITED STATES JUDGE FOR THE DISTRICT OF GUAM

Eugene R. Gilmartin, of Rhode Island, to be United States judge for the district court of Guam for the term of 4 years, vice Paul D. Shriver, term expired.

POSTMASTERS

Justus A. Gibson to be postmaster at Mount Carmel in the State of Illinois.

Thomas D. McManus to be postmaster at Channelview in the State of Texas.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JUNE 11, 1958

The House met at 10 o'clock a. m.

The Chaplain, Rev. Bernard Braskamp, D. D., offered the following prayer:

Nahum 1: 7: *The Lord is good, a stronghold in the day of trouble.*

Eternal God, our Father, we thank Thee for the many material and spiritual blessings with which Thou art daily enriching and gladdening our lives.

May we never doubt Thy greatness and goodness but always look unto Thee with faith and confidence.

We humbly confess that in the hurry and rush of modern life we so frequently forget Thee and yield to worry and anxiety.

Grant that in the thought and toil of this day we may be strengthened and sustained by Thy divine grace.

Give us courage for hard circumstances, light when we go through dark valleys, and that peace which passeth all understanding.

To Thy name we ascribe all the praise. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 7261. An act to amend the Federal Probation Act to make it applicable to the United States District Court for the District of Columbia; and

H. R. 7953. An act to facilitate and simplify the work of the Forest Service, and for other purposes.

The message also announced that the Senate has passed, with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H. J. Res. 624. Joint resolution making additional supplemental appropriations for the Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is