and doubted whether marketing quotas tight enough to be effective would be tolerated. This newspaper's conclusion was that in the confused picture the most hopeful form of relief seemed to lie outside the realm of general price-support subsidies.

To this, the American taxpayer will say "Amen" if comments from my constitutents are any criteria.

Here is a sampling of such views:

It seems to me from what I read in the papers and magazines that the United States of America is being "took" plenty if the articles have any truth in them. According to one article, the Government is paying over $1 million a day for storage and people were renting warehouses from the Government at a price and renting them back at a neat profit. And why with such a surplus of wheat should the loaf of bread be the price it is, and why should Government land be leased for a wheat crop which never is planted and the lessor be paid for such a crop that never grew? These are what we read about and wonder. Something should be done.

I strongly favor abolition of all farm price support—particularly wheat price supports.

The agricultural price supports, soil bank payments, have not solved anything, but have given the large landowner-corporation-farmer huge benefit payments. * * * There is no reason why any particular segment of our American citizens should receive a subsidy, such as the farmers. The whole farm subsidy program should be repealed.

I protest subsidies of any nature unless they have to do with maintaining national defense. I believe a person and a nation is stronger for having worked out its own problems without having to lean on Government to work them out for him.

I don't understand why we should need farm price supports any more than we would need industrial price supports.

I would like to see the Congress return management of the farm to the farmers.

Farmers that are blaming Mr. Benson for their troubles should be told that the Democrats passed the farm law and they are in control of Congress.

I feel strongly about farm controls. They should be taken off. Now. And no price supports of any kind. Let supply and demand be their only control. A man should be able to grow what he wants and as much as he wants—this is the American way.

I am heartily and all out for Secretary Benson's efforts to seek improvement and relief for the agricultural situation.

I think storing of grain is a sin.

Let the farmers run their business as other businessmen do.

Agriculture price support; yes, they should be entirely abolished.

SENATE

TUESDAY, FEBRUARY 23, 1960

(Legislative day of Monday, February 15, 1960)

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

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

Our Father God, eternal, sure and strong:

When the world seems falling to pieces around us, when so many hopes are dashed to the ground, and so many dreams of brotherhood shattered, help us to stay our minds on Thee and in the strength of the everlasting values that nothing can destroy.

Beauty, truth, and kindness remain. Friendship, love, faith, and hope abide. These possessions remain unsullied by violence and hate, and untouched by any assault of evil.

In our deep concern for the Nation and for mankind everywhere, and in our grim resolve to balk at any cost the forces of darkness which threaten our heritage of freedom, we ask that our strength may be as the strength of 10 because our hearts are pure.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. JOHNSON of Texas, and by unanimous consent, the reading of the Journal of the proceedings of Monday, February 22, 1960, was dispensed with.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on February 20, 1960, the President had approved and signed the following acts:

S. 623. An act to provide a 2-year extension of the existing provision for a minimum wheat acreage allotment in the Tulelake area of California;

S. 713. An act to revise the boundaries of the Zion National Park in the State of Utah, and for other purposes; and

S. 2379. An act to donate to the Nez Perce Tribe of Idaho approximately 11.25 acres of Federal land in Idaho County, Idaho.

TRANSACTION OF ROUTINE BUSINESS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that there may be the usual morning hour for the introduction of bills and the transaction of routine business, subject to a 3-minute limitation on statements.

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

NATIONAL DEFENSE—PREPAREDNESS SUBCOMMITTEE AND SPACE COMMITTEE HEARING

Mr. JOHNSON of Texas. Mr. President, tomorrow the Preparedness Subcommittee and the Space Committee will resume the defense hearings. I make this announcement so Senators may be on notice that there will be an executive session at which the CIA Director, Mr. Allen Dulles, will be heard. We hope we can straighten out some confusion which arose during our last hearing, at which time the Senator from Massachusetts [Mr. SALTONSTALL] asked that Mr. Dulles be recalled, to clear up some previous testimony.

I hope that all of us will keep the issues in perspective. It is important that Americans realize the real issues at stake.

Mr. President, to my knowledge, no responsible person would contend that our present defenses are inadequate to our needs. Of course, they could be improved. But we have ample power to strike back at any aggressor who would attack us.

The real issue is whether the course we are following will continue to build our defenses at the needed rate. In other words, in the foreseeable future will we have enough power to meet the anticipated power of a potential enemy?

This is of vital importance, because today defense requires a leadtime of a number of years. The decisions we make today will set the limits of our power for some time to come.

Among informed people there are serious doubts whether we are doing enough fast enough. This, of course, is a matter of judgment. But it seems to me that one thing is clear: If we step up our defenses and if they are not needed, all we lose is money. If we do not step up our defenses and if they are needed, we could lose our country itself.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON AGREEMENTS CONCLUDED UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

A letter from the Acting Administrator, Foreign Agricultural Service, Department of Agriculture, Washington, D.C., reporting, pursuant to law, on agreements concluded during the month of January 1960 under title I of the Agricultural Trade Development and Assistance Act of 1954 with the Governments of Greece, Israel, India, Uruguay, and Pakistan (with accompanying papers); to the Committee on Agriculture and Forestry.

PROPOSED CONCESSION CONTRACT, LAKE MEAD LODGE, NEVADA

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract to maintain and operate the Lake Mead Lodge at the Boulder Beach site, Lake Mead National Recreation Area, Nev. (with accompanying papers); to the Committee on Interior and Insular Affairs.

EXTENSION OF FEDERAL AIR POLLUTION CONTROL LAW

A letter from the Secretary, Department of Health, Education, and Welfare, transmitting a draft of proposed legislation to provide for public hearings on air pollution problems of

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more than local significance under, and extend the duration of, the Federal air pollution control law, and for other purposes (with accompanying papers); to the Committee on Public Works.

PETITIONS AND MEMORIALS

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

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Alaska; to the Committee on Interstate and Foreign Commerce:

"HOUSE JOINT MEMORIAL 33

"To the HONORABLE SAM RAYBURN, SPEAKER OF THE HOUSE OF REPRESENTATIVES; THE HONORABLE RICHARD M. NIXON, PRESIDENT OF THE SENATE; THE HONORABLE FRED A. SEATON, SECRETARY OF THE INTERIOR; THE HONORABLE E. L. BARTLETT AND THE HONORABLE ERNEST GRUENING, U.S. SENATORS FROM ALASKA; AND THE HONORABLE RALPH J. RIVERS, U.S. REPRESENTATIVE FROM ALASKA:

"Your memorialist, the Legislature of the State of Alaska in first legislature, second session assembled respectfully submits that:

"Whereas Alaska enjoys a continental shelf in excess of some 70,000 square miles which provides the richest fishery in the world; and

"Whereas the Alaskan fishery has suffered serious depletion due to Federal mismanagement and abuse, and lack of knowledge and interest on the part of industry and responsible fishery agencies; and

"Whereas it is an established fact that if this fishery is not protected, developed and utilized by the people of Alaska and the United States it will most surely be exploited by foreign nations, even up to the 3-mile limit, and add thereby an additional threat to one of Alaska's basic industries; and

"Whereas previous Federal appropriations for research and development of this great resource have been grossly inadequate:

"Now, therefore, your memorialist urges that the State of Alaska be provided funds by Congress in the amount of $30 million over a period of 15 years to rehabilitate the fisheries of the State of Alaska through a program embracing research, development, conservation and processing aspects of fishing.

"Passed by the house February 4, 1960.

"WARREN A. TAYLOR,
"Speaker of the House.

"Attest:

"ESTHER REED,
"Chief Clerk of the House.

"Passed by the senate February 10, 1960.

"WILLIAM E. BELTZ,
"President of the Senate.

"Attest:

"KATHERINE T. ALEXANDER,
Secretary of the Senate."

A resolution of the Senate of the Commonwealth of Puerto Rico; to the Committee on Post Office and Civil Service:

"Resolved, That the Senate of Puerto Rico express their objection to the legislation prepared by the Post Office Department of the United States aimed at reducing the 17.5 differential now accorded postal employees in Puerto Rico:

"The causes which justified the establishment of that differential still subsist, for which reason it should be maintained; and be it further

"Resolved, That copies of the resolution of the senate on this matter be transmitted to the Resident Commissioner for Puerto Rico in Washington, Dr. Antonio Fernós-Isern; to the Speaker of the House of Representatives and the President of the Senate of the United States, and to the chairmen of the Committees on Post Offices and Civil Service of both legislative houses."

RESOLUTIONS OF THE GENERAL COURT OF THE COMMONWEALTH OF MASSACHUSETTS

Mr. SALTONSTALL. Mr. President, on behalf of myself and my colleague, the junior Senator from Massachusetts [Mr. KENNEDY], I present, for appropriate reference, resolutions of the General Court of the Commonwealth of Massachusetts. I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objection, the resolutions were referred to the Committee on Armed Services and, under the rule, ordered to be printed in the RECORD, as follows:

RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION INCREASING RETIREMENT BENEFITS OF CERTAIN RETIRED MEMBERS OF THE ARMED FORCES

Whereas there is now pending before the Congress of the United States a bill relative to the improvement of benefits for members of the U.S. Armed Forces who retired prior to June 1, 1958: Therefore be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation that will increase the retirement benefits payable to those members of the Armed Forces who retired prior to June 1, 1958; and be it further

Resolved, That the secretary of the Commonwealth transmit forthwith copies of these resolutions to the Presiding Officer of each branch of the Congress of the United States and to each Member thereof from this Commonwealth.

Adopted in the senate February 1, 1960.

IRVING N. HAYDEN,
Clerk.

Adopted in house of representatives in concurrence February 4, 1960.

LAWRENCE R. GROVE,
Clerk.

LITHUANIAN INDEPENDENCE—RESOLUTIONS

Mr. SALTONSTALL. Mr. President, 1 week ago today, February 16, marked the 42d anniversary of Lithuanian independence. I and many of my colleagues in the Senate commemorated this important day with statements which recognized both the glory of the original declaration of independence by a group of brave Lithuanians and the sadness of the spring and summer of 1940 when the Soviet Communists took over that nation.

Since that time, Lithuania and her people have suffered severely under the Soviet occupation. Yet the spirit of liberty and the dedication to self-determination still lives strong within this Nation, and, on its behalf, throughout the nations of the free world. It is fitting for us to remind ourselves of Lithuania's continuing struggle, with prayers for and a fervent devotion to her freedom.

Mr. President, I ask unanimous consent that resolutions adopted by a mass meeting of Lithuanians of Greater Boston on the occasion of the anniversary of the independence of the Republic of Lithuania be printed in the RECORD at this point.

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

Whereas the 16th day of February 1960 will mark the 42d anniversary of the declaration of independence by the people of the Republic of Lithuania proclaimed on February 16, 1918, after 123 years of Russian occupation; and

Whereas by the treaty of Moscow of 1920 Soviet Russia recognized the sovereignty and independence of Lithuania and voluntarily and forever renounced all sovereign rights possessed by Russia over the Lithuanian people and its territory; and

Whereas the guaranteed liberty of Lithuania was forcibly violated and suppressed by Soviet Russia in 1940, notwithstanding the solemn treaties and agreements of nonaggression; and

Whereas the U.S. Government on July 23, 1940, condemned such aggression and refused to recognize Soviet occupation of Lithuania: Now, therefore, be it

Resolved, That we Lithuanian Americans reaffirm our adherence to American Democratic principles of government and pledge our support to our President and our Congress to achieve lasting peace, freedom and justice in the world; and be it further

Resolved, That we join with all Lithuanians throughout these United States and call upon our Representative in Congress to vigorously utilize all available means for the liberation of Lithuania and other Soviet enslaved countries; and be it further

Resolved, That our Government's foreign policy shall include the liberation of Lithuania and other Soviet enslaved nations as an integral and inseparable part of its program; and be it further

Resolved, That toward this purpose the U.S. Government bring forth to the United Nations the problem of enslaved Lithuania and demand that the Soviet Government withdraw all troops and control from Lithuania; and be it further

Resolved, That copies of these resolutions be forwarded this day to President Dwight D. Eisenhower, Secretary of State Christian A. Herter, Senator Leverett Saltonstall, Senator John F. Kennedy, United Nations Secretary Henry Cabot Lodge, Congressman John W. McCormack, the Honorable Foster Furcolo, Governor of the Commonwealth of Massachusetts, the Honorable Edward J. McCormack, Jr., attorney-general, Hon. John F. Collins, mayor of Boston, and to the press.

AMERICAN LITHUANIAN COUNCIL OF BOSTON,
JOSEPH ARLAUSKAS, *President.*
ANTHONY J. YOUNG,
Resolutions Chairman.

RESOLUTIONS OF ORGANIZATIONS OF STATE OF NEW YORK

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a series of resolutions adopted by organizations of the State of New York.

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

RESOLUTION OF NEW YORK LETTER CARRIERS, BRANCH NO. 36, NATIONAL ASSOCIATION OF LETTER CARRIERS

Whereas postal employees are in dire need of an immediate, equitable pay increase in order to meet today's high cost of living; and

Whereas, the increased rate of productivity in the postal service has not been reflected in postal employees' pay checks; and

Whereas the families of postal employees are entitled to the higher standard of living prevailing in these United States, in this day and age, in the same manner as other skilled segments of the American labor force; and

Whereas postal employees have proven themselves to be one of the most loyal, conscientous and diligent groups in the U.S. Government service: Therefore be it

Resolved, That we, the postal employees, assembled at this salary drive rally, held this day, Wednesday, February 10, 1960, at the Rainbow Club House, 150 West 85th Street, New York 24, N.Y., reaffirm our complete and unswerving support to our national president, Mr. William C. Doherty, and his board of officers, and offer our sincere and deep thanks and appreciation to them for their determined and continuing efforts in seeking to obtain a realistic and adequate pay raise for our people.

RESOLUTIONS OF THE ROCKVILLE CENTER DIOCESAN UNION

Whereas the Congress of the United States has under consideration various bills, including S. 2, the so-called Murray-Metcalf bill, providing Federal grants of money to public schools throughout the United States; and

Whereas such expenditure of money is discriminatory, in that no money is to be granted or even loaned to non-public schools; and

Whereas there is a probability that acceptance of Federal financial aid would entail Federal domination of non-public schools: Now, therefore, be it

Resolved, That this Diocesan Union of Holy Name Societies of the Rockville Centre Roman Catholic Diocese, in regular meeting assembled at Smithtown, N.Y., this February 7, 1960, opposes the adoption at this time of Federal financial aid to schools; and be it further

Resolved, That copies of this resolution be sent to President Eisenhower; the chairman of the Rules Committee (Hon. Howard Smith) and the Education Committee of the House (Hon. Graham Barden); Senators Murray, Javits and Keating; Representatives Derounian, Becker and Wainwright.

Whereas a serious attempt is being made to strike from the law passed in 1946, by which the United States agreed to submit cases to the World Court the words "as determined by the United States"; and

Whereas the granting to this international body—at least two of whose judges are subjects of totalitarian nations—the power to invalidate our domestic legislation raises a serious danger to this Nation, and is repugnant to the patriotic sense of the American people: Therefore be it

Resolved, That this Diocesan Union of Holy Name Societies of the Rockville Centre Roman Catholic Diocese, in regular meeting assembled at Smithtown, N.Y., this February 7, 1960 strongly condemns any such weakening of our national self-protection, and we specifically ask the defeat of Senator HUMPHREY's bill S.R. 694; and be it further

Resolved, That copies of this resolution be sent to President Eisenhower; Senators Humphrey, Javits and Keating; the chairman of the Senate and the House Committees on Foreign Affairs; Representatives Derounian, Becker, and Wainwright.

Whereas this organization has previously gone on record as supporting the loyalty oath now required of college students receiving financial aid under the National Defense Education Act; and

Whereas another attempt is being made to delete these "affidavits of loyalty and allegiance" from the act, under the specious pretexts that they are discriminatory, ineffective and totalitarian: Now, therefore, be it

Resolved, That this Diocesan Union of Holy Name Societies of the Rockville Center Roman Catholic Diocese, in regular meeting assembled at Smithtown, N.Y., this February 7, 1960 reaffirms its position that all students receiving financial aid from the United States should pledge their loyalty to our Government; and to that end we ask our U.S. Senators and Representatives to vote against the pending bill S. 619; and be it further

Resolved, That copies of this resolution be sent to President Eisenhower; Senators Kennedy, Javits and Keating; Representatives Derounian, Becker, and Wainwright; the Tablet; and to such other papers as our publicity chairman shall arrange.

RESOLUTIONS OF NATIONAL LUTHERAN COUNCIL

MORAL RESPONSIBILITY IN MOTION PICTURE INDUSTRY

Whereas the church is deeply concerned about the spiritual and moral welfare of human beings everywhere; and

Whereas the motion picture industry exercises a tremendous influence upon the spiritual and moral values which shape contemporary American culture; and

Whereas, motion pictures produced in this country and shown abroad play a major role in determining attitudes toward our culture; and

Whereas certain segments of the motion picture industry have been demonstrating an increasing and alarming disregard for the moral and spiritual heritage of American culture and for attitudes towards this culture in other lands: Therefore be it

Resolved, That the National Lutheran Council—

1. Commends those motion picture producers who have cooperated with the NCCC Broadcasting and Film Commission, and who in general have given evidence of recognizing their moral responsibility in contemporary society, both at home and abroad.

2. Proposes to its participating church bodies that they give greater attention, through their appropriate boards, commissions, and committees, to the positive contributions of the motion picture industry as well as to those aspects of the industry which are destructive of moral and spiritual values.

3. Suggests to the participating bodies of the National Lutheran Council having membership in the National Council of Churches of Christ in the United States that they urge the National Council to strengthen the work of its Broadcasting and Film Commission and especially the west coast office of this commission.

RESOLUTION REGARDING FEDERAL AID TO EDUCATION

Resolved, That the National Lutheran Council views with concern the proposal made in connection with legislation currently before the Congress which would authorize loans to non-public elementary and secondary schools for the construction of school buildings, on the basis that:

(a) Such Government aid previously given to colleges and universities operated by religious groups has been considered by many as a borderline practice in proper relation between church and state, but Government aid for the construction of church-operated schools at the elementary and secondary level is clearly a form of tax support for sectarian instruction; and

(b) The availability of such aid to non-public schools would facilitate with public funds the establishment of racially segregated private schools as an alternative to integration in the public schools.

RESOLUTION RELATED TO RECENT OUTBREAKS OF ANTI-SEMITISM

Whereas the National Lutheran Council devoutly believes that God created one human family, that all men everywhere, whatever their color, culture, class, caste, or religion are inseparably related and bound together as members of that one human family, and that all men are created in the image of God and are equal in status before Him: Therefore be it

Resolved, That we call upon the participating bodies of the National Lutheran Council to urge their members:

1. To condemn all irresponsible acts of violence and vandalism aimed at robbing religious or racial groups or individuals of their dignity as children of God;

2. To deplore the spirit of hatred which such acts reflect;

3. To cooperate with the constructive forces in their communities to prevent their recurrence.

RESOLUTIONS OF THE MIDWINTER CONFERENCE OF HADASSAH, THE WOMEN'S ZIONIST ORGANIZATION OF AMERICA, INC.

INTERNATIONAL COURT OF JUSTICE

Whereas the International Court of Justice has been accepted by all the members of the United Nations as an instrument for the peaceful adjudication of legal issues; and

Whereas the scope of the International Court of Justice is hampered by the Connally reservation which limits the compulsory jurisdiction of the International Court of Justice by the United States reserving unto itself the right to determine unilaterally whether or not the subject matter of a particular dispute is within the domestic jurisdiction of the United States; and

Whereas as a result of this position on the part of the United States other nations have adopted similar reservations;

We, Hadassah, the Women's Zionist Organization of America, in midwinter conference assembled, commend the call of the President of the United States to the Congress of the United States, asking for the elimination of the Connally reservation; and

We, therefore respectfully urge the speedy passage of the bipartisan resolution Senate Resolution 94 introduced by Senator HUBERT HUMPHREY and cosponsored by Senator JAVITS, Senator KEFAUVER, and Senator KEATING, which calls for the above-stated elimination of the Connally reservation.

ARAB BOYCOTT OF ISRAEL

Hadassah, the Women's Zionist Organization of America, representing more than 318,000 American citizens, calls attention to the fact that, despite the inclusion of the Morse-Javits amendment in the Mutual Security Act, to safeguard against the injection of religious discrimination into the Armed Forces of the United States, American business and American employment practices, by foreign governments doing business with the United States, the U.S. Navy, in complete disregard of this amendment, has succumbed to the Arab boycott of Israel by barring owners of any U.S. ships, engaged in business with Israel, from bidding for naval contracts.

Believing that the Arab League boycott of Israel has brought about violations of the rights of American citizenship and interference with the freedom to trade, invest and travel, Hadassah views this Arab boycott as international intimidation and calls upon the American public vigorously to protest any yielding on the part of the U.S. Government, or any of its agencies, to such tactics;

Therefore, Hadassah urges American business to resist the illegal Arab boycott of Israel with every legal means at its command, and further urges the U.S. Government categorically to oppose the injection of racial or religious discrimination against American citizens in the administration of any treaties or executive agreements to which the U.S. Government or any of its agencies affixes its signature.

U.S. LOANS TO THE U.A.R.

Hadassah, the Women's Zionist Organization of America, with a membership of more than 318,000 American citizens, views with grave concern U.S. support of the recent loan of the World Bank to the United Arab Republic;

Convinced that the extension of aid to a government, which has flagrantly violated international commitments, represents a policy of appeasement offensive to the moral sensibilities of the American people, is inconsistent with the aims and objectives of the American foreign aid program, with the attached declaration of the President of the United States concerning free passage of ships through the Suez Canal, and with the basic principles inherent in American democracy and indispensable to the lawful functioning of the community of nations;

Hadassah once again expresses the view that the decision of the United Arab Republic to refuse passage through the Suez Canal to the ships of any nation carrying cargo to or from Israel constitutes a willful violation of the Constantinople Convention of 1888, of the Resolutions of 1951 and 1956 of the Security Council of the United Nations; a betrayal of solemn undertakings on the part of the Government of Egypt to abide by these resolutions, and an intolerable act of defiance against regulations governing a legally ordered international society;

Hadassah, therefore, urges the Congress of the United States to administer an American foreign aid program in accordance with the principles of law and justice which must govern the actions of a great nation, by demanding as a condition of further loans or aids to the United Arab Republic free access to the ships of all nations, including Israel, through the Suez Canal in accordance with the above-mentioned United Nations resolutions, and the statement of February 20, 1957, of the President of the United States; and be it further

Resolved, That a copy of this statement be forwarded to the Secretary of State, and the chairmen of the Senate Foreign Relations and House Foreign Affairs Committees.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD of Virginia, from the Committee on Finance, with amendments:

H.R. 9660. An act to amend section 6659(b) of the Internal Revenue Code of 1954 with respect to the procedure for assessing certain additions to tax (Rept. No. 1098).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 1752. A bill for the relief of Stamatina Kalpaka (Rept. No. 1099);

S. 1912. A bill for the relief of Timmy Kim Smith (Rept. No. 1100);

S. 2165. A bill for the relief of Erica Barth (Rept. No. 1101);

S. 2177. A bill for the relief of Peter J. Waterton (Rept. No. 1102);

S. 2247. A bill for the relief of Wong Gim Chung (Rept. No. 1103);

S. 2352. A bill for the relief of Chaim (Hyman) Eidlisz (Rept. No. 1104);

S. 2361. A bill for the relief of Andros Szasz (Rept. No. 1105);

S. 2419. A bill for the relief of Inez Gonzales Abilez (Rept. No. 1106); and

S. 2520. A bill for the relief of Shin Moriyoshi (Rept. No. 1107).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 247. A bill for the relief of Emil Milan Preseren (Rept. No. 1108);

S. 382. A bill for the relief of John P. Vournas, Gus E. Vournas, and John E. Vournas (Rept. No. 1109);

S. 1223. A bill for the relief of Alan John Coombs (Rept. No. 1110);

S. 1913. A bill for the relief of Evagelos Mablekos (Rept. No. 1111);

S. 2046. A bill for the relief of Max Kotscha (Rept. No. 1112);

S. 2142. A bill for the relief of George C. McKinney (Rept. No. 1113);

S. 2164. A bill for the relief of Osvaldo Riva Coolidge (Rept. No. 1114);

S. 2384. A bill for the relief of Tommy Tadayoshi Shuto (Tadayoshi Takeda) (Rept. No. 1115);

S. 2418. A bill for the relief of Junko Hosaka Jordan (Rept. No. 1116); and

S. 2443. A bill for the relief of Edgar Harold Bradley (Rept. No. 1117).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments;

S. 2271. A bill for the relief of Pinelopi Yorgiadis and Dimitri Yorgiadis (Rept. No. 1118);

S. 2486. A bill for the relief of Nobuko Stickles (Rept. No. 1119); and

S. 2532. A bill for the relief of Margherita Fino (Rept. No. 1120).

By Mr. MURRAY, from the Committee on Interior and Insular Affairs, without amendment:

S. 2804. A bill to donate to the Keweenaw Bay Indian Tribe, L'Anse Reservation of Michigan, a certain tract of Federal land with improvements located thereon (Rept. No. 1127).

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6136. An act to authorize the sale of certain tribal land of the Lac du Flambeau Band of Lake Superior Chippewa Indians, Wisconsin (Rept. No. 1128).

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

S. 2307. A bill to set aside permanently certain land in McKinley County, N. Mex., for use of the Navajo Tribe of Indians (Rept. No. 1124);

S. 2456. A bill to amend the act of April 19, 1950 (64 Stat. 44; 25 U.S.C. 635), to better promote the rehabilitation of the Navajo and Hopi Tribes of Indians (Rept. No. 1123); and

S. 2878. A bill to adjust Indian and non-Indian land use areas in the vicinity of the Navajo Indian Reservation in New Mexico, and for other purposes (Rept. No. 1125).

By Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, without amendment:

S. 2962. A bill to grant 81 acres of public domain to the Cocopah Indians in Arizona (Rept. No. 1126).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 2877. A bill to authorize the reconveyance of tribally owned lands by the Muckleshoot Indian Tribe of the State of Washington to the original allottees, their heirs, devisees, or assigns (Rept. No. 1130).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 24. An act to provide that certain real property of the United States situated in the State of Nevada shall be held in trust for members of the Fort McDermitt Paiute and Shoshone Tribe of Indians of the Fort McDermitt Indian Reservation, Nevada (Rept. No. 1129).

REPORT ENTITLED "THE AGED AND AGING IN THE UNITED STATES: A NATIONAL PROBLEM" (S. REPT. NO. 1121)

Mr. McNAMARA. Mr. President, from the Committee on Labor and Public Welfare, pursuant to Senate Resolution 65, 86th Congress, 1st session, I submit a report entitled "The Aged and Aging in the United States: A National Problem." I ask unanimous consent that the report, together with minority views, may be printed, with illustrations.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? The Chair hears none, and it is so ordered.

PARTICIPATION IN INTERNATIONAL CONVENTION OF CITIZENS FROM THE NORTH ATLANTIC TREATY NATIONS—REPORT OF A COMMITTEE (S. REPT. NO. 1122)

Mr. CHURCH, from the Committee on Foreign Relations, reported an original joint resolution (S.J. Res. 170) to authorize the participation in an international convention of representative citizens from the North Atlantic Treaty nations to examine how greater political and economic cooperation among their peoples may be promoted, to provide for the appointment of U.S. delegates to such convention, and for other purposes, and submitted a report thereon; which joint resolution was read twice by its title and ordered to be placed on the calendar.

ADDITIONAL COPIES OF REPORT ENTITLED "THE AGED AND AGING IN THE UNITED STATES: A NATIONAL PROBLEM"

Mr. McNAMARA, from the Committee on Labor and Public Welfare, reported an original resolution (S. Res. 278) to print additional copies of the report on the "Problems of the Aged and Aging," which was referred to the Committee on Rules and Administration, as follows:

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare three thousand additional copies of its report to the Senate pursuant to S. Res. 65, Eighty-sixth Congress, first session, entitled "The Aged and Aging in the United States: A National Problem."

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. MURRAY:

S. 3079. A bill for the relief of Giovanni Viva; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. KEATING, and Mr. PROXMIRE):

S. 3080. A bill to supplement and revise the laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States, and for other purposes; to the Committee on the Judiciary.

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

By Mr. SMATHERS:

S. 3081. A bill for the relief of Irena Maria Koller; to the Committee on the Judiciary.

By Mr. KERR:

S. 3082. A bill for the relief of M. Sgt. Leon O. Beck; to the Committee on the Judiciary.

By Mr. CASE of New Jersey:

S. 3083. A bill for the relief of Andrew Rerecich and his wife, Germana Rerecich; to the Committee on the Judiciary.

By Mr. ANDERSON (by request):

S. 3084. A bill to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

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

By Mr. KEATING:

S.J. Res. 168. Joint resolution designating the week of June 5–11, 1960, as National American Guild of Variety Artists Week; to the Committee on the Judiciary.

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

By Mr. SMATHERS:

S.J. Res. 169. Joint resolution authorizing the President to issue a proclamation designating the 7-day period beginning May 24, 1960, as "All-American Family Week"; to the Committee on the Judiciary.

By Mr. CHURCH:

S.J. Res. 170. Joint resolution to authorize the participation in an international convention of representative citizens from the North Atlantic Treaty nations to examine how greater political and economic cooperation among their peoples may be promoted, to provide for the appointment of U.S. delegates to such convention, and for other purposes; placed on the calendar.

(See the reference to the above joint resolution when reported by Mr. CHURCH, which appears under the heading "Reports of Committees.")

CONCURRENT RESOLUTION

ADDITIONAL COPIES OF HEARINGS BEFORE SUBCOMMITTEE ON AGREEMENTS FOR COOPERATION OF THE JOINT COMMITTEE ON ATOMIC ENERGY

Mr. ANDERSON submitted the following concurrent resolution (S. Con. Res. 91); which was referred to the Committee on Rules and Administration:

Resolved by the Senate (the House of Representatives concurring), That there be reprinted for the use of the Joint Committee on Atomic Energy two thousand additional copies of the hearings before the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy on Amending the Atomic Energy Act of 1954 with respect to exchange of military information and material with allies during the second session of the Eighty-fifth Congress.

RESOLUTION

ADDITIONAL COPIES OF REPORT ENTITLED "THE AGED AND AGING IN THE UNITED STATES: A NATIONAL PROBLEM"

Mr. McNAMARA, from the Committee on Labor and Public Welfare, reported an original resolution (S. Res. 278) to print additional copies of the report on the "Problems of the Aged and Aging", which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full, which appears under the heading "Reports of Committees.")

EXECUTIVE CONFLICT OF INTEREST ACT OF 1960

Mr. JAVITS. Mr. President, on behalf of myself, and my colleague the junior Senator from New York [Mr. KEATING], I introduce, for appropriate reference—and I shall ask unanimous consent in a moment for permission to have other Senators cosponsor the bill—the "Executive Conflict of Interest Act of 1960," a comprehensive ethics bill applying to the 2,266,000 civilian employees of the Federal Government, regular and temporary, and to the 2,632,000 members of the Armed Forces. Representative JOHN LINDSAY, Republican, of New York, will introduce the bill in the House of Representatives.

The proposed legislation was drafted by the special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York and is being introduced Tuesday to coincide with the public release by the Association of the results of its 2-year study.

At this point in my remarks, I ask unanimous consent to have printed in the RECORD a list of the distinguished members of the committee, headed by Roswell B. Perkins, of New York, and including our colleague in the other body, Representative LINDSAY.

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

The members of the committee are Roswell B. Perkins, of New York, former Assistant Secretary of Health, Education, and Welfare, chairman; Howard F. Burns, of Cleveland, Ohio, member of the council of the American Law Institute; Charles A. Coolidge, of Boston, former Assistant Secretary of Defense for legal and legislative affairs; Paul M. Herzog, of New York, former Chairman, National Labor Relations Board; Alexander C. Hoagland, Jr., of New York; Everett L. Hollis, former General Counsel, Atomic Energy Commission; Charles A. Horsky, former Assistant Prosecutor at Nuremberg with the Chief of Counsel for War Crimes; Congressman John V. Lindsay, Republican, of New York, former executive assistant to the Attorney General; John E. Lockwood, of New York, former General Counsel, Office of Inter-American Affairs; and Samuel I. Rosenman, of New York, former Special Counsel to Presidents Roosevelt and Truman.

Mr. JAVITS. Mr. President, the proposed statute would codify various conflict-of-interest laws, repeal those now outdated, and extend its application to those engaged in the full range of modern Federal activity, including Government consultants to a more limited extent, with civil and criminal enforcement provisions. Charged with overseeing the operations of the act would be an Administrator to be designated by the President and to serve within the Executive Office.

Specifically prohibited under this conflict-of-interest proposal would be, first, receipt of gifts, gratuities, or favors when offered to an employee because of his post with the Federal Government, or if the giver is one who does business with the employee's agency or is regulated by it; second, receipt of pay from an outside source in return for personal services, unless such work is performed outside Government hours and is not otherwise prevented by agency regulations; and, third, ex-employees from assisting others, whether or not for compensation, in transactions with the Government in which the persons were previously involved; nor may the former Government workers' partners undertake such work for a period of 2 years. Again, that refers to the case where the ex-employee was involved in the activity.

Upon entering Government service in the executive branch, and periodically thereafter, every employee would be required to sign a statement that he or she has read a summary of the rules on conflicts of interest set up under the act and the accompanying regulations. Under the act there is specific provision for the retention of certain outside economic interests by Government employees such as participation in company pension plans.

The Nation's conscience has been deeply troubled during the last few months over disclosures of practices reflecting a breakdown in ethical conduct on the part of a small minority in various businesses and industries. In recent years, the misconduct or the alleged misconduct of a very few Federal employees have subjected Government workers to similar criticism, which as in business, unfairly reflects discredit on the great majority of loyal, hardworking employees whose integrity and devotion should be beyond question.

Therefore, this comprehensive report and recommended draft legislation on executive conflicts of interest as prepared by the special committee of the Association of the Bar of the City of New York is truly an invaluable document which makes a real contribution to one of the most perplexing personnel problems of Government—the recruiting and retraining at all levels of Government service of individuals of high ability and integrity. Well known is the fact that many Government salaries are not always compatible with pay levels for similar jobs in private industry. And in many instances, genuine confusion and misunderstanding about existing conflict of interest rules or regulations have arisen and led to most unfortunate situations which have embarrassed many Government employees not immediately involved. At the same time, the public is absolutely entitled to the reassurance that understandable, uniform, and equitable standards of conduct have been established to give guidance to employees in the executive branch—guidelines for action in every modern field of activity by the Federal Government which we believe are genuinely desired by executive department employees.

We are interested to note that the special committee recommends a study be made of what type of ethics legislation should apply to members of the legislative branch. We have previously introduced ethics legislation which calls for just that—the establishment of a Commission on Ethics in the Federal Government to study and develop legislative

recommendations while an interim code of ethics patterned after that presently in force in New York State is in operation at the Federal level.

I pause here in my prepared remarks to emphasize that we do not feel that Members of this Legislative Body, the U.S. Congress, are entitled to any special position or status, but that they, too, should be covered by conflict of interest legislation.

We hope very much that as the bill is considered, since it is a splendid demonstration of how citizens can help our Government, we shall at one and the same time consider proposed ethics legislation for members of the legislative branch.

Mr. President, as my colleague from Wisconsin [Mr. PROXMIRE] has already noted, there is a very important provision which gives to Senate committees considering the confirmation of the nominations of persons to be officials of the executive department an opportunity to get the benefit of the advice and factual information which is available to the Government administrator.

Mr. President, of particular significance in evaluating the work of the Association of the Bar of New York is the fact that it has been largely performed by lawyers previously in the employ of the Federal Government who are cognizant of the various ethical problems which normally arise. Second, this carefully drawn report is the output of many months of exhaustive work. Too often, we tend to wait until headlines about one person's unethical conduct hit us right between the eyes before we act. Here is a reasoned, practical approach to the problem translated into specific legislative recommendations. The hodgepodge of conflict of interest laws now on the books should be revised or replaced as soon as possible if the public and the public servants are to receive the protection to which both are entitled.

Our bill would place chief reliance on administrative and civil remedies for those who violate the proposed rules and regulations developed by the administrator and the heads of agencies and departments under the direction of the President. Under the civil enforcement provisions, an individual may be suspended or dismissed following appropriate hearings and appeals. In addition, any Government action or contract involved in the ethics violation may be received by the Government; the Attorney General may sue to recover three times the value of any improper acquisition obtained by the violator, and a civil penalty of up to $5,000 can be recovered for some of the most serious infractions. Criminal penalties include the imposition of a $10,000 fine, imprisonment up to 1 year, or both if the violation was with specific intent.

In conclusion, Mr. President, I should like to emphasize that we are very serious about this matter. This is a very serious bill. The association of the bar has done a magnificent job in the public interest. The foundation which financed the work has done a magnificent job in the public interest.

It is the intent of my colleague [Mr. KEATING] and myself not to let this matter rest. People in our free society are entitled to the best kind of government, but more than anything else they are entitled to honest government, especially when we have a thorough job done, such as this, which does not go into impracticalities but really applies practical, well-recognized, and accepted standards in a moral tone, as it were, which the whole community wishes to apply to a measure of this kind.

Mr. President, I hope that this will not be considered another exercise in fine thinking or in bar association draftsmanship. I appeal directly to the leaders of the majority and minority in the Senate to see that we get action upon this particular measure, and to see that we do not wait until some other scandal breaks upon us before we get all excited about the matter once again. We should act on the matter in advance, when thoughtful consideration may be given to a very thoughtful and representative job such as this.

Mr. President, I ask unanimous consent that the bill which we are introducing, for appropriate reference, may be printed in the RECORD, together with a memorandum of explanation on the bill which I have received from the Association of the Bar of the City of New York; and, Mr. President, following the desire of the Senator from Wisconsin [Mr. PROXMIRE], I ask unanimous consent that the name of the Senator from Wisconsin may be added as a cosponsor.

The PRESIDING OFFICER (Mr. MCNAMARA in the chair). Is there objection to the request of the Senator from New York?

Mr. EASTLAND. Mr. President, reserving the right to object, what was the unanimous-consent request?

The PRESIDING OFFICER. The Senator wishes to add the name of the Senator from Wisconsin as a cosponsor of the bill.

Mr. JAVITS. Mr. President, I also ask unanimous consent, for the benefit of the Senator from Mississippi, to have the text of the bill printed, as well as a memorandum of explanation.

Mr. EASTLAND. Printed in the RECORD?

Mr. JAVITS. Printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none. The bill will be received and appropriately referred; and, without objection, the bill and memorandum will be printed in the RECORD, and the name of the Senator from Wisconsin [Mr. PROXMIRE] will be added as a cosponsor of the bill.

The bill (S. 3080) to supplement and revise the laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States, and for other purposes, introduced by Mr. JAVITS (for himself and Mr. KEATING), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—PROHIBITED CONDUCT, ADMINISTRATION AND PROCEDURE

§ 1. Preamble; declaration of policy and purpose

(a) The proper operation of a democratic government requires that officials be independent and impartial; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. The attainment of one or more of these ends is impaired whenever there exists, or appears to exist, an actual or potential conflict between the private interests of a government employee and his duties as an official. The public interest, therefore, requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to employee conduct in situations where actual or potential conflicts exist.

(b) It is also fundamental to the effectiveness of democratic government that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, legal protections again conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the government of those men and women who are most qualified to serve it. An essential principle underlying the staffing of our gov-

ernmental structure is that its employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public cannot be avoided.

(c) It is the policy and purpose of this Act to promote and balance the dual objectives of portecting Government integrity and of facilitating the recruitment and retention of the personnel needed by Government, by prescribing essential restrictions against conflicts of interest in the executive branch of the Government without creating unnecessary barriers to public service.

§ 2. Definitions

Unless the context of this Act otherwise clearly requires, for purposes of this Act the terms defined in this section shall have the respective meanings hereinafter set forth. The terms defined in this section include: "agency"; "agency head" and "head of an agency"; "assist"; "compensation"; "Government action"; "Government employee'; "intermittent Government employee"; "participate"; "person"; "regular Government employee"; "responsibility"; "State"; "thing of economic value"; and "transaction involving the Government".

(a) "Agency" means—

(1) the Executive Office of the President;

(2) an executive department;

(3) an independent establishment within the executive branch; and

(4) a Government corporation.

For purposes of this subsection (a)—

(i) the executive departments are the Departments of State; Defense; Treasury; Justice; Post Office; Interior; Agriculture; Commerce; Labor; and Health, Education, and Welfare; and

(ii) "independent establishment within the executive branch" means any establishment, commission, board, committee or other unincorporated instrumentality of the United States which is not—

(A) part of an executive department or Government corporation; or

(B) part of the legislative or judicial branches of the United States.

(iii) "Government corporation" means any corporation which is either defined as a "wholly owned Government corporation" in the Government Corporations Control Act of 1946 or is designated as a Government corporation for purposes of this Act by the President by regulations issued pursuant to section 10.

(b) "Agency head" and "head of an agency" mean the chief executive officer of an agency, who shall be the chairman in the case of an independent establishment which is a commission, board, or committee. The Secretary of Defense may delegate to the Secretaries of the Army, the Navy, and Air Force such of his responsibilities as an agency head as he may deem appropriate.

(c) "Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to, another person with knowledge that such action is of help, aid, advice, or assistance to such person and with intent so to assist such person.

(d) "Compensation" means any thing of economic value, however designated, which is paid, loaned, granted, or transferred, or to be paid, loaned, granted, or transferred for, or in consideration of, personal services to any person or to the United States.

(e) "Government action" means any action on the part of the executive branch of the United States, including, but not limited to—

(1) any decision, determination, finding, ruling, or order, including the judgment or verdict of a military court or board; and

(2) any grant, payment, award, license, contract, transaction, sanction or approval, or the denial thereof, or failure to act with respect thereto.

(f) "Government employee" means any individual who is—

(1) appointed by one of the following acting in his official capacity—

(A) the President of the United States, or

(B) a person who qualifies as an employee under this definition; and

(2) engaged in the performance of a Federal function under authority of the Constitution, an Act of Congress, or an Executive act; and

(3) under the supervision or authority of one of the persons listed in (A) or (B) under (1).

Notwithstanding the foregoing, the term "Government employee" shall not include any of the following—

(i) officers and employees in the legislative and judicial branches of the United States;

(ii) employees of the District of Columbia;

(iii) employees of corporations other than Government corporations as defined in subsection (a)(iii) of this section; and

(iv) a reserve of the Armed Forces, when he is not on active duty and is not otherwise a Government employee.

An individual shall not be deemed an employee solely by reason of his receipt of a pension, disability payments, or other payments not made for current services, or by reason of his being subject to recall to active service.

Every Government employee shall be deemed either "intermittent" or "regular", as determined by the definitions contained in subsections (g) and (j), respectively, of this section.

(g) "Intermittent Government employee" means any Government employee who has performed services as such employee on not more than fifty-two working days (which shall not include Saturdays, Sundays, and holidays) out of the preceding three hundred and sixty-five calendar days: *Provided, however,* That—

(1) the President may issue an order increasing to not more than one hundred and thirty days the number of working days within a three hundred and sixty-five calendar day period on which a particular Government employee may perform services while still being classified as an intermittent Government employee for purposes of this Act: *Provided,* That the President shall make a determination that the national interest requires the retention of such employee's services during a further specified period. A statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register;

(2) a Reserve of the Armed Forces, unless otherwise a regular Government employee, shall be classified as an intermittent Government employee for purposes of this Act while on active duty solely for training, irrespective of the number of working days of such training;

(3) irrespective of the fact he has performed services on less than fifty-two working days, a Government employee shall be deemed a regular Government employee, as defined in subsection (j) of this section, and not an intermittent Government employee, if—

(A) he was appointed to a position calling for regular and continuing full-time services, and

(B) his appointment did not evidence an intent that his services would be for a period of less than one hundred and thirty working days in the three hundred and sixty-five calendar day period following such appointment.

The termination of any particular term of employment of an intermittent Government employee shall take effect on the day when the earliest of the following events occurs:

(i) He becomes a regular Government employee, as defined in subsection (j) of this section;

(ii) He resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced; or

(iii) Three hundred and sixty-five calendar days shall have elapsed since the last working day on which he shall have performed services as an intermittent Government employee, unless his appointment was expressly for a longer period.

An intermittent Government employee shall be in such status on days on which he performs no services as well as days on which he performs services.

(h) "Participate," in connection with a transaction involving the Government, means to participate in Government action or a proceeding personally and substantially as a Government employee, through approval, disapproval, recommendation, decision, the rendering of advice, investigation, or otherwise.

(i) "Person" means any—

(1) individual;

(2) partnership, association, corporation, firm, institution, trust, foundation, or other entity (other than the United States or an agency), whether or not operated for profit;

(3) State or municipality of the United States or any subdivision thereof, including public districts and authorities; and

(4) foreign country or subdivision thereof.

(j) "Regular Government employee" means any Government employee other than an intermittent Government employee, as defined in subsection (g) of this section. The termination of any particular term of employment of a regular Government employee shall take effect when he resigns, retires, or is dismissed, or the termination of his status is otherwise clearly evidenced.

(k) "Responsibility," in connection with a transaction involving the Government, means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, effectively to approve, disapprove, or otherwise direct Government action in respect of such transaction.

(l) "State" means any State of the United States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(m) "Thing of economic value" means any money or other thing having economic value, and includes, without limiting the generality of the foregoing—

(1) any loan, property interest, interest in a contract, or other chose in action, and any employment or other arrangement involving a right to compensation;

(2) any option to obtain a thing of economic value, irrespective of the conditions to the exercise of such option; and

(3) any promise or undertaking for the present or future delivery or procurement of a thing of economic value.

In the case of an option, promise, or undertaking, the time of receipt of the thing of economic value shall be deemed to be, respectively, the time the right to the option becomes fixed, irrespective of the conditions to its exercise, and the time the promise or undertaking is made, irrespective of the conditions to its performance.

(n) "Transaction involving the Government" means any proceeding, application, submission, request for a ruling, or other determination, contract, claim, case, or other such particular matter—

(1) which the Government employee or former Government employee in question believes, or has reason to believe, is, or will be, the subject of Government action; or

(2) in or to which the United States is a party; or

(3) in which the United States has a direct and substantial proprietary interest.

§ 3. Acts affecting a personal economic interest

(a) ECONOMIC INTERESTS OF A GOVERNMENT EMPLOYEE.—No Government employee shall participate in a transaction involving the Government in the consequences of which he has a substantial economic interest of which he may reasonably be expected to know.

(b) ECONOMIC INTERESTS OF PERSONS IN WHICH A GOVERNMENT EMPLOYEE HAS AN INTEREST.—No Government employee shall participate in a transaction involving the Government in the consequences of which, to his actual knowledge, any of the following persons has a direct and substantial economic interest:

(1) His spouse or child; or

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know; or

(3) Any person of which he is an officer, director, trustee, partner, or employee; or

(4) Any person with whom he is negotiating or has any arrangement concerning prospective employment; or

(5) Any person who is a party to an existing contract with such Government employee or an obligee of such Government employee as to a thing of economic value and who, by reason thereof, is in a position to affect directly and substantially such employee's economic interests.

(c) DISQUALIFICATION.—Every Government employee shall disqualify himself from participating in a transaction involving the Government when a violation of subsection (a) or (b) would otherwise result. The procedures for such disqualification shall be established by regulations issued pursuant to section 10.

(d) SUBSTANTIAL ECONOMIC INTEREST.—The term "substantial economic interest" may be defined by regulations issued by the President pursuant to section 10, but the term shall not include—

(1) the interest of a Government employee in his grade, salary, or other matters arising solely from his Government employment;

(2) the interest of a Government employee, or of a person referred to in subsection (b) solely as a member of the general public, or of any significant economic or other segment of the general public.

(e) PRESIDENTIAL EXEMPTION.—The President may issue an order suspending the operation of subsections (a) and (b), in whole or in part, as to a particular employee with respect to transactions involving the Government of a particular category or in connection with a particular assignment, provided that the President shall make a determination that under all the circumstances the national interest in such employee's participation exceeds the public interest in his disqualification. A full statement of the pertinent facts and of the President's determination of national interest shall be published in the Federal Register.

§ 4. Assisting in transactions involving the Government

(a) GENERAL RULE FOR ALL EMPLOYEES.—Except in the course of his official duties or incident thereto, no Government employee shall assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he has at any time participated; or

(2) if such transaction involving the Government is or has been under his official responsibility at any time within a period of two years preceding such assistance.

(b) ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.—Except in the course of his official duties or incident thereto, no regular Government employee shall—

(1) assist another person for compensation in any transaction involving the Government;

(2) assist another person by representing him as his agent or attorney, whether or not for compensation, in any transaction, involving the Government.

(c) NO SHARING IN COMPENSATION.—No Government employee shall share in any compensation received by another person for assistance which such Government employee is prohibited from rendering pursuant to subsection (a) or (b).

(d) PARTNERSHIPS.—No partnership of which a Government employee is a partner, and no partner or employee of such a partnership, shall assist another person in any transaction involving the Government if such Government employee is prohibited from doing so by subsection (a).

(e) PERMITTED EXCEPTIONS.—(1) Nothing in this section shall prevent a Government employee, subject to conditions or limitations set forth in regulations issued pursuant to section 10, from assisting, in a transaction involving the Government—

(A) his parent, spouse, or child, or any thereof for whom he is serving as guardian, executor, administrator, trustee, or other personal fiduciary;

(B) a person other than his parent, spouse, or child for whom he is serving as guardian, executor, administrator, trustee, or other personel fiduciary;

(C) another Government employee involved in disciplinary, loyalty, or other personnel administration proceedings; or

(D) another person in the performance of work under a contract with or for the benefit of the United States:

Provided, however, That—

(E) in the case of clauses (A) and (B), such Government employee shall not have at any time participated in such transaction, nor, in the case of clause (B), shall such transaction have been under his official responsibility; and

(F) in the case of clauses (A), (B), (C), and (D), the circumstances of the assistance shall have been disclosed to the head of the employee's agency and approved by him in advance of the assistance; and

(G) in the case of clause (D), the head of such employee's agency shall have certified in writing that in his opinion the national interest will be promoted by permitting the special knowledge or skills of such Government employee to be made available to assist such other person in connection with such performance.

(2) Nothing in this section shall prevent a Government employee from giving testimony under oath or from making statements required to be made under penalty of perjury or contempt.

§ 5. Compensation for regular Government employees from non-Government sources

(a) UNCOMPENSATED EMPLOYEES.—For purposes of this section the term "regular Government employee" shall not include any Government employee who, in accordance with the terms of his appointment, is serving without compensation from the United States or is receiving from the United States only reimbursement of expenses incurred or a predetermined allowance for such expenses.

(b) PAYMENTS FOR SERVICES TO THE UNITED STATES.—No regular Government employee shall receive any thing of economic value, other than his compensation from the United States, for or in consideration of personal services rendered or to be rendered to or for the United States. Any thing of economic value received by a regular Government employee prior to or subsequent to his Government employment shall be presumed, in the absence of a showing to the contrary by a clear preponderance of evidence, not to be for, or in consideration of, personal services rendered or to be rendered to or for the United States.

(c) COMPENSATION FOR SERVICES TO OTHERS.—No regular Government employee shall receive any thing of economic value (other than his compensation from the United States) in consideration of personal services rendered, or to be rendered, to or for any person during the term of his Government employment unless such services meet each of the following qualifications:

(1) The services are bona fide and are actually performed by such employee;

(2) The services are not within the course of his official duties;

(3) The services are not prohibited by section 4 or by applicable laws or regulations governing non-Government employment for such employee; and

(4) The services are neither performed for nor compensated by any person from whom such employee would be prohibited by section 6(b) from receiving a gift; or, alternatively, the services and compensation are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(d) PAYMENTS FOR FUTURE SERVICES TO OTHERS.—No regular Government employee shall receive, directly or indirectly, any thing of economic value during the term of his Government employment in consideration of personal services to be rendered to or for any person subsequent to the term of such employment. Nothing contained in this subsection (d) shall be deemed to prevent a Government employee from entering into a contract for prospective employment during the term of his Government employment.

(e) COMPENSATION FROM LOCAL GOVERNMENTS.—Nothing contained in this section shall prevent a Government employee from receiving compensation contributed out of the treasury of any State, county, or municipality if—

(1) the compensation is received pursuant to arrangements entered into between such State, county, or municipality and such employee's agency; or

(2) the compensation and the services for which it is received are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(f) CONTINUATION IN CERTAIN PENSION AND OTHER PLANS.—(1) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide pension, retirement, group life, health, or accident insurance, or other employee welfare or benefit plan maintained by a former employer but to which such former employer makes no contributions on behalf of such employee in respect of the period of his Government employment.

(2) Nothing contained in this section shall prevent a Government employee's continuation in a bona fide plan, maintained by a former employer and to which such former employer makes contributions on behalf of such employee, in the case of—

(A) a pension or retirement plan qualified under the provisions of the Internal Revenue Code, or

(B) a group life, health, or accident insurance plan: *Provided,* That the contributions by such employer are not made for a period longer than five consecutive years of Government employment (or an aggregate of five years out of the preceding ten).

(3) Nothing contained in this section shall require the termination of the rights of a Government employee acquired under a bona

fide profit-sharing or stock bonus plan maintained by a former employer and qualified under the provisions of the Internal Revenue Code: *Provided*, That no contributions are made by such former employer on behalf of the Government employee based on profits attributable to any portion of the period of his Government employment.

(4) The provisions of this subsection (f) shall be subject to any additional conditions or limitations, including limitations on maximum amounts, set forth in regulations issued pursuant to section 10.

(g) TRAVEL AND RELATED EXPENSES.—Travel and related expenses received other than from the United States shall be deemed to be for or in consideration of personal services rendered to or for a person only to the extent provided in regulations issued pursuant to section 10.

§ 6. Gifts

(a) GENERAL RULE FOR ALL EMPLOYEES.—No Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person if such Government employee has reason to believe the donor would not give the gift, gratuity, or favor but for such employee's office or position within the Government.

(b) ADDITIONAL GENERAL RULE FOR REGULAR EMPLOYEES.—No regular Government employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person, or from any officer or director of such person, if such regular Government employee has reason to believe such person—

(1) has or is seeking to obtain contractual or other business or financial relationships with such employee's agency; or

(2) conducts operations or activities which are regulated by such employee's agency; or

(3) has interests which may be substantially affected by such employee's performance or nonperformance of official duty.

(c) PERMITTED EXCEPTIONS.—Exceptions to subsections (a) and (b) may be made by regulations issued pursuant to section 10 in situations where the circumstances do not lead to the inference that the official judgment or action of the Government employee receiving, directly or indirectly, the gift, gratuity, or favor was intended to be influenced thereby.

§ 7. Abuse of office

Except in the course of his official duties or incident thereto, no Government employee shall, in his relationships with any person specified in the succeeding sentence, use the power or authority of his office or position within the Government in a manner intended to induce or coerce such other person to provide such Government employee or any other person with any thing of economic value, directly or indirectly. This section shall apply to relationships with any person, or any officer or director of such person, from whom such Government employee, if he were a regular Government employee, would be prohibited by section 6(b) from receiving a gift.

§ 8. Postemployment

(a) GENERAL RULE.—No former Government employee shall at any time subsequent to his Government employment assist another person, whether or not for compensation, in any transaction involving the Government—

(1) in which he at any time participated during his Government employment; or

(2) if such transaction involving the Government was under his official responsibility as a Government employee at any time within a period of two years preceding such assistance.

(b) NO SHARING IN COMPENSATION.—No former Government employee shall share in any compensation received by another person for assistance which such former Government employee is prohibited from rendering by subsection (a).

(c) PARTNERSHIPS.—(1) No partnership of which a former Government employee is a partner, and no partner or employee of such a partnership, shall, for a period of two years following the termination of his Government employment, assist another person in any transaction involving the Government in which such former Government employee at any time participated during his Government employment. For purposes of this subsection (c)(1), the termination of the former Government employee's employment with the agency by which he was employed when he so participated shall be deemed to be the termination of his Government employment.

(2) Whenever subsection (c)(1) would be applicable but for the expiration of the period of two years referred to therein, the circumstances of the former Government employee's participation in the transaction during his Government employment, if the individuals acting for the partnership are aware of such participation, shall be disclosed to the agency principally involved in the transaction involving the Government, and an affidavit of such former employee to the effect that he has not assisted in such transaction involving the Government shall be furnished to such agency.

(d) SPECIAL RULE FOR COMPUTATION OF TWO-YEAR PERIOD FOR CERTAIN FORMER INTERMITTENT EMPLOYEES.—For purposes of this section, a former intermittent Government employee whose employment terminated under clause (iii) of section 2(g) shall be deemed to have terminated such employment on the last working day on which he performed services as an intermittent Government employee.

(e) PERSONS FORMERLY ON ACTIVE DUTY AS COMMISSIONED OFFICERS OF ARMED FORCES.—The President shall, in furtherance of this section 8, issue regulations of the nature herein described applicable to persons who have been commissioned officers on active duty in one of the armed forces of the United States. Such regulations shall have the effect of prohibiting such persons, for the periods therein specified, from personally dealing with personnel of the Department of Defense, or of such units thereof as may be specified in such regulations, with the purpose of assisting in the sale of anything, including services, to the United States through the Department of Defense or such units thereof as may be specified in such regulations. The retirement pay of any retired commissioned officer who violates such regulations shall be terminated pursuant to the regulations issued hereunder for the periods therein specified.

(f) PERMITTED EXCEPTIONS.—The permitted exceptions applicable to Government employees under section 4(e) shall also be applicable to former Government employees under this section 8, subject to conditions or limitations set forth in regulations issued pursuant to section 10. For purposes of this section 8, references in such section 4(e) to the Government employee providing assistance shall be deemed to be to the former Government employee, and references to his agency shall be deemed to be to his former agency.

§ 9. Illegal payments

(a) PAYMENTS AS COMPENSATION, ETC.—No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to any other person any thing of economic value believing or having reason to believe that there exist circumstances making the receipt thereof a violation of section 4, 5, or 8.

(b) GIFTS.—No person shall give, transfer, or deliver, directly or indirectly, to a Government employee any thing of economic value as a gift, gratuity, or favor if either—

(1) such person would not give the gift, gratuity, or favor but for such employee's office or position within the Government; or

(2) such person is in a status specified in clause (1), (2), or (3) of section 6(b).

Exceptions to this subsection (b) may be made by regulations issued pursuant to section 10 in situations referred to in section 6(c).

§ 10. Administration

(a) RESPONSIBILITY OF THE PRESIDENT.—(1) The President shall be responsible for the establishment of appropriate standards to protect against actual or potential conflicts of interest on the part of Government employees and for the administration and enforcement of this Act and the regulations and orders issued hereunder.

(2) The President may, and shall do so when required by this Act, issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act. Such regulations shall take precedence over any regulations issued by agency heads pursuant to subsection (c).

(3) The President shall have particular responsibility for the enforcement of this Act as applied to employees of the Executive Office of the President and to agency heads, and for this purpose the President shall have all the powers of an agency head.

(4) The President may conduct investigations of facts, condition or conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (a) and in obtaining information to serve as a basis for recommending further legislation related to the purposes of this Act. In connection with any such investigation the President shall have all the powers with respect to oaths, affirmations, subpenas, and witnesses as are provided in section 12(b)(2). The President may delegate any or all of his powers under this subsection (a)(4) to the Administrator referred to in subsection (b) or to others, either generally or in particular instances.

(b) EXECUTIVE CONFLICT OF INTEREST ACT ADMINISTRATOR.—(1) the President shall designate an official from within the Executive Office of the President or create an office within the Executive Office of the President (such official or the head of such office being hereinafter referred to as the "Administrator") to perform the following functions:

(A) To assist the President in carrying out his responsibilities under subsection (a);

(B) To receive copies of all regulations issued by agency heads pursuant to subsection (c), to analyze the same, and make recommendations to agency heads with respect thereto;

(C) To receive reports from agencies and to collect information with respect to, and conduct studies of, personal conflicts of interest of Government employees within the executive branch;

(D) To consult with the Attorney General, the Chairman of the Civil Service Commission, the Comptroller General, and other appropriate officials with respect to conflict-of-interest matters affecting more than one agency;

(E) To consult with agency heads, and with appropriate officers designated by them, as to the administration of this Act within their respective agencies and the regulations issued hereunder applicable to their respective agencies;

(F) To give advice with respect to the application of this Act and regulations issued hereunder, when so requested by the President or agency heads;

(G) To undertake and conduct, in conjunction with agency heads, a study of the extent to which any of the principles of this Act should be made applicable to persons

and to the employees of persons having contracts, subcontracts, licenses, or similar relationships with or from the United States; and

(H) To provide reports and information to the President and the Congress concerning the administration of this Act and conflict-of-interest matters generally.

(2) The Administrator is authorized to employ personnel and expend funds for the purposes of this Act, to the extent of any appropriations made for the purposes hereof.

(c) RESPONSIBILITY OF AGENCY HEADS.—(1) Each agency head shall be responsible for the establishment of appropriate standards within his agency to protect against actual or potential conflicts of interest on the part of employees of his agency, and for the administration and enforcement within his agency of this Act and the regulations and orders issued hereunder.

(2) Each agency head may, subject to the regulations issued by the President under subsection (a)(2), issue regulations extending, supplementing, implementing, or interpreting the provisions of this Act as applied to his agency. He shall file copies of all such regulations with the Administrator.

(3) Each agency head may conduct investigations of facts, conditions, practices, or other matters in carrying out his responsibilities and powers under this subsection (c). In connection with any such investigation the agency head shall have all the powers with respect to oaths, affirmations, subpenas, and witnesses as are provided in section 12(b)(2). The agency head may delegate any or all of his powers under this subsection (c)(3) to any officer designated by him, either generally or in particular instances.

§ 11. Preventive measures

The head of an agency may, and shall do so if so provided in regulations issued by the President, require—

(a) individuals entering Government employment with such agency and, periodically, the employees or particular categories of employees of such agency, to sign a statement that they have read an appropriate summary of the rules established by this Act and the regulations issued hereunder;

(b) employees of such agency, or particular categories thereof, to report periodically as to their non-Government employment or self-employment, if any;

(c) representatives of other persons before an agency to certify that, to the best of their knowledge, their representation will not violate section 4 or 8 or the regulations issued thereunder; and

(d) persons who are principals in transactions involving the Government to certify that, to the best of their knowledge, they have not received assistance under circumstances which would violate section 4 or 8 or the regulations issued thereunder.

§ 12. Remedies; civil penalties; procedure

(a) ADMINISTRATIVE ENFORCEMENT AS TO CURRENT GOVERNMENT EMPLOYEES.—

(1) Remedies and Civil Penalties: The head of an agency may dismiss, suspend, or take such other action as may be appropriate in the circumstances in respect of any Government employee of his agency upon finding that such employee has violated this Act or regulations promulgated hereunder. Such action may include the imposition of conditions of the nature described in subsection (b)(1).

(2) Procedure: The procedures for any such action shall correspond to those applicable for disciplinary action for employee misconduct generally, and any such action shall be subject to judicial review to the extent provided by law for disciplinary action for misconduct of employees of the same category and grade.

(b) ADMINISTRATIVE ENFORCEMENT AS TO FORMER GOVERNMENT EMPLOYEES AND OTHERS.—

(1) Remedies and Civil Penalties: The head of an agency, upon finding that any former employee of such agency or any other person has violated any provision of this Act, may, in addition to any other powers the head of such agency may have, bar or impose reasonable conditions upon—

(A) the appearance before such agency of such former employee or other person, and

(B) the conduct, or negotiation or competition for, business with such agency by such former employee or other person,

for such period of time as may reasonably be necessary or appropriate to effectuate the purposes of this Act.

(2) Procedure:

(A) Hearings.—Findings of violations referred to in subsection (b)(1) shall be made on the record after notice and hearing, conducted in accordance with the provisions governing adjudication in title 5, United States Code, secs. 1005, 1006, 1007, 1008, and 1011 (Administrative Procedure Act). For the purposes of such hearing any agency head, or any officer designated by it, is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records which the agency head finds relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing. Witnesses summoned by the agency head to appear shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(B) Judicial review.—(i) Any party to a proceeding under subsection (b) aggrieved by an order issued by the agency head pursuant hereto, may obtain a review of such order in the court of appeals of the United States for any circuit wherein said party is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court within sixty days after the order of the agency upon a written petition praying that such order be modified or set aside in whole or in part.

(ii) A copy of such petition shall forthwith be transmitted by the clerk of the court to the agency head involved, and thereupon such agency head shall file with the court the record upon which the order complained of was entered. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part.

(iii) No objection to the order of the agency head shall be considered by the court unless such objection shall have been urged before the agency or there is reasonable ground for failure to do so.

(iv) The findings of the agency head as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material in that there were reasonable grounds for failure to adduce such evidence in the proceedings before the agency, the court may order such additional evidence to be taken before the agency and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper.

(v) The agency head may modify his findings as to the facts by reason of the additional evidence so taken and shall file with the court such modified or new findings which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, or setting aside in whole or in part, any such order of the agency head, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 346 and 347 of title 28. The commencement of proceedings for review under this subsection shall not, unless specifically ordered by the court, operate as a stay of the agency head's order.

(c) RESCISSION OF GOVERNMENT ACTION.—The President or any agency head may cancel or rescind any Government action without contractual liability to the United States where—

(1) he has found that a violation of this Act has substantially influenced such Government action; and

(2) in his judgment the interests of the United States so require under all of the circumstances, including the position of innocent third parties.

The finding referred to in clause (1) shall be made in accordance with the procedures set forth in subsection (b)(2) and shall be subject to judicial review in accordance with the provisions of subsection (b)(2)(B): *Provided*, That the President or such agency head may suspend Government action pending the determination, pursuant to this subsection, of the merits of the controversy. The exercise of judgment pursuant to clause (2) of this subsection shall not be subject to judicial review.

(d) CIVIL REMEDY FOR DAMAGES AGAINST EMPLOYEES AND FORMER EMPLOYEES.—The Attorney General of the United States may bring a civil action in any district court of the United States against any Government employee or former Government employee who shall, to his economic advantage, have acted in violation of this Act, and in such action may recover on behalf of the United States, in partial reimbursement of the United States for its expenses of administering this Act, damages in an amount equal to three times the amount of such economic advantage.

(e) CIVIL PENALTIES FOR ILLEGAL PAYMENTS.—Any person who shall violate section 9 shall pay a civil penalty of not more than $5,000, in partial reimbursement of the United States for its expenses of administering this Act. The Government employee or former Government employee involved shall not be subject to prosecution under title 18, United States Code, section 2, or title 18, United States Code, section 371, or any other provision of law dealing with criminal conspiracy, by reason of the receipt of any such payment.

(f) PUBLICATION OF CERTAIN FINDINGS AND DECISIONS.—Whenever the head of any agency, or the President, exercises the authority conferred by subsections (a), (b), or (c) of this section, copies of the findings and decision therein shall be filed with the President and shall be published at least once each year as part of a volume collecting such findings and opinions. Such volumes shall be made available for public inspection and shall also be made available for distribution or sale to interested persons.

(g) INTERESTS OF NATIONAL SECURITY.—When any provision of this Act requires publication of information and the President finds that publication of part or all of such information is inconsistent with national security, he may suspend the requirement of such publication to the extent and for such period of time as he shall deem essential for reasons of national security.

(h) STATUTE OF LIMITATIONS.—No administrative or other action under subsections (b), (c), (d), or (e) of this section to enforce any provision of this Act shall be commenced after the expiration of six years following the occurrence of the alleged violation.

TITLE II—CRIMINAL PENALTIES

§ 21. Acts in violation of Executive Conflict of Interest Act

Title 18 of the United States Code is amended by adding a new chapter thereto, to be designed chapter 16 and reading as follows:

"Chapter 16—Conflicts of interest

"§ 301. Acts in violation of Executive Conflict of Interest Act

"Any person who shall purposely or knowingly violate any provision of the Executive Conflict of Interest Act shall be fined not more than $10,000, or imprisoned for not more than one year, or both. For purposes of this section, the terms 'purposely' and 'knowingly' shall have the respective means set forth in subsections (a) and (b):

"(a) 'Purposely': A person acts purposely with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or a result thereof, it is his conscious object to engage in conduct of that nature or to cause such a result; and

"(2) if the element involves the attendant circumstances, he knows of the existence of such circumstances.

"(b) "Knowingly': A person acts knowingly with respect to a material element of an offense when—

"(1) if the element involves the nature of his conduct or the attendant circumstances, he knows that his conduct is of that nature or he knows of the existence of such circumstances; and

"(2) if the element involves a result of his conduct, he knows that his conduct will necessarily cause such a result."

TITLE III—AMENDMENT AND REPEAL OF EXISTING LAWS

§ 31. Amendment of title 18, United States Code, sections 216 and 1914

Section 216 of chapter 11 and section 1914 of chapter 93 of title 18 of the United States Code are each amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to (1) any person who is a Government employee as defined in section 2(f) of that Act, and (2) any act of another person which is directed toward such a Government employee."

§ 32. Amendment of title 18, United States Code, sections 281, 283, and 434

Sections 281 and 283 of chapter 15 of title 18 of the United States Code are each amended by deleting the second paragraph thereof. Each of such sections is further amended and section 434 of chapter 23 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of each such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to any person who is a Government employee as defined in section 2(f) of that Act."

§ 33. Amendment of title 18, United States Code, section 284

Section 284 of chapter 15 of title 18 of the United States Code is amended by adding the following as a new paragraph to precede the present text of such section:

"From and after the effective date of the Executive Conflict of Interest Act, this section shall not apply to any person who has been a Government employee as defined in section 2(f) of that Act."

§ 34. Amendment of title 22, United States Code, section 1792(a)

Section 532(a) of the Mutual Security Act of 1954 (68 Stat. 859), as amended by section 10(d) of the Act of July 18, 1956 (70 Stat. 561; 22 U.S.C. 1792(a), is amended to read as follows:

"(a) Service of an individual as a member of the Board established pursuant to section 308 of this Act or as an expert or consultant under section 530(a) shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 6 of the Act of May 22, 1920 (5 U.S.C. 715), or section 212 of the Act of June 30, 1932 (5 U.S.C. 59a), or any other Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities. Contracts for the employment of retired military personnel with specialized research and development experience, not to exceed ten in number, as experts or consultants under section 530(a), may be renewed annually, notwithstanding section 15 of the Act of August 2, 1946 (5 U.S.C. 55(a))."

§ 35. Amendment of title 5, United States Code, section 30r(d)

Section 29(d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(d), is amended to read as follows:

"(d) When he is not on active duty, or when he is on active duty for training, a reserve is not considered to be an officer or employee of the United States or a person holding an office of trust profit or discharging any official function under, or in connection with, the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity: *Provided, however,* That a reserve on active duty for training shall be deemed an employee of the United States for purposes of the Executive Conflict of Interest Act."

§ 36. Repeal of particular substantive restraints

The following sections are repealed:

(a) Section 190 of the Revised Statutes (5 U.S.C. 99) (relating to postemployment prosecution of claims by employees in departments); and

(b) Section 244 of the Revised Statutes (5 U.S.C. 254) (relating to certain business interests of clerks in the Treasury Department);

§ 37. Repeal of particular substantive restraints applicable to retired officers

The following sections are repealed:

(a) Section 1309 of the Act of August 7, 1953 (67 Stat. 437; 5 U.S.C. 59c), (relating to loss of retirement pay by retired commissioned officers engaged in certain selling activities).

(b) Section 6112 of chapter 557 of title 10 of the United States Code (relating to the loss of pay or retirement pay by certain officers who sell naval supplies to the Navy Department).

§ 38. Repeal of exemptions from particular conflict-of-interests statutes

The following sections are repealed:

(a) Section 173(c) of chapter 7 of title 10 of the United States Code (providing certain conflicts exemptions for advisers to the Secretary of Defense).

(b) Section 1583(b) of chapter 81 of title 10 of the United States Code (authorizing conflicts exemptions for persons employed by the Secretary of Defense to serve without compensation).

(c) Section 5153(d) of chapter 513 of title 10 of the United States Code (providing certain conflicts exemptions for members of the Naval Research Advisory Committee).

(d) Section 807 of the Act of August 2, 1954 (68 Stat. 645; 12 U.S.C. 1701h) (providing certain conflicts exemptions for members of advisory committees of the Housing and Home Finance Agency).

(e) Section 5 of the Act of June 4, 1956 (70 Stat. 243; 16 U.S.C. 943) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Great Lakes Fishery Act of 1956).

(f) Section 5 of the Act of September 7, 1950 (64 Stat. 778; 16 U.S.S. 954) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Tuna Conventions Act of 1950).

(g) Section 5 of the Act of September 27, 1950 (64 Stat. 1068; 16 U.S.C. 984) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the Northwest Atlantic Fisheries Act of 1950).

(h) Section 5 of the Act of August 12, 1954 (68 Stat. 698; 16 U.S.C. 1024) (providing certain conflicts exemptions for commissioners and members of advisory committees appointed under the North Pacific Fisheries Act of 1954).

(i) Section 1003 of the Act of September 2, 1958 (72 Stat. 1603; 20 U.S.C. 583) (providing certain conflicts exemptions for members of advisory committees and information councils appointed under the National Defense Education Act of 1958).

(j) Section 14(f) of the Act of May 10, 1950 (64 Stat. 154, 155; 42 U.S.C. 1873 (f)) (providing certain conflicts exemptions for members of the National Science Board and committees and commissions appointed under the National Science Foundation Act of 1950).

(k) Section 163 of the Atomic Energy Act of 1954 (68 State. 951), as amended by section 2 of the Act of September 21, 1959 (73 Stat. 574; 42 U.S.C. 2203) (providing certain conflicts exemptions for members of the General Advisory Committee and Advisory boards appointed under the Atomic Energy Act of 1954).

(l) Section 1(t) of the Act of June 19, 1951 (65 Stat. 87; 50 U.S.C. App. 463(a)) (providing certain conflicts exemptions for particular Selective Service officials).

(m) Section 113 of the Renegotiation Act of 1951 (65 Stat. 22), as amended by section 13 of the Act of August 1, 1956 (70 Stat. 792; 50 U.S.C. App. 1223) (providing certain conflicts exemptions for employees of departments and agencies to which the Renegotiation Act of 1951 is applicable and of the Renegotiation Board).

(n) Section 7(b)(4) of the Act of August 9, 1955 (69 Stat. 582; 50 U.S.C. App. 2160(b)(4)) (providing certain conflicts exemptions for persons serving without compensation under the Defense Production Act of 1950).

TITLE IV—MISCELLANEOUS PROVISIONS

§ 41. Short title

This Act shall be known and may be cited as the "Executive Conflict of Interest Act".

§ 42. Effective date

This Act shall take effect ninety days after the date of its enactment, except that section 37 shall not take effect until the effective date of the regulations issued by the President pursuant to section 8(e).

The memorandum of explanation presented by Mr. JAVITS is as follows:

TEXT OF THE OFFICIAL SUMMARY OF THE REPORT RELEASED TODAY BY THE SPECIAL COMMITTEE ON FEDERAL CONFLICT-OF-INTEREST LAWS OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

I. INTRODUCTION AND SHORT SUMMARY

We are today releasing a prepublication edition of a report based upon more than 2 years of study of the so-called conflict-of-interest laws of the Federal Government.

Also, we expect that there will be introduced today in both Houses of Congress a proposed Executive Conflict-of-Interest Act, which has been drafted by this committee and which is designed to remedy the manifold defects of the present law. Our findings and recommendations, which are set forth in the report, are expressed in statutory form in the proposed act.

The report will be published in the fall by the Harvard University press.

This committee is issuing this prepublication mimeographed edition of its report so that it will be available at the public hearings on the topic of the conflict-of-interest laws which commenced on February 17, 1960, before the Antitrust Subcommittee of the Committee on the Judiciary of the House of Representatives. The House Judiciary Committee, under the chairmanship of Representative EMANUEL CELLER, of New York, has already made an important contribution to the wider understanding and improvement of this confused, but crucial, area of law and public administration. The public hearings, which have just opened, should further advance the cause of urgently needed reform. Accordingly, we have distributed some 200 mimeographed copies of a prepublication edition of the report to Members of Congress, the press and to various Federal departments and agencies.

This official summary has been prepared for the information and guidance of those interested persons to whom the report is not available and as a guide to the report.

A. Objectives

The report of the committee has two themes. The first is that ethical standards within the Federal Government must be beyond reproach, and that there must, accordingly, be effective regulation of conflicts of interest in Federal employment. The second is that the Federal Government must be in a position to obtain the personnel and information it needs to meet the demands of the 20th century.

These themes are coequal. Neither may be safely subordinated to the other. What is needed is balance in the pursuit of the two objectives. We need a long-run national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment.

The basic conclusion of the committee is that such a scheme can be worked out. The report and the proposed act contain a recommended new program for achieving this result.

B. Assessment of existing restraints

The committee has concluded that the legal and administrative machinery of the Federal Government for dealing with the problem of conflicts of interest is obsolete, inadequate for the protection of the Government, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent.

1. Obsolescence: The statutory law—most of it a century old—is not broad enough to protect the Government against the manifold modern forms of conflict-of-interest. Most of the statutes were and are pointed at areas of risk that are no longer particularly significant, mainly the prosecution of Government claims. Today, with the greatly expanded regulatory functions of the Federal Government, applications for rulings, clearances, approvals, licenses, certifications, grants and other forms of Government action are far more significant in the daily operation of Government than the prosecution of claims. Several of the basic statutes now on the books do not concern themselves at all with these modern Governmental activities.

Other aspects of obsolescence in the present statutes are:

(a) Their focus of interest upon a class of lower ranking politically appointed clerks that has disappeared. The Government today obtains its manpower through a vast civil service, a top layer of short term political appointees, an increasing group of advisory and part-time personnel, and through an unlimited variety of contracts for services provided by non-Government personnel.

(b) Their failure to recognize internal procedures of modern government, such as the flexible processes of personnel administration available to assist in enforcement.

(c) Their lack of recognition of the facts of modern economic life, such as the existence of private pension plans.

(d) Their failure to recognize the essential blending of public and private endeavor in the modern American society, as illustrated by the partnership of government, industry, and educational institutions in the science field.

2. Inadequate administration: Partly by reason of the deficiencies in the statutory law, administration of the conflict-of-interest restraints has always been weak. The Government has failed to provide a rational, centralized, continuing, and effective machinery to deal with the problem. If the statutes presented a coordinated whole—a unified program—and if they imposed direct responsibility on the President to carry out that program, the central coordination and leadership missing in the past would improve. A well-administered program could, and should, guide the thousand good men as well as snare the one bad one.

3. Uncertainty in interpretation: Enacted fitfully over a 100-year span, the uncoordinated statutes are inconsistent, overlapping, and at critical points defy interpretation.

4. The Congress: Congress has done a useful and constructive job in its capacity as investigator. But the Senate confirming committees have seldom considered the overall issue of conflict of interests in relation to recruitment. The Armed Services Committee has applied a wavering standard of stock divestment, useful for certain purposes, but overemphasizing one single source of conflict-of-interest problems and having little bearing on the question of actual official conduct.

5. Recruitment: The main adverse effect of the present system is its deterrent effect on the recruitment and retention of executive talent and some kinds of consultative talent. The restrictions tend to encircle the Government with a barricade against the interflow of men and information at the very time in the Nation's history when such an interflow is most necessary.

C. Recommendations

The defects in the present law cannot be cured by tinkering. A thoroughgoing reconstruction is called for—a new program of controls designed for modern needs, providing for adequate administration, and written as an integrated unit. The program must achieve a balance between the Nation's need for protection against conflicts of interest and its need for personnel.

The committee's basic recommendation are these:

1. Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

2. The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

3. The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

4. Certain important restraints now covered in regulations, or not at all, should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office.

5. The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans.

6. Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants.

7. Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies, rather than the clumsy criminal penalties of present law.

8. The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function.

9. In addition to the statutes themselves, there should be a second tier of restraints, consisting of Presidential regulations amplifying the statutes, and a third tier consisting of agency regulations tailored to the needs of particular agencies. The responsibility for day-to-day enforcement of the statutes and regulations should rest upon agency heads.

10. At all levels of administration, potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules.

11. There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws.

12. Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

13. The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

The program advanced here will not solve the problem of conflict of interests in Federal employment. Like most real problems, this is one we must live with permanently, strive to mitigate, and adjust to. The program proposed, however, will do several things.

It meets the flaws of the present pattern of conflict-of-interest restraints—obsolescence, weakness of administration and faulty drafting. It would greatly strengthen the main policy of the conflict-of-interest statutes—preservation of the integrity of government. It would provide for an integrated and comprehensible system of standards and sanctions, together with an effective machinery for administering that system. It is grounded upon a realistic conception of the problem of conflicting interest as it ap-

pears in the modern setting of American government and society. It would make a significant contribution toward intelligent staffing of the Federal Government for world leadership.

II. MORE DETAILED STATEMENT OF THE PROGRAM

The committee recommends a thorough reconstruction of the entire legal and administrative machinery for dealing with the problem of conflict in interest in the executive branch of the Government. A summary of its principal recommendations appears below:

Recommendation 1

"Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment."

Up until the present time, the subject of conflict in interest in the executive branch has been conceived of and dealt with only peripherally as an aspect of the general problem of ethics in Government. The fact is that its unique and complex nature and the variety of difficult problems it raises, particularly the problem of recruitment, demands that it be isolated and identified as an independent subject of governmental concern. Until it receives the consideration and attention which it deserves, the problem of conflict in interest cannot be adequately resolved.

Recommendation 2

"The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed."

One of the principal shortcomings of the present law is that it is composed of many diverse elements scattered throughout the statute books and containing inconsistencies, overlapping and exemptions. The chaotic nature of the law is an impediment to understanding and a deterrent to recruitment.

The proposed act would unify the general law of conflict of interest in one comprehensive statute. Basic terms would be defined and then used consistently throughout. Examples of key terms, carefully defined at the outset and then, used consistently throughout the proposed act, include: "Government action"; "transaction involving the Government"; "assist"; "participate" and "responsibility".

The proposed act would treat the basic forms of conflict of interest in a logical progression. The first of the six substantive restraints deals with action by a Government employee in his official capacity in a matter in which he has a personal interest. The second deals with action by a Government employee in his private capacity in furtherance of an interest adverse to the Government. The third deals with receipt of pay from outside sources. The fourth deals with receipt of gifts from outside sources. The fifth deals with action as a Government official designed to induce payments from outside sources. The sixth deals with postemployment activities in furtherance of an interest adverse to the Government.

As an example of the close integration of these sections, the second and sixth prohibition are almost precisely parallel in their application to the intermittent Government employee and the recent former employee, reflecting the basic similarity of the two situations from the conflict-of-interest viewpoint.

The points in the total statutory scheme where it is important to supplement the statutes by regulation are clearly identified.

A few archaic statutory restraints superseded by the new act would be repealed. Others of the existing statutes would be amended to exclude from their coverage all executive branch employees (i.e., those covered by the new act).

Fourteen special exemption provisions contained in present law for members of various advisory committees and persons holding other part-time posts would be repealed, as being unnecessary in the light of the realistic approach of the new act to the intermittent employee problem. (See recommendation 6 below.)

Such a unified act would be more enforceable and more rational in its application. It would, by its very drafting, remedy many of the fundamental shortcomings of the present law.

Recommendation 3

"The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government."

Six of the seven conflict-of-interest statutes on the books today have their roots in the problems of a century ago; they are directed primarily against corruption in the prosecution of claims against the government and the process of letting contracts by the Government. Claim prosecution and, to a lesser degree, procurement procedures have, however, been brought largely under control by administrative devices other than the conflict-of-interest statutes. In their places have grown up other risks that the draftsmen of the present statutes did not foresee and provide for. The proposed Act strikes hard at those deficiencies.

The proposed act would extend the conflict-of-interest restraints to every kind of transaction in which today's Government engages with the private segment of the economy. The term "transaction involving the Government" is broadly defined as "any proceeding, application, submission, request for a ruling or other determination, contract, claim, case or other such particular matter" which will be the subject of Government action. The effect of this broad definition in expanding the scope of the present restraints would be very great.

In this respect recommendation 3 is consistent with one made by the Justice Department to Congress several years ago in response to a court decision holding that the present postemployment restraints apply only to assisting in the prosecution of claims against the Government for money or property. In that case an application for a premerger clearance ruling from the Antitrust Division of the Justice Department was held not to be a "claim" within the scope of the statute.

The proposed act would expand present offenses in other respects. To cite a few examples, present law forbids a governmental employee to transact business as an agent of the Government with any "business entity" in the pecuniary profits of which he is interested. The comparable rule in the proposed act would apply not only to business transactions with business organizations, but to any kind of transaction with any kind of entity in which the employee has a substantial economic interest. Furthermore, unlike the present law, the statute specifies a number of specific situations where the employee is deemed to hold an economic interest, such as where that interest is in fact owned by his wife or child, or where he has an understanding as to future employment with a private person or firm.

Recommendation 4

"Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office."

Present law would be further strengthened by the addition of two important areas of conduct heretofore treated only in regulations or not at all.

The first would forbid an employee of the Government to receive a thing of economic value as a gift, gratuity, or favor from anyone who the employee has reason to believe would not give the gift but for the employee's office or position with the Government. Furthermore, regular government employees are forbidden to receive gifts or favors from anyone who does business with or is regulated by his agency. Some room is left in the statute for minimal exceptions to be provided for in regulations.

The second new offense would forbid a government employee to use his office or position with the Government in a manner intended to induce or coerce a person or company doing business with him to provide him with any thing of economic value.

Recommendation 5

"The statutes should permit the retention by government employees of certain security-oriented economic interests, such as continued participation in private pension plans."

Hallmarks of modern American society are the pension plan, the group insurance plan, and other kinds of security-oriented arrangements. They are the basis of long-range economic planning by millions. Under present conflict-of-interest laws—passed when no such plans existed—there is some doubt whether an employee of the Government may legally continue as a member of some plans maintained by his former employer, at least if contributions to the plan by the employer are regularly made which benefit the Government employee. This overhanging doubt falls hard upon the noncareer employee.

The proposed act permits Government employees to continue their participation in certain private plans under some circumstances and with adequate safeguards. For example, it would permit a Government employee to remain a member of a pension, group insurance or other welfare plan maintained by his former private employer so long as the employer makes no contribution to the plan on behalf of the man in Government service. Similarly, a Government employee could continue to belong to certain of these plans even if the former employer does make contributions on his behalf, so long as the plans are qualified under the Internal Revenue Code and so long as the payments by the former employer continue for no longer than 5 years of Government service.

Recommendation 6

"Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants."

To an ever increasing extent the Government is dependent for information and advice—for learning not only how to do it, but what to do—upon part-time, temporary, and intermittent personnel. These serve individually, or as members of committees, but that service is in addition to their regular private work as scientists, technicians, scholars, lawyers, businessmen and so on. Technically, they are, however brief their service, employees of the Government, and at present, all of the conflict-of-interest statutes apply to them. This fact has brought about both refusals to serve and conscious or unconscious ignoring of the statutes by those who do serve. It has also resulted in a welter of special statutory exemptions.

The proposed act distinguishes, in a few key places where it is safe and proper, between rules for regular full-time Government employees and rules for what are defined as "intermittent employees." Under the

proposed act, an "intermittent employee" is anyone who, as of any particular date, has not performed services for the Government on more than 52 out of the immediately preceding 365 days. For such individuals, there are certain special rules under the proposed act. For example, regular full-time employees are forbidden to assist private parties for pay in transactions involving the Government; intermittent employees, who have to earn a living in addition to their occasional Government work, are allowed to assist others for pay in such transactions, except in cases where the particular transaction is, or within 2 years has been, under the intermittent employee's official responsibility or where he participated in the transaction personally and substantially on behalf of the Government.

Similarly, since intermittent employees, by definition, are employed by organizations in addition to the Government, they are not subject to the rule forbidding their Government pay to be supplemented from private sources in return for personal services. Finally, the rules as to receipt of gifts are different for the two classes of employees.

Recommendation 7

"Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies, rather than the clumsy criminal penalties of present law."

The basic purpose of a system of conflict-of-interest restraints is to help maintain high ethical behavior in the executive branch of the Government. It is the judgment of this committee that the flexible and multiple weapons of the modern administrative process are more fitted to that task than the criminal law.

Because the present statutes rely on criminal sanctions, they are rarely enforced. They are, in many respects, too harsh for offenses they declare. Furthermore, enforcement by criminal law is difficult, expensive and time consuming. Accordingly, the proposed act relies basically on ordinary disciplinary procedures, including dismissal, for its sanctions. These procedures are supplemented by civil remedies particularly apt for former employees and nonemployees dealing with the particular agency—such as bans against appearances before the agency and civil damage actions.

The proposed act retains classical criminal penalties for the most flagrant violations: those committed "knowingly" or "purposely." The definitions of these terms are adopted from a draft Model Penal Code prepared by the American Law Institute.

Recommendation 8

"The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function."

One of the greatest deficiences in the present statutes is their failure to recognize the importance of a continuing administrative structure to deal with the problem of conflict-of-interest. The proposed act would specifically provide for such an administrative machinery.

Clear overall responsibility would be placed upon the President "for the establishment of appropriate standards to protect against actual or potential conflicts-of-interest on the part of Government employees and for the administration and enforcement of this act and the regulations and orders issued hereunder."

To assist the President in carrying out this responsibility, the act calls for the designation by him, from within the Executive Office of the President, of an "Administrator." He would be answerable directly to the President. He is given a series of coordinating, consultative and advisory functions under the act. He would work closely with the Department of Justice and agency heads or their designees, but his would be a small office, and in no sense charged with centralized operation or enforcement of conflict-of-interest restraints.

Recommendation 9

"In addition to the statutes themselves, there should be a "second tier" of restraints, consisting of Presidential regulations amplifying the statutes, and a "third tier," consisting of agency regulations tailored to the needs of particular agencies. The responsibility of day-to-day enforcement of the statutes and regulations should rest upon agency heads."

The proposed act contemplates the issuance by the President of a set of regulations extending, supplementing, implementing and interpreting the provisions of the act. The act also visualizes another set of regulations at the next lower level—that of the agency heads. The Presidential regulations would take precedence over any regulations issued by agency heads.

Agency regulations would tend to follow the present pattern, namely, particularized rules adapted to the special risks of the particular agency. For example, some agencies may have special rules on use of confidential information available within the agency. Others may adopt special post-employment restraints which go beyond the statutory provision. This diversity and particularization is realistic and desirable.

Recommendation 10

"At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules."

Much can be done to fight the conflict-of-interests problem by preventive measures. Section 11 of the proposed statute makes several suggestions. New employees can be required to certify that they have read the conflict-of-interest rules and to report on their outside employment. In particular, an effective orientation program would be helpful. Agents and attorneys appearing before agencies can also be required to file an affidavit stating that they are not, by such appearance, violating any conflict-of-interest law.

Recommendation 11

"There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws."

Not infrequently a Government employee is found in a conflict-of-interest situation and penalized for it while the person responsible for placing him in the situation remains unscathed.

The proposed act contains a new and broad section making it a violation for a person to make a payment (or transfer any other thing of economic value) to a Government employee while "believing or having reason to believe that there exist circumstances making the receipt thereof a violation of" certain sections of the act. This prohibition also covers the making of gifts in the situations corresponding to the situations in which an employee may not receive a gift.

Both administrative and criminal sanctions are applicable to these violations by persons dealing with Government employees.

Recommendation 12

"Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect."

There is substantial evidence that the Government's efforts to recruit top-level executives have been impeded by the requirements of stock divestment imposed by the Armed Services Committee of the Senate.

This problem cannot be dealt with by statute. The confirmation power is a constitutional prerogative. However, this problem should be a subject of joint concern and increased cooperation between the executive branch and the Senate. There is some evidence that recently the executive departments have taken more pains to prepare their nominees for confirmation. Legal opinions have on occasion been furnished by the Justice Department; plans have been worked out in advance of hearing as to what need be sold and what could be kept, and representatives of the appointing department or agency confer in advance of hearing with appropriate authorities of the committee.

If the proposed act were passed, the "Administrator" would become the central repository for all information concerning conflict-of-interest, and he would be expected to assist the executive branch in working out regular procedures for preparing nominees for confirmation. He could, in cooperation with the Department of Justice and general counsel to the agency in question, prepare a full analysis of the conflict-of-interest problems of the particular nominee. Over a period of time, these analyses might be given substantial weight by the confirming committees.

Furthermore, if a modern and effective system of statutory restraints is adopted by Congress and implemented by active executive branch administration, the confirming committees might be willing to place greater reliance on the statutory rules and procedures. One clear example is the procedure for disqualification recognized by the proposed act where a Government official holds a particular economic interest in a private entity.

Recommendation 13

"The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government."

Primarily because of their representative function, Members of Congress and legislative branch employees are, in matters of conflict of interests, in a significantly different position from that of executive branch employees. As such, Congress must be considered separately.

A fresh examination of these problems by Congress, or by a study group initiated by Congress, is needed. However, such a study should in no way deter immediate action with respect to the executive branch along the lines of the proposed act.

The committee's proposed program can be best assessed against the background of the more general discussion, analysis, and findings in the report. Appendix A to this statement summarizes some of the more salient features of this background.

APPENDIX A—SUMMARY OF BACKGROUND

A. HISTORICAL BACKGROUND

The United States is today relying upon conflict-of-interest laws whose basic design was largely laid down at around the time of the War Between the States. It was 1853 and Millard Fillmore was President when the first of the present seven general conflict-of-interest laws went on the books; it forbade employees of the Government to prose-

cute claims against the Government. The second, enacted in 1862, forbade Government employees to take pay for assisting another person to obtain a Government contract. In 1863, employees were forbidden to transact business on behalf of the Government with any business entity in which they had a financial interest. And in 1864, the scandals of the Civil War forced Congress to reinforce the earlier statutes by making it unlawful for a Government employee to perform services for any private person or institution if the services involved something in which the Government was interested and were performed before a governmental department or agency. In 1872, as abuses continued, employees of the Government were forbidden for 2 years after leaving from prosecuting against the Government claims that had been pending in the Government departments during the period they held office.

The general history of the period and the debates in Congress throw light on the purposes of these statutes. The U.S. Government was small in size and limited in function. An ordinary man seldom came into contact with the Government; when contact occurred at all, it was likely to take the form of making a contract with the Government or making a demand or claim against it for money or property. Administrative machinery for making contracts and adjudicating claims was informal and vulnerable to corruption.

The Government was not only small and limited, but rudimentary in its administrative organization. Its employees—few or none of them specialists—were recruited through the Spoils System. They tended to regard a Government job—and what they could make out of it—as a legitimate reward for party service. A change of administration brought a sweeping change in personnel; there were few permanent Government servants. Furthermore, by prevailing legal and administrative practice, whenever it was necessary to establish rules for governmental employees the appropriate vehicle was considered to be a statute from Congress covering everybody and backed up with criminal penalties.

During the mid-1800's, and particularly as a result of the abnormal strain put on the inexperienced Government by the Civil War, a rash of scandals occurred. They centered upon two areas of governmental activity—the letting of contracts and the adjudicating of claims. Congress responded from time to time with the statutes which are now—but were not then—referred to as dealing with conflict of interests. Little or no thought was given to making the statutes consistent or to estimating what effect they would have on the recruitment of governmental personnel. Nor was any of them intended to reach beyond the precise sort of corruption that had come to light in the scandals. Hence, the present law of conflict of interest is designed to control ancient abuses in the prosecution of claims against the Government and the letting of Government contracts.

The 20th century has added only two statutes to the general law of conflict of interest. One, enacted in 1948, merely reinforces the restraints on the prosecution of claims against the Government by former employees. The other, passed in 1917, added a new concept; it forbids a governmental employee to receive a salary from a private source for the work he performs for the Government, and forbids the outside source to supplement his salary.

The law of conflict of interest, however, does not end with these statutes. They are the most important, first, because they purport to cover everybody who works for the Government, and second, because they provide the basic framework of the law. They are supplemented, however, by a number of scattered additional statutes that apply only to particular jobs or particular individuals. As a result of pressure for manpower, there has also grown up over the years an enormous number of special and partial exceptions and exemptions to the general statutes.

This antique statutory system cannot do the job that needs to be done today. The statutes themselves are inconsistent, overlapping, vague, and unreasonably complicate, and do not meet current needs.

B. SCOPE OF THE REPORT

The unique principle underlying the general laws on conflicts of interest is as sound today as it was when it first was expressed in the form of statutes. Suppose an agent of the Internal Revenue Service is assigned to check and investigate his own tax returns. On the one hand, he represents the interest of the Government in collecting taxes; on the other, he has a personal economic interest in paying as little as possible. The evil is that the judgment of the agent is likely to be warped by the position that he is in, or that the public is likely to think it has been warped. Laws against "conflict of interest" are designed to head off an actual corrupt act, or the appearance of one, by forbidding governmental employees in advance to occupy a position where public and private interests may conflict.

Conflict of interest is therefore distinct from theft; the tax agent has not physically taken anything from the Government. It is also distinct from bribery, for the agent has received no payment intended to influence his official conduct. It is his official status—his status as a governmental employee—that creates the problem; conflict of interest is essentialy an offense arising out of that special status. Even if he in fact properly discharges his duty to the Government, the offense has been committed.

A democratic government cannot risk having its officials in a position where loyalty to their official duties conflicts with their personal economic interest. The history of man shows that in such a case some will succumb to temptation to the public injury. A corrupt government is an inefficient government. A government that plays favorites is fundamentally objectionable to the principle that everybody is equal under the law, as well as to the belief that public office is not to be used for private gain. Then, too, democratic government is derived from the consent of the governed, and consent requires confidence; if people believe that the Government is corrupt, they soon will lose their confidence in it. Even if the agent is tough with his own tax return, the situation looks corrupt, and, so far as the confidence of the public is concerned, the appearance of corruption is as harmful as the reality. Finally, the proper and approved channels through which government decisions are made are subverted when an official gets something for himself or another by the secret and improper use of his own office.

This study is limited to the kind of conflict-of-interest situation described above, official duty versus personal economic interest. There are several other limits. The study examines the conflict-of-interest problems of the executive branch only. The legislative branch is so different from the executive and so complex that an independent, separate study project, at least as extensive as this one, would be needed. Such a study of conflict-of-interest problems in the legislative branch should however be undertaken. No substantial reasons currently appear for a similar study of the judicial branch.

The personal conflict-of-interest problems of the President and Vice President are distinct from those of the rest of the executive branch and are therefore outside the scope of the report and of its recommended act. Finally, although a conflict would arise between an official's duty to the Government and, say, his loyalty to his own family or church or college, the study is restricted to conflicts involving the employee's economic interests only on the grounds that only they are susceptible to regulation by law.

C. ENFORCEMENT AND ADMINISTRATION

Existing restraints on conflict of interest are inadequately administered by the Executive Branch of the Government. This is partly because the general laws, by their nature and structure, defy effective and continuous enforcement. Enforcement also has lagged because enforcement duties are widely dispersed and no single coordinating authority is responsible for dealing with the problem.

Violation of the general statutes is punishable by fine and imprisonment, but over the years, only a relatively few prosecutions have been brought. The nature of the statutes themselves make enforcement difficult. Furthermore, the penalties do not always fit the crime; over-harsh statutes often go unenforced.

Since the statutes are inadequate and largely unenforcible, the task of guarding against conflicts of interest falls upon the departments and agencies of the Executive Branch. No central office in the executive branch has responsibility for controlling or coordinating the administration of ethical conduct among Government employees. Although ultimately it is the task of the Presidency to establish and maintain suitable standards of behavior, no President has built up an organization to carry out this purpose. Nor has any other agency with government-wide interests in personnel done so; the Civil Service Commission, the Attorney General, the President's Assistant for Personnel Management, the Bureau of the Budget, the Cabinet Secretariat—all of these in minor respects have something to do with the problem, but for a variety of reasons none has been given or has assumed authoritative and centralized control.

The task of promulgation and enforcement of conflict of interest restraints has ultimately fallen upon the operating departments and agencies. While they have been far more energetic than the agencies of general powers, their record is uneven. A few have done little or nothing; a large majority have issued regulations, but have not been active in enforcing them; a small number have not only developed detailed regulations but also have vigorously enforced them.

Regulations exhibit a healthy diversity as new and appropriate restraints have been developed to fit the peculiar problems of conflict of interest presented by the particular task that the agency is performing. At the same time, most regulations touch upon five basic kinds of potentially dangerous conduct by government employees: (1) acceptance of gratuities; (2) outside nongovernmental employment; (3) private financial interests; (4) use and disclosure of governmental information; and (5) transaction of business with the agency by a former employer.

A few agencies have also developed vigorous and effective enforcement programs. A number of techniques are used that are designed to assure compliance with the regulations on a day-to-day basis. Among them are programs orienting new employees to the problems of conflict of interest; rules that employees certify in writing that they have read the laws and regulations and are in compliance with them; procedures under which an employee can disqualify himself from an assignment that contains a conflict of interest; procedures for review of outside employment; and rules

requiring that employees regularly report outside interests that may be in conflict with official duties.

A general, and very important, conclusion of the study is that the administrative process, including well-tailored regulations, imaginative compliance procedures, and flexible penalties is far better adapted to deal with the problem of conflict of interest than the criminal law. At the present time, a few agencies are making substantial and well-conceived efforts to use these advanced administrative techniques. What the few have done, all should do.

D. THE ROLE OF CONGRESS

In addition to its role as legislator of the statutory conflict-of-interest laws, the Congress plays an important part in the development and enforcement of other restraints on conflict of interest in the executive branch.

1. Through confirmation of presidential nominees: In discharging their constitutional duty to confirm nominees of the President for executive office, the various committees of the Senate can have a considerable impact on the field of conflict of interest. In recent years, the Armed Services Committee has been particularly active in forcing nominees to sell stockholdings in companies involved in any way with defense, and thus sever some of their financial ties with private life. The committee's concern stems from the risk of conflict of interest arising out of the multibillion-dollar procurement programs of the Department of Defense. A survey of its hearings discloses that it proceeds from case to case, on an ad hoc and unpredictable course, sometimes requiring stringent divestment of stock and sometimes not. It has shown relatively little interest in forms of wealth other than stock, though no real reason exists for this result. There is evidence that its strict and inconsistent standards have been a thorn in the side of the President in seeking high officials for the Defense Department. It appears, however, that the executive branch has been developing new procedures for preparing nominees for confirmation and that the committee itself may be moving away from its most extreme position of compulsory divestment.

The conflict-of-interest statutes have received little mention in the hearings of the confirming committees; the committee's self-created standards emphasize the avoidance of the appearance of conflicts of interest.

Few other confirmatory committees have seriously inquired into the conflict-of-interest position of nominees.

2. Through general investigations: Congress also is active in the conflict-of-interest field through general investigations of government-wide problems of ethics. Between 1948 and 1953, committees examined alleged misconduct in a number of agencies, including the Department of Justice, the Federal Housing Administration and the Treasury Department. In 1951, the Douglas subcommittee, after extensive hearings, warned the Nation that it faced major ethical problems throughout the Federal establishment. Among the direct results of these hearings was a tightening of the ethical regulations of the agencies.

The first investigation expressly and exclusively addressed to problems of conflict of interest was commenced in 1957 by the Antitrust Subcommittee of the Judiciary Committee of the House of Representatives (the Celler committee). In 1958, the staff of that committee produced an extensive study of the law and regulations on conflict of interest and proposed important legislative changes.

Only recently the so-called Hébert committee, after considerable hearings, has recommended tightening of the law with regard to the hiring by defense contractors, of retired, high-ranking military personnel.

3. Through investigations of specific cases: Finally, by investigating specific cases of misconduct by governmental officials, Congress has had a significant impact both on the enforcement of conflict-of-interest restraints and the development of new restraints. Toward the end of the Truman administration, the cases investigated tended to involve alleged overt misbehavior, bribery, influence peddling, improper receipt of gifts and the use of public office to obtain favors for friends. During the Eisenhower administration, ethics cases have inclined more directly to involve the problem of conflicting interests.

4. Summary: In the field of conflict of interests, Congress has been more energetic and vigorous and in confirmation proceedings and investigations than it has in enacting new legislation. It has, however, moved ahead of the executive branch in leadership in the area of public ethics by inquiring into the conduct of governmental employees, articulating new standards of behavior, devising proposals for reform, rooting out evildoers, and, in general, maintaining constant pressure for ethical conduct on the part of the executive branch of the Government.

E. IMPACT OF CONFLICT-OF-INTEREST RESTRAINTS ON RECRUITMENT OF FEDERAL PERSONNEL

Conflict-of-interest restraints inevitably require public employees to adjust their personal affairs and perhaps to sacrifice some of their personal economic interests. The question is how much adjustment, how much sacrifice, is tolerable? No one, either at the time the present statutes were passed or since, has seriously inquired into this important issue. Although only approximations are possible in this field, the findings of this committee are as follows:

1. The present restraints do not deter the recruitment of full-time employees covered by the Civil Service System.

2. The present restraints—statutes, regulations, and congressional action—are a source of substantial deterrence in recruiting the more than 1,000 high-level "political executives."

(a) The strict requirements of the Senate Armed Services Committee on the divestiture of stock have made it difficult for the Department of Defense to procure top level executives. Most hard hit by the committee's rule are men owning and controlling family businesses.

(b) The restrictions of the statutes are apt to fall most heavily on the middle ranking and middle income business executive particularly as a result of the statute prohibiting the employer to supplement the employee's salary while on Government service. This statute is interpreted by some to compel the employee to abandon his pension and insurance plans held with his private employer.

(c) The statutes fall particularly harshly on lawyers, for several reasons, but seem not to have seriously impaired the availability of lawyers to work full time for the Government.

3. The statutes are serious deterrents to the recruitment of part-time and intermittent advisers and consultants, particularly lawyers.

4. The statutes not only discourage citizens from entering the Government, but to some extent encourage them to leave it.

5. Because of the difficulties of recruitment, in part because of low salaries and the rule against outside compensation, the Government has in some instances had to obtain assistance and advice informally and outside the proper and regular channels.

6. To the extent that the conflict-of-interest restraints discourage the flow of private citizens into the Government, they create a barrier to the flow of vitally needed information and ideas—particularly in the scientific and technical fields—to the Government.

F. BASIS FOR A NEW PROGRAM

Present restraints on conflict of interest are obsolete, their enforcement is inadequate, and their administration is insufficient. A thoroughgoing reconstruction of the entire machinery is urgently called for. Such a reconstruction must be founded on the relevant realities of the American Government in the 20th century.

Foremost among those realities are the following:

1. The enormous size of the Government: Today, the Federal Government is the most important single force in economy.

2. The mixed economy: Today the Government is deeply involved in such things as housing, roadbuilding, shipping, farm production, small business financing, scientific research and atomic energy. It carries on these activities through contracts, subsidies, guarantees, direct financing, technical advice and other new partnership arrangements between the Government and private parties. Indeed, there has occurred an interpenetration of Government and private institutions to such an extent that the classical dichotomy between Government and non-Government has become indistinct. The merger of private and public interests brought about by the mixed economy means that the simple assumptions of the present law will no longer hold up.

An additional consequence has been that today the Government touches and concerns the daily lives of citizens and institutions in hundreds of ways. Conflict-of-interest laws protecting only against abuses in the bringing of claims or the making of contracts are too limited.

3. The modern Federal personnel system: Unlike the period when the present law was passed, more than 90 percent of the Government's 2.4 million civilian employees are under civil service or some other merit system.

Even in the civil service there is a 20- to 25-percent turnover every year, and the problem of procuring and retaining civil servants is a very real one.

The Federal personnel system is based on the civil service, and above it, an ever-changing group of some 1,000 policymaking political executives ranging from heads of agencies down. They serve for relatively short periods of time and do not expect to make Government service a career.

Recent administrations have found it increasingly difficult to recruit such vital leadership. One reason is the low pay scales of the Government; it cannot compete in the marketplace with industry, foundations, and even universities.

Secondly, most Americans eligible for such positions, and particularly the business executive in the prime of his career, are involved in and are members of an organization and fear that they will lose their place on the promotional ladder if they leave. What is more, the movement of business executives is restricted by the complex network of pensions, insurance, and other security-oriented forms of compensation.

The basic reality is that for political executives at least, and even for the civil servant, there is a constant flow out of Government and there must be a constant flow into Government of able personnel.

The Government increasingly has been relying during the last generation on experts, consultants, and other personnel who serve only temporarily and intermittently. Many of these serve on advisory committees, of which some 2,000 are estimated to be in existence. Apparently the needs of the Government can only be served by use of such personnel. It follows that the Government and the private sector of the economy have become in a very real sense merged. Hence, any modern conflict-of-interest system must recognize and allow for this vital portion of the Government's personnel system.

4. The modern administrative procedures: Today new administrative and legal theories make it possible to deal with the problem of conflict of interests with far greater refinement and precision than of old. Moreover, such administrative techniques have already succeeded in reducing, if not eliminating, some of the dangers against which the original statutes were addressed. Thus, the prosecution of claims is no longer a serious problem, and even contracting procedures have so improved that there is little chance of substantial corruption.

Mr. KEATING subsequently said: Mr. President, the Executive Conflict of Interest Act of 1960 which has been offered today by my distinguished senior colleague from New York and myself and cosponsored in the House of Representatives by the able Representative from New York, Mr. LINDSAY, is the result of an exhaustive 2-year study by the special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York. The committee was made up of 10 outstanding attorneys and headed by Roswell B. Perkins, of New York City. Its 600-page report is an important contribution to a fuller understanding of the problems involved in this complex field of conflict of interest and offers reasonable and sound solutions to these problems.

The legislation we have introduced seeks to codify the various conflict-of-interest laws which are now distributed throughout our statute books. It seeks to modernize those laws and to extend them to cover all phases of activity under the Federal Government. The bill includes within its purview consultants with the Federal Government, and provides for an administrator to oversee the operation of the statute from the Executive Office.

While the language of almost any bill can be improved by hearings and study, I am convinced that this measure is a significant step in the right direction. It represents a thoroughly researched and carefully drafted attempt to deal with the very real problems in this field. It should go a long way to curb and deter those in the small minority who would breach the standards of ethical conduct which should be adhered to by all public servants. At the same time, it provides guidelines to prevent honest employees from inadvertently straying from the letter of the law.

Although the legislation we have introduced does not cover the legislative branch of the Government, it is significant to note that the special committee which drafted it recommends that this aspect of the problem be studied. I have previously offered legislation in this field which would establish a Commission on Ethics in the Federal Government to work for that goal. I feel very strongly that this branch of Government should be covered by the same conflict-of-interest statutes which apply to the other branches, and I hope before long we will place such legislation on the statute books.

Mr. President, the American people have every right to expect the highest degree of ethical conduct by those who serve them in the Federal Government. We must take every step possible to insure that no taint of corruption or conflict of interest touches these people.

In fairness to all concerned, we need to bring our conflict-of-interest laws up to date, we need to clarify them so that all can understand their meaning and application, and we need to strengthen and tighten up their provisions. The measure Senator JAVITS and I have today introduced will substantially achieve those objectives. Its enactment will raise the level of personnel in the Federal service and will raise the public recognition of the honesty and integrity of these public servants. I hope this proposal receives the prompt, thorough, and favorable consideration it deserves.

Mr. President, this morning's New York Times contains a summary of the report issued by the special committee on Federal conflict-of-interest laws of the Association of the Bar of the City of New York. I ask unanimous consent that it be printed at this point in the RECORD.

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

[From the New York Times, Feb. 23, 1960]

SUMMARY OF STUDY ON INTEREST CONFLICTS IN U.S. JOBS

We are today releasing a prepublication edition of a report based upon more than 2 years of study of the so-called conflict-of-interest laws of the Federal Government. Also, we expect that there will be introduced today in both Houses of Congress a proposed Executive Conflict-of-Interest Act, which has been drafted by this committee and which is designed to remedy the manifold defects of the present law. Our findings and recommendations, which are set forth in the report, are expressed in statutory form in the proposed act.

The report will be published in the fall by the Harvard University Press.

This committee is issuing this prepublication mimeographed edition of its report so that it will be available at the public hearings on the topic of the conflict-of-interest laws which commenced on February 17, 1960, before the Antitrust Subcommittee of the Committee on the Judiciary of the House of Representatives. The House Judiciary Committee, under the chairmanship of Representative EMANUEL CELLER, of New York, has already made an important contribution to the wider understanding and improvement of this confused, but crucial, area of law and public administration. The public hearings, which have just opened, should further advance the cause of urgently needed reform. Accordingly, we have distributed some 200 mimeographed copies of prepublication edition of the report to Members of Congress, the press and to various Federal departments and agencies.

This official summary has been prepared for the information and guidance of those interested persons to whom the report is not available and as a guide to the report.

OBJECTIVES

The report of the committee has two themes. The first is that ethical standards within the Federal Government must be beyond reproach, and that there must, accordingly, be effective regulation of conflicts of interest in Federal employment. The second is that the Federal Government must be in a position to obtain the personnel and information it needs to meet the demands of the 20th century.

These themes are coequal. Neither may be safely subordinated to the other. What is needed is balance in the pursuit of the two objectives. We need a longrun national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment.

The basic conclusion of the committee is that such a scheme can be worked out. The report and the proposed act contain a recommended new program for achieving this result.

ASSESSMENT OF EXISTING RESTRAINTS

The committee has concluded that the legal and administrative machinery of the Federal Government for dealing with the problem of conflicts of interest is obsolete, inadequate for the protection of the Government, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent.

OBSOLESCENCE

The statutory law—most of it a century old—is not broad enough to protect the Government against the manifold modern forms of conflict of interest. Most of the statutes were and are pointed at areas of risk that are no longer particularly significant, mainly the prosecution of Government claims. Today, with the greatly expanded regulatory functions of the Federal Government, applications for rulings, clearances, approvals, licenses, certifications, grants and other forms of Government action are far more significant in the daily operation of Government than the prosecution of claims. Several of the basic statutes now on the books do not concern themselves at all with these modern governmental activities.

Other aspects of obsolescence in the present statutes are:

(a) Their focus of interest upon a class of lower ranking politically appointed clerks that has disappeared. The Government today obtains its manpower through a vast civil service, a top layer of short-term political appointees, an increasing group of advisory and part time personnel, and through an unlimited variety of contracts for services provided by non-Government personnel.

(b) Their failure to recognize internal procedures of modern government, such as the flexible processes of personnel administration available to assist in enforcement.

(c) Their lack of recognition of the facts of modern economic life, such as the existence of private pension plans.

(d) Their failure to recognize the essential blending of public and private endeavor in the modern American society, as illustrated by the partnership of Government, industry and educational institutions in the science field.

INADEQUATE ADMINISTRATION

Partly by reason of the deficiencies in the statutory law, administration of the conflict-of-interest restraints has always been weak. The Government has failed to provide a rational, centralized, continuing and effective administrative machinery to deal with the problem. If the statutes presented a coordinated whole—a unified program—and if they imposed direct responsibility on the President to carry out that program, the central coordination and leadership missing in the past would improve. A well-administered program could, and should guide the thousand good men as well as snare the one bad one.

UNCERTAINTY IN INTERPRETATION

Enacted fitfully over a 100-year span, the uncoordinated statutes are inconsistent, overlapping and at critical points defy interpretation.

THE CONGRESS

Congress has done a useful and constructive job in its capacity as investigator. But the Senate confirming committees have seldom considered the overall issue of conflict

of interests in relation to recruitment. The Armed Services Committee has applied a wavering standard of stock divestment, useful for certain purposes, but overemphasizing one single source of conflict-of-interest problems and having little bearing on the question of actual official conduct.

RECRUITMENT

The main adverse effect of the present system is its deterrent effect on the recruitment and retention of executive talent and some kinds of consultative talent. The restrictions tend to encircle the Government with a barricade against the interflow of men and information at the very time in the Nation's history when such an interflow is most necessary.

RECOMMENDATIONS

The defects in the present law cannot be cured by tinkering. A thoroughgoing reconstruction is called for—a new program of controls designed for modern needs, providing for adequate administration, and written as an integrated unit. The program must achieve a balance between the Nation's need for protection against conflicts of interest and its need for personnel.

The committee's basic recommendations are these:

1. Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

2. The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

3. The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

4. Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office.

5. The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans.

6. Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants.

7. Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies rather than the clumsy criminal penalties of present law.

8. The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an administrator to assist him in this function.

9. In addition to the statutes themselves, there should be a second tier of restraints consisting of Presidential regulations amplifying the statutes, and a third tier consisting of agency regulations tailored to the needs of particular agencies. The responsibility for day-to-day enforcement of the statutes and regulations should rest upon agency heads.

10. At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules.

11. There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws.

12. Each committee of the Senate considering a Presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

13. The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

The program advanced here will not solve the problem of conflict of interests in Federal employment. Like most problems, this is one we must live with permanently, strive to mitigate, and adjust to. The program proposed, however, will do several things.

It meets the flaws of the present pattern of conflict-of-interest restraints—obsolescence, weakness of administration, and faulty drafting. It would greatly strengthen the main policy of the conflict-of-interest statutes—preservation of the integrity of Government. It would provide for an integrated and comprehensible system of standards and sanctions, together with an effective machinery for administering that system. It is grounded upon a realistic conception of the problem of conflicting interest, as it appears in the modern setting of American Government and society. It would make a significant contribution toward intelligent staffing of the Federal Government for world leadership.

BAR COMMITTEE'S MEMBERS

WASHINGTON, February 22.—Following is a list of the members of the special committee on the Federal conflict-of-interest laws of the Association of the Bar of the City of New York:

Howard F. Burns, partner, Baker, Hostetler & Patterson, Cleveland, member of the council of the American Law Institute; Charles A. Coolidge, partner, Ropes, Gray, Best, Coolidge & Rugg, Boston, former Deputy Director of Internal Security Affairs, Department of State; Paul M. Herzog, executive vice president of the American Arbitration Association, New York, former Chairman of the National Labor Relations Board, former associate dean of the Graduate School of Public Administration, Harvard University; Alexander C. Hoagland, Jr., practicing lawyer associated with Curtis, Mallet-Prevost, Colt & Mosle, New York City; Everett L. Hollis, corporate counsel, General Electric Co., New York City, former General Counsel, Atomic Energy Commission; Charles A. Horsky, partner, Covington & Burling, Washington, former assistant prosecutor at Nuremberg with the Chief of Counsel for War Crimes; John V. Lindsay, U.S. Representative from the 17th Congressional District, New York, partner, Webster, Sheffield & Chrystie, New York City; John E. Lockwood, partner, Milbank, Tweed, Hope & Hadler, New York City, former General Counsel, Office of Inter-American Affairs; Roswell B. Perkins, chairman, partner, Debevoise, Plimpton & McLean, New York City, former Assistant Secretary of Health, Education, and Welfare, former counsel to the Governor of the State of New York; Samuel I. Rosenman, partner, Rosenman, Goldmark, Colin & Kaye, New York City, former special counsel to Presidents Roosevelt and Truman, former justice of the Supreme Court of the State of New York.

AUTHORIZATION FOR APPROPRIATIONS FOR ATOMIC ENERGY COMMISSION

Mr. ANDERSON. Mr. President, I introduce, for appropriate reference, by request, a bill, S. 3084, to authorize appropriations for the AEC in accordance with section 261 of the Atomic Energy Act of 1954, as amended.

S. 3084 authorizes, in section 101, $171,256,000 for new AEC construction projects for the entire atomic energy program, including items for the production of special nuclear materials, atomic weapons, reactor development, physical research, biology and medicine, community, and general plant projects.

The bill also provides, in section 109, funds for the cooperative power reactor demonstration program, amounting to an increase of $40 million. In section 110 the bill authorizes $5 million for a cooperative research and development program with Canada in connection with heavy water moderated nuclear powerplants.

The Joint Committee on Atomic Energy plans to hold hearings on this bill March 8–10 and April 5–7, 1960. In the March hearings, the committee plans to consider all construction projects in section 101; and in the April hearings, the committee will concentrate on the cooperative atomic power program and the proposed cooperation with Canada for the heavy water moderated reactors. The hearings will, for the most part, be held in public, although aspects of the production and atomic weapons programs will necessarily be considered in executive session.

I am introducing this bill by request, since it is in the form requested by the Atomic Energy Commission. The Joint Committee will give careful and thorough consideration to each item in the bill and, as in the past, it is entirely possible that the Joint Committee may recommend some changes in order to assure an atomic energy program consistent with our long-range national needs and objectives.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3084) to authorize appropriations for the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes, introduced by Mr. ANDERSON, by request, was received, read twice by its title, and referred to the Joint Committee on Atomic Energy.

NATIONAL AMERICAN GUILD OF VARIETY ARTISTS WEEK

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a joint resolution to designate the week of June 5–11, 1960, as National American Guild of Variety Artists Week. A companion measure is today being introduced in the other body by that great champion of the American entertainer, the Honorable SEYMOUR HALPERN, of New York.

Designation of this week would be a fitting salute to people who have spread

the sunshine of entertainment and happiness all over the world. It would constitute an appropriate recognition of their untiring efforts in behalf of a myriad of worthy causes.

Over the years members of the guild have been extremely generous in the donation of their time and talents to benefit persons of every race, color, creed, or national origin. As the president of the guild, the incomparable Joey Adams has pointed out, "The variety entertainer is synonymous with charity."

At the same time, by hewing to the principle that it is talent and skill alone that counts—not color of skin, or house of worship, or some other superficial attribute—American entertainers have set a fine example for men of good will everywhere to emulate.

AGVA is now planning to establish a home in Fallsburg, N.Y., for retired and indigent members of the profession. During the week which is proposed by this joint resolution Americans everywhere would be given an opportunity to contribute to this most worthy endeavor.

Mr. President, I am pleased to salute Joey Adams and other members of his profession for their many past humanitarian endeavors. I commend them for the drive they have launched to provide a haven for retired entertainers. I hope the Congress will grasp the opportunity offered by this joint resolution to express its appreciation, congratulations, and best wishes to this outstanding group. By enacting this joint resolution, we can resoundingly applaud the 20,000 members and their families who make up the National American Guild of Variety Artists.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of this joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 168) designating the week of June 5–11, 1960, as National American Guild of Variety Artists Week, introduced by Mr. KEATING, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows.

Whereas for many years performers and artists in the variety field have circled the globe with their hearts and talents to bring entertainment and joy to all places and under all conditions; and

Whereas performers and artists in the variety field have unstintingly given of their services to the American people in behalf of every cause regardless of race, creed, or color: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 5–11, 1960, be designated as National American Guild of Variety Artists Week, in recognition of the outstanding services of performers and artists in the variety field to the American people.

CIVIL RIGHTS ACT OF 1960—ADDITIONAL COSPONSORS OF BILL

Under authority of the orders of the Senate of February 16 and 17, 1960, the names of Senators HART, HUMPHREY, MCCARTHY, PROUTY, HENNINGS, PASTORE, CASE of New Jersey, MORSE, and NEUBERGER were added as additional cosponsors of the bill (S. 3045) to effectuate and enforce the constitutional right to the equal protection of the laws, and for other purposes, introduced by Mr. JAVITS (for himself and Mr. DOUGLAS) on February 16, 1960.

PROTECTION OF RIGHT TO VOTE IN FEDERAL ELECTIONS—ADDITIONAL COSPONSOR OF BILL

Under authority of the orders of the Senate of February 16 and 17, 1960, the name of Mr. HUMPHREY was added as an additional cosponsor of the bill (S. 3046) to protect the right to vote in Federal elections, and for other purposes, introduced by Mr. JAVITS (for himself and Mr. DOUGLAS) on February 16, 1960.

TRAFFIC IN OBSCENE MATTERS AND MATERIALS—ADDITIONAL COSPONSOR OF JOINT RESOLUTION

Mr. MUNDT. Mr. President, I ask unanimous consent that if there is an additional printing of the joint resolution (S.J. Res. 160) to provide for a conference consisting of Federal, State, and local officials, and members of public and private groups or organizations to consider and propose methods of, and to coordinate action for, combating the traffic in obscene matters and materials, introduced by the Senator from Pennsylvania [Mr. SCOTT], on behalf of himself and other Senators, on February 15, 1960, my name may appear as one of the cosponsors.

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

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO COMMERCE DEPARTMENT APPROPRIATION BILL

Mr. HOLLAND submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 10234) making appropriations for the Department of Commerce and related agencies for the fiscal year ending June 30, 1961, and for other purposes, the following amendment, namely:

"On page 9, line 22, after the word 'cadets', insert the following: ': *Provided*, That not to exceed $100,000 of the unobligated balance of the appropriation "Ship construction (liquidation of contract authorization) maritime activities," may be transferred to this appropriation for the purpose of providing furnishings and equipment for the Memorial Chapel at King's Point, N.Y. (62 Stat. 172).'"

Mr. HOLLAND also submitted an amendment, intended to be proposed by him, to House bill 10234, making appropriations for the Department of Commerce and related agencies for the fiscal year ending June 30, 1961, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

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. ELLENDER:

Address by Senator Moss delivered before the third annual Attorney General's Conference, New Orleans, La., February 19, 1960.

By Mr. SCOTT:

Address by Senator KEATING delivered at reception by World Academy in Jerusalem in honor of Rabbi Herbert S. Goldstein; and address delivered by Rabbi Herbert S. Goldstein at the same reception, on the occasion of his 70th birthday, January 31, 1960.

REPORTING OF DEPARTMENT OF COMMERCE AND RELATED AGENCIES APPROPRIATION BILL

Mr. HOLLAND. Mr. President, I wish to announce to the Senate that yesterday the appropriation bill for the Department of Commerce and related agencies was marked up by the full Appropriations Committee, and was filed before the recess of the Senate. I wish to call attention to the fact that the bill, H.R. 10234, is No. 1139 on the calendar; and the committee report has been printed, and is available to all Senators. It is report No. 1097. I hold a copy of it in my hand, and all Senators can secure copies at this time. The hearings, which amounted to 797 pages, have been printed, and are available to all Senators.

I am making this announcement for two reasons: First, I am happy about the cooperation of all members of the subcommittee and the full committee, which enabled us to get the report out yesterday—which is early in the session; second, I want all Senators to know that the measure is on the calendar, and I hope it may be brought up for early action, because the committee was proceeding, as it understood, under the request of the majority leader and the minority leader to get an appropriations bill on the calendar, ready for action.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Florida yield?

Mr. HOLLAND. I yield.

Mr. JOHNSON of Texas. Is the Senator from Florida in position to join in giving unanimous consent to have the Senate proceed at this time with the consideration of that bill?

Mr. HOLLAND. I am not, because I am under the necessity of calling for a quorum if unanimous consent is requested for the consideration at this time of that measure or any other measure. But I am prepared to join in having the bill taken up on a few minutes' notice, and I am prepared at any time to support a motion to take up the bill.

I have been told that under the rule the bill cannot come up today. But I hope it will come up at the first moment possible under the rule; and I am ready to handle the bill on the floor.

As I understand, I have proceeded under the request, if not the direction, of the leadership on both sides, in expediting the reporting of the bill, so the Senate could get to it.

Mr. JOHNSON of Texas. The Senator from Florida is absolutely correct, so far as I am concerned. I have asked not only him, but all other members of the Appropriations Committee, to do all they could to expedite the reporting of all appropriation bills, because I believe it important that the printed hearings and reports be available at the earliest possible time.

But I gather that the Senator from Florida is not in a position to join in a unanimous-consent request to have the bill taken up at this time, if such a request were made.

Mr. HOLLAND. I am not in a position to act, by myself, for all Senators who may be interested. So I would call for a quorum.

I, myself, would not object to having the bill taken up at this time, but I would not permit that action to be taken without calling for a quorum.

Mr. JOHNSON of Texas. I understand.

For the information of the Senator from Florida—although I think it is information which he may have—such consent would not be given at this time.

Mr. HOLLAND. I do not have that information; but I do have information that all Senators would be interested in this matter. So I would not agree to have the bill taken up by unanimous consent without having a quorum call to give any Senator who has any interest in regard to the time when the bill is taken up an opportunity to be present when the matter is discussed.

Mr. JOHNSON of Texas. I appreciate very much the constant cooperation of the Senator from Florida. If he will pursue the matter further, and if he will give me any information he is able to obtain about the willingness of the members of the committee or other Senators to proceed, under a unanimous-consent agreement, to take up the bill and to limit the time available for debate on it, I shall be glad to have that information and to consider it.

Mr. HOLLAND. I thank the distinguished majority leader.

The distinguished chairman of the full committee [Mr. HAYDEN] is presiding over the Senate at this time, and I am sure that neither he nor I would have any objection to having the bill taken up at the earliest possible moment. But I repeat that before I would join in unanimous consent to have the bill taken up I would want other Senators to have an opportunity to know what would be going on, and I am sure the majority leader takes the same position.

Mr. JOHNSON of Texas. That is correct.

REQUEST FOR AUTHORIZATION FOR ANTITRUST SUBCOMMITTEE TO MEET DURING SESSION OF THE SENATE TODAY

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate Antitrust Subcommittee be permitted to sit during the session of the Senate today.

Mr. DIRKSEN. Mr. President, I must respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSON of Texas. Mr. President, is there objection to a meeting of the Preparedness Subcommittee and the Committee on Aeronautical and Space Sciences tomorrow?

The PRESIDING OFFICER. What was the second request?

Mr. JOHNSON of Texas. For the Preparedness Subcommittee and the Aeronautical and Space Sciences Committee to sit, jointly, during the session of the Senate tomorrow.

The PRESIDING OFFICER. Is there objection to those committees sitting during the session of the Senate tomorrow? The Chair hears no objection, and it is so ordered.

GENEVA TEST BAN TALKS

Mr. CHURCH. Mr. President, Prof. Hans J. Morgenthau, who is now with the Johns Hopkins University's Washington Center for Foreign Policy Research, has written a letter to the Washington Post which states with brutal clarity the stakes now riding in the Geneva test ban talks:

We are standing—

He says—

at a turning point in the history of the world. If we fail here we have in all likelihood sealed our and mankind's doom, and the only issue remaining to be settled will be how and when we shall be doomed.

Dr. Morgenthau is, as he reminds us, a skeptic of Russia's intentions. His words command attention, therefore, when he suggests that the most recent Soviet concessions at Geneva, wherein Russia declares a willingness to allow international inspection within the Soviet Union, of a limited number of underground disturbances, might, just possibly, be explained on the basis of their desire that an agreement be reached. He thinks we ought to consider whether they might have changed their position with regard to international control and inspection on their territory because they, too, want to survive.

Mr. President, I have taken this floor on a number of occasions to remind the Senate and the country that our survival may be dependent upon ending the nuclear arms race. I have said many times that a controlled cessation of atomic tests is a first small step in the direction of meaningful disarmament.

Professor Morgenthau's eloquent words ought to be widely read. I ask unanimous consent that his letter, as printed in the Washington Post and Times Herald of February 23, 1960, be printed in the RECORD at this point in my remarks.

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

TURNING POINT

The Soviet Union has just made another concession in the Geneva negotiations on the cessation of atomic tests. It has declared its willingness to allow international inspection of a limited number of underground disturbances whose nature cannot be identified with the presently available seismographic equipment.

This concession follows a number of others concerning international inspection and control on Russian territory, which together constitute a radical departure from past Soviet attitudes. Speculation is of course rife about the reasons why the Russians are taking this unprecedented attitude, which has been explained primarily in terms of propagandistic and military tactics.

I have myself been consistently suspicious of Soviet intentions and have raised my pen against the spirit of Geneva of 1955 and the spirit of Camp David of 1959 as soon as they transpired. I have but recently in a series of articles advanced the proposition that Khrushchev is more dangerous an antagonist and more difficult to negotiate with than was Stalin. But I have always credited the leaders of the Soviet Union with a sense of reality.

A realistic evaluation of the world scene has convinced me since 1955 that if the nuclear armaments race cannot be brought under control before any number of nations will have nuclear weapons, only a miracle will save mankind. The controlled cessation of atomic tests is a first small step in the direction of the control of the atomic armaments race itself.

If the United States and the Soviet Union cannot agree on this, they will not be able to agree on anything else in this field. We are standing therefore at a turning point in the history of the world. If we fail here we have in all likelihood sealed our and mankind's doom, and the only issue remaining to be settled will be how and when we shall be doomed.

Is it farfetched to assume that the Russian leaders are aware of what most knowledgeable observers outside the Soviet Union know, and that they have radically changed their position with regard to international control and inspection on their territory because they want to survive?

This explanation, I admit, is simple and lacks in that elaborate and improbable sophistication with which some Soviet experts like to make things complicated and, hence, unmanageable. But it may well be worthy of some consideration by that unfortunate interdepartmental committee which, for lack of guidance from above, must hammer out as best it can our policy on this momentous issue.

HANS J. MORGENTHAU.

Mr. CHURCH. Mr. President, in the same newspaper, Mr. Marquis Childs treats of the Geneva negotiations also. He points out that many of our difficulties stem from intergovernmental conflict, and suggests that the President seems unlikely to resolve the matter and force through a decision. In the meantime, he says, the United States is getting the worst of both worlds—refraining from testing without an inspection system.

I ask unanimous consent that the column entitled "Indecision Perils Geneva Position," as it appears in the Washington Post and Times Herald of

February 23, 1960, be included in the RECORD at this point in my remarks.

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

INDECISION PERILS GENEVA POSITION

(By Marquis Childs)

A President, it has been written, is many men. President Eisenhower is one of those men and in such generous measure that it seems ungrateful to point out that he neglects or ignores the other roles making up the complex office of Chief Executive.

Off on another journey of good will, this time to Latin America, he is in his happiest aspect. The value of these journeys, despite the disappointment in the countries not visited, is unquestionably great.

He is the ceremonial President; the President who symbolizes and who speaks for a generous, idealistic America. With his vast reputation as soldier-hero for peace he is ideally equipped for the role.

But as recent events have begun painfully to show once again he is not the President who takes the hard, tough decisions and thereby sets a clear policy line for all in his administration to follow. The drift is conspicuous and above all in vital areas of foreign policy. Decisions are put off and put off until now with only 11 months to go President Eisenhower's successor is likely to find a truly appalling array of unresolved problems awaiting him.

The drift is well illustrated by the effort to shape up within the Government here an agreed disarmament position for a March 15 deadline. On that date in Geneva the representatives of five Western powers sit down across the table from five Soviet-bloc powers to start the long, tedious effort to cut back the arms burden with proper inspections and controls.

First the differences within the State Department, the Pentagon and the Atomic Energy Commission on the proper approach had to be worked out. Then the far-deeper divergencies between these three separate legs of the disarmament stool had to be reconciled. This last is a process that has really not yet been completed, although in the past few days progress has been made.

When the negotiators for the other four Western powers—Canada, Great Britain, France, and Italy—came here they were dismayed to find how much was still to be done within the American Government.

There was something almost comic about the behind-the-scenes attempt to find a way to put forward the March 15 deadline without asking the Communist bloc for a postponent. It happens that Geneva will be filled to the rafters on March 15. A conference on the law of the sea with representatives of 83 nations is to be held under United Nations auspices. At the same time the marathon conference on nuclear testing will still be going on.

In a message to the U.N. Secretariat the American negotiator, Frederick Eaton, suggested that the strain on hotel rooms and U.N. interpreters might be too great, so wouldn't it be better to put off the disarmament talks for 2 or 3 weeks. Back came the prompt reply that this presented no problem and all would be in readiness for March 15.

In the talks with the Soviet Union and Britain, looking to a ban on nuclear tests, the same indecision growing out of a conflict within the Government here has been evident. Currently a hopeful approach to a nearly cheat-proof detection system, in the view of distinguished atomic scientists, is in the addition to the detection network of a series of unmanned seismic stations to pick up small earth shocks.

A push to prove this up might get the conference over the last hurdles. But the push is not evident. The probability today, therefore, is that no agreement will be reached in time for a treaty to be put before the Senate. It will go over until January, which will mean that for 2½ years the United States will have had the worst of both worlds—refraining from testing without getting concessions from the Soviets in the form of an inspection system.

The late John Foster Dulles had the President's confidence so completely that he could force through decisions over intergovernmental opposition. No one could reasonably have expected his successor, Secretary of State Christian A. Herter, in a short time to achieve the same working relationship.

The fault may lie with the Presidency itself. Perhaps it is unreasonable to expect a President to be many men. But in his 7 years in the White House President Eisenhower has shown little awareness of what may be wrong with the office and what could be done about it.

FEDERAL CONFLICT-OF-INTEREST LAWS

Mr. PROXMIRE. Mr. President, this morning's New York Times carries a complete summary of an exceedingly interesting and constructive program to improve the Federal conflict-of-interest laws. This program is proposed by a committee of the Association of the Bar of the City of New York.

Among other proposals this committee recommends for the first time a ban on gifts to Federal employees from favor-seeking individuals or corporations.

It also recommends, Mr. President—

Each committee of the Senate considering a presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

The committee further recommends:

The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

Mr. President, it is my understanding that the two Senators from New York will introduce legislation to carry out all of the recommendations of this distinguished panel of outstanding New York lawyers. From my reading of the news article concerning the report and of the official summary, I commend the New York Senators for their action, and pledge them my enthusiastic support for principles indicated in the summary of the report.

Mr. President, I ask unanimous consent that the news article reporting this program, as carried in the New York Times, and the official summary of the study on conflict of interest, be printed in the RECORD at this point.

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

[From the New York Times, Feb. 23, 1960]

U.S. REFORM URGED ON JOB CONFLICTS—CITY BAR'S SURVEY ASKS BAN ON EMPLOYEE GIFTS IN NEW LAW ON DUAL INTERESTS

(By W. H. Lawrence)

WASHINGTON, February 22.—A broad program to close gaps in conflict-of-interest laws covering 4,900,000 Federal executive and military personnel was recommended to Congress today. It was submitted by a special committee of the Association of the Bar of the City of New York.

The recommendations, growing out of congressional investigations of governmental scandals, proposed for the first time a ban on gifts to Federal employes by favor-seeking individuals or corporations. Also proposed was a prohibition on the use by governmental officials of their offices to induce acts from which they would benefit economically.

REMINDER OF RESIGNATIONS

The 600-page report called to mind the resignations under fire of Sherman Adams, formerly President Eisenhower's chief assistant; the late Harold E. Talbott, formerly Secretary of the Air Force and Richard E. Mack, a former member of the Federal Communications Commission.

Inferentially, at least, the report was critical of the many gifts accepted by President Eisenhower and placed on his farm at Gettysburg, Pa.

But the bar group said its aim was not alone to tighten Federal controls against misconduct by employees.

Equally important was the committee's intention to clarify, and, in some respects, modify present laws. Such changes would seek to make it easier for the Federal Government to recruit badly needed executives, especially for short-term assignments.

An important provision to assist Federal recruitment would allow persons joining the Government to retain "certain security-oriented economic interests, such as continued participation in private pension plans." Also suggested were trust arrangements under which Government officials might not be required to dispose of vast amounts of stock as was required by Charles E. Wilson before his confirmation as Secretary of Defense.

LONG-TERM POLICY URGED

"We need," the committee declared, "a long-run national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment."

The committee of 10 practicing lawyers, headed by Roswell B. Perkins of New York, concluded that "the legal and administrative machinery of the Federal Government for dealing with the problems of conflicts of interest is obsolete, inadequate for the protection of the Government, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent."

The 2-year study, released simultaneously here and in New York, was financed by grants totaling $72,500 from the Ford Foundation.

Legislation carrying out the 13 main recommendations of the report will be introduced in the House of Representatives tomorrow by Representative JOHN V. LINDSAY, Manhattan Republican and a member of the committee, and in the Senate by New York's

two Republicans, JACOB K. JAVITS and KENNETH B. KEATING, and JOHN A. CARROLL, Colorado Democrat.

APPLICATION LIMITED

The recommendations apply only to employees of the executive branch and to members of the armed services. The bar committee suggested, however, that Congress should initiate a thorough study of the conflict-of-interest problems among Members of the Congress and other employees of the Federal Government.

The report also exempted the President and Vice President from the proposed new controls, but the committee gave the President this direct advice:

"In all matters within the executive branch the key figure must be the Chief Executive. Much of the difficulty characterizing the present pattern of conflict-of-interests restraints is traceable to the lack of an established role to be played by the Presidency. Present restrictions in the field are the product of sporadic congressional action and scattered agency energy. The voice that should be most heard in the administration of executive branch personnel is that of the Chief of the executive branch.

The bar committee did not refer directly to the shower of gifts in equipment, cattle, and similar items that have been placed on the Eisenhower farm at Gettysburg, but it did say that every President should set an example for other Federal employees.

"The behavior of Department heads and of their juniors will be powerfully influenced by the standards of behavior set by example in the White House," the report said.

"For example, although the flow of gifts, most of them symbolic in nature, to 1600 Pennsylvania Avenue, probably cannot and should not be stemmed, the matter of how the White House disposes of these gifts is very delicate. The soundest approach to this problem appears to be an invariable practice of passing such gifts along to charity or to the National Museum.

"In all other aspects of personal behavior in relation to those who may be regarded as seeking to advance their particular economic interests, the greatest circumspection should be used by all Presidents."

Basic recommendations of the committee were:

"Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

Restraints in present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipts of gifts and coercive use of office.

The statutes should permit the retention by Government employees of certain security-oriented economic interests such as continued participation in private pension plans.

[From the New York Times, Feb. 23, 1960]

SUMMARY OF STUDY ON INTEREST CONFLICTS IN U.S. JOBS

INTRODUCTION AND SHORT SUMMARY

We are today releasing a prepublication edition of a report based upon more than 2 years of study of the socalled conflict-of-interest laws of the Federal Government. Also, we expect that there will be introduced today in both Houses of Congress a proposed executive conflict-of-interest act, which has been drafted by this committee and which is designed to remedy the manifold defects of the present law. Our findings and recommendations, which are set forth in the report, are expressed in statutory form in the proposed act.

The report will be published in the fall by the Harvard University Press.

This committee is issuing this prepublication mimeographed edition of its report so that it will be available at the public hearings on the topic of the conflict of interest laws which commenced on February 17, 1960, before the Antitrust Subcommittee of the Committee on the Judiciary of the House of Representatives. The House Judiciary Committee, under the chairmanship of Representative EMANUEL CELLER of New York, has already made an important contribution to the wider understanding and improvement of this confused, but crucial, area of law and public administration. The public hearings, which has just opened, should further advance the cause of urgently needed reform. Accordingly, we have distributed some 200 mimeographed copies of prepublication edition of the report to Members of Congress, the press and to various Federal departments and agencies.

This official summary has been prepared for the information and guidance of those interested persons to whom the report is not available and as a guide to the report.

A. OBJECTIVES

The report of the committee has two themes. The first is that ethical standards within the Federal Government must be beyond reproach, and that there must, accordingly, be effective regulation of conflicts of interest in Federal employment. The second is that the Federal Government must be in a position to obtain the personnel and information it needs to meet the demands of the 20th century.

These themes are coequal. Neither may be safely subordinated to the other. What is needed is balance in the pursuit of the two objectives. We need a longrun national policy which neither sacrifices governmental integrity for opportunism nor drowns practical staffing needs in moralism. We need a careful regulatory scheme that effectively restrains official conflicts of interest without generating pernicious side effects on recruitment.

The basic conclusion of the committee is that such a scheme can be worked out. The report and the proposed act contain a recommended new program for achieving this result.

B. ASSESSMENT OF EXISTING RESTRAINTS

The committee has concluded that the legal and administrative machinery of the Federal Government for dealing with the problem of conflicts of interest is obsolete, inadequate for the protection of the Government, and a deterrent to the recruitment and retention of executive talent and some kinds of needed consultative talent.

1. Obsolescence

The statutory law—most of it a century old—is not broad enough to protect the Government against the manifold modern forms of conflict of interest. Most of the statutes were and are pointed at areas of risk that are no longer particularly significant, mainly the prosecution of Government claims. Today, with the greatly expanded regulatory functions of the Federal Government, applications for rulings, clearances, approvals, licenses, certifications, grants, and other forms of Government action are far more significant in the daily operation of Government than the prosecution of claims. Several of the basic statutes now on the books do not concern themselves at all with these modern governmental activities.

Other aspects of obsolescence in the present statutes are:

(a) Their focus of interest upon a class of lower ranking politically appointed clerks that has disappeared. The Government today obtains its manpower through a vast civil service, a top layer of short-term political appointees, an increasing group of advisory and part-time personnel, and through an unlimited variety of contracts for services provided by non-Government personnel.

(b) Their failure to recognize internal procedures of modern government, such as the flexible processes of personnel administration available to assist in enforcement.

(c) Their lack of recognition of the facts of modern economic life, such as the existence of private pension plans.

(d) Their failure to recognize the essential blending of public and private endeavor in the modern American society, as illustrated by the partnership of Government, industry, and educational institutions in the science field.

2. Inadequate administration

Partly by reason of the deficiencies in the statutory law, administration of the conflict-of-interest restraints has always been weak. The Government has failed to provide a rational, centralized, continuing and effective administrative machinery to deal with the problem. If the statutes presented a coordinated whole—a unified program—and if they imposed direct responsibility on the President to carry out that program, the central coordination and leadership missing in the past would improve. A well-administered program could, and should guide the thousand good men as well as snare the one bad one.

3. Uncertainty in interpretation

Enacted fitfully over a 100-year span, the uncoordinated statutes are inconsistent, overlapping, and at critical points defy interpretation.

4. The Congress

Congress has done a useful and constructive job in its capacity as investigator. But the Senate confirming committees have seldom considered the overall issue of conflict of interests in relation to recruitment. The Armed Services Committee has applied a wavering standard of stock divestment, useful for certain purposes, but overemphasizing one single source of conflict-of-interest problems and having little bearing on the question of actual official conduct.

5. Recruitment

The main adverse effect of the present system is its deterrent effect on the recruitment and retention of executive talent and some kinds of consultative talent. The restrictions tend to encircle the Government with a barricade against the interflow of men and information at the very time in the Nation's history when such an interflow is most necessary.

C. RECOMMENDATIONS

The defects in the present law cannot be cured by tinkering. A thoroughgoing reconstruction is called for—a new program of controls designed for modern needs, providing for adequate administration and written as an integrated unit. The program must achieve a balance between the Nation's need for protection against conflicts of interest and its need for personnel.

The committee's basic recommendations are these:

1. Conflict-of-interest problems should be recognized and treated as an important, complex, and independent subject of attention and concern in the management of the governmental establishment.

2. The present scattered and uncoordinated statutes relating to conflicts of interest should be consolidated into a single unified act, with a common set of definitions and a consistent approach. Archaic provisions should be repealed.

3. The restraints contained in the present statutes should be greatly expanded in their scope by making them applicable to essentially all matters in which the public deals with the modern Federal Government.

4. Certain important restraints now covered in regulations or not at all should be included in the basic statutes, particularly restraints relating to receipt of gifts and coercive use of office.

5. The statutes should permit the retention by Government employees of certain security-oriented economic interests, such as continued participation in private pension plans.

6. Wherever it is safe, proper, and essential from the viewpoint of recruitment, the statutes should differentiate in treatment between regular employees and citizens who serve the Government only intermittently, for short periods, as advisers and consultants.

7. Regular, continuing, and effective enforcement of the law and regulations should be assured by emphasizing administrative remedies rather than the clumsy criminal penalties of present law.

8. The statutes should create the framework for active and effective administration of the system of conflict-of-interest restraints, headed up with clear responsibility in the President. The President should designate, pursuant to the proposed act, an Administrator to assist him in this function.

9. In addition to the statutes themselves, there should be a second tier of restraints consisting of Presidential regulations amplifying the statutes and a third tier consisting of agency regulations tailored to the needs of particular agencies. The responsibility for day-to-day enforcement of the statutes and regulations should rest upon agency heads.

10. At all levels of administration potential conflict-of-interest problems should be headed off by preventive action, such as, for example, orientation programs for all new employees to acquaint them with the applicable conflict-of-interest rules, and periodic reminders as to such rules.

11. There should be more effective prohibitions and penalties applicable to persons outside Government who induce or participate in conduct by Government employees in violation of the conflict-of-interest laws.

12. Each committee of the Senate considering a presidential nominee for confirmation should be given the benefit of a full analysis, prepared by the Administrator in consultation with the Department of Justice, of any conflict-of-interest problems the nominee's particular situation may present. The confirming committee should give due consideration to this analysis and to the protections afforded by a modern and effectively administered overall scheme of conflict-of-interest restraints, if one is put into effect.

13. The Congress should initiate a thorough study of the conflict-of-interest problems of Members of Congress and employees of the legislative branch of the Federal Government.

The program advanced here will not solve the problem of conflict of interests in Federal employment. Like most problems, this is one we must live with permanently, strive to mitigate, and adjust to. The program proposed, however, will do several things.

It meets the flaws of the present pattern of conflict-of-interest restraints—obsolescence, weakness of administration and faulty drafting. It would greatly strengthen the main policy of the conflict-of-interest statutes—preservation of the integrity of Government. It would provide for an integrated and comprehensible system of standards and sanctions, together with an effective machinery for administering that system. It is grounded upon a realistic conception of the problem of conflicting interest as it appears in the modern setting of American Government and society. It would make a significant contribution toward intelligent staffing of the Federal Government for world leadership.

[From the New York Times, Feb. 23, 1960]

BAR COMMITTEE'S MEMBERS

Following is a list of the members of the Special Committee on the Federal Conflict of Interest Laws of the Association of the Bar of the City of New York:

Howard F. Burns, partner, Baker, Hostetler & Patterson, Cleveland; member of the Council of the American Law Institute.

Charles A. Coolidge, partner, Ropes, Gray, Best, Coolidge & Rugg, Boston: former Deputy Director of Internal Security Affairs, Department of State.

Paul M. Herzog, executive vice president of the American Arbitration Association, New York; former chairman of the National Labor Relations Board; former associate dean of the Graduate School of Public Administration, Harvard University.

Alexander C. Hoagland Jr., practicing lawyer associated with Curtis, Mallet-Prevost, Colt & Mosle, New York City.

Everett L. Hollis, corporate counsel, General Electric Co., New York City; former General Counsel, Atomic Energy Commission.

Charles A. Horsky, partner, Covington & Burling, Washington; former assistant prosecutor at Nuremberg with the Chief of Counsel for War Crimes.

John V. Lindsay, U.S. Representative from the 17th Congressional District, New York; partner, Webster, Sheffield & Chrystie, New York City.

John E. Lockwood, partner, Milbank, Tweed, Hope & Hadler, New York City; former General Counsel, Office of Inter-American Affairs.

Roswell B. Perkins, chairman, partner; Debevoise, Plimpton & McLean, New York City; former Assistant Secretary of Health, Education, and Welfare; former counsel to the Governor of the State of New York.

Samuel I. Rosenman, partner, Rosenman, Goldmark, Colin & Kaye, New York City; former special counsel to Presidents Roosevelt and Truman; former justice of the Supreme Court of the State of New York.

Mr. JAVITS. Mr. President, I thank my colleague from Wisconsin for his kind words. I am about to introduce the bill on the subject to which reference has been made. Though I am introducing it today with my colleague from New York [Mr. KEATING] as a cosponsor, because obviously this is a matter which comes from our own community, and I happen to be a member of the association of the bar, and it is my own bar association, and I worked with it in this whole effort, I do believe if, after the bill has been introduced, other Senators would like to join in cosponsoring it, I would be more than happy to welcome them as cosponsors, and I shall ask unanimous consent, after the bill is introduced, that other Senators may cosponsor it.

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

Mr. JAVITS. I yield.

Mr. PROXMIRE. I thank the Senator from New York very much for his generous offer. I am delighted to have the opportunity to cosponsor the bill. I want to apologize for perhaps "jumping the gun." The Senator understands how these things take place on the floor, in view of committee meetings and appointments that we have. I wish to emphasize that the Senator from New York is taking the leadership in this matter, and I am delighted to have an opportunity to follow him.

CIVIL RIGHTS

Mr. YOUNG of Ohio. Mr. President, it is my fervent hope that the great debate in which we are presently engaged will lead to legislation establishing for all time first-class citizenship for all Americans.

For too long, a huge segment of Americans has been denied the basic rights our forefathers envisioned when they conceived the Constitution of the United States.

It is left to us, now, to guarantee those rights for all our citizens.

No greater issue faces our country today than the problem of carrying forward the integration decisions of the Supreme Court and guaranteeing the civil rights of all Americans.

We, as a nation, have carried the torch of liberty higher and more proudly than any other nation in history, on the other hand, we have tolerated social and economical segregation of 15 million of our fellow Americans.

These two traditions are mutually exclusive, and one of them will have to yield. If our country is to survive, discrimination because of race or color must be eliminated. The breathtaking pace of modern life no longer permits slow, leisurely adjustments to reality.

This fact has been widely recognized for some time. The Civil Rights Act of 1957 was based on this recognition. This was merely a preliminary measure in the drive to secure civil rights for all Americans.

Unfortunately, the Civil Rights Commission established in 1957 had to cope with innumerable difficulties. Many obstacles were placed in its path.

Its efforts to investigate denials of the right to vote were prevented by open defiance of local authorities; sometimes by violence and complete lack of cooperation of officials from the States involved.

Mr. President, the conclusion is unavoidable that there are persons seeking by every possible means to keep the Negro confined within the "Uncle Tom" image which they themselves created in an era which died nearly 100 years ago.

They simply refuse to recognize the Negro as a doctor, lawyer, teacher, businessman, or responsible citizen. Consequently, they have thrown up barriers against Negro voting.

In some instances they have gone so far as to purge registered voters from the lists. Their weapons in this rearguard action against progress and decency have been threats, violence, subterfuge, and the most maddening chicanery.

Voting, however, is only a part of the civil rights problem. Another, and equally important part is education. Since the Supreme Court led the way by

rejecting that tired old contradiction "separate but equal," 5 years ago, the struggle for desegregation has occupied the attention of the country.

The Eisenhower administration heretofore has paid only lipservice to the great cause for which this struggle is fought.

Lipservice is not leadership. Pious evasions do not solve problems, but merely perpetuate them. When a President temporizes on such a vital issue, defiance of the law is encouraged, contempt for the law is fostered.

Mr. President, despite the proclamations of opponents of civil rights legislation, there is nothing immoderate, arbitrary nor dictatorial in providing a definite civil rights law. We do not seek to establish new rights. We seek only to preserve old rights—rights as old as mankind itself.

We should have no sympathy for those who believe that the best the Congress should do for Negroes is to give them a license to fight for their God-given rights, while Congressmen remain idle by the roadside to see if they can win them.

The Federal Government must not remain neutral nor be a mere onlooker. We, who are Senators of the United States, must exercise our responsibility to the Constitution and to millions of Americans who have heretofore been treated as second-class citizens.

This year, we must go on record as saying that enforced racial segregation in public schools violates the 14th amendment to the Constitution of the United States.

We must provide an orderly program for financial aid by the Federal Government to help and hasten public school desegregation. The South will be faced with a very real physical problem of dislocation and temporary disorganization when segregated education is abandoned.

The Attorney General should be authorized to seek civil court remedies to accomplish public school desegregation and to protect individuals who are being denied the equal protection of the laws on the basis of race, color, religion, or national origin.

The right to vote must be protected either by Federal registrars or by referees. Under penalty of criminal law, election records must not be destroyed. Adequate procedures should be established for their inspection by the Attorney General.

All tests—questions and answers—for registration or voting in Federal elections should be required to be printed or written.

Finally, the Federal criminal law should be extended to punish flight across a State line to avoid punishment for damaging or destroying any building or vehicle.

Mr. President, with these provisions included, we would have an effective Civil Rights Act.

American democracy demands no less.

THE INDUSTRIAL SECURITY PROGRAM

Mr. KEATING. Mr. President, last June the Supreme Court in the Greene case invalidated the Defense Department's industrial security clearance program on the ground that the program was not authorized either by statute or Executive order. The Court made it clear that it was not determining whether the President or the Congress had power to fashion such a program, and was only deciding that the procedures followed by the Department of Defense had not been expressly sanctioned. In the language of the majority opinion:

> Before we are asked to judge whether, in the context of security clearance cases, a person may be deprived of the right to follow his chosen profession without full hearings where accusers may be confronted, it must be made clear that the President or Congress, within their constitutional powers, specifically have decided that the imposed procedures are necessary and warranted and have authorized their use.

The President has now issued an Executive order prescribing the standards and procedures for granting individual defense workers the privilege of access to classified defense information. I have reviewed this order and I believe that it will guarantee essential fairness to employees in such cases without unduly undermining necessary security safeguards. The President certainly must be commended for taking the action needed to reestablish this program on a proper basis.

It should be understood, however, that the President's action does not obviate the necessity for legislation. The majority opinion in the Greene case made it clear that the Court did not decide that "the President has inherent authority to create such a program or whether congressional action is necessary." Under these circumstances, the best way to assure operation of this program without further legal jeopardy is for Congress to enact a supporting bill.

On July 21, 1959, I introduced, on behalf of the distinguished Senator from Connecticut [Mr. DODD] and myself, a bill (S. 2416) for this purpose. This bill in many respects parallels the President's Executive order. It requires a written statement of the reasons for any denial of clearance, an opportunity to reply, a hearing, review by the head of the agency or other officer designated by the President, and a written decision. The bill provided that all hearings under its provisions should be conducted in such manner as to assure the applicant of a full disclosure of any evidence against him and confrontation of all adverse witnesses, with certain limited exceptions. At the time this bill was introduced I explained on the Senate floor that it was "designed to provide for a continuance of an effective industrial security program and at the same time to introduce as many safeguards against unfairness or arbitrary action against an individual as is possible without undermining our security system. It is designed to assure that no individual will be denied clearance as a result of idle rumor or gossip. It recognizes the importance of disclosure and a right of confrontation to the ascertainment of truth where facts are in dispute, without interfering with the work of regular investigative agencies. While it does not convert the clearance system into a judicial trial, it is intended to provide safeguards necessary to deal fairly with anyone who may become involved in such proceedings."

Mr. President, these comments are entirely applicable to the recently issued Executive order. I believe, therefore, that the bill which Senator DODD and I introduced may well serve as the framework for congressional authorization for this program. While some changes in phraseology undoubtedly will be required, a bill along the lines of S. 2416 would fulfill our legislative obligations in this field.

This is a very important program affecting millions of private employees engaged in defense work. I hope that Congress will soon act to remove any continuing legal cloud over its operations.

Mr. President, this morning's New York Times editorially commends the Executive order as the "latest move in an attempt to reconcile the security of the citizen with the security of the Nation." While it expresses some reservations about one exception in the Executive order, the editorial states that "several million persons who work in defense industries should find their jobs and reputations more secure" under its provisions.

Mr. President, I ask unanimous consent that this editorial be printed at this point in the RECORD.

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

[From the New York Times, Feb. 23, 1960]

THE NATURE OF SECURITY

Several million persons who work in defense industries should find their job and reputations more secure because of an Executive order issued by President Eisenhower. The President's order is, indeed, the latest move in an attempt to reconcile the security of the citizen with the security of the Nation.

Last June, in the case of *Greene* v. *McElroy*, the Supreme Court held that when a worker in a sensitive defense industry was forced out of his employment on charges not supported by the test of confrontation and cross-examination the Government was exceeding its statute authority. Chief Justice Warren, writing the majority opinion, dismissed the question of constitutionality. He merely held that the Defense Department was assuming powers it did not legally possess.

The new Executive order is manifestly an attempt to do three things: First, to legalize whatever screening processes may be necessary; second, to eliminate as far as is possible (to quote the Chief Justice) "the testimony of individuals whose memory might be faulty, or who, in fact, might be perjurors or persons motivated by malice, vindictiveness, intolerance, prejudice or jealousy"; third, to meet such constitutional objections as might arise.

We must not forget that even though no criminal charge is involved, the security procedure sometimes inflicts a heavy penalty on an individual. In the Greene case, for example, a highly competent aeronautical engineer was discharged from an $18,000-a-year job and had to take one paying only $4,700 a year.

The new order puts more emphasis upon the individual's right to confront and cross-examine his accusers. The exceptions are intended to protect witnesses whose identity must be kept secret in the interest of national security; identify witnesses who are sick, dead, or otherwise unable to appear,

and give discretion to department heads to withhold names for good and sufficient reasons.

The last exception is the trickiest. We can't yet say that an accurately just balance has been reached between private and public security. However, some progress has been made, and if necessary the Supreme Court can still pass on the basic constitutional issue of a confrontation. Sooner or later we must ask ourselves what security is—that is, whether it consists in the liberties of the citizen or in the smooth functioning of the agencies of Government.

COMMENTS ON A WORLD TRADE CENTER FOR NEW YORK CITY

Mr. KEATING. Mr. President, I again call the attention of the Senate to a proposal recently announced by the Downtown-Lower Manhattan Association of New York City that the Port of New York Authority undertake a study of the planning, financing, and activating of a World Trade Center for New York City. I am delighted that the Port of New York Authority has now initiated a thorough and far-reaching study of this proposal.

It is clear that the benefits of a World Trade Center in New York City would accrue not only to New York and the surrounding metropolitan region, but to the entire United States. American investments abroad now total well over $400 billion. Combined sales from exports and from the oversea operations of U.S. companies today run at an annual rate of $50 billion. Economists agree that the next 10 years will see an enormous expansion of worldwide trade and of production abroad.

Mr. President, the focal point for U.S. foreign trade is of course New York City. It is for this reason that I have taken a special interest in the plan recently advanced by the Downtown-Lower Manhattan Association calling for a center for America's foreign trade operations together with the necessary supplementary services. Such a center would add materially to the capability of our Nation to maintain its place as a great leader in international trade.

Although the port authority study of the proposal for a World Trade Center is just getting under way, the possibility of its construction has excited the civic and business communities of the New York metropolitan region.

Mr. President, I ask unanimous consent that certain editorials which recently appeared in some of the leading newspapers of the area and which applaud the plan for a World Trade Center in New York City be printed in the RECORD at this point in my remarks.

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

[From the New York Times, Jan. 27, 1960]

DOWNTOWN'S BIG FUTURE

They are thinking large in downtown Manhattan. The World Trade Center, with a construction cost of perhaps a quarter of a billion dollars, proposed by the Downtown-Lower Manhattan Association, Inc., is the most important project for the economic future of the Port of New York launched for many a year. As "a headquarters to assure the expanding role of our country in international trade," it has meaning that goes beyond dollars and goods, the encouragement of that friendly if competitive exchange of business with peoples throughout the world that makes for better understanding.

We now begin to get the specifics of the billion-dollar redevelopment program first presented to Mayor Wagner in the fall of 1958 by the association led by David Rockefeller and John D. Butt. The clouds of uncertainty about the future of downtown or waterfront areas had already been lifted as to lower Manhattan, which since 1950 has been enjoying a spectacular boom. In 10 years 35 new major buildings have been completed or begun.

The future of downtown Manhattan, already guaranteed by the confidence and leadership of its businessmen, now receives a further stimulant in the plan for the World Trade Center, several new buildings to be erected on a 13-acre site overlooking the East River south of Brooklyn Bridge. Rising from an elevated platform several blocks long, a World Trade Center commerce building of 50 to 70 floors with perhaps 10 of these used as a hotel; a world trade mart, to be of low elevation in pleasing contrast, and finally a central securities exchange building to be erected if the Stock Exchange should elect to move are the fundamentals of this plan, now in preliminary schematic concept. A 1,500-car parking garage would be built under the whole project. Shopping arcades and elevated plazas are interesting features.

New York's prosperity, and that of the whole metropolitan area, depends to a degree not generally comprehended on the port area's unique position as a center of commerce—sea, air, rail, over-the-road. The downtown Manhattan area is, of course, the historic focus of this tremendous business, this creator of employment and well-being. This new World Trade Center makes available the office space, the storage space, the exhibition space, the hotel and dining accommodations, the library and information resources, the convenience of proximity for all the varied elements that go into commerce and its promotion.

For realization of the part of the plan appropriate to its chartered function the Port of New York Authority, qualified in every respect for the large undertaking, has been approached. To the courageous, intelligent leadership of the businessmen downtown responsible for such vision in planning, the people of New York and New Jersey owe grateful recognition. The World Trade Center is an exciting, stimulating prospect.

[From the New York Herald Tribune, Jan. 27, 1960]

WORLD TRADE CENTER A GREAT IDEA

The Downtown-Lower Manhattan Association, headed by David Rockefeller and John D. Butt, which has been tirelessly engaged for a good many months in big plans for redeveloping the jumbled tip end of our central city, sprang a highly important proposal yesterday.

It's a plan to develop a World Trade Center on a 13½-acre tract at the foot of Wall Street, from Old Slip to Fulton Street, between Water and South Streets. As envisaged now, there would be two main structures—a world trade mart and a commerce office-hotel building of 50 to 70 stories. Also considered is the possibility of a central securities exchange building, with the hope that the New York Stock Exchange might become the occupant.

The idea of such a trade center is to provide within a concentrated, easily accessible area all the services and facilities needed for the development of international trade.

An integrated, coordinated area would offer great advantages. For here the businessmen from home and abroad would enjoy a comfortable meeting place, see import and export goods on permanent display, and be assured of every helpful assistance—even to the detail of a multilingual secretarial pool.

As the Downtown-Lower Manhattan Association points out, the establishment of a World Trade Center has been discussed from time to time over the last quarter century. But the finished plan never materialized.

Meanwhile New Orleans, Boston, and San Francisco have developed their own trade centers with excellent results. Certainly this ought to be ample signal to New York, the No. 1 port, to go after an even greater share of growing business.

Next step, then, is to move ahead. But the present report is careful to explain that where the potential benefits are so great, it is essential to "attract the support of both private enterprise and government."

To get a World Trade Center which actually fulfills the name, the bistate port has "a crucial need for further extensive developmental study." And therefore it is recommended that the Port of New York Authority make this study for ultimate consideration by all component governments.

As every one knows, the port authority has a tremendous successful record in planning and developing big public projects. If ever there was a job right down the P.A.'s alley, the World Trade Center is it. In fact, Chairman S. Sloan Colt and Vice Chairman Horace K. Corbin gave immediate and enthusiastic approval of the study idea. Then we shall see exactly how the World Trade Center can be brought into being. Who knows, perhaps by the P.A. itself.

Meanwhile the Downtown-Lower Manhattan Association is to be congratulated for getting things started. Civic leadership, we are delighted to see, is very much alive in New York.

[From the Newark Evening News, Jan. 29, 1960]

PORT DEVELOPMENT

New York and New Jersey treated the Port of New York Authority to promote and develop the commerce of the port which both States share. It is this responsibility, sometimes obscured by bridges and tunnels and airports, which is invoked by the Downtown-Lower Manhattan Association in recommending that the port authority survey the feasibility of a plan for a $250 million World Trade Center.

The plan calls for the construction on lower Manhattan's East River front of a combination office and hotel of 50 to 70 stories, a central securities exchange building in which it is hoped to have the New York Stock Exchange as a tenant, a six-story international trade mart and exhibition hall.

The association leaves for port authority determination such questions as who would put up the money and who would operate what. However, David Rockefeller, vice chairman of the Chase Manhattan Bank and chairman of the association, suggests the trade center might be built and operated by the port authority, with private capital financing the office building and hotel and the securities exchange building.

The association's reasons for believing such a project is necessary to meet increasing competition from other east coast ports are presented persuasively. If it succeeded, New Jersey as well as New York could expect to benefit. With the expansion under port authority management of the marine terminals of Newark, Elizabeth, and Hoboken, world trade is becoming increasingly important to the New Jersey side of the harbor.

As Governor Meyner indicates, New Jersey has reason to approve the proposed study. Whether the port authority should

also participate in financing any part of the proposed trade mart proper is a question to be considered when all the facts are in.

[From the Elizabeth (N.J.) Journal, Feb. 3, 1960]

DREAM FOR MANHATTAN

Another grandiose project for the betterment of the lower section of Manhattan has been presented by a group envisioning its dream as a World Trade Center. This prospective ouster of the Fulton Fish Market is a monumental undertaking and would assume a position in New York activity now vacant.

The promoters, or perhaps merely sponsors, call themselves the Downtown-Lower Manhattan Association, and will call upon the Port of New York Authority for assistance in reducing their dream child to tangible form. The plan is slated to encompass 13½ acres; and a skyscraper office, a hotel, international trade hall, and an auditorium are to be included in the proposed construction.

The first of several gestures toward the revival of that portion of Manhattan seemed risky, but each appears to have succeeded. They are attracting back to that end of the island the business that seemed to be disappearing toward 57th Street. New office buildings and new housing are replacing outmoded hangovers of a distant era.

Downtown Manhattan has many advantages, and the gradual completion of traffic facilities are encouraging the renaissance. East Side and West Side Highways, the Battery Tunnel, and the Brooklyn-Queens Expressway each contribute to the convenience of this area.

The day when New York will be compelled to decide upon a crosstown expressway downtown draws near, and that will be another encouragement to development that already has revised the skyline.

A World Trade Center should be a stimulant for the entire section. It will bring to downtown Manhattan representatives of many interests who otherwise probably never would see it and also spur port activity along the East River.

City hall professes to accept this project cheerfully, as it should, and substantial obligation devolves upon the Port of New York Authority. That agency already has broadened its scope abundantly to enable it to take a hand in final determination of the feasibility of the World Trade Center and perhaps in its perfection. Establishment of this project patently would create a new asset to the port, with benefits reaching far beyond the watery boundaries of Manhattan.

Mr. KEATING. Mr. President, I also ask unanimous consent that a statement by Governor Rockefeller commending the Port of New York Authority for its recent announcement of the initiation of a study along the lines requested by the Downtown-Lower Manhattan Association be printed at this point in the RECORD.

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

Governor Rockefeller today applauded the action of the Port of New York Authority in authorizing a broad study of the feasibility and practicability of the proposed $250 million World Trade Center in lower Manhattan.

Governor Rockefeller said:

"This action by the Port of New York Authority carries forward with dispatch the exciting project for redevelopment of lower Manhattan as envisioned by the Downtown-Lower Manhattan Association, Inc.

"In this great period of economic growth, it is essential that the great Port of New York be prepared to take full advantage of the anticipated expansion in world trade.

"I commend the Port of New York Authority for taking decisive steps to make the necessary surveys and studies on which this great redevelopment project can go forward.

"The World Trade Center will mean not only an immense economic stimulus to the city of New York, the metropolitan area, the entire State, and our neighboring States, but it could have tremendous implications in helping raise living standards throughout the world."

PROGRESS IN SOLVING MUNICIPAL PROBLEMS

Mr. DIRKSEN. Mr. President, every year the National Municipal League, which is a league of American municipalities, in conjunction with Look magazine, determines what cities in the country have made the greatest progress in solving municipal problems. They have a team which carefully evaluates this progress, and at the end of the year a number of cities are selected to receive the awards.

This year 11 cities received awards, and 11 were called runners-up in the contest.

Among the award-winning cities were two in the State of Illinois. One was the city of Alton and the other the city of East St. Louis. I thought it only appropriate, in connection with this distinction, that I insert in the RECORD in connection with my remarks some comment from Look magazine, and some other data which have a bearing on the subject, to show what the record of performance and accomplishment really is.

I ask unanimous consent that these additional data be printed in the RECORD at this point as a part of my remarks.

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

ALL AMERICA CITIES

EAST ST. LOUIS, ILL.

For years, East St. Louis deserved its wretched reputation. A national betting syndicate operated within a few blocks of city hall. There were at least a dozen horse parlors. More than 50 prostitutes worked in a single two-block area. Bars and strip joints, frequented by bookies and B-girls, lined the downtown streets.

In 1951, citizens demanded a cleanup. Within 4 years, the red-light district had been closed, organized gambling banned, and undesirables banished. But though the city was clean, its unsavory reputation persisted. Downtown sections were becoming slums, and industry was leaving the area. Labor-management relations deteriorated. Then, in 1957, citizens formed Community Progress, Inc., a union of all interested organizations and individuals. The move sparked a civic improvement program, with these results:

A labor-management code of ethics has stabilized labor relations. Some 1,500 new jobs have been created. New construction has doubled. Voters have approved an urban renewal bond issue. And the city has completed a $7 million school building program and a $2 million park program.

ALTON, ILL.

"The trouble with Alton," one citizen explained, "was that things just weren't bad enough." Business thrived, and there was little unemployment, but serious civic problems were being ignored. There had been no major municipal improvements in 25 years. The newest fire station had been built before World War I.

In late 1956, one of the city's main sewers became almost completely clogged, and sewage began seeping into basements. Things were finally "bad enough." The Greater Alton Association of Commerce outlined an improvement program, and the League of Women Voters campaigned for a change to council-manager government. The Alton Citizens for Better Government was formed and in 1957 elected officials in sympathy with the proposed change. In 1958, a city manager was hired. The city already has annexed tax-producing industrial sites, installed new street lighting, repaired sewers, and made plans for a new sewage system.

RED CHINA ON THE MARCH—WHAT U.S. POLICY?

Mr. WILEY. Mr. President, recently I was privileged to help provide for the publication of a committee print entitled "Tensions Within Red China."

Generally, the print has received widespread approval.

At the time of publication, I issued a statement stressing the need for a new, hard look at our Red China policy. Among other steps, the recommendations included efforts to: First, prevent any further territorial expansion of communism; second, effectively combating the ideological campaigns of communism in the Far East; third, coping with the growing economic strength of Red China; and fifth, strengthen the regional coalitions of non-Communist nations in self-preservation-type programs, particularly in the Far East.

As the world's most densely populated country—about 650 million people—ranking third in land area with a total of 3,750,000 square miles—Red China is undertaking a dynamic, industrial, agricultural, military development program. While the "Great Leap Forward" has missed its mark, the Communists—with an iron grip on the reins—dedicate a vast volume of manpower and resources to agricultural and industrial growth and military power.

In suggesting a new look at China policy, this does not mean that we should "go soft on communism." Nor does it mean—now or in the foreseeable future—that we should recognize Red China or admit it into the United Nations.

However, it does mean that—to deal effectively with a dynamic, growing enemy—we cannot have a static policy.

Recently, the Racine Journal-Times published an editorial entitled "Wiley Calls for Flexibility." The editorial deftly reflects the spirit of my recommendations, as well as reemphasizes the need for an effective policy for dealing with Red China in the years ahead. I request unanimous consent to have the editorial printed at this point in the RECORD.

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

[From the Racine (Wis.) Journal-Times, Jan. 22, 1960]

WILEY CALLS FOR FLEXIBILITY

It has been said quite truly that any agreement between the United States and

Russia would be meaningless if Red China were not involved.

What good would it do for the United States and Russia to throw away all their weapons, nuclear and conventional, if the Red Chinese Army was still in existence? We would only open the door wide to world domination by the Chinese.

This is one of the problems that gives emphasis to the importance of Senator ALEXANDER WILEY'S conclusion that there must be a reexamination of our relationships with Red China, and a new flexibility in those relationships.

WILEY says that he is not proposing diplomatic relations with the Communist Chinese, nor any immediate softening of our position that they should be excluded from the United Nations. However, many others are coming to the conclusion that our hard position on these two points must eventually soften. They hold, quite realistically, that diplomatic recognition does not imply approval, and exclusion of Red China from the U.N. merely excludes them from a situation where they could be approached in efforts for world peace.

Completely aside from those two issues, however, is the pressing need to consider Red China as an economic, social, and political force in the world. Our policy toward China for the past decade has been to ignore its existence, except as a current or potential military enemy. That policy no longer holds up against the facts. China is a great economic force in Asia, and a growing one in the world. The very fact that China's population is swelling almost incredibly makes it a social factor to be reckoned with. Politically, China's Communist government is coming of age, and China's neighbors in Asia know it. Some of those neighbors, like Japan, are our good friends and firm allies, but they cannot realistically agree with us that the great giant on the continent of Asia just isn't there.

WILEY'S call for flexibility in U.S. policy is one that has needed saying for some time. As a ranking member of the Senate Foreign Relations Committee, we hope that he has some success in awakening that body and the administration to the need for new thinking in this important direction.

Mr. WILEY. Mr. President, in addition, the Christian Science Monitor recently published an informative article bearing on our Red China policy, entitled "Red China on the March—What U.S. Action?" written by Takashi Oka.

I request unanimous consent to have this article also printed at this point in the RECORD.

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

RED CHINA ON THE MARCH—WHAT U.S. ACTION?

(By Takashi Oka)

WALKING ON TWO FEET

Communist China's wants are enormous. Its leaders demand a modern army and air force, equipped with new planes, new weapons, perhaps eventually nuclear warheads and missile-launching pads. They call for huge steel mills, elaborate rail and road networks, factories making machine tools and automobiles, transistors, and precision instruments. And to do all this, China's only really abundant resource is people—people increasing at the rate of "two Australias" every year.

What is to be the order of priorities? Aid from the Soviet Union is limited and is strictly on a loan basis. Unlike India, Peiping cannot depend on American agricultural surpluses to feed its mushrooming population while it concentrates on projects such as dams and steel mills—projects vast in scope and requiring years to come into production.

This is the situation, observers here believe, which led Mao Tse-tung to proclaim his slogan of "Walking on Two Feet" that is, simultaneous development of agriculture and industry, of light industry and heavy, of modern means of production and traditional handicraft methods, of large urban factories and small village workshops, of chemical fertilizers and pig manure.

Unbelievable crash program

This is the situation which underlays Peiping's startling decision in 1953 to herd the peasants into communes and to begin a frenzied "leap forward" program which would attempt to catapult Communist China into the ranks of the world's great industrial nations in 3 years—unless its citizenry collapsed from sheer exhaustion.

It is, by Western standards, a crazy, unbelievable crash program, which has led to enormous excesses and has set up as many new imbalances as it was designed to eliminate. Production figures have been revised so many times that even a conscientious follower of the Communist press hardly knows which one to believe.

In grain production, for instance, the original target for 1959 was the astronomical figure of 525 million tons. In August 1959 this target was drastically pruned to 275 million tons. According to latest figures released by the State statistical bureau January 22 this year, the actual harvest came to 270,050,000 tons. But since these are preliminary figures, another revision may be in order later.

Likewise, in steel, the original target for 1959 was 18 million tons. This figure was trimmed to 12 millions tons in August, but production figures released January 22 showed overfulfillment of the August target by 1,350,000 tons. Again, this figure is subject to revision.

Light industry accented

More significantly, the January 22 communique announcing these figures heavily emphasized results claimed in the light industry field. Paper production, for instance, came to 2,130,000 tons in 1959, it was stated; sugar mounted to 1,130,000 tons; cotton yarn to 8,250,000 bales; and cotton cloth to 7,500,000 meters (8,218,126 yards). These figures represented increases of 26 to 32 percent over the previous year's totals, the Communists said. Among minor items listed subsequently were: 5,700,000 alarm clocks and 130 million fountain pens.

This shift in emphasis, plus recent statements by top Peiping leaders, have led observers here to believe that during 1960 the Communists may devote their efforts toward ironing out the worst of the imbalances developed during the course of their 2-year "leap forward" campaign.

Officially, 1960 is to be a year of continued "leap forward." But the major effort will be directed, it appears, toward raising agricultural output—which must be the principal consideration in countering population growth.

Next, light industry, producing consumer goods, will be emphasized, and heavy industry, formerly given the top priority, will be downgraded to third place, with propaganda stressing, not steel for steel's sake, but the importance of heavy machinery in agriculture.

"Each branch of heavy industry must adopt the idea that it is serving agriculture," declared Li Fu-ch'un, State Planning Committee chairman, in a New Year's article in the ideological journal Red Flag.

The people's communes are likely to be strengthened, not liberalized. They may be extended from rural China to the cities, which were specifically exempted in the Central Committee resolution adopted at Wuhan in December 1958.

Here again, observers speculate that a factor impelling urban communes may be the necessity of drastically improving consumer-goods supplies in order to keep pace with population growth. Peiping's aim may be to recruit through the communes the 30 million women and older men who presently constitute surplus urban labor to engage in light-industry production while younger, sturdy, active workers continue in heavy-industry lines.

EXTERNAL PROBLEMS

According to the Chinese lunar calendar, the Year of the Rat opens a new, auspicious 12-year cycle. While Peiping rejects old superstitions, it was undoubtedly pleased that during the New Year's celebrations which ushered in the Year of the Rat January 28, Burman Prime Minister Ne Win was on hand to sign a border agreement and friendship treaty, reopening vistas of peaceful coexistence which Communist actions the previous year had so rudely blocked.

The year 1959 was probably the blackest one for Communist China's foreign relations since the regime was established 10 years before. Peiping ended the year in bitter dispute, not merely with its longstanding opponents Nationalist China and the United States, but with hitherto friendly Asian neighbors such as India and Indonesia. And its principal ally, Moscow, was reported to be inclined to blame Peking for this state of affairs, especially for its border troubles with India.

Line likely to continue

Therefore when blunt-spoken General Ne came to Peiping to try to iron out, once and for all, his country's frontier problems with Communist China, he received red-carpet treatment and an agreement which gave up Peiping's claims to large chunks of the indeterminate tribal lands between the two countries. The Communists hope that this agreement will serve as a model for far more complicated negotiations with India, with which Peiping shares a 2,000-mile frontier.

The Sino-Burman agreement indicated that despite the menacing actions of Chinese Communist troops along the Himalayan frontier last year, Peiping intends to continue the coexistence line it has so assiduously peddled since the Asian-African conference at Bandung, Indonesia, 5 years ago.

Together with this coexistence line is an attitude of uncompromising hostility toward the United States. Peiping's stand appears in many respects to be far sterner than that of Moscow. Observers here believe, however, that the two Communist partners differ more in emphasis than in fundamentals of foreign policy.

Feud with Nationalists continues

For both Moscow and Peiping, the world is divided into three groups—the Communist bloc, the capitalist bloc, and the nations in between—what Chinese Communist Foreign Minister Chen Yi calls the intermediate zone. The capitalist bloc is the "enemy," and the nations of the intermediate zone are the battlefield on which both sides are competitively trying to win friends and expand their influence.

But Peiping has problems, both with the "enemy" and with its neighbors of the intermediate zone, which Moscow is believed not to share—certainly not to the same degree.

For one thing, Peiping is still fighting a rival regime, Nationalist China, which under American protection has established itself as a going concern on the island of Formosa. The American naval and air presence in Formosan waters directly embroils Peiping with Washington. A comparable situation might be envisaged in Europe were the Berlin blockade still going on.

For another thing, whereas the Soviet Union has satellite buffers along its West

European frontier, Peiping's only two satellites are north Vietnam and North Korea—with the latter probably more under Soviet influence than Chinese.

On its southern border Peiping faces weak but prickly neighbors, extremely susceptible to the least hint that their sovereignty is being infringed.

Along its eastern sea frontier Peiping feels far more exposed than does the Soviet Union in Europe, for it is ringed by American air and sea power operating from bases in the Philippines, Formosa, Okinawa, Japan, and South Korea.

Added to this is the fact that 13 million oversea Chinese residing in southeast Asia complicate Peiping's relations with the countries of this area. One can imagine Western Europe's sentiments toward the Soviet Union were each country there to include Soviet minorities of several millions.

Historic, geographic conflict

Whereas the American presence along China's eastern sea frontier is a direct result of Peiping's own aggressive posture and the Korean war, most of the factors making for tension between the Chinese Communists and their southern neighbors are inherent in history and geography and would cause trouble whenever a strong centralized regime was in power in China, whatever the political coloration of that regime might be.

The situation is intensified by a new phenomenon: mainland China's enormous population spurt, which the regime is trying to solve, at least in part, by channeling population pressure outward from the overcrowded central provinces to the sparsely settled border provinces.

For the free nations of the West, and for the United States in particular, this situation presents opportunities and pitfalls. Far East observers believe that it would be fruitless for Washington to attempt open, direct negotiations with Peiping unless their presently irreconcilable positions over Formosa edge somewhat closer, and there is no indication that such a shift is in the offing.

Peiping desires international respectability and membership in the United Nations, but only on its own terms. Few observers believe it would be willing to give up its claims to Formosa or even to its freedom of action in order to achieve such respectability. Even if, in fact, Peiping plans to gain Formosa peacefully, it would not say so openly or tacitly, for its threat to use force and its military preparations to do so are part of the total psychological pressure it seeks to exert against the Chinese Nationalists.

Element of distrust acquired

But more subtle pressure could be exerted by the West by working through the nations of the intermediate zone, who have been convinced by the events of the past year that the Chinese Communists are at least as bad as any of the former western colonial powers.

As an astute Indian observed, whatever Peiping's future protestations of peaceful coexistence may be, its actions in Tibet have caused the Asian nations to acquire "that minimum element of distrust which is necessary in most dealings between nations"—an element which hitherto was plentifully apparent in Asian attitudes toward the West but which, because of lack of experience, had been lacking in Asian intercourse with Peiping.

This changed Asian climate will do no good to the United States if it simply tries to take cold-war advantage from it by stampeding hitherto nonalined nations into defensive alliances with one another or with the West.

But if it chooses the path that President Eisenhower and his advisers appear to have embarked upon—the unobtrusive economic helping hand, the multilateral approach toward solving problems of poverty and underdevelopment, the cooperative, sustained effort to help bring nonindustrialized nations across the threshold of self-generating economic growth—then the 1960's offer the United States and its allies the most challenging vistas of the century.

By helping China's Asian neighbors to help themselves the United States may exert a far more powerful influence on the future direction of Communist China's march than any attempts to open overall negotiations with Peiping's headstrong rulers could accomplish at this time.

Growth of mainland China's population

[Year-end figures in thousands]

Year	Population	Increase over preceding year	
		Numbers	Percentage
1949	541,670		
1950	551,960	10,290	1.9
1951	563,000	11,040	2.0
1952	574,820	11,820	2.1
1953	587,960	13,140	2.3
1954	601,720	13,760	2.3
1955	614,650	12,930	2.2
1956	627,800	13,150	2.2
1957	649,500	21,700	3.4
1958	673,000	23,500	3.6

Source: Table 14 from "China's Population," by Dr. Chandrasekhar, Hong Kong: Hong Kong University Press, 69 pages, 1959.

These figures were compiled by Dr. Chandrasekhar, director of the Indian Institute for Population Studies, from various Chinese sources. Dr. Chandrasekhar warns that there are discrepancies between 1 official publication and another, but does not consider that the rate of increase shown by these figures is abnormal, since China has a huge population to start with.

Communist China: Selected targets and performance, 1959

Commodity	Target set December 1958	Revised August 1959	Performance Jan. 22, 1960, communique
Steel.....tons	18,000,000	12,000,000	13,350,000
Coal.....do	380,000,000	335,000,000	347,800,000
Grain.....do	525,000,000	275,000,000	270,050,000
Cotton.....do	5,000,000	2,300,000	2,410,000
Cotton yarn bales			8,250,000
Cotton cloth meters			7,500,000

In cotton cloth and cotton yarn, no targets for 1959 were announced in advance. But in all these commodities, 1959 production figures are said to have approached or exceeded targets originally set for 1962—final year of the 2d 5-year plan.

UNITED STATES AND SOVIET ECONOMIES COMPARED

Mr. JAVITS. Mr. President, two officials of the Soviet Union concerned with consumer production and distribution recently expressed their amazement at the efficiency of one of our men's clothing factories and at the low retail price of the men's suits they saw. They were assured that these were not Government subsidized prices.

Their surprise is understandable if we realize that in the Soviet Union every industry is Government owned and operated. The central government is also the only supplier of durable and consumer goods, the only distributor and department store owner, and the only employer. Practically everyone who works in the Soviet Union, works for the Government, which sets wages and salaries, and also fixes the prices for all the products of industry.

A comprehensive study comparing the economies of the United States and the Soviet Union was issued last year by the Joint Economic Committee of the Congress, of which I am a member. It provides the criteria necessary to arrive at the conclusion that even though Soviet standards are low, availability rather than price is the big problem facing the Soviet consumer.

The Soviet citizen pays more than the average American for food, but lacks variety and choice. He pays more for items of personal care as well as for such luxuries as refrigerators, appliances, and automobiles, when and if they become available. For clothing he pays as much as 20 times more for comparable articles which are inferior in quality and style than Americans do. Many items, particularly in women's clothing, which Americans take for granted, are available in the U.S.S.R. in very limited quantities only as imports.

The Soviet citizen pays considerably less than we do for housing, which is heavily subsidized, but housing is still in very short supply; and for his recreational and cultural activities, which are numerous, but his per capita consumption of food is just a little more than half our own, and he uses on the average less than half as much clothing as we do.

No doubt the Russian would use more of everything if he had it, and his demands are making an impact on the present regime. The underdeveloped nations of the world are watching the efforts of the Soviet economy to gear up its production of peace goods in response to this demand because the Communists are out to convince them that they can develop faster and attain higher living standards under communism—but it is starting from way back and guns still have high priority over butter in the U.S.S.R.. This is an aspect of the economic struggle between the economies of the free world and communism, and as I have pointed out this economic struggle which the Communists call "peaceful coexistence" presents the most dangerous threat faced by the free world.

I ask unanimous consent to have printed in the RECORD an article by William M. Freeman in the New York Times of December 18, 1959, on the Russians' visit to the Robert Hall clothing distribution center in Manhattan.

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

[From the New York Times, Dec. 18, 1959]

RUSSIANS, ON ROBERT HALL PRICING: IS IT RIGGED?

(By William M. Freeman)

Two officials of the Soviet Union, here for a month's study of this country's business methods, were stopped yesterday from inspecting a Brooklyn clothing factory. They saw only the distribution plant in Manhattan.

They marveled at the conveyor belts, overhead hangers, and advanced packaging and loading procedures at the plant of Robert Hall Clothes at 333 West 34th Street. They fingered the modest price tags, discussed conversion rates briefly with their interpreter, and asked: "Is this rigged?"

The Russians were Anatole N. Romanov, who is in charge of all consumer distribution in the Leningrad district, a matter of $6 billion retail volume, and Vladimir A.

Polievkov, who is in charge of economic planning and distribution for the eastern Soviet Union. They have been here for the last 20 days, touring Chicago, Boston, Washington and Battle Creek, and they will be here for 10 more. Harold Rosner, president of Robert Hall, assured them that what they saw was the everyday operating method that sorts the output of the Brooklyn factory into loads marked for individual stores—sportswear for the South, California styles for the Far West, and so on.

The visitors, perhaps recalling Potempkin's put-up display for Catherine the Great, were particularly interested in the prices, which were considerably below Russian levels, and Mr. Rosner told them the figures on the tags were not wholesale but retail.

Apparently the Russians had assumed the prices were wholesale, and even so, very low. The Hall organization, operating a vertical business, making, distributing, and retailing its clothing, would have no wholesale business at all, of course.

The visitors conceded they had nothing like the Hall operation in their homeland, called it exceedingly efficient, and said that they would like to install it at home, although trade barriers probably would prevent it.

Mr. Rosner thereupon offered to go to Russia to assist in setting up such a distribution system in line with the overall Soviet program to improve consumer living conditions.

The Russians said they wished very much the offer could be accepted, but meanwhile they wanted to know more about production and distribution for mass markets, and especially about how Mr. Rosner bought materials. They had a pointed question on how fabrics were chosen and how styles were selected. If, for example, a fabric made up into clothing did not go over, what was done about it?

Mr. Rosner's reply summed up a basic American merchandising procedure.

"We just lower the price," he said.

The Russians paused to remark on the television and radio commercial announcements used by Robert Hall in what advertising men call a saturation technique. With the help of their interpreter, Roald Kotomin, who is an economist with the Amtorg Trading Corp., Soviet buying organization, they said the fast-talking electronic salesmen were fascinating, interesting, amusing, and extraordinary, but the visitors stopped short of saying they were good or bad.

The next stop on the visit was to have been an inspection of the Brooklyn factory, and here Mr. Kotomin held up a warning hand. Russians could visit only New York, and Brooklyn was not New York; or was it?

A hurried call to the State Department in Washington disclosed that the Russians were restricted to Manhattan in this area, with all of Long Island except a small part of Queens "off limits." It developed, incidentally, that part of the Robert Hall factory overlooked the Brooklyn Navy Yard.

With this part of the tour suddenly canceled, Mr. Rosner invited his visitors to luncheon at Le Valois, a French restaurant in the East Fifties. Here the Russians could get good American cooking, he suggested.

The visitors sampled vodka martinis and switched to straight vodka. The officials ordered steak and Mr. Kotomin broiled chicken, preceded by tomato juice and followed by home-style strawberry tarts. Then, aware that the Soviet is expanding coffee imports in line with Brazil's drive for larger world markets, they ordered coffee to help the cause along.

The luncheon ended the day's tour. On Monday they will see Seabrook Farms in southern New Jersey, of special interest because they have ordered machinery for processing frozen food. Also scheduled for shipment home is a machine to make potato chips, a delicacy they said was unknown in Russia. And they will check with their superiors on the matter of inviting Mr. Rosner to Russia to set up a Robert Hall type of organization there.

OSCAR AWARD NOMINATIONS FOR 1960

Mr. KUCHEL. Mr. President, I call the attention of my colleagues to an event we Californians regard as both colorful and important. I refer to the annual awards of the Academy of Motion Picture Arts and Sciences—the presentation of Oscars for notable film accomplishments of Hollywood during the past year.

This is the 32d year of the Oscar awards, given for pictures and to people who have made the great contributions to motion-picture making. But, in several respects, Mr. President, this award year is an especially promising one for my State's remarkable industry.

Today there is a great deal more optimism in Hollywood than I have seen in some time. And it seems well-justified optimism.

The motion picture industry has suffered hard blows in recent years—the competition of television and swiftly changing economic and social patterns. Some thought these were lethal blows for Hollywood.

But happily for Hollywood and, I think, for all of us, this pessimism has proved to be groundless. Today more Americans are going to our movie theaters than in several years past. And there is also a great and growing demand for our films overseas.

Oscar night, Monday, April 4, this year will take place on an international hookup of NBC television and radio. It will reach all of our 50 States and Canada. It has always been a great show. And knowing the people who are putting it on this year, I am sure you will have a great evening if you tune on your sets and join the audience.

Let me enumerate the nominations for the Oscars. They are as follows:

Best picture: "Anatomy of a Murder," Columbia; "Ben-Hur," MGM; "The Diary of Anne Frank," Twentieth Century-Fox; "The Nun's Story," Warner Bros.; "Room at the Top," Romulus.

Best actor: Laurence Harvey, "Room at the Top," Romulus; Charlton Heston, "Ben-Hur," MGM; Jack Lemmon, "Some Like It Hot," United Artists; Paul Muni, "The Last Angry Man," Columbia; James Stewart, "Anatomy of a Murder," Columbia.

Best actress: Doris Day, "Pillow Talk," Universal-International; Audrey Hepburn, "The Nun's Story," Warner Bros.; Katherine Hepburn, "Suddenly, Last Summer," Columbia; Simone Signoret, "Room at the Top," Romulus; Elizabeth Taylor, "Suddenly, Last Summer," Columbia.

Best supporting actor: Hugh Griffith, "Ben-Hur," MGM; Arthur O'Connell, "Anatomy of a Murder," Columbia; George C. Scott, "Anatomy of a Murder," Columbia; Robert Vaughn, "The Young Philadelphians," Warner Bros.; Ed Wynn, "The Diary of Anne Frank," Twentieth Century-Fox.

Best supporting actress: Hermione Baddeley, "Room at the Top," Romulus; Susan Kohner, "Imitation of Life," Universal-International; Juanita Moore, "Imitation of Life," Universal-International; Thelma Ritter, "Pillow Talk," Universal-International; Shelley Winters, "The Diary of Anne Frank," Twentieth Century-Fox.

Best director: William Wyler, "Ben-Hur," MGM; George Stevens, "The Diary of Anne Frank," Twentieth Century-Fox; Fred Zinneman, "The Nun's Story," Warner Bros.; Jack Clayton, "Room at the Top," Romulus; Billy Wilder, "Some Like It Hot," Ashton Productions and the Mirisch Co., United Artists.

The PRESIDING OFFICER (Mr. YOUNG of Ohio in the chair). Is there further morning business? If not, morning business is closed.

CALL OF THE ROLL

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

Mr. DIRKSEN. Mr. President, would the Senator withhold his request for the time being?

Mr. JOHNSON of Texas. Mr. President, I withdraw the request.

The Chief Clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

Aiken	Gore	Monroney
Brunsdale	Green	Proxmire
Carlson	Hayden	Russell
Case, S. Dak.	Holland	Saltonstall
Chavez	Hruska	Schoeppel
Church	Javits	Stennis
Dirksen	Johnson, Tex.	Wiley
Douglas	Keating	Williams, Del.
Eastland	McNamara	Young, Ohio

Mr. MANSFIELD. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Minnesota [Mr. MCCARTHY], and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business.

I also announce that the Senator from Oregon [Mr. NEUBERGER] and the Senator from Missouri [Mr. HENNINGS] are absent because of illness.

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

The PRESIDING OFFICER. A quorum is not present.

Mr. JOHNSON of Texas. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. ALLOTT, Mr. ANDERSON, Mr. BARTLETT, Mr. BEALL, Mr. BENNETT, Mr. BIBLE, Mr. BUSH, Mr. BUTLER, Mr. BYRD of Virginia, Mr. BYRD

of West Virginia, Mr. CANNON, Mr. CAPEHART, Mr. CARROLL, Mr. CASE of New Jersey, Mr. CLARK, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DWORSHAK, Mr. ELLENDER, Mr. ENGLE, Mr. ERVIN, Mr. FONG, Mr. FREAR, Mr. GOLDWATER, Mr. GRUENING, Mr. HART, Mr. HARTKE, Mr. HICKENLOOPER, Mr. HILL, Mr. JACKSON, Mr. JORDAN, Mr. KEFAUVER, Mr. KENNEDY, Mr. KERR, Mr. KUCHEL, Mr. LAUSCHE, Mr. LONG of Hawaii, Mr. LONG of Louisiana, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MARTIN, Mr. MCCLELLAN, Mr. MCGEE, Mr. MORSE, Mr. MORTON, Mr. MOSS, Mr. MUNDT, Mr. MURRAY, Mr. MUSKIE, Mr. PASTORE, Mr. PROUTY, Mr. RANDOLPH, Mr. ROBERTSON, Mr. SCOTT, Mr. SMATHERS, Mrs. SMITH, Mr. SPARKMAN, Mr. SYMINGTON, Mr. TALMADGE, Mr. THURMOND, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of North Dakota, entered the Chamber and answered to their names.

The PRESIDING OFFICER. A quorum is present.

ORDER OF BUSINESS

Mr. JOHNSON of Texas. Mr. President, I should like to announce, for the information of the Senate, that I am informed that there will be quorum calls from time to time, and the attachés at the desk will announce the number of Senators present on the quorum calls. I hope all Senators realize that, as an agent of the Senate, I have agreed with the minority leader and other Members of the Senate that we would give due notification of the debate on civil rights bills, and that a bill to which civil rights amendments could be offered would be motioned up. I have met that honorable commitment, which I believe I made.

I have no doubt that many Senators do not desire to have a vote of any kind taken on any kind of civil rights bill. Therefore it will be necessary for us to have later sessions, and therefore it will be necessary for Members to be readily available if live quorums are called for, as the minority leader called for the last one.

So I want all Senators to know that if they expect to be recorded, they will have to be present in the Chamber and answer to their names, when called; and I hope they will not make evening engagements until this matter is disposed of, unless they are prepared to miss votes.

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

Mr. JOHNSON of Texas. I yield.

Mr. MANSFIELD. I wish to announce to the leadership and to the Senate that I was in a committee meeting this morning; the meeting was presided over by the distinguished junior Senator from Washington [Mr. JACKSON], and was also attended by the senior Senator from South Dakota [Mr. MUNDT] and the senior Senator from Connecticut [Mr. BUSH]. We did not hear the quorum bells; and if I had not left the meeting a little ahead of time, to come to the Senate Chamber, I would have missed the last quorum call.

I think this explanation should be made, because had those Senators heard the quorum bells, they would have been present in the Chamber and would have answered to their names. As it is, they are being detained on official business, and are not in the Chamber now, because of the fact that no quorum bells were heard in that particular committee room.

LEASING OF PORTION OF FORT CROWDER, MO.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business which will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 8315) to authorize the Secretary of the Army to lease a portion of Fort Crowder, Mo., to Stella Reorganized Schools R–I, Missouri.

The PRESIDING OFFICER. The question is on agreeing to the first amendment submitted by the Senator from Illinois [Mr. DIRKSEN].

NATIONAL DEFENSE

The PRESIDING OFFICER. Under the order previously entered, the Senator from Illinois is recognized.

Mr. DIRKSEN. Mr. President, at the outset, let me say that I am always reluctant to have a live quorum called for. I have no pride about the matter; I am never particularly interested in whether the Chamber is full or partially full, or whether only a scattering of Members is present. But a number of Members inquired, because they wished to be on hand today for whatever remarks I might make; and, inasmuch as I did not see them appear after we had come to the end of the first call, I thought it only appropriate, under the circumstances, that a live quorum be present. But I do that only when I feel impelled to do so.

Mr. President, this morning I was quite intrigued by the remarks made by the majority leader on the general subject of security. I do applaud his statement. It was brief, but it was to the point. If I am able to reconstruct it, I believe he said that no thinking person believes that we do not have an adequate defense, and that the nub of the problem, or the controversy before us, is the progress we are making in that field, so that our defense may remain adequate in the days and the years which lie ahead.

This matter was rather thoroughly ventilated on the floor of the Senate on Friday last. I believe I heard virtually all the debate. I had hoped to intrude myself at that time. But there are chores which must be disposed of from time to time, and the hour was growing late, and some Members wished to catch planes; and I did not feel that at that time I wished to take time, at the inconvenience of some Members of the Senate.

However, I feel that some things should be said, and some comments should be made. My remarks will not be world shaking, by any means. I make no pretentions to possessing expert knowledge in this field. I am not a member of the Preparedness Investigating Subcommittee; neither am I a member of the Armed Services Committee. No longer am I a member of the Appropriations Committee, and, therefore, I cannot serve on the Appropriations Subcommittee, which deals with our Armed Forces. So whenever items which would presuppose expert knowledge are to be discussed, I very fairly confess that perhaps I have no answers; and I do not try to rebut a statement or an allegation unless I feel, on the basis of knowledge, that I am in a position to do so.

I had hoped to make a statement last night, but the hour became too late. So I was constrained to request unanimous consent to be recognized to make this statement immediately after the morning hour today.

One reason why I thought perhaps I could make the statement yesterday was that it seemed timely to the occasion, for on yesterday we observed the 228th anniversary of the birth of the first Commander in Chief of this Republic, George Washington. In view of the fact that much of the debate can direct itself toward the present Commander in Chief, 228 years later, therefore, if for no other reason, the session on yesterday would have furnished a slightly romantic, and certainly a historic, background against which to present my remarks. That is why I thought I might discuss this matter here on yesterday.

First, Mr. President, I wish to allude, of course, to the address made by the President to the country on Sunday evening. At this time I ask unanimous consent to have printed in the RECORD, in connection with my remarks, only page 2 of the President's statement to the country, as it was released.

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

I hope to make clear, on my journey, that our military programs at home and abroad have been designed for one purpose only—the maintenance of peace, as important to Latin America as to us.

That there is need for these programs, postwar history clearly proves.

For the first 5 years after World War II, we in the United States, hopeful of a global and durable peace, pursued a policy of virtual unilateral disarmament. But the blockade of Berlin, the military weakness of our European friends living face to face with the Communist menace, and finally the Korean war—together with arrogant threats against other peaceful nations—belatedly made it clear to us that only under an umbrella of military strength could free nations hope to make progress toward an enduring just peace. World uneasiness rose to the point of alarm.

Since then our Nation has developed great arsenals of powerful weapons to sustain the peace. We have created a great deterrent strength—so powerful as to command and to justify the respect of knowledgeable and unbiased observers here at home and abroad.

Our many hundreds of Air Force bombers deployed the world over—each capable of unleashing a frightful destruction—constitute a force far superior to any other, in numbers, in quality, and in strategic location of bases. We have, in addition, a powerful nuclear force in our aircraft carriers and in our host of widely deployed tactical aircraft. Adding constantly to these forces are advanced types of missiles steadily augmenting the armaments of all ground and other military units.

As for longer range ballistic missiles, from a standing start only 5 years ago we have literally leaped forward in accomplishments

no less than remarkable. Our Atlas missile, already amazingly accurate, became operational last year. Missiles of intermediate range are in forward bases. The first Polaris missile submarine—an almost invulnerable weapon—will soon be at sea. New generations of long-range missiles are under urgent development.

Collectively, this is a force not unduly dependent upon any one weapon or any one service, not subject to elimination by sudden attack, buttressed by an industrial system unmatched on earth, and unhesitatingly supported by a vigorous people determined to remain free. Strategically, it is far better situated than any force that could be brought to bear against us.

As we have strengthened these defenses, we have helped to bolster our own and free world security by assisting in arming 42 other nations—our associates in the defense of the free world. Our part of this indispensable effort is our mutual security program. It makes possible a forward strategy of defense for the greater security of all, including our neighbors to the south.

I am certain that our Latin American neighbors, as well as you here at home, understand the significance of all these facts.

We have forged a trustworthy shield of peace—an indestructible force of incalculable power, ample for today and constantly developing to meet the needs of tomorrow. Today, in the presence of continuous threat, all of us can stand resolute and unafraid—confident in America's might as an anchor of free world security.

Mr. DIRKSEN. Mr. President, I shall refer to only two or three statements which the President made in the course of his address, because I am quite sure that every Senator either heard the address or has had an opportunity to examine it.

Among other things, the President said this, speaking about World War II:

Since then our Nation has developed great arsenals of powerful weapons to sustain the peace. We have created a great deterrent strength—so powerful as to command and to justify the respect of knowledgeable and unbiased observers here at home and abroad.

Now, the words in the phrase that struck me most forcefully in that statement were "great arsenals of powerful weapons."

I think that one phrase "keys" the policy and "keys" the direction in which the administration has been going. There has not been mere emphasis on one weapon or another. There has been a sheaf of weapons. It has been a collection of weapons. It has been a balanced arsenal of weapons. The President made a very timely selection of words in that statement when he said, "great arsenals of powerful weapons."

With respect to missiles, the President said:

As for long-range ballistic missiles, from a standing start only 5 years ago we have literally leaped forward in accomplishments no less than remarkable.

I call attention to the words "from a standing start." I think history bears out pretty well, insofar as I know, and insofar as I have had an opportunity to examine the record, that, in truth and in fact, it was an effort made from a standing start in the missile field.

So when the catalog is examined, when all these categories are examined, when we look at and see what we have at the present time, I think it can be said with the Commander in Chief that our accomplishments were no less than remarkable.

I call attention to one other statement by the President. He said:

We have forged a trustworthy shield of peace—an indestructible force of incalculable power, ample for today and constantly developing to meet the needs of tomorrow.

The Commander in Chief was dealing with what is in being, he was dealing with fact, he was dealing with actuality, and then he was dealing with the future when he stated, "constantly developing to meets the needs of tomorrow."

I have enough faith, I have enough confidence, in the Commander in Chief and his dedication to his responsibilities, first, as Chief Executive under the Constitution, and as Commander in Chief of the Armed Forces, to feel that when he made that statement he was standing on solid ground.

I believe the message had a tonic effect upon the country. If there were pockets of anxiety, I believe they were allayed. If there was confusion—and there is confusion—and I confess my own confusion at times—I think a great deal of it was dispelled. The accent for the people was put where it should be, because the President was speaking of a package of strength.

Finally, when he mentioned, in this highly controversial field, that we were getting off from a standing start, I think our people can fully understand it.

Now, I would add some observations to all this with respect to the statement made by the very distinguished Senator from Missouri [Mr. SYMINGTON] on Friday of last week.

First, Mr. President, I freely concede that he speaks with some weight of authority. He was in the military forces in World War I, when I served in the First World War. He was Assistant Secretary of War for Air in 1946 and 1947. He was Secretary of the Air Force from 1947 to 1950. He was Chairman of the National Security Resources Board in 1950, 1951, and 1952. I am sure that information is correct, because it comes from the pages of "Who's Who," 1958–59 edition.

I do not pretend to enter the lists with a man who has had such excellent background, because, at best, I can only boast that I came through the ranks as a private, as a private first class, as a corporal, as a line sergeant, and as a second lieutenant. That was the end of my military experience. Certainly I would not venture myself as a protagonist against so distinguished and at once so worthy an opponent. But first I want to allude, of course, to this whole defense dispute and to one thing the distinguished Senator offered as a fact.

On page 9 of his prepared, published statement, there is fact No. 8. Now, Mr. President, with me a fact is an actuality. A fact is a reality. A fact is an irresistable, stubborn thing. And there is no qualification of a fact. Two and two equal four. That is a fact. Stand on your head—it is still a fact. Go to Hong Kong, or Singapore, or the Fiji Islands, or Berlin—it is still a fact. And it is an unequivocal fact. And so I examined one of these facts, and I read it to Senators verbatim:

Fact No. 8: Gen. Thomas Power, commander of the Strategic Air Command, stated on January 19, 1960, that the Soviets could at that time destroy 95 percent of all the U.S. retaliatory forces if—

And what a big "if"—

they had 150 ICBM's and 150 IRBM's and if we had no airborne alert.

The Soviets already have large numbers of IRBM's and will soon have large numbers of ICBM's.

Now, that is not all General Power said, and that is the reason why I quarrel about it when, as justification, we say the taxpayer pays the bill and he has a right to know. Well, in this regard, I give him the right to know everything; and do not escape the fine print in the contract, because what General Power said along with that statement, if I am informed correctly, was that this was "a mathematical calculation."

Mr. President, we have a hard time finding that statement when the story goes out to the country under these amazing headlines. There was a headline from the Herald Tribune dated February 20 which read, "Deception on Missiles Laid to Administration."

We know the penchant of our people, and we know our own weaknesses, in examining the first paragraph of an article, but it is the headline that makes the impression, and there it is: "Deception on Missiles Laid to Administration."

The same day this news story was reported in the Washington Star—and I have the quotation here in the file—something else was added, and that something was a statement by an Air Force spokesman, quoted in the Washington Star of February 9, 1960. He was commenting on the Power statement. Incidentally, when I saw it without any qualification, I thought, "This is incredible." It is what impelled me to take the floor and lament the fact that all these things were "dished up" not merely for the information of our people, but for the information of the whole wide world, including our enemies, as I shall presently establish.

But the Air Force spokesman on that day, February 9, 1960, said, "On a hypothetical set of circumstances." Now, if that is a fact, I will eat it.

I like the story about the fellow who saw an automobile accident in my town. They put him on the witness stand, and after they qualified him, the attorney said, "Did you see the accident?"

He answered, "Yes, sir."

The attorney said, "How far away were you when it happened?"

Without hesitation, the witness said, "22 feet 9¾ inches."

The attorney said, "Now, smart aleck, tell the court and jury, how do you know?"

The witness said, "When it happened, I measured from where I stood to the impact, because I knew some fool lawyer like you was going to ask me that question."

Now, these questions are asked. All I say is, and the only plea I make is, that if it is a fact I will respectfully stand back

and not argue with it, but I want no equivocal facts, and I want no qualified facts, because they are not facts within my estimate of the situation. That is the first point I make about the discussion which took place on Friday last.

Secondly, I cannot help raising my voice with respect to the dubious value of the ventilation of a good many of these matters, simply because it is alleged that it is in the public interest, that the people should know, that of course it will resolve the confusion. If one could get the whole story before the people, I would have no quarrel, but I know the necessities and the verities of the situation—how much and how little space is available, ofttimes, to tell the story. I know something about the weakness of readers' interest, and what makes a good headline.

This makes a good headline, "Deception on Missiles Laid to Administration." It is a wonderful headline, but I am not sure that it adds to the confidence of our people in their Government, whether it be this or any other Commander in Chief or this or any other administration. So I have had some doubt about the value of dilating on these matters; and my doubt continues to grow.

There was a speech in the House of Representatives on February 8. Under the rule I cannot mention the name of the Representative who made the speech, but he is a very distinguished Member and a committee chairman. I hope, Mr. President, it will not be charged that I violate the rules. I try only to identify the speech and not to identify the individual.

In that speech the Representative said we ought to stop listening "to the admirals." I do not know whether he used the term generically to include generals also. I do not know. But that goes out to the country. Does it add up to understanding, or does it add up to confusion?

Of course we had distinguished witnesses before the committee—Admiral Burke, General Power, General Twining and Secretary Gates. I thought—and this is wholly a personal opinion—that Admiral Burke, our Chief of Naval Operations, when he appeared before the House Committee on Science and Astronautics, made a sensible summation of the whole matter. He said:

> The defense argument stems from the fact that sincere men can make different judgments on future strength.

But what are the people to get from this? What are the people to divine? Does this add up to information for the public? I have some very, very grave doubts about it.

We of course know the responsibility of Congress in this field. I know the responsibility of the committees of the Congress. I can generally always commend them for their factfinding explorations, even when I disagree. But our national security is such a delicate thing that unless every shade of opinion and every aspect of the matter, in proper and balanced context, is gotten out to the country, I am not sure reports dispel the confusion of our people and add up to anything of truly durable value.

The next observation I wish to make is that when I speak about influencing the rest of the world on the subject it gives me some concern. I have in my hand a monitored radio broadcast from Peking, China. It was uttered on the 7th of February 1960. I suppose whoever gave it used the headline, "Bitter Charges in United States Over Rocket Lag."

This is a shortwave broadcast beamed at Asia and Europe. When one says "Asia," that refers to Red China. When one says "Europe and Asia," that includes the Soviet Union. That is not a happy headline—"Bitter Charges in United States Over Rocket Lag."

Mr. President, I ask unanimous consent to have the monitored broadcast printed in the RECORD at this point as a part of my remarks.

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

BITTER CHARGES IN UNITED STATES OVER ROCKET LAG

(NCNA, radioteletype in English to Europe and Asia, February 7, 1960, 1958 GMT–B.)

PEIPING, February 7.—Serious disputes and accusations broke out recently among U.S. ruling circles both within and outside Congress over the fact that the United States was lagging far behind the Soviet Union in the fields of missiles and outer space exploration, according to reports from Washington. The disputes reflected the panic and desperate struggle of the admirers of the policy of "positions of strength" once they had lost that "position." The disputes, which were called the great debate on U.S. military policy, were started by opposition Democrats, particularly influential Democrats who had announced that they would and were ready to take part in this year's presidential election campaign. One after another they delivered speeches or testified in Congress, attacking the Republican government for "lagging" in the development of missiles and for its responsibility for the missile gap between the Soviet Union and the United States.

At a meeting launching the 1960 election campaign of the Democratic Party, the former President, Harry Truman, accused the Eisenhower administration of "indecision" and "neglect of a number of crucial issues," including space and military questions, and for being the "worst government" the United States had had for scores of years. One of the Democratic presidential candidates, Senator STUART SYMINGTON, accused Eisenhower of "not taking count of the startling changes which have come about since he came into office in 1953." Contrasting the military strength of the Soviet Union with that of the United States, he said, "In the missile field, the Russians are ahead, in the space field they are way ahead. They have more submarines than we have. In ground forces they are ahead. Only in long-range bombers can we claim any advantage at this time. But even here the problem is that the bombers are getting obsolescent and their deterrent value diminishes." SYMINGTON admitted that the United States would become a second-rate power.

Senate Leader LYNDON JOHNSON, Senate Deputy Leader MIKE MANSFIELD (both Democrats—NCNA), chairman of the Senate Armed Services Committee RICHARD RUSSELL, and Democratic Senators HUBERT HUMPHREY and JOHN KENNEDY, who have announced that they will take part in the presidential election campaign, all used the missile lag as their major attack against the Republican government. At the same time, they insisted that the United States should greatly increase its military spending to develop missiles.

MANSFIELD said dejectedly that, during the past decade, the Soviet Union made great strides in the economic, space, and the military fields, while "we have seen a period of Roman decadence as far as our own country is concerned." After the Soviet launching of a powerful rocket into the Pacific, JOHNSON said that this constituted the most serious danger the country had ever faced. Democratic Senator RALPH YARBOROUGH lamented that the United States was lagging pitifully and terribly.

Senator KENNEDY said that Eisenhower had led the United States to an unfavorable military position compared with the Soviet Union. He was in favor of increasing the military expenditure for the coming year. Joining the attack against the Government, the former Army Chief of Staff, Maxwell Taylor, even wanted the United States to increase annual military expenses from the present $41 billion to $50 or $55 billion in the next 5 years, so as to increase U.S. strength.

The attacks made by the Democratic Party have put the Eisenhower administration in an awkward position, because they have further exposed the outwardly strong but inwardly weak U.S. position of strength. AFP reported that the U.S. Government was launching a nationwide campaign in defense of U.S. military strength. The objective of the campaign was to reassure American opinion, the allies, and the noncommitted countries who are beginning to express serious doubts as to the chances of the United States regaining the lead in the field of cosmic exploration. But, in the face of ironclad facts, the report said that the senior officials in charge of operation truth would have to avoid any attempt to minimize the caliber of Soviet cosmic achievements. These successes are too evident.

At meetings of the Senate and the House committees in charge of investigation, U.S. Secretary of Defense Thomas Gates took the lead to defend the U.S. Government. On the one hand, he had to admit the advance and might of Soviet science and technology, but, on the other hand, he tried his best to minimize the missile gap between the Soviet Union and the United States. He blatantly said that the U.S. Defense Department had estimated formerly that the Soviet superiority in ICBM's could be in the order of 3 to 1 in the period 1960–63, but the present estimate was that the Soviet Union enjoyed a moderate numerical superiority. But Gates could not give any facts to back his new estimate. Consequently, this had given rise to general doubts both within and outside the U.S. Congress.

During one of the roughest press conference pummelings in many years in Washington, Gates lamely conceded that his estimate was based on the Defense Department's recognition of "what the Soviet Union will probably do" and not on the Soviet Union's actual capability in producing missiles. After Gates' statement, many Congressmen and leading papers accused him of being irresponsible and disgraceful. Senate Democratic Leader JOHNSON pointed out that U.S. estimates of the strength of the other side were often construed from "wishful thinking, the easy way out, escape from reality, and avoidance of the hard facts of life." He added that these "are the sure roads to disaster." U.S. Strategic Air Commander Thomas Power also said that, "with only some 300 ballistic missiles, the Soviets could virtually wipe out our entire nuclear striking capability within a span of 30 minutes; only about half of these missiles would have to be ICBM's."

CIA Director Allen Dulles said that, to a larger extent, the Soviet Union surpassed

the possibility which the world expected of it in gaining scientific and technological achievements. At present, although there are persons abroad who still cherish the hope that the United States would catch up with the Soviet Union, it is seen that, in the next 5 to 10 years, doubts regarding the realization of this possibility would increase.

At the same time, the U.S. Government was strenuously advocating more intensive arms expansion. Recently, U.S. President Eisenhower repeatedly stressed that the United States would greatly develop missile weapons and requested Congress to increase appropriations for the study of large-size rocket engines. He also indicated that, in fiscal year 1960, the U.S. Government's expenditure for missiles "is getting close to the point where money itself will not bring you any speed, any quicker development."

Vice President RICHARD NIXON insisted that militarily the United States "must maintain sufficient strength" and should not cut military expenses. "Under no circumstances should the United States or its allies reduce their strength," he said. Defense Secretary Gates stressed that the United States should improve the retaliatory capability for a general war and maintain the capability for local wars. He indicated that the United States was speeding the development of ballistic missiles, military satellites, and long-range bombers. Gates did not disguise his opposition by saying that "negotiations with the Soviets will result in agreements that will ease our defense problems."

Mr. DIRKSEN. Mr. President, I shall read only a few parts of the broadcast.

Serious disputes and accusations broke out recently among U.S. ruling circles both within and outside Congress over the fact that the United States was lagging far behind the Soviet Union in the fields of missiles and outer-space exploration, according to reports from Washington.

It is so easy to utter speeches on this floor. The next day they are in the headlines 10,000 miles from the Senate Chamber. I have a right, I think, to ventilate my own fears in that respect when the wrong thing is said.

The broadcast goes on:

The disputes reflected the panic—the panic—and desperate struggle of the admirers of the policy of "positions of strength" once they had lost that "position." The disputes, which were called the "great debate"—

They do not miss anything. They know all the changes—

the "great debate" on U.S. military policy, were started by opposition Democrats, particularly influential Democrats who had announced that they would and were ready to take part in this year's presidential election campaign. One after another they delivered speeches or testified in Congress, attacking the Republican government for "lagging" in the development of missiles and for its responsibility for the "missile gap" between the Soviet Union and the United States.

I shall read one further paragraph, and that is enough for my purposes:

At a meeting launching the 1960 election campaign of the Democratic Party, the former President, Harry Truman, accused the Eisenhower administration of "indecision and neglect of a number of crucial issues," including space and military questions, and for being "the worst government" the United States had had for scores of years. One of the Democratic presidential candidates, Senator STUART SYMINGTON, accused Eisenhower of "not taking account of the startling changes which have come about since he came into office in 1953."

They read that or heard it in China, and they heard it in Korea. They heard it in Vietnam. They heard it in Burma. They heard it in Europe.

Do Senators think for 1 minute that the present Commander in Chief has not taken account of the changes in military posture and military developments since he has been in office? I sat with him long; and I will stake my chips on the fact that for 41 years he has given the best of his life to the defense and security of this country. But when we talk on the hustings, I make full allowance for the liberties we take in a campaign. I have taken them myself. But I believe that when we enter this delicate security field, it calls for some restraint, because a country—a blessed country—and its survival are involved. That is one matter that distresses me somewhat.

When we talk about fields in which supposedly we lag, there is always brought into purview, I think, the question of "How great the peril?" Someone may very well assail these rather casual remarks I make on the ground that back in the early days perhaps there was not so much danger; but now we must lay everything out so that the whole world can see, because the peril was never greater.

Let us take a look. Here is a report from the Subcommittee on Investigation of the Preparedness Program. This is the 39th report. It was messaged to the chairman in a letter of submittal on June 17, 1952. Our distinguished majority leader, the Senator from Texas [Mr. JOHNSON], was the chairman. Let me say, where all the world can hear, that he is a distinguished Senator, a distinguished citizen, and a distinguished leader. I have abundant confidence in him.

What was said in this report was nothing more than something to show how an estimate at one time can be so far afield, and why we should exercise an abundance of caution when we throw allegations and figures around, sometimes a little carelessly. I shall read from page 5 of the report. The subtitle is "The Stretchout." By way of background, I may say that there was a good deal of feeling about stretching out procurement and the expansion of our Air Force. I read from the report:

But even more important than these delays was the decision of the President and his advisers to postpone the attainment of air strength for a period of about a year. This is commonly referred to as the stretchout, a step that was taken for fiscal reasons.

I will get to the fiscal reasons in a little while.

This decision, according to Secretary Lovett, "involved the acceptance of a considerable degree of calculated risk." It meant a cutback of current as well as future production. It meant fewer deliveries of planes to Europe.

This is the salient part:

In a memorandum commenting on the stretchout, the Joint Chiefs of Staff made the following statement: "The Joint Chiefs of Staff desire to reaffirm that they consider the general period of 1954 to be the most dangerous for the security of the United States in the foreseeable future."

Were they right? I thought 1954 was a quiet and tranquil year. The President had been in office for a little while. The country was going forward. We had resolved the difficulties in Korea. So the era of 1954, which was said to be the most dangerous in the foreseeable future, did not turn out to be so dangerous after all. Do not ask me why. I do not know. I know, however, what the history books show. I know what happened in January, February, March, April, May, June, July, August, and September. I need only to look at the chronology in the World Almanac, or in the encyclopedia, or to look in my own notes to find out what happened. The danger was not there. It did not come in 1955, 1956, 1957, or 1958. Where was the great peril in 1954?

It might be argued that that proves that leaders can make mistakes. Perhaps General Power made a mistake too. I think we should be cautious indeed how we drape the sun, the moon, and the stars with all the figures, and even threaten to release the intelligence figures unless we get an answer. The threat was later withdrawn. It does not make me very happy, when we are dealing with the whole delicate question of the security of the country.

There are differences of opinion about this whole business. But there is one thing on which I do not believe there can be a difference of opinion, and that is the interest in his country, his fidelity, his patriotism, and his anxiety about its security and its survival, of the Commander in Chief 228 years after the first Commander in Chief of this Republic was born.

It distresses me no end when it is made to appear that the Commander in Chief puts a balance sheet, and money, above our survival. The critics will ring the changes. We shall hear them—money versus security.

On February 3, 1960, the distinguished Senator from Missouri [Mr. SYMINGTON]——

Mr. SYMINGTON. Mr. President, will the Senator yield for an observation? If the Senator wishes to talk about me, will he turn in my direction, so that I can hear what he is saying?

Mr. DIRKSEN. I thought I was talking loud enough.

Mr. SYMINGTON. The Senator seems to be talking to the other side all the time. Since I am here, I should like to be able to hear what he has to say.

Mr. DIRKSEN. Most of the congregation is sitting on this side of the church. [Laughter.]

The PRESIDING OFFICER. The occupants of the galleries are guests of the Senate, and they will remain silent.

Mr. DIRKSEN. On February 3, 1960, the distinguished Senator from Missouri made a speech to the National Democrat Club in New York. To be exact, the club is located at 223 Madison Avenue. From reading the columns from day to day I

thought "Madison Avenue" was an exclusive term applied to us Republicans, but this club is located on Madison Avenue.

That was reported——

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

Mr. DIRKSEN. Will not my good friend wait for a little while? I will yield to him later.

Mr. ERVIN. I did not want the Senator to say that that is exclusively Republican, because I understand that some people on Madison Avenue worked on Democratic projects, also, and they even tried to change the name of the Democratic Party to the Democrat Party.

Mr. DIRKSEN. If the Senator is not careful, he will spoil a good speech. [Laughter.]

They bring out the Madison Avenue boys, and I always thought they meant us. At least, the club is located on Madison Avenue in New York City. This is what the New York Journal reported on February 4:

Mr. SYMINGTON was speaking of old guard Republicans, those who put Hoover in office, those who put Dewey in office.

I was for Hoover. I am proud of it. I think he was one of the greatest Americans then and is now that this country ever produced. I was for Dewey. I may have said some things that he did not like, on occasion. [Laughter.]

But I was still for him. The world will admit and everybody will admit that he is one of the greatest administrators in our Government this country has ever seen.

So I am tarred with the characterization of being an old guard Republican. This is what the distinguished Senator from Missouri had to say:

They are willing to juggle the intelligence books to balance the budget books, and give the people a false impression of our relative security in this troubled world.

Mr. President, I have a right to regard that as putting security in the political field. That statement was made before a Democratic club. It was a political speech. It was an attack upon this administration and many members of it. And it was an attack on me, because I suppose I am included by this term "old guard Republican."

So many terms have been fastened on me that sometimes I do not know which I must own up to. I am just a garden variety Republican who, like Lincoln, believes in the Constitution and in the Bill of Rights and in our free-enterprise system, and who wants to see the country go forward, so that those who will be the legatees of what we do here or fail to do will have a full, fair, and decent chance to enjoy the same benefits we have had in our generation.

There is the issue of money versus security:

They are willing—

Willing? That must show an enthusiastic disposition to do it. When it is said that a man is willing, he is champing at the bit; he is waiting—

to juggle the intelligence books to balance the budget books.

He is willing to put mammon ahead of his country. He is willing, in the interest of a balanced budget, to take a chance upon the survival of the country for whose protection he took an oath.

I do not like it. I will say that anywhere. I say it to the Senator from Missouri. I want the country to know how I feel about it. Then I want the country to know how the Senator from Missouri felt about it.

It is best to be careful about throwing stones around in this man's town and in this political arena, because often the book rises up to haunt one. The book is read on me once in a while, but I take it that is part of the business. Is it not, my friends? One needs a tough hide in this business. One really does.

The distinguished Senator from Missouri appeared in Montclair, N.J., before a meeting, in 1952. To be exact, it was on March 14. It was reported the next day in the New York Herald Tribune. What was happening was that he was receiving an award from Yale alumni.

Mr. President, I ask unanimous consent to have the whole article printed in the RECORD at this point. I will read one paragraph.

Mr. ERVIN. I dislike to object, but I would like to hear the article read. I do not know what it is.

Mr. DIRKSEN. May I say to the distinguished Senator from North Carolina that the print in this article is rather fine, and my bifocals are not working too well this morning. I will put the whole article in the RECORD. Most of it relates, of course, to the award, and so forth.

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

[From the New York Herald Tribune, Mar. 15, 1952]

DANGER OF U.S. COLLAPSE TOLD BY SYMINGTON—HE WARNS YALE ALUMNI UNPRECEDENTED SPENDING MAY LEAD TO BANKRUPTCY

MONTCLAIR, N.J., March 14.—STUART SYMINGTON said here tonight that Communist Russia may be relying on an economic collapse of the United States to keep it out of an all-out atomic war.

The former Administrator of the Reconstruction Finance Corporation spoke at a meeting of the Yale Alumni Association in the Montclair Golf Club at which he received the 1952 Montclair Yale Bowl Award as the outstanding alumnus of the university.

"Perhaps the Politboro," he said, "will now rely on their silent weapons, such guns as crippling taxes, unprecedented spending, inflationary tendencies and the consequent effects on that personal incentive and corporate initiative—

Mr. DIRKSEN. I read the last paragraph:

"I have great respect for most of our military leaders" he continued, "but as sure as the sun is coming up tomorrow, if military appropriation requests are not checked at least as carefully as all other appropriation requests, this armament program can only end in national bankruptcy."

That is not I saying it. That is the distinguished Senator from Missouri saying it. He said it when he received an award in 1952. What does anyone think the President has been doing? He does not want the country to go into bankruptcy. He is charged with some regard for the budget, and very properly so. He tries to put this whole matter into proper balance. Consequently, who shall say that in so doing and in thinking of a balanced budget, to dampen the fevers of inflation, the President of the United States should be charged with putting money above security; and that these amazing headlines should develop over whether or not he was misleading the country? That is a rather amazing thing. It is a matter of deep concern to me.

There is still another statement to fortify what I am saying. I do not depend on that alone. The distinguished Senator, when in his capacity with the Air Force, appeared before the Armed Services Committee of the House on January 27, 1949, and in responding to a question, said:

What the military and Air Force consider is essential to security, sir, is not paramount, as I see it. Anybody against us can win in two ways. The first would be in battle, and the second would be by forcing us to spend more money than the country could afford, getting into deficit spending.

He was an official of the Government. He was charged with high responsibility. He said that what the military thought about it in the field of security was not paramount. He said others could win against us in battle, but they could also force us "to spend more money than the country could afford, getting into deficit spending."

What does anyone think the President of the United States has been trying to do? He has a responsibility, even as we have, to keep the country on an even keel.

I do not quarrel with the distinguished Senator from Missouri about that statement. I only quarrel when an ulterior purpose may be ascribed to the present Commander in Chief with regard to a balanced budget, deficit financing, and a regard for our first line of defense, which is the home line, and that he has no proper regard for security and for survival.

I add one other thing, because when the distinguished Senator from Missouri was about to say farewell to his job, the New York Times made the following statement:

SYMINGTON said that although he was convinced of the need for 70 air groups, he supported the Truman budget "without any reservations whatsoever."

The former Secretary of the Air Force said he was convinced that the country should have 70 air groups. Many people were convinced that we should not have that many. But he supported his Commander in Chief's budget without reservation. I add that statement because so long as the Almighty gives me breath, I expect to defend the Commander in Chief of the United States against any allegation whatsoever that he is so devoted to a balanced budget that the consideration of security and the survival of this blessed country becomes secondary.

There are some other things I suppose I could add to these rather casual remarks. We can differ, and we shall differ from time to time. But when all is

said and done, so much of what we say is opinion, and we ought to be careful how we throw it around. If we want to reflect on how we differ, let us consider what happened to the defense appropriation bill last year.

The House reported a $38.8 billion bill. They passed it by a rollcall vote of 329 to 3.

The Senate passed a bill, by a vote of 39 to 6, which provided $800 million more.

So the House and Senate differed on how many hundreds of millions of dollars should be provided in the bill.

The bill went to conference. What happened? The conference split the difference. The conference report was approved in this body by a vote of 85 to 0. Talk about differences? There they are. When the House reported the defense bill last year, it made this significant statement:

> The Joint Chiefs of Staff as a corporate body is not providing the kind of advice and leadership which this country requires.

That is a great reflection upon great leaders who have given their lives to training themselves for these responsibilities. Yet the House committee indicted them, broad scale, when it said:

> The Joint Chiefs of Staff as a corporate body is not providing the kind of advice and leadership which this country requires.

That is in print. It is contained in a printed document, prepared at the expense of the people. I have sometimes wondered how many people have seen it.

I remember the discussions which took place concerning the Bomarc missile. The House cut the amount for that missile sharply, and they assigned a most interesting reason. They said it was one way to focus attention on the missile controversy. The way to focus attention is to take the money away. So they proceeded to do that. The Senate restored almost $80 million. I did not check back to see what finally happened.

Mr. President, we have had our differences concerning a conventional aircraft carrier, a nuclear carrier, or no carrier. But when we got all through, we did not make too much noise about it. Then we went our particular ways.

But when this subject becomes a political issue, and it is made to appear that this administration and the present Commander in Chief are putting an iridescent dollar sign in the sky and are making that the point of worship, instead of our security and survival, then, Mr. President, it will make no difference who in the Senate or who in Government is involved: I intend to protest. That is why I protest that sort of thing today.

Mr. President, I yield the floor.

Mr. BUSH rose.

Mr. SYMINGTON. Mr. President, I have listened with interest to the remarks of the junior Senator from Illinois. I thank him for his thoughtfulness in giving me prior notice that he was going to make this talk on the floor of the Senate today.

With some of the implications of his talk I do not agree. With some of the statements in his talk I do not agree. Therefore, rather than attempt to answer the distinguished minority leader in detail at this time, I shall read his speech carefully. Then I shall let him know, if and when I shall answer him on the floor of the Senate.

Mr. President, I should like to make an additional remark in this category. The junior Senator from Illinois referred to the majority leader. Many years ago it was my privilege to meet for the first time the majority leader of the Senate [Mr. JOHNSON of Texas]. As a former member of the executive branch and as a junior Senator, I say there is no man whose legislative record in support of our country's defenses surpasses that of the distinguished senior Senator from Texas. On one occasion, as the record will show, there were but eight votes in the Senate which favored the maintenance of an adequate Air Force. The vote of the distinguished majority leader was one of that small number.

Mr. President, last month the Secretary of Defense testified that the analysis of intelligence data had been changed to one based on an "estimate of what we believe he [Russia] will probably do, not what he [Russia] is capable of doing."

The Secretary concluded that as a result of this change in procedure, "the great divergence [in ICBM's] based on figures testified to in past years, narrows."

A few days later, the Secretary of the Air Force even went so far as to say that the new method had adjusted the picture to such an extent that he was not sure but what the ICBM gap may have been eliminated altogether.

Those were the statements made to the people.

Ten days after the statement by the Secretary of Defense, however, the Director of the Central Intelligence Agency, in a closed, secret session, told the Senate exactly the reverse.

At that time the Director said the new intelligence data showed that the number of long-range ballistic missiles the Soviets were expected to have ready to be launched against the United States was, in ratios, greater than the estimate of what they were expected to have based on last year's intelligence data. In fact, at mid-1960, mid-1961, and mid-1962, the new estimates, the new estimates of the Soviet ratios in ready-to-launch capability average between 20 and 50 percent more than the estimates of last year.

Based on this year's figures and this year's method of analysis, the Soviets are expected to have a capability greater than the 3 to 1 lead Secretary McElroy forecast last year.

Therefore, the recent public statements and implications by this administration on this matter, previously referred to, were wrong. Accordingly, I stated that the administration was misleading the American people with respect to this vital matter. There has been no correction of the erroneous statement made last month by those two officials, as there was last year. I commend Secretary McElroy for his clarification last year.

Therefore, my statement stands: The American people are being misled. The American people are being told one thing in public statements by members of this administration; and the U.S. Senate is being told a vastly different story, in secret or executive hearings.

Mr. President, there is a simple way to clear up this confusion. Let the Secretary of Defense, or whoever is the proper official, announce at this time the current estimated ratios on ICBM's. This Secretary McElroy did around the time the budget came up last year. He announced, at that time, that we planned to let the Soviet Union attain a lead of 3 to 1 in these highly important weapons. Surely, all of us will agree that, if any ratios are to be released to the people of the United States, the right ratios should be released.

To the best of my knowledge no Member of the Senate has released or has suggested releasing classified data. However, if any information is to be made available, the American people and the Members of the Congress have the right to demand that such information be accurate and not misleading.

Therefore, this administration should publish now what it is estimated the Soviets will be capable of launching against this country, compared with our like capability—in ratios or percentages—for mid-1960, mid-1961, and mid-1962.

In that way, without divulging any classified information and without telling any possible enemy anything he does not already know, the American people would have the truth.

Mr. President, no amount of oratory can justify the giving out of misinformation. Under our form of government the people are entitled to the truth.

I wish to thank my friend, the Senator from Connecticut [Mr. BUSH], who, I believe, was ahead of me on the list of speakers for today, for yielding to me at this time, in order that I could make these comments following the remarks of the minority leader.

Mr. BUSH. Mr. President, I have been very glad to yield to the distinguished Senator from Missouri. Certainly he was entitled to that courtesy, after the remarks of the minority leader.

I had intended to make today some extended remarks of my own on this subject. However, in view of the remarks made by the minority leader, I shall defer mine.

I wish to take this opportunity to thank the minority leader for his very clear and well-documented exposition of the subject under debate here. I am particularly grateful to him for his stirring defense of the administration, and of the President of the United States, in particular. Certainly I think the Senator from Illinois has made an ironclad case for the fact that the President does not put dollars above survival, and I think the Senator has made a good case for the fact that none of us who support the President in this great debate do that.

I congratulate the minority leader, and I think that all of us who are on this side of this great question owe him a very great debt of gratitude.

Mr. ALLOTT. Mr. President, will the Senator from Connecticut yield?

Mr. BUSH. I yield to the Senator from Colorado.

Mr. ALLOTT. I thank the Senator from Connecticut for yielding.

Mr. President, I, too, wish to congratulate the minority leader; and particularly I wish to say that in his speech he has stated in all respects my position on this matter. I agree with him wholeheartedly; and I believe that the job he has done by means of the speech he has made, in bringing this question into focus before the Senate today, is a real contribution to the situation we face in connection with our national armaments.

Mr. KEATING. Mr. President, will the distinguished Senator from Connecticut yield to me?

Mr. BUSH. I yield, if I may, to the Senator from New York.

Mr. KEATING. Mr. President, I wish to join in the commendation of the minority leader for placing this matter in proper focus.

I wish to add to his remarks a statement about the testimony of General Power. On yesterday, I placed in the RECORD, following some remarks of mine under the title "Stop Selling America Short," a recent article by certainly one of the foremost, if not the foremost, military journalists in the country, Hanson W. Baldwin, whose articles are published in the New York Times. He dealt specifically with the matter to which the minority leader has referred, regarding the testimony of General Power; and Mr. Baldwin had the following to say:

Gen. Thomas S. Power, commanding the Strategic Air Command, has stressed the vulnerability factor by estimating that 300 Soviet missiles might destroy our retaliatory capability. General Power has omitted from his equation a great many tactical Air Force units, as well as the Navy's nuclear-capable forces.

But even so, a simultaneous and synchronized attack by a salvo of 300 Soviet missiles, each launched on a precise, predetermined timetable so that the missiles would arrive simultaneously on their widely scattered targets, would assume a technical and organizational skill that we do not possess and are unlikely to possess in the immediately foreseeable future, and there is no reason to believe that the Russians possess such a technology.

DETERRENT GOAL

Thus, our vulnerability today—or in the immediate tomorrow—is not as great as an academic discussion can make it appear.

I think it very important to keep this entire matter in proper focus. I believe that in the remarks I made yesterday I was doing so, in pointing out that it is perfectly proper to have a high-level discussion of our national-defense policy and it is entirely in the public interest; but it is a disservice to make it appear that we are weak, because we are the strongest nation on earth, and we intend to continue to be the strongest. The President of the United States is more dedicated to that objective than any other man I know.

I thank my friend, the Senator from Connecticut, for yielding to me.

Mr. BUSH. Mr. President, I wish to congratulate the Senator from New York for the remarks he made in the course of the debate yesterday, which I read with admiration and approval in the RECORD. I believe he is quite correct in pointing out the special quotation from Hanson W. Baldwin. It has a very direct bearing on this whole matter. Those who read information of this type will be glad to know, I believe, some of the truths which bear on the matter of our defense posture.

Mr. CASE of South Dakota. Mr. President, will the Senator from Connecticut yield?

Mr. BUSH. I yield.

Mr. CASE of South Dakota. I wish to join in the appreciation which has been expressed of the effort of the minority leader to place this whole matter in better focus before the American people.

I am one of those who do believe that the people are entitled to know as much as can be told. At the same time, I think there are in the field of national security certain limits beyond which we should not go.

I do not think it is a good part of strategy or of national defense to advertise weakness, if there be some. Let us advertise our strength, rather than weakness. But in saying that, I do not wish to be misunderstood.

At one time the Senator from Connecticut was a great baseball player, I understand. So I am sure he knows that in assessing the strength of a team, one thinks of the teamwork and a balanced team.

What our President and what the Defense Department have sought to provide for the American people is a well balanced team. There may be a stronger punch here or a stronger punch there; but I believe the American people are entitled to know that the U.S. team is the strongest team on the field today.

Mr. GOLDWATER. Mr. President, will the Senator from Connecticut yield?

Mr. BUSH. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I desire to associate myself with the laudatory remarks concerning the speech made by the minority leader relative to our defense position and the attitude of the President in the entire matter.

In listening to the remarks which the distinguished minority leader ascribed to the Senator from Missouri [Mr. SYMINGTON]—as having been made in 1952, as I recall, in New York—it was my recollection that the Senator from Missouri commented that we could be defeated by continued deficit spending in this country just as well as we could be defeated by military means. They were not his exact words, but the meaning was there.

That is a point which I think is constantly overlooked by the opposite side. I cannot for the life of me understand why they think there is some source of money other than the people's pockets; why they believe we can continue with deficit spending, even if it is involved in military expenditures, which will not ultimately lead to bankruptcy.

I respectfully submit that the Russians do not care how they defeat us. They are doing pretty well around the world now, without firing a shot or dropping a bomb. They do not care whether they defeat us psychologically, by causing our economic collapse, or, if they have to, by military means.

I think we have to recognize their announced intention of the captivation of the capitalistic world, which means the United States and our allies.

We have to have a balance in spending so we do not have unbalanced budgets and increased deficit spending, which has wreaked havoc on the value of our dollar in this country and on the respect for the dollar around the world.

I think the aim of the military should be to achieve a balanced power, and that is exactly what I have understood the President to be in favor of. He does not look upon missiles as the only weapons we have. He does not look upon Polaris missiles as the only weapons we have. He does not look upon the Strategic Air Command as the only weapon we have. He does not look at surface vessels of the Navy as the only weapon we have. Rather, he considers all those weapons in toto and says, truthfully, that this is the greatest military force assembled in the history of the world.

I am convinced the President is correct. I am confident we can maintain that superiority.

There are aspects of this defense picture as to which I am not in agreement with some Senators on this side of the aisle. But when we are talking about total forces, balanced forces, and about the total power of those forces, then I must agree with the Commander in Chief that we have the strongest military position in the world today, and we will maintain it so long as we maintain a balanced budget in our country and do not, so to speak, spend ourselves to destruction.

I thank the Senator from Connecticut for yielding to me.

Mr. BUSH. I thank the distinguished Senator from Arizona. Incidentally, I think it is interesting to observe for the record that he himself is a member of the Armed Forces of the United States, a general officer in the Air Force Reserve, and one who would be as much concerned with our national defense and the general posture of our defense as any Senator could possibly be. So I am very much reassured by his frank statement on this subject. I think the people of our country should be reassured by that statement because of his connection with the armed services and his constant interest and activity in connection therewith as a general officer in the Air Force Reserve.

I thank the distinguished Senator from South Dakota [Mr. CASE] for his contribution and his relevant comments on this situation. Certainly one who has been on the Armed Services Committee for as long as the Senator from South Dakota has been is in a position to have his statements bear some weight. He is generally recognized by Senators on both

sides of the aisle as one of the most careful and accurate men in the whole U.S. Senate, and he is not given to making irresponsible or extravagant statements. On the other hand, he is usually very careful and conservative in what he says, and backs those statements up with facts and figures.

The fact that he is wholeheartedly committed to the President's position in this matter is of gratification to all of us who agree with the President's general position.

One more word, Mr. President, and I shall conclude. There has been a great tendency in this debate to harass the Bureau of the Budget. From time to time the Bureau of the Budget is made a whipping boy in connection with matters in which authorized expenditures appear to have been set aside temporarily or otherwise. The Bureau of the Budget has been harassed for such action.

I think it should be said for the RECORD and for the understanding of people generally that the Bureau of the Budget has no power of its own; that the Bureau of the Budget is under the President of the United States; that it is a part of the staff of the President. The Bureau has no authority of its own. When the Bureau of the Budget does something, it is the President of the United States who does it, and the Bureau does it with his approval.

So I think those who seek to harass the Bureau of the Budget must realize—and I am afraid perhaps some of them do not—that actually they are attacking the President of the United States when they attack the Bureau of the Budget.

Mr. President, we could not run this Government without a Bureau of the Budget. It would be a shambles. It would be an unorganized, chaotic affair. The Bureau of the Budget's job is to keep expenditures within appropriated sums, and also, as a part of his staff, to help the President to come to conclusions about the needs of the various departments, so he can reach a balanced conclusion, as the Senator from South Dakota has said, regarding not only the merits of the demands of the armed services, but also in relation to demands of other departments of the Government.

So, as one who has regard and admiration for the operation of the Bureau of the Budget, and particularly during the last few years under Mr. Stans, I pay tribute to the Bureau and to him for the faithful administration of the President's policies and for the Director's faithful work as the President's chief of staff in connection with budgetary controls.

Mr. President, I yield the floor.

STUDY OF CHARGES AND ALLEGATIONS OF UNION CORRUPTION

Mr. MCNAMARA. Mr. President, seven prominent citzens who constitute the Public Review Board of the United Auto Workers have been asked by the union to study charges and allegations of corruption within the union.

I ask unanimous consent that an article appearing in today's New York Times describing this action be printed in the RECORD.

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

[From the New York Times, Feb. 23, 1960]

UAW ASKS STUDY OF GOP ATTACKS—CITIZENS BOARD TO TAKE UP RACKETS CHARGES LABELED AS LIES BY AUTO UNION

(By Damon Stetson)

DETROIT, February 22.—The United Automobile Workers asserted today that a report of four Republicans on the Senate Rackets Committee was a politically motivated, anti-labor document based on "falsehood" and "malicious slander."

At the same time, Walter P. Reuther, president of the UAW, asked the union's public review board, an independent group of seven prominent citizens, to examine the charges. After doing so, he said, the board should report the truth regarding the allegations to the public and to the union's members.

MADE PUBLIC BY GOLDWATER

Later today, Mr. Reuther met with Rabbi Morris Adler, chairman of the review board, and two other members from this area to discuss the request.

After the conference Rabbi Adler said that the requested action came within his board's jurisdiction and that the board had a duty to review the charges. He said he would convene the review board's executive committee immediately to discuss the matter.

Senator BARRY GOLDWATER, Republican, of Arizona, made public last week the Republican report of the Rackets Committee, formally known as the Select Committee on Improper Activities in the Labor or Management Field.

The four Republicans said in their report that they were convinced that "corruption, misappropriation of funds, bribery, extortion and collusion with the underworld had existed within the UAW as in the Teamsters and those other unions whose derelictions have been so widely publicized."

The report of the full committee, headed by Senator JOHN L. MCCLELLAN, Democrat, of Arkansas, is expected to be issued this week.

Robert F. Kennedy, former chief counsel for the committee issued a statement last week branding the Republican allegations about the UAW as false. He accused the Republican members of "across-the-board hatred of organized labor."

The international executive board of the auto union attacked the Republican report today in strong language.

REPORTED CALLED UNTRUTHFUL

It charged that the report had distorted the truth and contained outright fabrications.

"It reflects the hysterical hatred of those Senators for the UAW and all other clean and democratic unions," Mr. Reuther said in a statement.

The Review Board was established by the union in 1957. It was empowered to make final and binding decisions on all cases appealed to it and to deal with matters related to alleged violations of any ethical practices codes of the American Federation of Labor and Congress of Industrial Organizations.

The Goldwater report dealt particularly with the long Kohler Co. strike at Kohler, Wis. Stress was put on what Senator GOLDWATER called a "pattern of violence in UAW strikes."

The union statement today said that an objective evaluation of the charges would demonstrate that the four Republican Senators had "glaringly and guiltily" omitted reference to the record of "violence, terrorism and intimidation" that, it said, the Kohler Co. had directed against its workers.

THE DOUBLE STANDARD OF THE WASHINGTON POST AND TIMES HERALD

Mr. THURMOND. Mr. President, for years the great majority of the press, radio and television in parts of the Nation other than the South has operated on a double standard. They persist in espousing a holier-than-thou attitude in the field of so-called civil rights. Closing their eyes to their own prejudice, they concentrate exclusively on what they term "racial prejudice," which they perceive to exist only in the South.

In the first place, racial prejudice, probably exists to a greater extent in other parts of the country than it does in the South. Certainly, outbreaks of violence between the races are more frequent and vicious in the population centers of the Northeast than any that occur in the Southern States.

Behind the paper curtain the word "prejudice" has been narrowed in definition to a brand of "racial prejudice" as seen in the eyes of the holier-than-thou do-gooders who publish the anti-South periodicals. These very publications are themselves the epitome of prejudice against the white people of the South. Their biased and vicious half-truths and exaggerations concerning the people of the States which comprised the late Confederacy find no equal in bigotry.

Foremost among the papers whose editorial policy reflects the intense degree of prejudice against the South to which I refer is the Washington Post and Times Herald. On Monday, February 22, the Washington Post and Times Herald published an editorial entitled "Fair Security Procedure." In general, the editorial approved of the new industrial security program inaugurated by the executive department and bitterly condemned the procedures which were contained in Department of Defense Regulation 441 for industrial security programs; the latter having been declared unconstitutional by the Supreme Court last year in the case of Greene against McElroy, partially on the grounds that there was no provision in the regulation for confrontation of the accused by the prosecuting witnesses and no right of cross-examination.

With respect to security cases, the Washington Post and Times Herald finds the rights of cross-examination and confrontation to be essential and basic rights of the individual. In extolling the right of cross-examination, as applied to security cases, of course, the editorial said:

The right of cross-examination grows not out of a sentimental concern for accused persons but out of a recognition, distilled from experience, that it is an indispensable means of discovering the truth. This is why testimony in criminal trials is invariably subjected to it. It is especially important and

useful, as Chief Justice Warren pointed out in the Greene case, "where the evidence consists of the testimony of individuals whose memory might be faulty or who, in fact, might be perjurers or persons motivated by malice, vindictiveness, intolerance, prejudice or jealousy." Cross-examination protects the Government no less than an accused individual. For it safeguards justice. It ought to be given full application in the Federal employee security program as well as in the industrial security program.

The rights of confrontation and cross-examination have recently been raised in a setting where, not suspected security risks, but State and local officials, are the ones denied the rights of confrontation and cross-examination. I refer, of course, to the case of Margaret M. Larche against John A. Hannah and others, which originated in the U.S. District Court for the Western District of Louisiana. In this instance, it was the rules of the Civil Rights Commission which were contested before the court. Both the District Court for the Western District of Louisiana and a special three-judge Federal court of appeals have found that the rules of the Civil Rights Commission were unconstitutional because they did not provide for the rights of confrontation and cross-examination. The lack of concern for the basic due process in this instance by the Washington Post and Times Herald is a prime example of the double standard to which I refer. The Washington Post and Times Herald can find in its editorial heart great concern for the lack of due process on behalf of security risks, and many an editorial tear has been and will be shed on behalf of these security risks. Not before the proverbial cold day in the hot place Mr. President, will the Washington Post and Times Herald express concern over the deprivation of due process to white citizens of the Southern States, for they in the eyes of the Washington Post and Times Herald are to be relegated to the position of second-class citizens in keeping with the double standard which permits the existence of the Yankee paper curtain.

PRESIDENT EISENHOWER BACKS THEODORE ROOSEVELT MEMORIAL IN WASHINGTON

Mr. KEATING. Mr. President, I am delighted to report to the Senate that President Eisenhower has given his emphatic endorsement to the effort to establish a Theodore Roosevelt Memorial in Washington. Herman Hagedorn, Executive Director of the Theodore Roosevelt Centennial Commission, has just sent me a copy of a letter from the Chief Executive, which reads as follows:

DEAR MR. HAGEDORN: Thank you for your recent letter enclosing the final report of the Theodore Roosevelt Centennial Commission. This report is a splendid testimony to the work of the Commission. I believe the commemoration of Theodore Roosevelt's 100th anniversary encouraged among our people a new dedication to his noble sense of responsible citizenship.

I note your particular concern for the proposed national memorial. I agree that it would be eminently desirable to erect a suitable memorial to Theodore Roosevelt here in the Nation's Capital and I appreciate the Commission's hope that the Congress will provide the necessary authorization.

Again my thanks to you for your leadership in the work of the Centennial Commission. Knowing your deep affection for Theodore Roosevelt, I am sure that this work has given you—and will continue to give you—the highest satisfaction.

Sincerely,

DWIGHT D. EISENHOWER.

Mr. President, I am also pleased to announce that the House Administration Committee will this afternoon hold a hearing on the proposal to create a Theodore Roosevelt Memorial on Theodore Roosevelt Island. It is significant to note that 22 Members of the House and 5 Members of the Senate, of both political parties, are sponsoring this proposed legislation.

I am confident that the Senate Committee on Rules and Administration, of which I am a member, as is the distinguished present occupant of the chair, the Senator from Nevada [Mr. CANNON], will act favorably on this measure in the near future.

Certainly the vigorous endorsement of the President, of the Vice President, and of leaders in and out of Congress of both political faiths emphasizes the strong case for building a lasting memorial to the incomparable Teddy Roosevelt. The island tribute which is planned will be a suitable salute to a man who for all time will symbolize the vigor, vision and global responsibilities of America.

I should like also to invite attention to the words of the Theodore Roosevelt Centennial Commission in its final report on July 9, 1959, strongly urging passage of the memorial legislation. The report stated:

The Commission respectfully submits its petition to the Congress to authorize and empower the Commission, in this closing year of its statutory life, to fulfill the mandate of the 84th Congress to complete the development of Theodore Roosevelt Island. We feel, indeed, that the Congress has a moral obligation to complete the memorial on this island so generously donated to the people by the Theodore Roosevelt Association. Plans are ready and have been approved by all concerned.

Fulfillment of this project is relatively simple and inexpensive and the Commission hope Congress will pass the necessary legislation at this session.

Surely, Theodore Roosevelt's greatness merits an adequate memorial in the National Capital, and the Theodore Roosevelt Association's magnificent gift to the Nation of Theodore Roosevelt Island deserves the development that has been planned for it and that the 84th Congress directed the Commission to complete.

LEASING OF PORTION OF FORT CROWDER, MO.

The Senate resumed the consideration of the bill (H.R. 8315) to authorize the Secretary of the Army to lease a portion of Fort Crowder, Mo., to Stella Reorganized Schools R–I, Missouri.

Mr. EASTLAND. Mr. President, I move to strike out section 204 of the amendments.

Mr. President, on February 8, 1960, our distinguished minority leader, Senator DIRKSEN, for himself and on behalf of 22 additional Republican Members of this body, introduced S. 3001, a so-called civil rights bill.

On February 15, 1960, amendments in identical language with S. 3001 were sent forward to the desk intended to be proposed by the Senator from Illinois [Mr. DIRKSEN] to the pending business, H.R. 8315. These amendments consist of seven sections and have been styled "The Civil Rights Act of 1960." As a package, the proposals add up to the most vicious, iniquitous, revolutionary, and unconstitutional series of measures that has ever been proposed in the Congress of the United States, except for that period of time when the Southern States were divided into military districts and were operated by the military governors in a status which equaled nothing more nor less than sheer tyranny.

In the name of "civil rights," civil wrongs are proposed to be perpetrated against a great segment of U.S. citizens. Nothing that was dreamed up by the arch abolitionists and the most rabid South haters in the Reconstruction Congresses can be equated with the punitive measures now proposed.

For this 20th century invasion of the South the capstone of the strategy is a plan to give to the Federal district courts the right and power to take over the complete supervision and control of the election processes of the sovereign States. In State, county, municipal, and local elections ranging from constable to Governor, election referees will be empowered to bypass completely the State election machinery and register new voters, attend the polling places, and see that these wards of the Government are permitted to vote, then take control of the ballot boxes and count, or see that the votes are counted. The iron fist of force, rather than being the bayonet as in the past, is the more potent, awesome power of the criminal contempt citation, carrying with it jail sentences without benefit of trial by jury.

Equally obnoxious as are the election referees, or even more so, is section 204 which would place the imprimatur of congressional sanction on the pseudo-sociological and psychological decisions of the U.S. Supreme Court in the case of Brown against Board of Education of Topeka and related cases involving the integration of white and Negro children in public schools. This course of action would merely compound the basic unconstitutionality of the Supreme Court's decision. Congress should never be particeps criminis to such a flagrant invasion of the Constitution. After giving sanction to this decision, the provision goes further and opens the cornucopia of the Federal Treasury to school districts under so-called desegregation orders and other school districts in some of the border States which have foolishly proceeded under voluntary desegregation plans.

Section 203 of the proposed amendments proposes that the election records

of the States be preserved in a manner, form, and fashion suitable to the whim of the Attorney General of the United States and be always available for his personal inspection and perusal whenever he so desires. As the Attorney General admitted in his testimony recently before the Rules Committee of the U.S. Senate, he must have this wide and generous pasture to graze in if ever there is a hope for him to maintain suits under the Civil Rights Act of 1957 and under the new powers which he seeks in section 207 of the proposed amendments.

Section 201 of the amendments proposes to create a new Federal crime. This crime is designed to implement the unconstitutional desegregation decisions by declaring that any person who in almost any manner, shape, or form attempted to prevent, obstruct, impede, or interfere with, the execution of any desegregation decree, could be subjected to a fine up to $10,000 or imprisonment up to 2 years in the penitentiary, or both. Any so-called threatening letter or communication made against one of these desegregation decrees would bring a person within the definition of the crime.

Section 206 of the amendments would set up a Fair Employment Practices Committee insofar as employers who wish to bid on Federal contracts are concerned.

Section 202, like section 201, creates a new Federal crime that is discriminatory and restrictive. It provides punishment by a fine of not more than $5,000 or imprisonment for not more than 5 years, or both, for flight in interstate commerce to avoid prosecution, custody or confinement after conviction, for damaging or destroying by fire or explosive, property used primarily for religious purposes, or for the purpose of public or private primary, secondary, or higher education. The House Judiciary Committee, in reporting a proposed civil rights bill to the Rules Committee, was at least fair enough to change the language in the original administration proposal to include any real or personal property rather than attempting to confine the property definitions to schools and churches.

Still another section in the proposed amendments attempts to provide for the education of children of members of the Armed Forces in communities in which the public schools are closed. This provision contains a most vicious feature, since it gives discretion to the Commissioner of Education in the Department of Health, Education, and Welfare to take possession of any State or local school facility where Federal funds were used to construct it, and through the use of such building furnish what in his judgment is suitable public school facilities to the children of the members of the Armed Forces as long as he deems necessary.

Finally, section 207 of the bill provides the blueprint for Federal court referees to register promiscuously under a simple, alleged, application any person who is not white in color and see that he is voted and that his vote is counted. Under one interpretation of the proposed referee plan it is even argued that the referees can register and vote white people. State election officials are to be bypassed and supplemented by Federal officers. Both the letter and spirit of the 10th amendment would be trampled into the dust. The creators of this Union would be made the slaves of their creation.

Mr. President, this far-reaching revolutionary and unconstitutional scheme for Federal court referees was first presented to this Congress by the Attorney General on February 5, 1960. This day was the last day of some 3 weeks' hearings held by the Senate Rules Committee on the so-called Federal registrar bill that had been introduced to implement recommendation No. 5 of the Civil Rights Commission. Since Mr. Rogers' new proposal was introduced when he was the final witness, there has been no opportunity offered whatsoever for opponents of this iniquitous plan to furnish expert and competent legal testimony to controvert it. When Congress proposes a new action that is admittedly directed against the body politic of a sovereign State, simple decency and common courtesy require that the responsible public officers of the States to be involved in the application of the newly proposed law have an opportunity to study and analyze the plan and present to Congress their objections, if any, against it. In my State, both the Governor and the attorney general were submitted copies of the so-called registrar proposal, and both of these able and conscientious men requested an opportunity to be heard in opposition to the Executive appointment of Federal election registrars. The attorney general appeared in person and the Governor, grounded in air travel to Washington, submitted his statement. Insofar as the referees are concerned, the doors of Congress have been slammed in their faces and they are to be denied, along with their colleagues of other Southern States, from having their voices heard. We, who represent these States in Congress, are being denied the benefit of their lucid and cogent criticisms and comments which we well know would be made in unalterable opposition to any referee scheme for the Federal establishment to undertake the supervision and control of State and local elections.

For my part, I have not had the time to do more than examine just the outer edges of this referee proposal. Combined with the vast discretionary power that was given to the Attorney General under the Civil Rights Act of 1957 to institute suits for so-called voting right denials, the complete package adds up to the greatest single unconstitutional transfer of power to the combined executive-judicial branches of the Federal Government that has ever been attempted in the long history of our Government.

Mr. President, fundamental amendments are now being proposed to the Civil Rights Act of 1957 even before the courts have begun to resolve the grave constitutional issues that have been successfully raised in regard to the original act. I, and many others, charged repeatedly during the debates in 1957 that the proposed Civil Rights Act was unconstitutional both as a whole and in many of its separate parts.

As to the Civil Rights Act of 1957, the U.S. district judge, in the case of U.S.A. against Raines, et al., said:

> For the reasons set forth above, the court concludes that section 1971(c) of title 42 (sec. 131(c) of the Civil Rights Act of 1957) is beyond the jurisdiction of Congress and unconstitutional. It is not appropriate legislation within the meaning of section 2 of the 15th amendment to the Constitution of the United States. There existing no other basis for an action by the attorney in the name of the United States seeking the remedy here sought, the motion to dismiss should be, and the same is hereby, granted.

Here, Mr. President, the court destroyed literally, if Senators will pardon the expression, the guts of the Civil Rights Act of 1957. At least until the Supreme Court has ruled on this decision, it would appear that Congress, in good conscience, should refrain from adding any new provisions to the presently declared unconstitutional act.

Then there is another case pending in the Supreme Court involving the Civil Rights Act of 1957. The style of this case is the U.S.A. against State of Alabama and others. In this case the district court judge held:

> The act does not define "persons." In common usage that term does not include the sovereign, and statutes employing it will ordinarily not be construed to do so. • • • The absence of any comparable provision extending the term to sovereign governments implies that Congress did not desire the term to extend to them.
>
> In accordance with the foregoing, an appropriate order will be entered dismissing this action as to each of the defendants.

Please note carefully the above language, because the Attorney General of the United States certainly has. In this instance the judge did not mention the Constitution; he said Congress had not authorized the Attorney General to sue a sovereign State. Now open the amendments to H.R. 8315, page 22, lines 20 to 26; I will read them:

> When any official of a State or subdivision thereof has resigned or has been relieved of his office and no successor has assumed such office, any act or practice of such official constituting a deprivation of any right or privilege secured by subsection (a) or (b) hereof shall be deemed that of the State and the proceeding may be instituted or continued against the State as party defendant.

The Attorney General is now asking Congress to cure what the judge found to be the defect. Such unseeming haste. The Supreme Court may rule that he now has that power under the 1957 act.

But mind you, Mr. President, Congress is not all that is involved at this critical point. The Constitution of the United States is also involved, and before this debate is over I propose to have plenty to say on this particular issue. The 11th amendment to the Constitution of the

United States is involved, and the Attorney General may try as he will but I do not believe the courts are ever going to give, and this Congress should not attempt to give, sanction to violate the 11th amendment to the Constitution. The 11th amendment says:

> The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

When the Attorney General brings an action under the Civil Rights Act of 1957 he brings it in a representative capacity. He has no rights other than those possessed by the individuals he represents. The rights of these individuals are restricted by the language of the 11th amendment. There is no constitutional authority for an individual in a State to sue his sovereign State in either a State or a Federal court. More will be said about this at a later time.

Two other cases have resulted from the Civil Rights Act of 1957. In one, where the U.S. district judge ordered 1,300-odd individuals restored to the rolls as qualified voters of Washington Parish, La., the Fifth Circuit Court of Appeals stayed the order, and that case is now pending in the Supreme Court and is set for argument when the Court convenes today. The other Louisiana case now in the Supreme Court does not directly involve with the Civil Rights Act of 1957 itself. They are concerned with the highhanded and sanctimonious tactics of the Civil Rights Commission in Louisiana in attempting to require the production of State election records before the Commission without giving to the State officials any information as to who are the individuals who are making the charges against the State officials and informing them of the nature and character of the wrongs that are charged against them. If white people in the South have any constitutional rights left, there is no evidence on the record that the Civil Rights Commission is willing to concede this point. In both Alabama and Louisiana, the only two Southern States they have officially visited, their sole accomplishment has been to stir up a hornets' nest of controversy and resulting lawsuits in Federal courts which have uniformly been resolved against the so-called Civil Rights Commission.

This is the sum and substance of the "success" of the Civil Rights Act of 1957 after more than 2 years on the statute books.

The report of the Civil Rights Commission itself evidences an utter contempt for judicial processes, either Federal or State. The report says:

> The two other suits brought by the Attorney General under the same act had not at this writing resulted in a single registration. The suit in Georgia had been dismissed and was on appeal; the one in Louisiana was pending.
>
> In short, no one had yet been registered through the civil remedies of the 1957 act.
>
> Class suits on behalf of a number of Negroes to obtain registration have rarely been successful. The courts have inclined to the view that these suits are of an individual nature, with the result that a vast number of suits may be necessary.
>
> The delays inherent in litigation, and the real possibility that in the end litigation will prove fruitless because the registrars have resigned, make necessary further remedial action by Congress * * *.

Thus, they recommend setting up Federal election registrars who would successfully and unconstitutionally bypass judicial processes. The Attorney General of the United States questions the constitutionality of some aspects of the Commission's recommendation No. 5 and comes up with a new referee plan of his own. Yet, insofar as the Civil Rights Act of 1957 is concerned, he has had his ears pinned back in the Federal court with as great, or greater, a degree of regularity as had the Commission.

Here is the testimony of the Attorney General regarding actions under the Civil Rights Act of 1957 before the Senate Committee on Rules and Administration:

> The CHAIRMAN. Mr. Attorney General, under the Civil Rights Act of 1957, how many suits if any have been instituted?
>
> Attorney General ROGERS. Actually five or six. Two of them involved the Civil Rights Commission itself, and would involve action which was started by the United States. The two involving the Civil Rights Commission are in the Supreme Court. Judge Walsh, the deputy, argued those cases before the Supreme Court. The other cases involved Terrell County, Ga., Macon County, Ala., one in Louisiana and one in Tennessee. I might say on that point that it seemed wise to me to make certain that the test cases which we brought under that act, and I use the words "test cases" because it was assumed that the first ones would all be challenged, and that we would make law in the first cases, that those test cases be very strong in their facts, and we tried to be certain that those four cases which were started first would be strong so we could get the constitutional and other legal questions resolved with strong factual support.
>
> Once those things are decided by the courts, and I hope they will be soon, I think they will be soon, then we can bring other cases with a little less concern about the complete strength of the facts in the case.
>
> We can review the other complaints we have in the light of the decision of the Court and decide whether to proceed or not.
>
> I might say, Mr. Chairman, that I have been surprised how few complaints we have had, and I would hope that if Congress does give support to these proposals, this one and the one about preserving election records, which is vitally important, that there will be greater effort on the part of the Negro to register and vote, because constitutional rights cannot be enforced unless the people attempt to exercise them.

Mr. President, with the exception of the new case in Tennessee, I have previously explained the "success" of the Government in these cases. Mind you, the Attorney General says he handpicked the cases so the Government would be strong on the facts. Yet, he lost every one of them on constitutional or other legal issues. Now he is asking Congress for additional legislation before he knows where he stands on the old.

Both from a standpoint of the executive branch of the Government, represented by the Attorney General and the administration, and from that of the legislative branch, I charge that this is a disgraceful state of affairs when we are called upon to enact new and additional legislation without the remotest idea or knowledge of how the Supreme Court is to rule as to the validity of the old. Is an election year sufficient excuse and justification for the Senate to throw reason, commonsense law, and the Constitution out the window?

Section 204 of the proposed Civil Rights Act of 1960 deals with the forced integration of white and Negro children in the public schools of the Southern States. The preamble of the section proposes that Congress determine, approve, and recognize that—

> Prior to May 17, 1954, the Constitution of the United States had been interpreted as permitting public schools to be segregated on racial grounds provided such schools afforded equal educational opportunities; (b) on May 17, 1954, the Supreme Court of the United States ruled that under the 14th amendment to the Constitution segregated education is inherently unequal; (c) the Constitution as interpreted by the Supreme Court of the United States is the supreme law of the land; (d) State and local governments and agencies which had relied upon the "separate but equal" doctrine are now obligated to take steps toward the elimination of segregation in their public schools.

Mr. President, if Congress adopts and approves the above language, it will be the greatest single blow that has ever been struck against the existing system of free public education in this country. It is now almost 6 years since that black Monday when the Supreme Court handed down the integration decision. It has been no easy task for Southern States to have to combat the weight of the integration decision and its attempted implementation in Federal district courts. But in one manner, form, fashion or another, it has been combated and successfully resisted in every community where the white people are determined that their children are not going to be forced into public schools with those children of the Negro race. This is also going to be true in the foreseeable future.

Even if the legislative branch of this Government is successful in lending its aid and comfort, all that it can possibly accomplish is to pour additional gasoline on a fire burning on the surface of the water. No matter how much gasoline is poured, or how inconvenient the fire is to the water, the water will not burn. Some of it may be evaporated by the heat, but the water will remain steadfast. When the fuel burns off, and it certainly will, we are still going to have segregated schools in the Deep South.

To this point, at least, Congress has wisely refrained from becoming a party to a controversy that so far has involved only the Federal judiciary and the States. I plead with the Senate to follow the course of common sense and reason, and to reject this attempt to aline

the legislative branch of the Federal Government on the side of an illegal and unconstitutional attempt to destroy the public-school system in a vast area of these United States.

I do not propose at this time to rehash the valid and overwhelming legal and constitutional arguments that can be made against the basic Supreme Court decision. I would, however, like to open the pages of history and examine some of the attitudes and positions of Congress on the proposition of integrated public schools.

Of course, it is generally known that contemporaneous with the adoption of the 14th amendment, Congress provided for a separate system of white and Negro public schools in the District of Columbia. Congress' will in this regard was specifically nullified by one of the cases decided on May 17, 1954.

The last of the Reconstruction Acts was the Civil Rights Act of March 1, 1875. This was the act for which Senator Sumner so pertinaciously fought for over the years. On his deathbed he had exacted a promise from Senator Hoar that:

> This project for securing the extension of Federal guarantees of equal rights for the blacks should not be abandoned by the party. It must be modified; its most extreme provision, as, for instance, concerning the intermixture of the races in the schools, must be abandoned. ("A History of the United States Since the Civil War," Oberholtzer, vol. III, p. 196.)

Charles Sumner died on March 11, 1874, shortly less than a year before his pet project was to receive legislative sanction. When Congress did enact the vicious act of March 1, 1875, a provision attempting to integrate white and Negro children in schools was omitted. It was omitted at the direction of Senator Charles Sumner.

Serving in the U.S. Senate with Sumner was Carl Schurz, a Republican Senator from the State of Missouri. On September 24, 1874, in a speech delivered at the temple in St. Louis, Mo., Schurz cast vivid light on Sumner's project to legislate civil rights for Negroes. He pointed out that in connection with the proposed supplementary civil rights bill the measure was brought forward and pressed by the dearest friend he ever had among public men of America—Senator Sumner. To this measure, however, he said he could not give his support; and he added:

> Nobody knows better than I do that it sprung from the purest motives, a rare sincerity of generous impulse and high patriotic aspirations. But it was based upon a theory of constitutional power and upon views of policy upon which my friend and I had for years been agreed to disagree.

He then went on to state his own opinions on the bill, saying:

> Those who have observed my utterances on questions of constitutional power, such as were involved, for instance, in the Ku Klux Act, need not be told that I must consider the civil rights bill as transgressing the limits with which the Constitution hedges in the competency of the National Government, and as encroaching upon the sphere of State authority. I will not tonight tire you with a restatement of principles which I have frequently discussed.

Carl Schurz was one of the most brilliant minds that ever graced the U.S. Senate. Born in Germany on March 2, 1829, he migrated to the United States in 1852 as a refugee from the revolution of 1848. He was admitted to the bar and practiced law in Milwaukee, Wis. Appointed Minister to Spain in 1861, he soon afterward resigned, and during the War Between the States was appointed a brigadier general of the Volunteers of the Union Army. After the war he was elected as a Republican to the Senate, and served from March 4, 1869, to March 1, 1875. His retirement was voluntary. He then served in the Cabinet of President Hayes, as Secretary of the Interior, from 1877 to 1881. He became editor of the New York Evening Post, vice president of the National Civil Service Reform League, and engaged extensively in literary pursuits. He died, in New York, May 14, 1906.

Schurz' opinion on constitutional law and the power of Congress to enact legislation demand and deserve the highest respect.

Over and above the unconstitutional aspects of the proposed legislation, he further states:

> But the civil rights bill, if made a law, would have other effects which its originator did certainly not design it to have—effects injuriously touching the interests of the colored people themselves. It has been said that the enactment of that bill would be calculated to break up the whole system of public schools in several of the Southern States. My observation and reflection convinces me that this apprehension is well grounded. And nobody would be a greater sufferer than the colored people; for nothing can be more important to them than that, issuing as they do from a state of degradation and ignorance, an efficient system of public instruction should put them on the road of progressive improvement. Anything injuriously affecting such a system must therefore be gravely injurious to them.

(At this point Mr. EASTLAND yielded to Mr. PROXMIRE, who made statements on the Small Business Administration and interest rate policy, which statements appear elsewhere in the RECORD.)

Mr. EASTLAND. Mr. President, was ever a man a greater prophet than Carl Schurz? His prediction of 1874 is a literal fact today, not because of any action on the part of this Congress, but because the U.S. Supreme Court usurped to itself the powers that it does not possess and asserted principles that the Constitution does not warrant and justify.

But let me read further from Senator Schurz' speech:

> Now, it is a well-known fact that in the States containing the bulk of the colored population there existed, if not a general, still a widespread and powerful, prejudice against the introduction of a system of common schools, to be supported at the public expense. We know something of that even in Missouri. That prejudice, although now overborne by a superior public opinion, is far from being entirely extinct. It requires only a new and strong impetus to impart to it new strength enough seriously to disturb what has with difficulty been built up.

Where is the substance to the charge that systems of State-supported schools were unknown at the time of the adoption of the 14th amendment? While, naturally, free public education was not then as prevalent as it is today, it was part of the warp and woof of the political and social life of the States.

Mr. President, Carl Schurz says further:

> It is equally well known that a large majority of the white people of those States, even a large majority of those who are sincerely anxious to secure to the colored children the largest possible advantages of education in separate establishments, still are very strongly, nay, violently, opposed to any law which, like the civil rights bill, would force the admission of colored children together with white children, in the same schoolrooms. That opposition exists, and we have to deal with it as a fact. Try to enforce, under such circumstances, the system of mixed schools, and what will be the result? The old prejudice against a system of public instruction to be supported by taxation, as it still exists in the States in question, will at once find itself powerfully reinforced, and to an attack so strengthened, against a defense in the same measure weakened, it is most probable that the systems of instruction, laboriously built up, will succumb. At any rate they will be interrupted for a disastrously long period.

Here, Mr. President, he has departed from his constitutional arguments and based his reasoning on the practical problems involved as they are obviously eminently known to him. Experience today demonstrates conclusively that the same problems are no less present here and now as they were then.

Mr. President, I ask unanimous consent to have a quorum call, provided it does not prejudice my rights to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and 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.

Mr. EASTLAND. Mr. President, Carl Schurz continued to develop his theme, saying:

> There is scarcely a greater misfortune conceivable that could befall those communities. But what would especially the colored people have gained? Now they have at least their separate schools at the public expense, as a part of the general system. Destroy that system, and they will have no mixed schools, while their separate schools will perish also. Would the law, then, benefit the colored race at all? A colored man might indeed then enforce his rights to ride all over the country in a pullman palace car, to board at a first-class hotel and to sit in the dress circle of a theater. But such things can be enjoyed under any circumstances only by the very small number of wealthier people among them. And these pleasures and conveniences of their few men of means would be purchased at a

dreadful price; the interruption of the public school system, the advantages of which they now extensively enjoy in separate establishments, would deprive the children of the poor of a thing which is as necessary to them as their daily bread. I happen to know very sensible colored men, who have the interests of their race sincerely at heart, and who, looking over the whole field, and recognizing facts as facts, are not willing to pay the price of their poor children's education for their rich men's convenience and pleasure.

Mr. President, I ask today, What single thing has the National Association for the Advancement of Colored People—that small number of wealthier people among them—done to lend aid and comfort to the Negro children in Prince Edward County, Va., where there are today no public schools, either separate or mixed, to educate either the white or the Negro children of that county? As Schurz predicted, when the time came that a choice had to be made, the schools would be abolished, the white children would be educated under a selective system, and the Negro children would receive no education whatsoever.

Mr. President, let me close with one further quote from this great man that is equally as apt and appropriate to the situation that then existed in 1874 as it is this day in this year of our Lord 1960:

But the National Government and the dominating party can do something far better for the colored man than pass laws of doubtful constitutionality or send troops for their protection.

What was gained by Little Rock?

Let them openly and severely discountenance those corrupt partisans in the South who have misled the colored people into an organized support of robbery and misgovernment, and done all they could to make them believe that in the matured opinion of white men the science of politics consists in stealing as much of the public money as you can lay your hands on. Let them punish, at least with removal, these officeholders who have prostituted the authority of the Republic by using their official power to work into the hands of the plunderers. Let in their places be put men of wisdom, conscience and honor, who will set them an example of high official integrity and public spirit, and disabuse them of the idea that whatever they may do as partisans of those in power, the aid of the National Government will always stand behind them.

When Senator Schurz delivered his eloquent and masterful speech in 1874, he did not then know apparently of the deathbed promise made by Senator Hoar to Senator Sumner that the supplementary civil rights bill would be passed by Congress and that the provision for mixing white and Negro children in the schools would be omitted. When the bill was passed on March 1, 1875, left in it was this language:

That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous conditions of servitude.

On October 15, 1883, the U.S. Supreme Court, in an opinion delivered by Judge Bradley, the above stated section of the act of March 1, 1875, was declared to be unconstitutional. Now, if the intermingling of the white and Negro races in schools had been inserted in the act, it is a moral certainty that the Supreme Court would also just as forcibly and clearly hold this to be an unconstitutional exercise of congressional power.

Again reading this historic case, this language in the majority opinion caught my attention:

When a man has emerged from slavery, and by the aid of beneficent legislation has shaken off the inseparable concomitants of that state, there must be some stage in the progress of his elevation when he takes the rank of a mere citizen, and ceases to be the special favorite of the laws, and when his rights as a citizen, or a man, are to be protected in the ordinary modes by which other men's rights are protected. There were thousands of free colored people in this country before the abolition of slavery, enjoying all the essential rights of life, liberty and property the same as white citizens; yet no one at that time, thought that it was any invasion of his personal status as a free man because he was not admitted to all the privileges enjoyed by white citizens, or because he was subjected to discriminations in the enjoyment of accommodations in inns, public conveyances and places of amusement.

The cycle repeats itself. After a lapse of 85 years we are again confronted with legislation that attempts to make the Negro the "special favorite of the laws." And, the attempt to transfer him from the category of a mere citizen whose rights should be protected in the ordinary modes by which other men's rights are protected is as unconstitutional today as it was when the civil rights cases were decided in 1883.

Mr. President, in view of the uncontrovertible historical facts that I have here reviewed, I deny emphatically that the "separate but equal" doctrine magically sprung into constitutional law at the time the Supreme Court rendered its decision in the case of Plessy against Ferguson on May 18, 1896. Long before Plessy against Ferguson, and deep in the warp and woof of our constitutional system of Government, was imbedded the "separate but equal" doctrine for the white and colored races.

Let me say that I am much ashamed that the Governor of Virginia, in the face of the wishes of his people, would desert that doctrine.

On August 30, 1890, this Congress passed an act, which is chapter 841, U.S. Statutes at Large, volume 27, page 417, to apply a portion of the proceeds of the public lands to the more complete endowment and support of colleges for the benefit of agriculture and mechanical arts established under the provisions of an act of Congress approved July 2, 1862. This was one of the supplemental Morrell Acts in regard to the establishment and operation of land grant colleges. There is now before the Senate a bill which will commemorate the 100th anniversary of this historic and beneficent Morrill Act. In the margin of page 418 of the Statutes at Large appear two provisos—one states "no distinction of race, and so forth, in any one college." The second says "separate colleges for white and colored students."

I ask unanimous consent that the pertinent provisions of the text may be printed in the RECORD at this point in my remarks.

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

Provided, That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided*, That in any State in which there has been one college established in pursuance of the act of July 2d, 1862, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of 1862, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

Mr. EASTLAND. Mr. President, can anything be more clear and explicit than is this congressional sanction for separate but equal college facilities for white students and Negro students? I say, Mr. President, that both the white and colored races have received immeasurable benefits from the schools that were established throughout these United States in accordance with the sensible doctrine hereby adopted and applied by the U.S. Congress.

What more proof need there be offered than that this Congress, regardless of unconstitutional Supreme Court decisions, has always itself adhered to the Constitution in regard to this great and serious question of not attempting to force racial intermingling by law. I ask, Senators, today to take heed of the precepts and reject the proposed congressional sanction to the decisions in Brown against Board of Education, and related cases.

Mr. President, before this debate is concluded I anticipate that I will rise to speak time and time again not only against the so-called Civil Rights Act of 1960 but against any and every civil rights measure of all kinds and character that may be presented to the Senate.

I plead with Senators today as we enter into this debate to divorce themselves from partisan considerations, from prejudice and from political expediency. I know that every Member of this body reveres the Constitution of the United States as much as I do. Why should we depart from it? Why should the Senate attempt to enact legislation of questionable character insofar as its constitutional validity is concerned?

In 1833 a man who was once a Justice of the U.S. Supreme Court, and who served on the Supreme Court for 33 years, Joseph Story, in writing his commentaries on the Constitution of the United States, uttered these noble and inspiring words. Like the North Pole star, which never sinks below the rim of the horizon, the injunctions which he gave to us—and to all posterity—in regard to the Constitution of the United States should be the star upon which we fix our sights when constitutional questions are at issue before this body. He said:

> What is to become of constitutions of government if they are to rest, not upon the plain import of their words, but upon conjectural enlargements and restrictions, to suit the temporary passions and interests of the day? Let us never forget that our constitutions of government are solemn instruments, addressed to the commonsense of the people, and designed to fix and perpetuate their rights and their liberties. They are not to be frittered away to please the demagogs of the day. They are not to be violated to gratify the ambition of political leaders. They are to speak in the same voice now and forever. They are of no man's private interpretation. They are ordained by the will of the people: and can be changed only by the sovereign command of the people.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Mississippi yield with the understanding that he will not lose the floor, while I make a request?

Mr. EASTLAND. I yield.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senator from Mississippi may yield temporarily to me, without losing his right to the floor, and without his continuation counting as a second speech, in order that I may make a unanimous-consent request that the Senate proceed to the consideration of executive business for the purpose of the consideration of the treaties on the Executive Calendar; that the treaties be considered en bloc; and that there be a yea-and-nay vote.

Mr. HOLLAND. Mr. President, will the Senator from Texas yield for a parliamentary inquiry?

Mr. JOHNSON of Texas. I yield.

Mr. HOLLAND. As I understand the rules of parliamentary procedure, the Senator from Texas would be thoroughly within his rights in moving that the Senate proceed to the consideration of executive business for the purpose of taking up the agreements, without the displacement of the pending business on the Legislative Calendar.

Mr. JOHNSON of Texas. That can be done without debate.

Mr. HOLLAND. Mr. President, am I correct in my understanding of the parliamentary situation?

The PRESIDING OFFICER. The Senator from Florida is correct.

Mr. JOHNSON of Texas. That can be done without debate.

Mr. HOLLAND. I have no objection.

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

Mr. JOHNSON of Texas. 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.

EXECUTIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Thomas W. S. Davis, of Virginia, to be a member of the Foreign Claims Settlement Commission;

Oliver Gasch, of the District of Columbia, to be U.S. attorney for the District of Columbia;

Jean L. Auxier, of Kentucky, to be U.S. attorney for the eastern district of Kentucky;

Gerald F. Bracken, of Maryland, to be U.S. marshal for the district of Maryland; and

Albert A. DiMeolo, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania.

By Mr. KEATING, from the Committee on the Judiciary;

Neil R. Farmelo, of New York, to be U.S. attorney for the western district of New York.

THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS; THE NORTH AMERICAN REGIONAL BROADCASTING AGREEMENT; THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES CONCERNING RADIO BROADCASTING IN THE STANDARD BROADCAST BAND

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that Calendars Nos. 1, 2, and 3 being respectively, Executive I, 86th Congress, 1st session; Executive A, 82d Congress, 1st session; and Executive G, 85th Congress, 1st session, be considered en bloc.

The PRESIDING OFFICER (Mr. CANNON in the chair). Is there objection to the request of the Senator from Texas?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider, en bloc, the following agreements, which were severally read the second time, as follows:

AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

PREAMBLE

The contracting States,

CONSIDERING that the free exchange of ideas and knowledge and, in general, the widest possible dissemination of the diverse forms of self-expression used by civilizations are vitally important both for intellectual progress and international understanding, and consequently for the maintenance of world peace;

CONSIDERING that this interchange is accomplished primarily by means of books, publications and educational, scientific and cultural materials;

CONSIDERING that the Constitution of the United Nations Educational, Scientific and Cultural Organization urges cooperation between nations in all branches of intellectual activity, including "the exchange of publications, objects of artistic and scientific interest and other materials of information" and provides further that the Organization shall "collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image";

RECOGNIZE that these aims will be effectively furthered by an international agreement facilitating the free flow of books, publications and educational, scientific and cultural materials; and

HAVE, therefore, AGREED to the following provisions:

ARTICLE I

1. The contracting States undertake not to apply customs duties or other charges on, or in connexion with, the importation of:

(a) Books, publications and documents, listed in annex A to this Agreement;

(b) Educational, scientific and cultural materials, listed in annexes B, C, D and E to this Agreement;

which are the products of another contracting State, subject to the conditions laid down in those annexes.

2. The provisions of paragraph 1 of this article shall not prevent any contracting State from levying on imported materials:

(a) Internal taxes or any other internal charges of any kind, imposed at the time of

importation or subsequently, not exceeding those applied directly or indirectly to like domestic products;

(b) Fees and charges, other than customs duties, imposed by governmental authorities on, or in connection with, importation, limited in amount to the approximate cost of the services rendered, and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

ARTICLE II

1. The contracting States undertake to grant the necessary licenses and/or foreign exchange for the importation of the following articles:

(a) Books and publications consigned to public libraries and collections and to the libraries and collections of public educational, research or cultural institutions;

(b) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin;

(c) Books and publications of the United Nations or any of its specialized agencies;

(d) Books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its supervision;

(e) Publications intended to promote tourist travel outside the country of importation, sent and distributed free of charge;

(f) Articles for the blind:

(i) Books, publications and documents of all kinds in raised characters for the blind;

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

2. The contracting States which at any time apply quantitative restrictions and exchange control measures undertake to grant, as far as possible, foreign exchange and licenses necessary for the importation of other educational, scientific, or cultural materials, and particularly the materials referred to in the annexes to this Agreement.

ARTICLE III

1. The contracting States undertake to give every possible facility to the importation of educational, scientific or cultural materials, which are imported exclusively for showing at a public exhibition approved by the competent authorities of the importing country and for subsequent reexportation. These facilities shall include the granting of the necessary licenses and exemption from customs duties and internal taxes and charges of all kinds payable on importation, other than fees and charges corresponding to the approximate cost of services rendered.

2. Nothing in this article shall prevent the authorities of an importing country from taking such steps as may be necessary to ensure that the materials in question shall be re-exported at the close of their exhibition.

ARTICLE IV

The contracting States undertake that they will as far as possible:

(a) Continue their common efforts to promote by every means the free circulation of educational, scientific or cultural materials, and abolish or reduce any restrictions to that free circulation which are not referred to in this Agreement;

(b) Simplify the administrative procedure governing the importation of educational, scientific or cultural materials;

(c) Facilitate the expeditious and safe customs clearance of educational, scientific or cultural materials.

ARTICLE V

Nothing in this Agreement shall affect the right of contracting States to take measures, in conformity with their legislation, to prohibit or limit the importation, or the circulation after importation, of articles on grounds relating directly to national security, public order or public morals.

ARTICLE VI

This Agreement shall not modify or affect the laws and regulations of any contracting State or any of its international treaties, conventions, agreements, or proclamations, with respect to copyright, trademarks or patents.

ARTICLE VII

Subject to the provisions of any previous conventions to which the contracting States may have subscribed for the settlement of disputes, the contracting States undertake to have recourse to negotiations or conciliation, with a view to settlement of any disputes regarding the interpretation or the application of this Agreement.

ARTICLE VIII

In case of a dispute between contracting States relating to the educational, scientific or cultural character of imported materials, the interested Parties may, by common agreement, refer it to the Director-General of the United Nations Educational, Scientific and Cultural Organization for an advisory opinion.

ARTICLE IX

1. This Agreement, of which the English and French texts are equally authentic, shall bear today's date and remain open for signature by all Member States of the United Nations Educational, Scientific and Cultural Organization, all Member States of the United Nations and any non-member State to which an invitation may have been addressed by the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

2. The Agreement shall be ratified on behalf of the signatory States in accordance with their respective constitutional procedure.

3. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE X

The States referred to in paragraph 1 of article IX may accept this Agreement from 22 November 1950. Acceptance shall become effective on the deposit of a formal instrument with the Secretary-General of the United Nations.

ARTICLE XI

This Agreement shall come into force on the date on which the Secretary-General of the United Nations receives instruments of ratification or acceptance from ten States.

ARTICLE XII

1. The States Parties to this Agreement on the date of its coming into force shall each take all the necessary measures for its fully effective operation within a period of six months after that date.

2. For States which may deposit their instruments of ratification or acceptance after the date of the Agreement coming into force, these measures shall be taken within a period of three months from the date of deposit.

3. Within one month of the expiration of the periods mentioned in paragraphs 1 and 2 of this article, the contracting States to this Agreement shall submit a report to the United Nations Educational, Scientific and Cultural Organization of the measures which they have taken for such fully effective operation.

4. The United Nations Educational, Scientific and Cultural Organization shall transmit this report to all signatory States to this Agreement and to the International Trade Organization (provisionally, to its Interim Commission).

ARTICLE XIII

Any contracting State may, at the time of signature or the deposit of its instrument of ratification or acceptance, or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Agreement shall extend to all or any of the territories for the conduct of whose foreign relations that contracting State is responsible.

ARTICLE XIV

1. Two years after the date of the coming into force of this Agreement, any contracting State may, on its own behalf or on behalf of any of the territories for the conduct of whose foreign relations that contracting State is responsible, denounce this Agreement by an instrument in writing deposited with the Secretary-General of the United Nations.

2. The denunciation shall take effect one year after the receipt of the instrument of denunciation.

ARTICLE XV

The Secretary-General of the United Nations shall inform the States referred to in paragraph 1 of article IX, as well as the United Nations Educational, Scientific and Cultural Organization and the International Trade Organization (provisionally, its Interim Commission), of the deposit of all the instruments of ratification and acceptance provided for in articles IX and X, as well as of the notifications and denunciations provided for respectively in articles XIII and XIV.

ARTICLE XVI

At the request of one-third of the contracting States to this Agreement, the Director-General of the United Nations Educational Scientific and Cultural Organization shall place on the agenda of the next session of the General Conference of that Organization, the question of convoking a meeting for the revision of this Agreement.

ARTICLE XVII

Annexes A, B, C, D and E, as well as the Protocol annexed to this Agreement are hereby made an integral part of this Agreement.

ARTICLE XVIII

1. In accordance with Article 102 of the Charter of the United Nations, this Agreement shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

2. IN FAITH WHEREOF the undersigned, duly authorized, have signed this Agreement on behalf of their respective Governments.

DONE at Lake Success, New York, this twenty-second day of November one thousand nine hundred and fifty in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the States referred to in paragraph 1 of article IX, as well as to the United Nations Educational, Scientific and Cultural Organization and to the International Trade Organization (provisionally, to its Interim Commission).

ANNEX A—BOOKS, PUBLICATIONS AND DOCUMENTS

(I) Printed books.

(II) Newspapers and periodicals.

(iii) Books and documents produced by duplicating processes other than printing.

(iv) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin.

(v) Travel posters and travel literature (pamphlets, guides, time-tables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the country of importation.

(vi) Publications whose purpose is to stimulate study outside the country of importation.

(vii) Manuscripts, including typescripts.

(viii) Catalogs of books and publications, being books and publications offered for sale by publishers or booksellers established outside the country of importation.

(ix) Catalogs of films, recordings or other visual and auditory material of an educational, scientific, or cultural character, being catalogs issued by or on behalf of the United Nations or any of its specialized agencies.

(x) Music in manuscript or printed form, or reproduced by duplicating processes other than printing.

(xi) Geographical, hydrographical, or astronomical maps and charts.

(xii) Architectural, industrial, or engineering plans and designs, and reproductions thereof, intended for study in scientific establishments or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(The exemptions provided by annex A shall not apply to:

(a) Stationery;

(b) Books, publications, and documents (except catalogs, travel posters, and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes;

(c) Newspapers and periodicals in which the advertising matter is in excess of 70 percent by space;

(d) All other items (except catalogs referred to above) in which the advertising matter is in excess of 25 percent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.)

ANNEX B—WORKS OF ART AND COLLECTORS' PIECES OF AN EDUCATIONAL, SCIENFIFIC, OR CULTURAL CHARACTER

(i) Paintings and drawings, including copies, executed entirely by hand, but excluding manufactured decorated wares.

(ii) Hand-printed impressions, produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist.

(iii) Original works of art of statutory or sculpture, whether in the round, in relief, or in intaglio, excluding mass-produced reproductions and works of conventional craftsmanship of a commercial character.

(iv) Collectors' pieces and objects of art consigned to public galleries, museums and other public institutions, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, not intended for resale.

(v) Collections and collectors' pieces in such scientific fields as anatomy, zoology, botany, mineralogy, palaeontology, archaeology and ethnography, not intended for resale.

(vi) Antiques, being articles in excess of 100 years of age.

ANNEX C—VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

(i) Films, filmstrips, microfilms and slides, of an educational, scientific or cultural character, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations), approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles, exclusively for exhibition by these organizations or by other public or private educational, scientific or cultural institutions or societies approved by the aforesaid authorities.

(ii) Newsreels (with or without sound track), depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of such films, provided that free entry may be limited to two copies of each subject for copying purposes.

(iii) Sound recordings of an educational, scientific or cultural character for use exclusively in public or private educational, scientific or cultural institutions or societies (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(iv) Films, filmstrips, microfilms and sound recordings of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies.

(v) Patterns, models and wall charts for use exclusively for demonstrating and teaching purposes in public or private educational, scientific or cultural institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

ANNEX D—SCIENTIFIC INSTRUMENTS OR APPARATUS

Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research, provided:

(a) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions;

(b) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

ANNEX E—ARTICLES FOR THE BLIND

(i) Books, publications and documents of all kinds in raised characters for the blind.

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

PROTOCOL ANNEXED TO THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

The contracting States,

IN THE INTEREST OF facilitating the participation of the United States of America in the Agreement on the Importation of Educational, Scientific and Cultural Materials, have agreed to the following:

1. The United States of America shall have the option of ratifying this Agreement, under article IX, or of accepting it, under article X, with the inclusion of the reservation hereunder.

2. In the event of the United States of America becoming Party to this Agreement with the reservation provided for in the preceding paragraph 1, the provisions of that reservation may be invoked by the Government of the United States of America with regard to any of the contracting States to this Agreement, or by any contracting State with regard to the United States of America, provided that any measure imposed pursuant to such reservation shall be applied on a non-discriminatory basis.

TEXT OF THE RESERVATION

(a) If, as a result of the obligations incurred by a contracting State under this Agreement, any product covered by this Agreement is being imported into the territory of a contracting State in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in that territory producing like or directly competitive products, the contracting State under the conditions provided for by paragraph 2 above, shall be free, in respect of such product and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend, in whole or in part, any obligation under this Agreement with respect to such product.

(b) Before any contracting State shall take action pursuant to the provisions of paragraph (a) *above, it shall give notice in writing to the United Nations Educational, Scientific, and Cultural Organization as far in advance as may be practicable and shall afford the Organization and the contracting States which are Parties to this Agreement an opportunity to consult with it in respect of the proposed action.*

(c) In critical circumstances where delay would cause damage which it would be difficult to repair, action under paragraph (a) *above may be taken provisionally without prior consultation, on the condition that consultation be effected immediately after taking such action.*

For Afghanistan:

For Argentina:

For Australia:

For Austria:

For the Kingdom of Belgium:

JOSEPH NISOT, November 22, 1950.

For Bolivia:

A. COSTA DU RELS (*ad referendum*), November 22, 1950.

For Brazil:

For the Union of Burma:

For the Byelorussian Soviet Socialist Republic:

For Canada:

For Ceylon:

For Chile:

For China:

TINGFU F. TSIANG, November 22, 1950.

For Columbia:

ELISEO ARANGO, November 22, 1950.

For Costa Rica:

For Cuba:

For Czechoslovakia:

For Denmark:

For the Dominican Republic:

MAX HENRÍQUEZ UREÑA, November 22, 1950.

For Ecuador:

QUEVEDO, November 22, 1950.

For Egypt:

M. SALAH-EL-DIN, November 22, 1950.

For El Salvador:

HÉCTOR DAVID CASTRO, December 4, 1950.

For Ethiopia:
For France:
For Greece:
ALEXIS KYROU, November 22, 1950.
For Guatemala:
RICARDO CASTAÑEDA PAGINI, November 22, 1950.
For Haiti:
Dr. PRICE-MARS, November 22, 1950.
For Honduras:
For Hungary:
For Iceland:
For India:
For Iran:
For Iraq:
For Israel:
ARTHUR LOURIE, November 22, 1950.
For Italy:
For the Republic of Korea:
For Lebanon:
For Liberia:
For the Grand Duchy of Luxembourg:
PIERRE PESCATORE, November 22, 1950.
For Mexico:
For Monaco:
For the Kingdom of the Netherlands:
D. J. BALLUSECK, November 22, 1950.
For New Zealand:
For Nicaragua:
For the Kingdom of Norway:
For Pakistan:
For Panama:
For Paraguay:
For Peru:
For the Philippines:
CARLOS P. RÓMULO, November 22, 1950.
For Poland:
For Saudi Arabia:
For Sweden:
For Switzerland:
JEAN-FRÉDRICÉ WAGNIÈRE, November 22, 1950.
For Syria:
For Thailand:
WAN WAITHAYAKON, November 22, 1950.
For Turkey:
For the Ukrainian Soviet Socialist Republic:
For the Union of South Africa:
For the Union of Soviet Socialist Republics:
For the United Kingdom of Great Britain and Northern Ireland:
GLADWYN JEBB, November 22, 1950.
For the United States of America:
HENRY CABOT LODGE, June 24, 1959.
For the United States of Indonesia:
For Uruguay:
For Venezuela:
For Yemen:
For Yugoslavia:

MEMORANDUM OF ADDITIONAL COMMENTARIES RELATING TO VARIOUS OF THE MORE IMPORTANT ASPECTS OF THE NEW NARBA

(The additional comments below, with respect to the North American Regional Broadcasting Agreement (the new NARBA) signed at Washington on November 15, 1950, will assist in evaluating the merits of the agreement:)

GENERAL

Station notifications and classifications and general standards of protection from interference: The new NARBA provides in general for continued recognition of past notifications of United States stations and for international acceptance by the parties thereto of the station and channel classifications, engineering standards of station protection, and other related engineering factors. This is basic from the viewpoint of the United States if many of its approximately 2,200 standard (AM) broadcasting stations are to continue to operate within the band of 107 channels available for such broadcasting and continue to receive the international protection necessary for a stabilized broadcasting system capable of genuinely serving the people of this country. For example, under the new NARBA the channels available for standard broadcasting are classified as "clear," "regional," and "local" channels as under past agreement; stations are classified in classes I, II, III, and IV; and power and other specific engineering requirements are set out to govern the use of the several types of channels and the operation of the different classes of stations. The importance of provisions such as these should be fully appreciated for our whole broadcasting system is predicated upon the use of such classifications and standards internationally as well as domestically. And, as indicated earlier, such station and channel classifications, and engineering standards, as well as the continued acceptance and protection of our existing station assignments, are effective from an international viewpoint only to the extent that they are provided for by agreement. One of the technical standards contained in past agreement and in the new agreement, but with respect to which Cuba has taken reservation in the new agreement, is the so-called 650-mile rule. It is referred to subsequently in connection with provisions of the agreement concerning clear channels.

Duration of agreement: investigation and elimination of objectionable interference: arbitration, etc.: The new NARBA contains a number of provisions of a general legal and administrative nature which are most important from the viewpoint of the United States. For example, provision is made that the new NARBA will remain in effect even beyond its normal term of 5 years in the event that a subsequent NARBA is not available to replace it. Thus, in the absence of denunciation of the agreement, the type of uncertainty and dislocation which has existed during the past year or two because of the absence of an agreement will be circumvented for the future. The new NARBA also contains agreement by the parties to cooperate in the investigation and elimination of objectionable interference. Moreover, it contains clear-cut provisions for compulsory arbitration of disputes in the event that such disputes are not settled otherwise, and for the holding of administrative conferences permitting frequent consideration of engineering matters during the period between plenipotentiary conferences.

CLEAR CHANNELS

Class 1–A stations: Under the original NARBA the United States secured priority in the use of 25 clear channels for class 1–A stations. As a result of domestic assignments this number was reduced to 24 during the period of past agreement. Class 1–A stations are intended to serve wide areas at considerable distances from the transmitter location. The protection to which these stations were entitled under the original NARBA was basically (a) a requirement that the signal at the border of the United States from any foreign station on the channel not exceed a specified maximum strength and (b) that no foreign station operate on the channel at night within 650 miles of the U.S. border. As previously indicated, Canada and Mexico each received 6 such assignments and Cuba received 1, which it subsequently relinquished upon acquiring a number of other important privileges in the interim agreement. Under the interim agreement of 1946 Cuba was authorized to establish stations on 4 of the 24 clear channels upon which the United States had class 1–A priority. No requirement was specified for protection of these Cuban stations from interference caused by stations in the United States.

Since expiration of the original NARBA and the interim agreement, Cuba, asserting a right as a sovereign country to use of all channels in the absence of any agreement to the contrary, has assigned one or more stations to each of approximately 14 of these channels. And, in the absence of any NARBA, Cuba has considered itself to be without special obligation to protect the U.S. stations on these channels. Under the new NARBA, the number of clear channel class 1–A priorities recognized for the United States has been restored to 25 and the number of such priorities recognized for Canada has been increased from 6 to 7. One such priority is also recognized for the Bahamas. Cuba will utilize only 6 of the 25 channels so assigned to the United States, withdrawing stations from approximately 8 of them. Moreover, Cuba has agreed to accord a high degree of protection to the U.S. stations on those channels. Jamaica would use 2 of the 25 channels, but would fully protect the border of the United States. On these 8 channels, i.e., the 6 to be used by Cuba and the 2 to be used by Jamaica, the United States would provide a limited protection to the Cuban and Jamaican stations specified in the agreement but would otherwise retain full freedom in the use of those channels.

Accordingly, under the new NARBA the United States would retain its class 1–A priority on 25 clear channels. This is the same number as under past agreement. On 19 of these channels all other countries signatory to the agreement would protect the U.S. stations to the border of the United States. For example, in the case of Cuba this would mean protecting the United States to the tip of Florida even though we may not at present have a useful signal at that point. The border protection specified in such cases is exactly the same as that which was provided in past agreement. From our recent experience without an agreement it is quite clear that in the absence of the new NARBA continued recognition by all parties to the agreement of the priorities and protection just indicated cannot be expected. On 6 of these channels the U.S. station would receive a degree of protection which, though somewhat less than full 1–A protection, is greater than that accorded any other type of station and would still permit them to render service over extensive areas hundreds of miles from the station. On these channels, also, a considerably lesser degree of protection could be expected in the absence of the new NARBA. In view of the provision of the NARBA requiring full "border" protection to U.S. stations on 19 clear channels, and in view of the fact that under the agreement the United States would have no obligation whatever to protect any station that might in the future be assigned on any of its 1–A channels, failure of Cuba to accept the so-called 650-mile rules does not in reality appear to present a particularly serious difficulty, although it would have been preferable to have Cuban acceptance of that rule and every effort was made by the U.S. delegation to secure such acceptance.

It is to be noted that in no case is a Class 1–A station in the United States required to change its operation.

One of the important factors in evaluating the effect of the new NARBA is the effect that the provisions with respect to class 1–A priorities would have upon service to rural areas in the United States. As a result of the reduction in the actual use by Cuba of clear channels upon which the United States has class 1–A priority, there would, as a practical matter, be a significant improvement in service to rural areas from class 1–A stations. Moreover—and this is of utmost importance—in the absence of the new NARBA interference to such rural service from sta-

tions in other countries would in all probability become even worse than at present. The improvement in rural service that would result from the new NARBA is of utmost importance because of the great dependence in rural areas upon 1–A channels for broadcasting service.

The new NARBA also contains most important provisions concerning class 1–A channels which are favorable to the United States and which were not found in earlier agreement. For example, flexibility in the use of class 1–A channels, that is, freedom to add additional stations to those channels, change existing assignments, increase power, etc., without in any way jeopardizing internationally the class 1–A status and protection of its 25 channels, and without the obligation to protect any foreign stations on the channels with the exception of the six Cuban and two Jamaican stations which have been referred to at an earlier point and which would be entitled to protection as class II stations. The clear recognition of this right of flexibility was not contained in past agreement and is a matter of greatest importance in order to make possible the most effective domestic improvement in broadcasting service.

Class 1–B stations: This class of station, like class 1–A stations, is intended to serve wide areas through skywave service. Although a station of this class does not receive protection from foreign interference at the border of the country, it does receive a high degree of protection in areas in which its service is useful. Under the new NARBA, Cuba would be permitted to cause some derogation of the usual protection standards for U.S. class 1–B stations by 14 stations on 11 channels. Under past agreement this was permitted by six stations on five channels. However, in none of these instances recognized in the new NARBA does it appear that as a practical matter the U.S. station would suffer sufficiently to prevent satisfactory accomplishment of its operation. Moreover, under the new NARBA 3 additional class 1–B priorities are recognized for the United States, and in no case would it be necessary for the U.S. station to change its operation.

Class II stations: A class II station also operates on a clear channel but its operation is subordinate to the class I operation on the channel. Under past agreement class II stations were not entitled to any protection from class I stations. Under the new agreement those class II stations which now exist would receive a degree of protection from changes in existing class I assignments and from future class I assignments. It is under this new provision that the Cuban and Jamaican class II stations on eight clear channels upon which the United States has class 1–A priority would receive some protection. However, it is important to note that under this provision at least 25 class II stations in the United States would also be entitled to protection from class I stations for the first time. In addition, to accommodate certain frequency changes in Cuba which are part of a general reallocation in that country, three U.S. class II stations would be required under the new NARBA to change frequency, with consequent changes being required in their antennas and equipment.

REGIONAL CHANNELS

Class III stations: There are approximately 900 class III stations in the United States. In general, they are intended to serve not only the cities in which they are located but also a substantial area surrounding their locations. With few exceptions, the standards governing class III stations and protection remain the same under the new NARBA as under past agreements. In 10 cases Cuban stations on regional channels would be permitted to operate with powers in excess of that normally permitted on such channels. In 3 of these cases the Cuban stations are classified as class III stations. In 7 of these cases the Cuban stations are classified as class 1–C or 1–D stations which are discussed in the immediately following paragraph. However, in all 10 of these cases the class III protection is accorded the United States stations on the channels involved. In one of these cases a United States station would be required to modify its antenna system to reduce radiation towards Cuba. However, Cuba would also be required to modify its use of the same frequency in order to reduce radiation towards stations in the United States to an equal degree.

Special Protection of Certain Cuban stations: On 11 channels Cuba would be entitled to a relatively high degree of protection from future assignments in other countries. These Cuban stations would be classified as classes 1–C and 1–D stations. It is to be noted in this connection that under the new agreement Cuba does not receive any class 1–A assignments and would receive only one class 1–B assignment. It is also to be noted, as indicated above, that the special protection to which Cuban 1–C and 1–D stations would be entitled in no way affects existing stations. It only has reference to future assignments.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES CONCERNING RADIO BROADCASTING IN THE STANDARD BROADCAST BAND

The Governments of the United States of America and the United Mexican States, being desirous of promoting the effective technical use in the two countries of the standard broadcasting band with a minimum of interference between stations in the two countries, and believing that this purpose can best be served by making provision in common agreement between the two Governments, have designated for that purpose their undersigned Plenipotentiaries who, having communicated to each other their respective Full Powers, found to be in good and due form, have agreed as follows:

ARTICLE I—PURPOSE AND SCOPE OF AGREEMENT

A. Sovereign rights of contracting parties—purpose of agreement

While fully recognizing the sovereign right of each country with respect to the use of all of the channels in the standard broadcast band, the Contracting Parties also recognize that, in the absence of technical developments permitting the elimination of radio, interference of an international character, agreement between them is necessary in order to promote and maintain the effective use by both countries of the standard broadcasting band.

In the exercise of their respective sovereign rights and for the purpose of eliminating objectionable interference, the United States of America and the United Mexican States have concluded earlier agreements, under which it has been possible to establish and develop their respective standard broadcasting installations and services. The maintenance and protection of these services constitute a principal objective of this Agreement, while at the same time a harmonious development of the broadcasting services of both nations for the future is sought.

It is the purpose of this Agreement to accomplish these objectives by establishing rules and principles relating to the use of the standard broadcasting band by each country so that both countries may utilize it in the most effective manner and with a minimum of interference between their respective broadcasting stations. This Agreement shall govern the relations between the United States of America and the United Mexican States in the use of the standard broadcast band (535–1605 kc/s).

The Contracting Parties agree to take the necessary measures to require the observance of the provisions of this Agreement upon the private and other operating agencies recognized or authorized by them to establish and operate broadcasting stations within their respective countries, possessions or territories.

If either Contracting Party acts in a manner deemed to be inconsistent with the provisions of this Agreement by the other Contracting Party, there shall be consultations at the request of the latter party regarding the matter. In the event that such consultations do not result in a resolution of the matter to the satisfaction of both parties, the latter Contracting Party may avail itself of the provisions of Article V B.

The United States of America and the United Mexican States declare their objective to incorporate, in substance, the pertinent provisions of this bilateral Agreement into the next North American Regional Broadcasting Agreement that is concluded.

B. Annexes to this agreement

The following annexes complete and form an integral part of this Agreement:

Annex I:

(A) Table of Class I–A Priorities.

(B) Secondary Use of Class I–A Clear Channels.

Annex II: Table of Class I–B Priorities.

Annex III: Protected Service Contours and Permissible Interfering Signals from Co-channel Stations.

Annex IV:

Figure 1: Angles of Departure versus Transmission Range (omitted in RECORD).

Figure 2: Sky Wave Curves 10% and 50% of the Time (omitted in the RECORD).

Annex V: Specific Cases.

Annex VI: Notification Procedure.

Annex VII: Abbreviations.

ARTICLE II—TECHNICAL

A. Definitions

1. *Broadcast Station.* A station the emissions of which are primarily intended to be received by the general public.

2. *Broadcast Channels*—535 to 1605 kc/s. A broadcast channel is a band of frequencies ten (10) kc/s in width, with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. Carrier frequencies assigned to broadcast stations shall begin at 540 kc/s and be in successive steps of 10 kc/s. No intermediate frequency shall be assigned as the carrier frequency of any broadcast station.

3. *Service Areas.*

a. Primary service area. The primary service area of a broadcast station is the area in which the ground wave is not subject to objectionable interference or objectionable fading.

b. Secondary service area. The secondary service area of a broadcast station is the area served by the sky wave and not subject to objectionable interference. The signal is subject to intermittent variations in intensity.

4. *Dominant Stations.* A dominant station is a class I station, as hereinafter defined, operating on a clear channel.

5. *Secondary Station.* A secondary station is any station except a class I station operating on a clear channel.

6. *Objectionable Interference.* Objectionable interference is that which exceeds the maximum interference permissible under the terms of this Agreement.

7. *Power.* The power of a radio transmitter is the power supplied to the antenna.

8. *Spurious Radiation.* A spurious radiation from a transmitter is any radiation outside the frequency band of emission normal for the type of transmission employed, including any harmonic modulation products, key clicks, parasitic oscillations and other transient effects.

B. Classes of channels and allocation thereof

1. *Three Classes:* The 107 channels in the standard broadcast band are divided into three principal classes: Clear, regional, and local.

2. *Clear Channel:* A clear channel is one on which the dominant station or stations render service over wide areas and which are cleared of objectionable interference within their primary service areas and over all or a substantial portion of their secondary service areas.

3. *Regional Channel:* A regional channel is one on which the several stations may be assigned to operate with powers not in excess of 25 kW. However, within an area 100 kilometers (62 miles) of the common border powers in excess of 5 kW may not be used.

4. *Local Channel:* A local channel is one on which several stations may operate with 1 kW daytime, and 500 watts nighttime, at distances of 150 kilometers or more from the common border. Stations located more than 100 kilometers from the common border, but less than 150 kilometers from said border, may be assigned to operate with powers not in excess of 1 kW daytime and 250 watts nighttime. Stations located 100 kilometers or less from the common border may be assigned to operate with powers not in excess of 250 watts daytime and nighttime.

5. *Number of Channels of Each Class:* The number of channels of each class shall be as follows:

Clear channels	60
Regional channels	41
Local channels	6
	107

6. *Allocation of Specific Channels to Each Class.* The channels are allocated to the several classes as follows:

a. *Clear Channels.* The following channels are designated as clear channels: 540, 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 940, 990, 1000, 1010, 1020, 1030, 1040, 1050, 1060, 1070, 1080, 1090, 1100, 1110, 1120, 1130, 1140, 1160, 1170, 1180, 1190, 1200, 1210, 1220, 1500, 1510, 1520, 1530, 1540, 1550, 1560, 1570, and 1580 kc/s.

b. *Regional Channels.* The following channels are designated as regional channels: 550, 560, 570, 580, 590, 600, 610, 620, 630, 790, 910, 920, 930, 950, 960, 970, 980, 1150, 1250, 1260, 1270, 1280, 1290, 1300, 1310, 1320, 1330, 1350, 1360, 1370, 1380, 1390, 1410, 1420, 1430, 1440, 1460, 1470, 1480, 1590, and 1600 kc/s.

c. *Local Channels.* The following channels are designated as local channels: 1230, 1240, 1340, 1400, 1450, and 1490 kc/s.

7. *Use of Regional and Local Channels by Countries.* The Contracting Parties may use all regional and all local channels, subject to the power limitations and standards for prevention of objectionable interference set forth in this Agreement.

8. *Priority of Use of Clear Channels:*

a. Each of the Contracting Parties hereby recognizes the Class I priorities of the other in the use of clear channels, as set forth in Annexes I and II.

b. Neither Contracting Party shall make any nighttime assignment on the channels upon which the other Contracting Party has Class I–A priority under this Agreement, except as provided in Annex I.

c. Daytime Class II assignments by either Contracting Party on clear channels upon which the other Contracting Party has the Class I–A priority will be subject to the following conditions:

1. *Permissible Hours of Operation:* Sunrise to Sunset at the location of the Class II station.

2. *Permissible Signal Intensity at the Boundary of the Country Which Has the Class I–A Priority on the Channel Involved:* Not more than 5 uV/m ground wave.

3. *Permissible Power:* 50 kW, except that:

(a) The United Mexican States may assign stations to operate with powers not in excess of 5kW on the following channels: 700 kc/s, 720 kc/s, 1120 kc/s, 1210 kc/s.

(b) The United States of America may assign stations to operate with powers not in excess of 5 kW on the following channels: 730 kc/s, 800 kc/s, 900 kc/s, 1050 kc/s, 1220 kc/s, 1570 kc/s. Furthermore, stations with powers in excess of 1 kW may not be assigned in areas within the following distances of the locations specified:

i. 800 kc/s: 1319 kilometers (820 miles) from Ciudad Juarez, Chihuahua.

ii. 1050 kc/s: 998 kilometers (620 miles) from Monterrey, Nuevo Leon.

iii. 1570 kc/s: 998 kilometers (620 miles) from Ciudad Acuña, Coahuila.

d. It is recognized and agreed by the Contracting Parties that the secondary use of Class I–A clear channels permitted under the terms of this Agreement imposes no obligations on the Contracting Party having the Class I–A priority to protect such secondary use, and that the Contracting Party having the Class I–A priority retains full freedom to make such use of the channel upon which it has Class I–A priority as it deems necessary to meet its domestic service needs. However, if either of the Contracting Parties contemplates changes in its use of such Class I–A clear channel which would increase the adjacent channel sky wave interference to stations in the other country, such proposed changes shall be the subject of consultation between the Contracting Parties, with a view toward minimizing such interference before the changes are implemented.

C. Classes of stations and use of the several classes of channels

1. *Classes of Stations:* Broadcast stations are divided into four principal classes, to be designated Class I, Class II, Class III, and Class IV.

2. *Definition of Classes:* The four classes of broadcast stations are defined as follows:

a. *Class I:* A dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Class I stations are subdivided into two classes:

b. *Class I–A:* A Class I station which operates with power of 50 kW or more and which has its primary service area, within the limits of the country in which the station is located, free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area, within the same limits, free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

c. *Class I–B:* A Class I station which operates with power of not less than 10 kW or more than 50 kW and which has its primary service area free from objectionable interference from other stations on the same and adjacent channels and its secondary service area free from objectionable interference from stations on the same channel, in accordance with the engineering standards hereinafter set forth.

d. *Class II:* A secondary station which operates on a clear channel and is designed to render service over a primary service area which, depending on geographical location and power used, may be relatively large, but which is limited by and subject to such interference as may be received from Class I stations. A station of this class shall operate with power of not less than 0.10 kW or more than 50 kW. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference, in accordance with the engineering standards hereinafter set forth, with Class I stations and with other Class II stations.

e. *Class III:* A station which operates on a regional channel and is designed to render service primarily to a metropolitan district and the rural area contained therein and contiguous thereto. A station of this class operates with power not less than 0.5 kW and not more than 25 kW. The service area is subject to interference in accordance with the engineering standards hereinafter set forth.

f. *Class IV:* A station generally using a local channel and designed to render service to a city or town and the suburban and rural areas contiguous thereto. The power of a station of this class shall not be less than 0.1 kW and not more than 1 kW daytime and 0.5 kW nighttime. Its service is subject to interference in accordance with the engineering standards hereinafter set forth.

3. *Additional Provisions Concerning the Use of Clear Channels.*

a. In principle, Class I stations shall be assigned only to clear channels.

b. Except as otherwise provided in this Agreement, Class II stations may be assigned to clear channels only on condition that the interfering signal does not exceed that permitted under the standards in Annex III.

4. *Use of Regional Channels.*

a. In general only Class III stations shall be assigned to regional channels.

b. On condition that interference not be caused to any Class III station, and subject to such interference as may be received from Class III stations, Class IV stations may be assigned to regional channels.

5. *Use of Local Channels.* Only Class IV stations shall be assigned to local channels.

D. Service and Interference

1. *Satisfactory Signals.* It is recognized that, in the absence of interference from other stations and in regions where the natural electrical noise level is not abnormally high, a signal of 100 uV/m constitutes a usable signal in rural and sparsely settled areas but that, because of the higher electrical noise levels in more thickly populated communities, greater field intensities (ranging as high as 25 mV/m or more in cities) are necessary to render satisfactory service. It is further recognized that it is not possible to accord protection to stations from interference over the entire areas over which their signals are or may be above the electrical noise level, particularly at night, and that it is necessary to specify boundaries on contours at or within which stations are protected from objectionable interference from other stations.

2. *Areas Protected From Objectionable Interference.* The boundaries or contours at and within which the several classes of stations shall be protected from objectionable interference are as set forth in Annex III. No station, however, need be protected from objectionable interference at any point outside the boundaries of the country in which such station is located except as provided elsewhere in this Agreement.

3. *Objectionable Interference on the Same Channel.*

(a) *Daytime; to All Classes of Stations; Nighttime; to Class I Stations.* Objectionable interference shall be deemed to be caused to an existing station when, at the boundary or field intensity contour specified in Annex III with respect to the class to which the station belongs, the intensity of the field produced by another station exceeds, for 10 percent or more of the time, the value of the permissible interfering signal set forth for such class in Annex III.

(b) *Nighttime; to Class II and Class III Stations.* Objectionable interference shall be deemed to be caused to an existing station when at the field intensity contour specified for the class of station in Annex III or at the contour within which the station provides interference-free service (whichever is higher) a new signal exceeds 70 per cent of the intensity of the permissible interfering signal set forth in said Annex for the class of station, or 70 per cent of the strongest interfering signal from an existing or duly notified station if the latter is in excess of the permissible signal.

4. *Objectionable Interference on Adjacent Channels.* Objectionable interference is considered to exist when, at or within the specified contours of a desired station, the field intensity of the ground wave of an undesired station operating on an adjacent channel exceeds a value determined by the following ratio:

Separation between Channels:	
10 kc/s	1 to 0.5
20 kc/s	1 to 30

The undesired ground wave signal shall be determined at or within the 0.5 mV/m ground wave contour of the desired station. These values apply to all classes of stations both day and night and are based on ground wave only. No adjacent channel interference is considered on the basis of an interfering sky wave.

5. *Frequency Stability:* The operating frequency of each broadcast station shall be maintained to within 20 cycles per second of the assigned frequency.

6. *Spurious Radiation:* The Contracting Parties shall endeavor to reduce and, if possible, eliminate spurious radiations from broadcast stations. Such radiations shall be reduced in all cases until they are not of sufficient intensity to cause interference outside the frequency band required for the type of emission employed. With respect to type A–3 emissions the transmitter should not be modulated in excess of its modulation capability to the extent that interfering spurious radiations occur.

E. Determination of presence of objectionable interference

1. *Antenna Performance:* For the purpose of calculating the presence and the degree of objectionable interference, stations of the several classes shall be assumed to produce effective field, corrected for absorption, for 1 kW of input power to the antenna, as follows:

Class I: 362 mV/m at one kilometer; 225 mV/m at one mile.

Class II and III: 282 mV/m at one kilometer; 175 mV/m at one mile.

Class IV: 241 mV/m at one kilometer; 150 mV/m at one mile.

In case a directional antenna is employed, the interfering signal of a broadcasting station in any direction, in the absence of actual interference, measurements will be determined by calculations of the horizontal and vertical field intensity patterns of the directional antenna.

2. *Power.* The power of a station shall, for the purposes of notifications required by this Agreement, be determined in one of the following manners:

a. By taking the product of the square of the antenna current and the antenna resistance (antenna input power).

b. By determination of the station's effective field intensity, corrected for absorption, by making sufficient field intensity measurements on at least eight radials as nearly equally spaced as practicable and by relating the field intensity thus determined to the effective field intensity of a station having the antenna efficiency stipulated above for its class.

3. *Methods of Determining the Presence of Objectionable Interference—General.* The existence or absence of objectionable interference from stations on the same or adjacent channels shall be determined by use of ground wave or sky wave curves referred to in paragraph 4, below.

4. *Use of Propagation Curves.*

a. *Sky Wave Curves.* In computing the distance to the 50 per cent sky wave field intensity contour of a Class I station of a given power, and also in computing the 10 per cent sky wave field intensity of an alleged interfering station, of any class and given power, at a specified distance, use may be made of the appropriate graphs set forth in Annex IV.

b. *Ground Wave Curves.* The distance to any specified ground wave field intensity contour may be determined from appropriate ground wave curves plotted for the frequency under consideration and the conductivity and dielectric constant of the earth between the station and desired contour. The frequency and the conductivity of the earth must be considered in every case and where the distance is great due allowance must be made for loss due to curvature of the earth. The family of curves to be used for this purpose is similar to the curves of Ground Wave Field Intensity versus Distance for different frequencies, contained in the Regulations, Part 3, Radio Broadcast Services, January 1956 edition, issued by the Federal Communications Commission of the United States of America.

Where several values of conductivity are presumed to occur along a single propagation path, the "Kirke" or "Equivalent Distance" method of computation shall be used in computing the distance to a specific field intensity contour in conjunction with the curves referred to in the preceding paragraph. The application of this method is described in the Regulations of the Federal Communications Commission mentioned above.

F. Review of technical standards and requirements

The technical standards and requirements adopted in this Agreement shall be the subject of constant study by both countries in the light of continuing development of the radio art, and shall be subject to such change during the term of this Agreement as the appropriate administration of the Contracting Parties may find mutually agreeable.

ARTICLE III—NOTIFICATION

A. Recognition of existing notifications of standard broadcasting station assignments

1. All outstanding notifications of standard broadcasting station assignments received from either Contracting Party by the Inter-American Radio Office (O.I.R.), Habana, Cuba, on or prior to June 15, 1955, which are not the subject of objection submitted through that Office by either Contracting Party, and are not modified by the specific assignments in the Annexes hereto, are hereby recognized and accepted.

2. The notifications of standard broadcasting station assignments set out in the Annexes to this Agreement are also hereby recognized and accepted. All notifications and objections inconsistent with the assignments set out in the said Annexes, or otherwise inconsistent with the terms of this Agreement, are hereby withdrawn.

B. Notification of new broadcasting station assignments. Changes in existing broadcasting assignments, etc.

1. New station assignments or changes in existing station assignments made by either Contracting Party shall be consistent with the terms of this Agreement.

2. Each Contracting Party shall notify the other Contracting Party of all new broadcasting station assignments, and all changes in or deletions of existing broadcasting station assignments in accordance with Annex VI of this Agreement. Each Contracting Party shall also notify the other Contracting Party of the deletion of any broadcasting station assignments and of the date of commencement or cessation of operation, and consummation of changes in broadcasting stations.

To be valid, each notification must be such that the new broadcasting station, change or deletion proposed therein is in accordance with this Agreement.

4. Each Contracting Party shall, within forty-five days after the date of receipt of such notification, advise the Contracting Party making the notification of any objection it may have thereto under the terms of this Agreement or of its acceptance of the notification. In case the supplementary information required under the provisions of Annex VI does not accompany the basic information and such supplementary information is received within the period specified in the said Annex, the period during which objection may be made shall be extended to thirty days after the date of receipt of such supplementary information.

5. Failure of either Contracting Party to object to a notification within the period specified above shall be deemed to be an acceptance by that Contracting Party of such notification.

6. The date of priority of a notification shall be determined by the date of receipt, by the Agency or Government performing the notification exchange function, of the basic information constituting the notification, provided the supplementary information with respect to such notification is also submitted within the period specified therefor in Annex VI. If there is a conflict between two or more notifications, priority in the date of receipt thereof by the Agency or Government performing the notification exchange function shall govern.

C. Cessation of effect of notification

1. Any notification of a new broadcasting station assignment or of a change in an existing broadcasting station assignment shall cease to have any effect if, within the period specified in Annex VI, the supplementary information shall not have been supplied.

ARTICLE IV—RATIFICATION AND ENTRY INTO FORCE

A. Ratification

1. This Agreement shall be subject to ratification by both Contracting Parties in accordance with their constitutional procedures.

2. The Contracting Parties agree to take the actions appropriate and necessary to ratification as expeditiously as possible consistent with their constitutional procedures.

3. The instruments of ratification shall be exchanged in Mexico, Distrito Federal.

B. Entry into force

1. This Agreement shall enter into force upon the exchange of instruments of ratification.

ARTICLE V—TERM AND DENUNCIATION OF AGREEMENT

A. Term

This Agreement shall remain in force for a period of five years unless, before the end of that period, it is terminated by a notice of denunciation pursuant to paragraph B of this Article or replaced by a new agreement between the Contracting Parties.

B. Denunciation

Either Contracting Party may terminate this Agreement by notice of denouncement to the other Party. The denunciation shall take effect one year after the date of receipt of the notice thereof, except that denunciation pursuant to the provisions therefor in Article I of this Agreement shall take effect ninety days after the date of receipt of the notice thereof.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Agreement in duplicate in the English and Spanish languages. The texts in both languages shall be equally valid. An authentic copy thereof shall be forwarded by the Government of the United Mexican States to the Governments of the United Kingdom of Great Britain and Northern Ireland for the Territories in the North American Region (Bahama Islands and Jamaica); Canada; Cuba; Dominican Republic; and Haiti; to the Secretary General of the International Telecommunication Union and to the Agency performing the notification exchange function.

DONE at Mexico, Distrito Federal, this twenty-ninth day of January, one thousand nine hundred and fifty seven.

For the Government of the United States of America: Francis White, *Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Mexican States;* Rosel H Hyde, *Chairman of the United States Delegation.*

For the Government of the United Mexican States: Ingeniero WALTER C. BUCHANAN, *Acting Secretary of Communication and Public Works;* Ingeniero EUGENIO MÉNDEZ, Docurro, *Director General of Telecommunications of the Ministry of Communications and Public Works.*

ANNEX I

A. TABLE OF CLASS I-A PRIORITIES

Channel kc/s	Country having I-A Priority	Channel kc/s	Country having I-A Priority
540	Mexico	870	USA
640	USA	880	USA
650	USA	890	USA
660	USA	900	Mexico
670	USA	1020	USA
700	USA	1030	USA
720	USA	1040	USA
730	Mexico*	1050	Mexico
750	USA	1100	USA
760	USA	1120	USA
770	USA	1160	USA
780	USA	1180	USA
800	Mexico	1200	USA
820	USA	1210	USA
830	USA	1220	Mexico
840	USA	1570	Mexico

*The Parties hereto recognize the limitation to the Mexican operation on 730 kc/s caused by operation of stations in the United States of America on the frequency 740 kc/s and agree to continue their study of this matter in an effort to arrive at an adjustment in the use of 740 kc/s that will be mutually satisfactory and upon the basis of which the United States of America may modify its existing priority for the use of 740 kc/s. Each Contracting Party agrees to exchange views and to give careful consideration to any suggestions by the other Contracting Party.

B. Secondary use of Class I–A clear channels

1. Neither Contracting Party[1] shall make any nighttime assignment on the channels upon which the other country has Class I–A priority under this Agreement, except as follows:

a. The United Mexican States may make the following assignments:

(1) *660 kc/s*—5 kW maximum power, directional antenna, Mexico, Distrito Federal, with the signal intensity at any point within the boundaries of the United States of America limited to 50 uV/m, 10 per cent sky wave.

(2) *760 kc/s*—5 kW maximum power, directional antenna, Mexico, Distrito Federal, or south with signal intensity at any point within the boundaries of the United States of America limited to 50 uV/m, 10 per cent sky wave.

(3) *830 kc/s*—5 kW maximum power, directional antenna, Mexico, Distrito Federal, with signal at any point within the boundaries of the United States of America limited to 50 uV/m, 10 per cent sky wave.

(4) *1030 kc/s*—Mexico, Distrito Federal, 10 kW–D, 1 kW–N, ND, U, II.

b. The United States of America may make the following assignments:

(1) *1050 kc/s*—New York, New York, 50 kW, DA–N, U, II, with the directional antenna pattern used at present for such operation.

(2) *1220 kc/s*—Cleveland, Ohio, 50 kW, DA-N, U, II, with the directional antenna pattern used at present for such operation.

(3) *540 kc/f*—Assignments in the United States of America on this frequency:

(a) shall be located outside the area; bounded on the north by the parallel 35°N and on the east by the meridian 93°W; provided that no such assignments may be made within the United States of America south of the parallel 30°N, and

(b) shall not place a signal intensity at any point within the United Mexican States in excess of 50 uV/m nighttime and 10 uV/m daytime.

(4) *730 kc/s*—Santurce, Puerto Rico, 10 kW, DA–1, U, II.[2]

(5) *800 kc/s*—Juneau, Alaska, 5 kW, ND, U, II.

(6) *900 kc/s*—Fairbanks, Alaska, 10 kW, ND, U, II.

[1] In the case of the United States of America this also includes Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

[2] The maximum permissible signal at the nearest point on the Mexican boundary shall be 17.5 uV/m.

ANNEX II.—*Table of Class I–B Priorities*

Channel kc/s	Station	Country having I–B Priorities	Antenna	Schedule	Channel kc/s	Station	Country having I–B Priorities	Antenna	Schedule
680	San Francisco, California	USA	ND	U	1130	Shreveport, Louisiana	USA	DA	U
690	Tijuana, Baja California	Mexico	DA	U	1130	New York, New York	USA	DA	U
710	New York, New York	USA	DA	U	1140	Monterrey, Nuevo Leon	Mexico	DA	U
710	Seattle, Washington	USA	DA	U	1140	Richmond, Virginia	USA	DA	U
810	San Francisco, California	USA	DA	U	1170	Tulsa, Oklahoma	USA	DA	U
810	Schenectady, New York	USA	ND	U	1170	Wheeling, West Virginia	USA	DA	U
850	Denver, Colorado	USA	ND	U	1190	Guadalajara, Jalisco	Mexico	DA	U
850	Orizaba, Veracruz	Mexico	DA	U	1190	Fort Wayne, Indiana	USA	DA	U
940	Mexico, Distrito Federal	Mexico	ND	U	1190	Portland, Oregon	USA	DA	U
1000	Mexico, Distrito Federal	Mexico	DA	U	1500	Washington, District of Columbia	USA	DA	U
1000	Chicago, Illinois	USA	DA	U	1500	St. Paul, Minnesota	USA	DA	U
1000	Seattle, Washington	USA	DA	U	1510	Nashville, Tennessee	USA	DA	U
1060	Mexico, Distrito Federal	Mexico	DA	U	1510	Spokane, Washington	USA	DA	U
1060	Philadelphia, Pennsylvania	USA	DA	U	1520	Buffalo, New York	USA	DA	U
1070	Los Angeles, California	USA	ND	U	1520	Oklahoma City, Oklahoma	USA	DA	U
1080	Hartford, Connecticut	USA	DA	U	1530	Sacramento, California	USA	DA	U
1080	Dallas, Texas	USA	DA	U	1530	Cincinnati, Ohio	USA	DA	U
1090	Rosarito, Baja California	Mexico	DA	U	1540	Waterloo, Iowa	USA	DA	U
1090	Little Rock, Arkansas	USA	DA	U	1550	Nuevo Laredo, Tamaulipas	Mexico	DA	U
1090	Baltimore, Maryland	USA	DA	U	1560	New York, New York	USA	DA	U
1110	Omaha, Nebraska	USA	DA	U	1560	Bakersfield, California	USA	DA	U
1110	Charlotte, North Carolina	USA	DA	U					

ANNEX III.—*Protected service contours and permissible interfering signals from co-channel stations*

Class of station	Class of channel used	Permissible power	Boundary or signal intensity contour of area protected from objectionable interference		Permissible interfering signal	
			Day	Night	Day Ground Wave	Night 10% Sky Wave
I A	Clear	50 kW or more	Boundary of country in which station is located		5 uV/m	25 uV/m.
I B	Clear	10 kW to 50 kW	100 uV/m	500 uV/m (50% sky wave)	5 uV/m	25 uV/m.
II	Clear	0.10 kW to 50 kW	500 uV/m	2500 uV/m (ground wave)	25 uV/m	125 uV/m.
III	Regional	0.5 kW to 25 kW as provided in definition of Regional Channel.	500 uV/m	2500 uV/m (ground wave)	25 uV/m	125 uV/m.
IV	Local	0.1 kW to 1 kW day as provided in definition of Local Channel. 0.1 kW to 0.5 kW night as provided in definition of Local Channel.	500 uV/m	4000 uV/m (ground wave)	25 uV/m	200 uV/m.

ANNEX V.—*Specific cases*

540 kc/s	Haines City, Florida	10 kW	DA	D	II[a]
550 kc/s	Merida, Yucatan	5 kW	DA-1	U	III[a]
550 kc/s	San Diego, California	5 kW	DA	U	III[k]
570 kc/s	Morelia, Michoacan	1 kW	ND	U	III
580 kc/s	Guadalajara, Jalisco	25 kW	DA-1	U	III[a]
#590 kc/s	Reynosa, Tamaulipas	5 kW-D/.25 kW-N	ND	U	IV
590 kc/s	Hermosillo, Sonora	1 kW	ND	U	III
610 kc/s	Sabinas, Coahuila	3 kW-D/0.5 kW-N	ND	U	III
620 kc/s	Chihuahua, Chihuahua	1 kW-D/0.5 kW-N	ND	U	IV
620 kc/s	Mexico, Distrito Federal	10 kW-D/5 kW-N	ND	U	III
630 kc/s	Monterrey, Nuevo Leon	10 kW	DA-2	U	III[a]
660 kc/s	Ciudad Delicias, Chihuahua.	0.5 kW	ND	D	II
690 kc/s	Tijuana, Baja California	50 kW	DA-N	U	I-B[ac]
690 kc/s	La Mesa, Texas	0.25 kW	ND	U	II
690 kc/s	State of Yucatan	50 kW	DA	U	III[j]
710 kc/s	Tuxtla Gutierrez, Chiapas	1 kW	ND	U	II
790 kc/s	Mexicali, Baja California	0.5 kW	ND	D	III
790 kc/s	La Paz, Baja California	2 kW-D/0.75 kW-N	ND	U	III
810 kc/s	Kansas City, Missouri	50kW-D/10 k W-N	DA-N	U	II[a]
810 kc/s	Tampico, Tamaulipas	50 kW	DA-N	U	II[a]
850 kc/s	Orizaba, Veracruz	100 kW-D/50 kW-N	DA-N	U	I-B[c,g]
920 kc/s	Piedras Negras, Coahuila	1 kW-D/0.25 kW-N	ND	U	IV
920 kc/s	Culiacan, Sinaloa	5 kW	DA-N	U	III[b]
940 kc/s	Mexico, Distrito Federal	150 kW-D/50 kW-N	ND	U	I-B
950 kc/s	Tijuana, Baja California	2.5 kW	ND	U	III
960 kc/s	Nuevo Laredo, Tamaulipas	2 kW-D/1 kW-N	ND	U	III
970 kc/s	Ciudad Juarez, Chihuahua	10 kW-D/5 kW-N	ND	U	III
1000 kc/s	Chicago, Illinois	50 kW	DA-2	U	I-B[a]
1000 kc/s	Mexico, Distrito Federal	10 kW	ND	U	I-B[d]
1000 kc/s	Oklahoma City, Oklahoma	5 kW	DA-2	U	II[a]
1010 kc/s	Ciudad Acuña, Coahuila	0.5 kW-D/0.2 kW-N	ND	U	II
1070 kc/s	Tehuacan, Puebla (will shift from 1080 kc/s)	1 kW-D/0.25 kW-N	ND	U	II
1080 kc/s	Zitacuaro, Michoacan	0.5 kW-D/0.1 kW-N	ND	U	II
1110 kc/s	Mexico, Distrito Federal	50 kW	DA-N	U	II[e]
1130 kc/s	Jalapa, Veracruz	10 kW	DA-N	U	II[a]
1140 kc/s	Monterrey, Nuevo Leon	50 kW	DA-N	U	I-B[b]
1150 kc/s	Ciudad Obregon, Sonora	5 kW-D/0.3 kW-N	ND	U	III
1150 kc/s	Merida, Yucatan	0.5 kW-D/0.35 kW-N	ND	U	III
1150 kc/s	Mexico, Distrito Federal	10 kW	DA-N	U	III[a]
1190 kc/s	Fort Wayne, Indiana	50 kW	DA-N	U	I-B[a]
1190 kc/s	Portland, Oregon	50 kW	DA-1	U	I-B[a]
1190 kc/s	Guadalajara, Jalisco	{10 kW {50 kW	ND DA-N	U U	I-B[i] "
1250 kc/s	Port Arthur, Texas	5 kW-D/1 kW-N	DA-N	U	III[a]
1310 kc/s	Torreon, Coahuila	10 kW-D/0.25 kW-N	ND	U	IV
1320 kc/s	Mexico, Distrito Federal	1 kW	ND	U	III
1330 kc/s	Gallup, New Mexico	5 kW-D/1 kW-N	DA-N	U	III[a]
1360 kc/s	Iguala, Guerrero	1 kW-D/0.5 kW-N			III
1360 kc/s	Celaya, Guanajuato	1 kW-D/0.175 kW-N	ND	U	IV
1370 kc/s	Monterrey, Nuevo Leon	10 kW	DA-N	U	III[b]
1370 kc/s	Nogales, Sonora	5 kW	ND	U	III
1380 kc/s	Tecate, Baja California	0.25 kW-D/0.1 kW-N	ND	U	IV
1380 kc/s	Mexico, Distrito Federal	5 kW	ND	U	III
1410 kc/s	Nuevo Laredo, Tamaulipas.	1 kW-D/0.25 kW-N	ND	U	IV
1410 kc/s	Searcy, Arkansas	1 kW-D/0.5 kW-N	DA-N	U	III[a]
1450 kc/s	Valle Hermoso, Tamaulipas.	1 kW-D/0.25 kW-N	ND	U	IV
1470 kc/s	Ciudad Miguel Aleman, Tamaulipas.	0.5 kW-D/0.25 kW-N.	ND	U	IV
1470 kc/s	Mexico, Distrito Federal	10 kW-D/5 kW-N	ND	U	III
1520 kc/s	Hidalgo del Parral, Chihuahua.	1 kW	ND	D	II
1540 kc/s	Los Angeles, California	5 kW	ND	D	II
1540 kc/s	Waterloo, Iowa	50 kW	DA-N	U	I-B[ac]
1550 kc/s	Nuevo Laredo, Tamaulipas.	50 kW	DA-N	U	I-B[a]
1550 kc/s	Huntsville, Alabama	5 kW-D/0.5 kW-N	DA-N	U	II[a]
1560 kc/s	Bakersfield, California	10 kW	DA-1	U	I-B[ac]
1560 kc/s	New York, New York	50 kW	DA-1	U	I-B[ac]
1560 kc/s	Ciudad Cuahtemoc, Chihuahua.	2 kw-D/0.25 kW-N	ND	U	II
1580 kc/s	Hermosillo, Sonora	50 kW	ND	U	II
1590 kc/s	Mexicali, Baja California	10 kW-D/1.5kW-N	ND	U	III
1590 kc/s	Mexico, Distrito Federal	10 kW-D/5 kW-N	ND	U	III
1600 kc/s	Brownsville, Texas	1 kW	DA-2	U	III[fa]

NOTES

The Contracting Parties recognize that operation of XERT, Reynosa, Tamaulipas, on the frequency 590 kc/s, with presently notified daytime power of 5 kW, would seriously limit the ground wave service of co-channel station KTBC, Austin, Texas. The United Mexican States therefore agree to study the possibility of maintaining the daytime power of the Reynosa station at a level where such interference to the Austin station is minimized.

[a] With presently notified DA pattern, any subsequent change in this pattern must not result in increased interference to stations in the other country under the engineering standards of this Agreement.

[b] Directional antenna will protect stations in the other country in accordance with the engineering standards of this Agreement.

[c] Future assignments will protect this station in accordance with its I-B classification.

[d] Non-directional operation with power not to exceed 10 kW is permissible. If higher power is used a directional antenna will be employed which will restrict the radiation to 715 mV/m, or less, unattenuated field, at 1.609 kilometers (one mile), over the arc between the true bearings 11 and 47 degrees (WCFL secondary service area) and to 1125 mV/m, unattenuated field, at 1.609 kilometers (one mile), over an arc between the true bearings 314 and 333 degrees (KOMO secondary service area).

[e] The directional antenna shall restrict the radiation to 200 mV/m, unattenuated, at 1.609 kilometers (one mile), over an arc between the true bearings 327 and 10 degrees (KFAB secondary service area) and over an arc between the true bearings 27 to 65 degrees (WBT secondary service area).

[f] This station will be subject to interference which may be caused at any time by XEAE, Ciudad Acuña, Coahuila, with power of 5 kW, or if XEAE changes location to Monterrey, Nuevo Leon, to operate with 1 kW. In either case, XEAE will operate with non-directional antenna.

[g] *850 kc/s.* The Orizaba, Veracruz, assignment on 850 kc/s will protect the secondary service area (0.5 mV/m, 50 per cent sky wave contour) of KOA, Denver, Colorado, in accordance with the I-B classification of KOA.

[h] This assignment shall provide I-B protection to the United States I-B station in Richmond, Virginia, except that the unattenuated field at 1.609 kilometers (one mile) toward the northern part of the Richmond station's secondary service area may be increased to the following values at the bearings indicated:

250 mV/m at 19° true
140 mV/m at 22° true
140 mV/m at 35° true
200 mV/m at 52° true

[i] Non-directional operation with 10 kW is permissible. If higher power is used the directional antenna shall restrict radiation to 870 mV/m, unattenuated field at 1.609 kilometers (one mile), over an arc between the true bearings 323 and 343 degrees (KEX secondary service area) and to 715 mV/m, unattenuated field at 1.609 kilometers (one mile), over an arc between the true bearings 17 and 59 degrees (WOWO secondary service area).

[j] The United Mexican States may operate a Class II station at any point in the Yucatan Peninsula with power of 50 kW using a directional antenna that will give to stations in the United States of America protection equivalent to that which they receive from the present operation of the station in Mexico, Distrito Federal, on this frequency (5 kW, ND-U-II).

[k] Protection requirements for other stations to be based on previous operation on 550 kc/s.

ANNEX VI. NOTIFICATION PROCEDURE

A. Notification of new broadcasting station assignments or changes in existing broadcasting station assignments

1. *Performance of the Notification Exchange Function*

Notifications concerning broadcasting station assignments and changes in or deletions of such assignments, objections thereto, and other communications made pursuant to the provisions of this Article, shall be sent for purposes of exchange to the Agency or Government which performs the notification exchange functions for the countries of the North American Region.

2. *Notification of New Broadcasting Station Assignments or of Changes in Existing Broadcasting Station Assignments*

In making any notifications of a new broadcasting station assignment, or of a change in an existing broadcasting station assignment, the Government shall supply the basic information, which is essential to constitute a notification. The basic information shall be accompanied or followed as soon thereafter as possible, but in no case more than ninety days thereafter, by supplementary information.

(a) *New broadcasting station assignments*

(1) Basic information: Basic information shall consist of the following: frequency; class of station; location by city and province or State; power; time designation; whether a directional antenna is to be used and the time during which it will be used (DA–1, DA–2, DA–N or DA–D); the date of expected commencement of operation.

(2) Supplementary information: Supplementary information shall consist of the following: call sign; geographical location of the midpoint of the antenna system in degrees and minutes of latitude and longitude; and,

(i) for a directional antenna system, its electrical and physical dimensions, the horizontal radiation pattern for day operation, and the horizontal and vertical radiation patterns for night operation (the vertical patterns to be supplied only for directions in which protection is required for stations in other countries);

(ii) for omnidirectional antennas, the electrical and physical dimensions (including those of the ground system, etc.)[3] and the horizontal unattenuated radiated field at 1,609 kilometers (1 mile) for 1 kw of input power to the antenna.

(b) *Changes in Broadcasting Station Assignments*

(1) *Basic Information.* The basic information shall consist of the nature of the change, together with the date of expected consummation thereof, and any revision of the basic information previously supplied necessary to make it conform to the change.

(2) *Supplementary Information.* The supplementary information shall consist of any revision of the supplementary information previously supplied necessary to make it conform to the change.

3. *Notifications of Deletions of Broadcasting Station Assignments*

Notifications of deletions of broadcasting station assignments shall consist of sufficient information to identify the station assignment deleted, including call sign, location, frequency and power, together with the date on which the station has ceased, or is expected to cease operation.

4. *Notification of Commencement or Cessation of Operation of, and Consummation of Operation of, and Consummation of Changes in, Broadcasting Stations*

The exact date of commencement of cessation of operation of a broadcasting station, or of consummation of a change in broadcasting station, shall be notified.

[3] It is assumed that omnidirectional antennas will be guyed or self-supporting insulated towers located on the ground with a buried radial ground system. Where the antenna system deviates from this (for example: is located on a building, is a type T or inverted L, is shunt fed; is sectionalized or top loaded) full particulars, including a sketch if necessary for clarity, shall be submitted.

ANNEX VII. ABBREVIATIONS

kc/s: Kilocycles per second.
kW: kilowatts.
U: Unlimited time (day and night).
D: Daytime only.
N: Nightime only.
ND: Omnidirectional or non-directional.
mV/m: Millivolts per meter.
uV/m: Microvolts per meter.

DA-1: Directional antenna: the digit indicates same pattern but not necessarily the same power day and night.

DA-2: Directional antenna: the digit indicates different patterns day and night, with either the same or different power day and night.

DA-N: Directional antenna: the "N" indicates directional antenna used for nighttime operation only; omnidirectional day.

DA-D: Directional antenna: the "D" indicates directional antenna used for daytime operation only.

Mr. JOHNSON of Texas. Mr. President, I ask for the yeas and nays on the agreements.

The yeas and nays were ordered.

THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

Mr. MANSFIELD. Mr. President, the agreement now before the Senate, Executive I, 86th Congress, 1st session is for the purpose of encouraging the exchange of materials of a cultural, scientific, and educational nature. Some 31 states which are parties to this agreement undertake to admit free of duty the following categories of materials:

First. Books, publications, and documents.

Second. Works of art and collectors' items.

Third. Visual and auditory materials.

Fourth. Scientific instruments or apparatus.

Fifth. Books and other articles for the blind.

Sixth. Certain public exhibition materials.

The agreement to which we are now asked to give our advice and consent will not come into effect for the United States until necessary implementing legislation has been enacted.

The materials which are to be admitted are carefully prescribed in the agreement itself, and the certifying agent as to whether such materials come under the terms of the treaty is to be the Secretary of the Treasury.

The United States retains the right to prohibit the importation of any material relating to national security, public order, or public morals. Furthermore, the protocol of reservation permits the United States to suspend in whole or any part of the agreement if any materials are admitted in such quantities or under such conditions as to cause or threaten serious injury to domestic producers.

Finally, it should be noted that the United States is an exporter of all of the items listed, and it can be anticipated, therefore, that the agreement will, in general, be to our advantage.

The committee considered the convention in late January and heard a number of witnesses testify in support of it. No testimony was received in opposition to the agreement.

Mr. President, I ask unanimous consent to have printed at this point in my remarks the text of the report on Executive I, 86th Congress, 1st session, relative to the importation of educational, scientific, and cultural materials, and also the message from the President of the United States on this particular matter.

There being no objection, the report—Executive Report No. 1—and the message from the President of the United States, were ordered to be printed in the RECORD, as follows:

1. MAIN PURPOSE OF THE AGREEMENT

The main purpose of the Agreement on the Importation of Educational, Scientific, and Cultural Materials (commonly known, and hereinafter referred to, as the "Florence agreement") is to enable organizations and individuals in the participating countries to obtain such materials with less difficulty through reduction of tariff and trade obstacles. It is believed that ratification and implementation of the Florence agreement would promote the fuller exchange of knowledge and ideas across free-world national boundaries with a consequent substantial contribution to international understanding.

2. BACKGROUND

The formulation of an international agreement to overcome governmental obstacles to the free flow of educational, cultural, and scientific materials was proposed in 1948 by the General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO). Following drafting revisions by a meeting of contracting parties to the General Agreement on Tariffs and Trade—consulted because of the proposal's character—a text was unanimously adopted by the General Conference of UNESCO at its 1950 session in Florence. The Secretary-General of the United Nations having received instruments of ratification or acceptance from 10 countries, the Florence agreement came into force in May 1952. To date, 31 states have become parties to the agreement; none of the Communist bloc countries has joined.

While the United States actively participated in the drafting of the agreement and the negotiations leading to its adoption, this country did not become a signatory until June 1959. The explanation for the delay given by the executive branch relates to a requirement first to seek ratification and judge the effects of the Universal Copyright Convention, which also concerns the importation of published materials. Because of delayed ratification of that convention by other English-speaking countries, data on its effects could not be gathered at any earlier time. Now, however, according to the State Department report to the President:

"From import information obtained to date it would appear that the increase in English language imports under the Universal Copyright Convention is not significant in relation to the total volume of domestic production, and is in fact so small that it could very well represent a normal year-to-year variation rather than a result of the change in the manufacturing clause."

In receipt of this pertinent information, the executive branch undertook to bring about U.S. participation in the Florence agreement.

3. NATURE OF THE AGREEMENT

The Florence agreement is concerned with six basic categories of materials: books, publications, and documents; works of art and collectors' items; visual and auditory materials; scientific instruments or apparatus; books and other articles for the blind; and public-exhibition materials of a prescribed nature. The contracting states undertake to arrange for duty-free entry of these materials insofar as they are specifically defined in five annexes to the agreement. As an example of such definition, stationary and publications which are primarily commercial or advertising materials, except catalogs and travel publications, are excluded. Furthermore, the necessary licenses and/or foreign exchange are to be granted for the importation of certain categories of publications, and articles for the blind, which either are consigned to public institutions or are of an official governmental, United Nations, or travel-promotion character.

The provisions governing works of art are so drafted as to ensure only inclusion of items of genuine and individual artistic and educational merit. In most instances where visual and auditory materials are involved, it is provided that they can enter duty-free only when imported by organizations of an educational character approved by the competent authorities of the importing country and when intended for noncommercial use. Here, as elsewhere in the agreement, the certifying agent for the United States would be the Secretary of the Treasury.

The provisions of annex D, covering scientific instruments or apparatus have such limited scope that they may be quoted directly. They are included in the agreement if "* * * intended exclusively for educational purposes or pure scientific research, provided: (*a*) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions; (*b*) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation."

In addition to the inherent restrictive terms of the agreement, the national interests of the United States—and those of the other contracting countries—are protected in two ways. First, the participants may prohibit or limit the importation, or the circulation after importation, of items on grounds relating directly to national security, public order, or public morals. Secondly, the protocol of reservation, if adopted as recommended, would permit the United States (and other participants on a reciprocal basis) to suspend, in whole or in part, any of its obligations under the agreement if, as a result of those obligations, any materials covered by the agreement are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of similar or directly competitive products.

With respect to the duration of the Florence agreement, any participating country may denounce the agreement by an instrument in writing deposited with the Secretary-General of the United Nations. The denunciation would take effect 1 year after its receipt.

4. COMMITTEE ACTION

On August 25, 1959, the President of the United States transmitted the Florence agreement to the Senate with a view to receiving its advice and consent to ratification.

The Committee on Foreign Relations held an open hearing on the agreement on January 26, 1960, at which time the administration's case in favor of ratification was presented by Mr. W. T. M. Beale, Jr., Deputy Assistant Secretary for Economic Affairs in the Department of State. Non-Government witnesses, all of whom testified in support of the agreement, were: Prof. Sanborn C. Brown, representing the American Association of Physics Teachers; Mr. Curtis G. Benjamin, president of the McGraw-Hill Book Co., and cochairman of the National Committee for the Florence Agreement; Mr. Robert W. Frase, testifying for the American Book Publishers Council and the American Textbook Publishers Institute; and Edward B. Bunn, president of Georgetown University, on behalf of the Association of American Colleges. The testimony of Mr. Verner W. Clapp, representing the American Library Association, was also inserted in the record. Communications urging favorable consideration were received by the committee from

the Directors of the U.S. Information Agency and the National Science Foundation, and from such organizations as the American Council of Learned Societies and the American Council on Education. No opposition to ratification of the agreement was manifested prior to committee action.

Two points should be noted in connection with committee review of the Florence agreement. First, the administration reiterated the assurance that, if the Senate gives its advice and consent to ratification, deposit of the instrument of ratification will be withheld until the Congress has had an opportunity to consider the implementing legislation and such legislation has been enacted into law. Secondly, it is clearly impossible to estimate with any accuracy the costs to the United States which might be incurred under the agreement because of the varying nature and possible volume of future transactions. On the other hand, any revenue losses would probably be quite small, since some materials listed in the agreement already enter duty free, and others are covered by minimal tariffs.

After the last witness was heard on January 26, the committee went into executive session and ordered the Florence agreement reported to the Senate with the recommendation that the Senate give its advice and consent to ratification subject to the reservation contained in the protocol.

5. CONCLUSION

The Committee on Foreign Relations has repeatedly urged the administration to do its utmost to promote the free flow of ideas and knowledge in the cause of international education and understanding. It considers this agreement, in which 31 free-world countries participate, a useful and necessary element in the international exchange programs which the United States has championed, even though not always with the vigor and expenditures required by the demands of these critical times. It further believes that the domestic interests of the Nation, and of its individual citizens, are amply protected in the agreement and its attached protocol.

The committee urges the Senate to give its advice and consent to ratification of the Florence agreement.

THE WHITE HOUSE,
August 25, 1959.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the agreement on the importation of educational, scientific, and cultural materials, which was opened for signature at Lake Success, N.Y., on November 22, 1950, and entered into force on May 21, 1952. The agreement was signed in behalf of the United States on June 24, 1959.

I transmit also, for the information of the Senate, the report of the Acting Secretary of State with respect to the agreement.

DWIGHT D. EISENHOWER.

(Enclosures: (1) Report of the Acting Secretary of State; (2) certified copy of agreement on the importation of educational, scientific, and cultural materials.)

DEPARTMENT OF STATE,
July 6, 1959.

THE PRESIDENT,
The White House:

I have the honor to transmit to you, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, the agreement on the importation of educational, scientific, and cultural materials, which was opened for signature at Lake Success, N.Y., on November 22, 1950, and entered into force on May 21, 1952. The agreement was signed in behalf of the United States on June 24, 1959.

In 1948 the General Conference of the United Nations Educational, Scientific, and Cultural Organization proposed the formulation of an international agreement to overcome governmental obstacles to the free flow of materials of an educational, cultural, and scientific character. The proposed agreement, although designed to promote education, science, and culture, is in effect primarily a tariff and trade instrument. Consequently, the first draft prepared by the Secretariat of the United Nations Educational, Scientific, and Cultural Organization was submitted to a meeting of the contracting parties to the General Agreement on Tariffs and Trade, which produced a revised text deemed to be both technically sound and capable of wide acceptance. A meeting of experts which convened in 1950, attended by representatives of certain member states of the United Nations Educational, Scientific, and Cultural Organization, prepared a further draft of the agreement in the light of comment received from governments. The text prepared by the meeting of experts was adopted unanimously by the General Conference of UNESCO at its fifth session in Florence in July 1950. The United States participated in the negotiations leading to the conclusion of this agreement.

The major purpose of the agreement is to facilitate the importation of educational, scientific, and cultural materials by reducing tariff and trade obstacles and thus permitting organizations and individuals in the countries party to the agreement to obtain such foreign materials with less difficulty. The agreement concerns itself chiefly with six basic categories of materials as specified in the five annexes and article III, namely, (1) books, publications, and documents, (2) works of art and collectors' items, (3) visual and auditory materials, (4) scientific instruments and apparatus, (5) articles for the blind, and (6) public-exhibition materials.

The primary tool the agreement uses to accomplish its objective is the duty-free entry of these six categories of materials. More specifically, article I of the agreement provides for exemption from the application of customs duties and other charges not imposed on like domestic products, except those charges for services rendered which represent "neither an indirect protection to domestic products nor a taxation of imports for revenue purposes," with respect to the materials listed in the annexes to the agreement, including the following:

(1) Books, newspapers, periodicals, official government publications, manuscripts, music, maps, tourist material, and other categories of printed matter. Stationery and publications which are primarily advertising materials, except catalogs and travel publications, are expressly excluded from the operation of the agreement (annex A).

(2) Paintings and drawings, including copies, executed entirely by hand, but excluding manufactured decorated wares, certain types of handprinted impressions, sculpture, collectors' pieces of art destined for approved public galleries, collections, or collectors' pieces in various scientific fields, such as zoology, mineralogy, or achaeology, if not intended for resale, and antiques (articles over 100 years old) (annex B).

(3) Films, filmstrips, microfilms, and sound recordings of an educational, scientific, or cultural nature, provided they are destined for an approved institution or organization (except that there is no limitation on destination for these materials produced by the United Nations or its specialized agencies), certain newsreels, and patterns, models, and wall charts used for educational purposes of an approved institution (annex C).

(4) Scientific instruments or apparatus intended exclusively for educational purposes or pure scientific research if assigned to or under the control of an approved institution and provided that "instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation" (annex D).

(5) Reading materials in raised characters for the blind, and other materials for the advancement of the blind if imported by approved institutions or organizations (annex E).

The sixth category of materials which may enter duty free are materials of an educational, scientific, and cultural nature which are imported solely for showing at an approved public exhibition. The importing country may take such steps as necessary to assure the reexportation of these materials (art. III).

The agreement requires the granting of the necessary licenses and foreign exchange for the importation of (1) books and publications destined for specified types of libraries, official government documents, books and publications of the United Nations and its specialized agencies, books and publications received by the United Nations Educational, Scientific, and Cultural Organization and distributed free of charge under its supervision, free publications intended to promote international tourism, articles for the blind; and (2) other educational, scientific or cultural material insofar as possible (art. II).

Parties to this agreement undertake, as far as possible, to simplify the administrative procedure governing the import of, facilitate the expeditious and safe customs clearance of, and promote the free circulation of, educational, scientific or cultural material (art. IV).

Contracting states may prohibit or limit the importation, or the circulation after importation, of articles on grounds relating directly to national security, public order or public morals (art. V).

The United States has the option of ratifying the agreement subject to the reservation set forth in the protocol thereto. That reservation permits the United States to suspend, in whole or in part, any of its obligations under this agreement if, as a result of the obligations incurred under this agreement, any of the materials covered by the agreement are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like or directly competitive products. In the event that the United States becomes a party to the agreement subject to such a reservation, any other party to the agreement may invoke the reservation against the United States. Any invocation of the reservation by either the United States or another party must be applied in a nondiscriminatory manner. While the protocol provides that the suspension of such obligations shall take place after consultations with the other contracting parties, it is recognized that under special circumstances emergency action may be taken prior to consultation. It is recommended that the Senate give its advice and consent to ratification of the agreement subject to the reservation contained in the protocol.

The agreement provides that disputes regarding the interpretation or application of the agreement shall be settled by negotiation or conciliation according to previous conventions to which the contracting states may have subscribed (art. VII), and that disputes regarding the educational, scientific, or cultural character of imported materials may, by common agreement of the interested parties, be referred to the Director General of the United Nations Educational, Scientific, and Cultural Organization for an advisory opinion (art. VIII).

Article XII provides that a state becoming a party to the agreement is to take measures within 3 months to make the agreement fully effective. Deposit of the instrument of ratification will be withheld until the Congress has had an opportunity to consider the implementing legislation which will be submitted after the Senate gives its advice

and consent to ratification and such legislation has been enacted into law.

Although the United States participated actively in the drafting of this agreement, and voted for its adoption by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its fifth session in Florence in July 1950, the United States has deferred submission of the agreement to the Senate until the effect of the U.S. ratification of the Universal Copyright Convention (6 U.S. Treaties and Other International Agreements 2731) became known, since the implementation of that convention also affects the importation of published materials.

The Universal Copyright Convention requires, in effect, that works coming within the terms of that convention, that is, works of nationals of other parties to the convention or first published in territory of such other parties, be exempted from certain formalities, including the "local manufacturing clause" of the U.S. copyright law. This so-called manufacturing clause is essentially a quota on the number of copies of any English language book manufactured abroad which may be imported into the United States if copyright is claimed here. There was some concern that modification of the "manufacturing clause" to the extent necessary to permit effect to be given to the Universal Copyright Convention might cause injury to the U.S. book-manufacturing industry. Since the agreement on the importation of educational, scientific, and cultural materials would require the elimination of rates of duty on books and periodicals, it was not considered appropriate to seek ratification of the two agreements simultaneously. Accordingly, only the Universal Copyright Convention was submitted for approval in 1954, and it was decided that the present agreement would not be signed or submitted to the Senate until it could be ascertained what effect the implementation of the Universal Copyright Convention would have on the U.S. book-manufacturing industry.

Due to the unanticipated delay in the ratification of the Universal Copyright Convention by English-speaking countries of principal importance in the book-manufacturing field, it has not been possible until recently to gather data on the effect of the change in the U.S. "local manufacturing clause." From import information obtained to date it would appear that the increase in English language imports under the Universal Copyright Convention is not significant in relation to the total volume of domestic production, and is in fact so small that it could very well represent a normal year-to-year variation rather than a result of the change in the manufacturing clause.

At present the following states are parties to this agreement: Afghanistan, Austria, Belgium, Cambodia, Ceylon, Cuba, Egypt, El Salvador, Finland, France, Federal Republic of Germany, Ghana, Greece, Haiti, Israel, Jordan, Laos, Luxembourg, Malaya, Monaco, Netherlands, Norway, Pakistan, Philippines, Spain, Sweden, Switzerland, Thailand, United Kingdom, Vietnam, and Yugoslavia. It is hoped that favorable action by the United States at this time will renew the impetus for other countries to become parties to the agreement.

The United States has long advocated and supported the basic objective of the present agreement, which is to improve international understanding by reducing barriers to the flow of knowledge. Ratification would demonstrate to the world the continued support by the United States for international collaboration and for the principle of free flow of information and ideas.

Respectfully submitted.

ROBERT MURPHY,
Acting Secretary.

Mr. MANSFIELD. Mr. President, I hope the Senate will give its advice and consent to the ratification of this agreement.

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

Mr. MANSFIELD. I am delighted to yield.

Mr. PROUTY. As the distinguished Senator from Montana may know, Vermont is a leading producer of carved stonework in the form of monuments, memorials, statues, and similar objects. Vermont is one of the few places in this country where such objects are produced, and has some of the few skilled artisans in this country who are able to do such stone carving.

Annex B of this agreement calls for the duty free importation of original works of art including statues. The language used would seem to exclude works of conventional craftsmanship of a commercial character, but the exact definition of these terms is left in some doubt.

Is it intended to provide for the duty free importation of monuments, memorials, statues, and similar objects which are commercially produced in this country? Each of these objects produced in Vermont is a work of art and involves highly skilled techniques. None may be said to be of conventional craftsmanship, because each may be unique in itself and produced by highly skilled stone carvers of long experience for a specific use and according to a specific design.

Will this agreement, if it is ratified by the Senate, permit the duty free importation of such objects from abroad, in competition with the production in Vermont?

Mr. MANSFIELD. I am delighted to answer the distinguished Senator from Vermont.

It may be recalled that both the Senator from Vermont and his distinguished senior colleague [Mr. AIKEN] have shown more than ordinary interest in the question raised, both in the committee and on the floor today.

As the Senator from Vermont has said, the pertinent language in annex B of the Florence Agreement provides duty-free entry for original works of art of statuary or sculpture—excluding mass-produced reproductions and works of conventional craftsmanship of a commercial character.

The degree of uniqueness and skill involved in the production of a piece of statuary certainly would not be generally considered as directly related to its status as a work of art. While one can appreciate and applaud a craftman's pride in his vocation, his product might well be judged conventional in terms of artistic merit, even if it were unique and skillfully made. A consensus in artistic circles is what usually defines a work of art, and this has startling effects on the commercial price of such objects.

Let me illustrate how this provision might operate in practice: Let us say that an institution thought of importing a statue from abroad. If the institution decided to commission the carving of an original work, in a foreign country, it would take the overwhelmingly adverse risk that the finished statue would not subsequently be termed a work of art. If it decided to import what was generally conceded to be an original work of art, it would have to pay a price so large as to make the question of duty wholly irrelevant.

In any case, the present duty of 10 percent ad valorem on original works of art created of stone is not so high as to affect the likelihood of their importation under existing conditions.

In sum, I would say to my distinguished colleague from Vermont that I believe he need have no fears of any new competition from abroad arising from this agreement with respect to the carved stone work produced in his great State.

Mr. PROUTY. I am very grateful to my distinguished friend.

I should like to ask an additional question, so there will be no doubt in the mind of anyone as to the purpose of the Florence Agreement: Am I correct in my understanding that if this agreement is ratified, implementing legislation will be necessary in order to reduce the tariff rates on the categories of materials covered? In other words, do I correctly understand that the ratification of the agreement will not of itself reduce the tariff rates on any of the materials covered, and that additional legislation will have to be enacted before the tariff rates on any of the materials which now are dutiable will be lowered or eliminated?

Mr. MANSFIELD. My answer is that the Senator from Vermont is absolutely correct. We have complete assurance that the instrument of ratification would not be deposited until implementing legislation had been passed.

Mr. PROUTY. I thank the Senator very much.

Mr. BUTLER. Mr. President, will the Senator from Montana yield to me?

Mr. MANSFIELD. I yield.

Mr. BUTLER. I should like to ask the Senator from Montana several questions in connection with the agreement:

Are any of the Communist bloc countries signatories to this agreement?

Mr. MANSFIELD. None.

Mr. BUTLER. Is it possible that they could become parties to the agreement later, without having the matter come back to the Senate again?

Mr. MANSFIELD. That is possible, but it is highly improbable at this time.

Mr. BUTLER. But it is possible, is it, for them to become members, without having the matter come before the Senate again before that is done; or would it be brought to the attention of the Senate at that time?

Mr. MANSFIELD. I am sure the matter would then be considered by the Senate Committee on Foreign Relations, and that it would give due notice before the action was taken.

Mr. BUTLER. I thank the Senator from Montana.

Mr. MANSFIELD. Mr. President, that finishes what I have to say on the Florence Convention.

I hope the Senate will now turn to the agreements under the control of the Senator from Oregon [Mr. MORSE], for explanation.

Mr. MORSE. Mr. President, I shall discuss briefly the treaty which deals with the North American Regional Broadcasting Agreement and the treaty which deals with the Mexican Broadcasting Agreement. The first is the North American Regional Broadcasting Agreement, signed at Washington on November 15, 1950. The second is the agreement between the United States of America and the United Mexican States, concerning radio broadcasting in the standard broadcast band, signed at Mexico City on January 29, 1957.

I call attention to the brief report which our subcommittee unanimously submitted to the full committee. That report serves as the basis for the unanimous recommendation of the full committee to the Senate.

My statement will be very brief:

Mr. President, the two broadcasting agreements now before the Senate have been pending for a number of years—the North American Broadcasting Agreement, for 9 years; and the Mexican Broadcasting Agreement, for 3 years. During this period, they have been the subject of exhaustive examination by the Committee on Foreign Relations. Hearings on the North American Regional Broadcasting Agreement—known as the NARBA—were held four times; and on the Mexican Agreement, three times. The committee has thoroughly satisfied itself that these agreements are clearly in the national interest, and should be ratified. For this reason, the committee recommends that the Senate give its advice and consent to ratification of the agreements.

Both treaties are highly technical. Briefly, they concern the use by the signatory nations of radio frequencies in the standard broadcast band, so that radio stations in one nation will create the least amount of interference with stations in another nation. To that end, they set up a system of priorities, classes of stations, and engineering standards.

In many ways these treaties merely continue existing standards and regulations established by the first NARBA, which was approved by the Senate in 1938. The growth of the broadcasting industry in the intervening years made necessary certain relatively minor adjustments between the nations of the North American region.

Mexico, which was a party to the first NARBA, did not sign the new NARBA. This necessitated the signing of a separate agreement with Mexico. In general, the provisions of the two treaties are compatible and complementary to each other.

The agreements have the strong support of the Federal Communications Commission, the Department of State, the major networks and farm organizations, the clear channel and regional broadcasters, and a multitude of stations of all classes.

The only opposition remaining is from a group of daytime stations which object to a paragraph in the Mexican agreement which provides that daytime stations using certain Mexican channels operate from sunrise to sunset. These are now, of course, the permissible hours of operation for daytime stations; and the treaty does not affect in any way the present situation. Nevertheless, the group opposes the treaty, on the basis that it would preclude these stations from extending their hours of broadcasting. The committee received from the FCC and other sources lengthy and convincing testimony that engineering studies show that a future extension of broadcasting hours is not possible, because of immutable physical laws of nature.

Under these the sky undergoes certain changes between daylight and nighttime that so affect radio waves that a daytime station broadcasting beyond sunset would create interference to other stations that would far outweigh the additional service gained. In any event, the matter of broadcasting hours for daytime stations is not one that properly belongs within the jurisdiction of the Committee on Foreign Relations.

The agreements are entirely consistent with domestic legislation, and no changes in our laws will be required. No cost to the Federal Government is involved. The Committee on Foreign Relations strongly urges that the Senate advise and consent to ratification of these agreements.

Because questions have been asked me by certain colleagues about the daytime station broadcasting problems, I think I should supplement my written statement with some brief observations. As a member of the Small Business Committee of the Senate, serving on a subcommittee of that committee, I conducted hearings on this daytime broadcasting problem and made a rather voluminous record on it. All parties had an opportunity to present their evidence and their contentions. As chairman of a subcommittee of the Committee on Foreign Relations, I conducted further hearings, at which all parties were given their full say.

At the time of those hearings, the Federal Communications Commission handed down a decision denying the request of the daytime stations for extension of their broadcasting time from 6 a.m. or sunrise, whichever is earlier to 6 p.m. or sunset, whichever is later. I felt, with that adverse decision coming down from the Federal Communications Commission, just a day or two before we started our hearings, it was not fair to take the position that we would close the record of those hearings. So we filed with the Senate Committee on Foreign Relations before adjournment last year, a preliminary or tentative report setting out what the facts were as disclosed by the hearings, but saying we were postponing a decision of the subcommittee until January 1960 at which time my subcommittee would have further public hearings and give the parties an opportunity to make their final case before the committee, because counsel for the daytime broadcasters could not tell at our hearings last year what appeal procedure, if any, they might follow in regard to the Federal Communications Commission decision.

I felt that their procedural rights should be made available to them before the Senate made any final judgment, while any appeal was pending. Therefore, just a few weeks ago—and I see present on the floor, the Senator from Ohio [Mr. LAUSCHE], the Senator from Kansas [Mr. CARLSON], and the Senator from Louisiana [Mr. LONG], who participated in those hearings with my committee—we held the January 1960 hearings.

After those hearings, we felt we had given the daytime broadcasters every possible opportunity to prove their case, and we came to the unanimous conclusion that the treaties in their present form should be ratified.

That is our case, and I am willing to submit myself to any examination or to any questions my colleagues desire to ask me.

Mr. LAUSCHE. Mr. President, will the Senator yield, without his losing the floor?

Mr. MORSE. Yes.

Mr. LAUSCHE. The Senator from Ohio is a member of the subcommittee which heard the testimony as to whether this treaty should be ratified or not. My own conviction is that each of the members of the committee entered into the hearings with the sympathetic purpose of helping the daylight stations. At least, that was my mental attitude when the hearings began, and it continued throughout the hearings as I listened to the testimony.

When the testimony was concluded, I was of the definite opinion that to respond to the request of the daylight stations would be of some benefit to those stations, but the overall impact that would come through the conflicts with other stations would do far more damage than the good that would result by responding to the petition of the daylight broadcasters.

Moreover, it was my definite conclusion that, under the laws of nature which apply and which cannot be changed, the extension of these clear channel daylight stations into service at night would operate as a most damaging influence upon existing stations.

One word with respect to Mexico. We have agreements with that country. Those agreements have been complied with by both parties. In my opinion, if we sought to change the assignment of cycles in the air, we would create a condition with Mexico that is neither justified nor practical.

Therefore, I join my colleague, the Senator from Oregon in urging the Senate to approve the treaties as signed by the President.

Mr. MORSE. Mr. President, may I make two points very quickly, before I yield again? The Senator from Ohio spoke about the daytime broadcasters in relation to other broadcasters. Numerically, there are about 250 daytime broadcasters using Mexican clear channels, and, in round numbers, about 3,600 of the other stations.

I think Senators who have had complaints from the daytime stations will be pleased to know that on the day our subcommittee unanimously decided to recommend to the full committee the approval of these two treaties, I made a recommendation to the subcommittee,

which was unanimously adopted, that the subcommittee write a letter to the Federal Communications Commission, and particularly to Commissioner Hyde, who represented the FCC at our hearings, making perfectly clear that we wanted every possible consideration given, within the policies of the Commission, to the interests of the daytime broadcasters. Frankly, I shared the view that the Federal Communications Commission had too long delayed giving consideration and final decisions in the various petitions of the daytime broadcasters.

Mr. President, I ask unanimous consent that the letter which we sent to the Federal Communications Commission be printed in the RECORD as a part of my remarks, but first I want to read a part of it:

At the same time, the subcommittee unanimously agreed to make known to you its hope and expectation that the Federal Communications Commission will give fair and equitable consideration to any proposals, put forward individually and on an industry-wide basis by daytime stations, that are designed to improve their service to the public. The subcommittee's intent is to assure itself that its action in rejecting the reservation offered by the Daytime Broadcasters' Association will not be construed by the Commission as an indication that the subcommittee is not sympathetic to the plight of the daytime stations in the United States. On the contrary, the subcommittee is deeply concerned that local and rural service be improved by any means possible.

I ask unanimous consent that the full text of that letter and Commissioner Hyde's answer to the letter be inserted at this point in the RECORD.

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

FEBRUARY 2, 1960.

Commissioner ROSEL H. HYDE,
Federal Communications Commission, New Post Office Building, Washington, D.C.

DEAR COMMISSIONER HYDE: As you probably have already been informed, on February 1, 1960, the subcommittee on the North American Regional Broadcasting Agreement and the Broadcasting Agreement with Mexico agreed to report the agreements to the full committee with the recommendation that the Senate give its advice and consent to their ratification.

At the same time, the subcommittee unanimously agreed to make known to you its hope and expectation that the Federal Communications Commission will give fair and equitable consideration to any proposals, put forward individually and on an industry-wide basis by daytime stations, that are designed to improve their service to the public. The subcommittee's intent is to assure itself that its action in rejecting the reservation offered by the Daytime Broadcaster's Association will not be construed by the Commission as an indication that the subcommittee is not sympathetic to the plight of the daytime stations in the United States. On the contrary, the subcommittee is deeply concerned that local and rural service be improved by any means possible.

Sincerely yours,

WAYNE MORSE.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, February 8, 1960.

The Honorable WAYNE MORSE,
U.S. *Senate,*
Washington, D.C.

DEAR SENATOR MORSE: I am pleased to receive your letter of February 2, 1960, regarding the recommendations of the Subcommittee on the North American Regional Broadcasting Agreement and the Broadcast Agreement with Mexico. In order to assure that the Commission may be advised as to the views of the subcommittee as expressed in your letter, I am having copies brought to the attention of each member.

I am sure that the Commission will not construe the action of the subcommittee in rejecting the reservation offered by the Daytime Broadcasters Association as indicating a lack of sympathy with the plight of such stations. Also, the Commission in the discharge of its duties must, of course, give fair and equitable consideration to any proposals proferred by individual daytime stations or by the group designed to improve service to the public.

May I thank you on behalf of all those who participated in the negotiations for the judicious and careful consideration given the new agreements by your subcommittee.

Sincerely yours,

ROSEL H. HYDE.

Mr. KEATING. Mr. President, will the Senator from Oregon yield to me?

Mr. MORSE. I yield to the Senator from New York.

Mr. KEATING. Mr. President, there appears to be great interest among the thousands employed in the radio industry in these two treaties. Many have furnished me with factual material in support of the acute need for approval of these two pacts. They will go a long way toward preventing interference with radio signals and broadcasts of our good neighbors to the north and south, and will prevent their interference with our broadcasters. I urge approval of these treaties.

An excellent and concise statement of the need for confirmation of these treaties appeared in an editorial in the New York Times of May 12, 1959. I ask unanimous consent that it be printed at this point in the RECORD.

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

TWO PIGEONHOLED TREATIES

For more than 10 years the United States has had no effective treaties with our neighbors to the north and south to regulate radio broadcasting. In 1949 the North American Regional Broadcasting Agreement, known as NARBA, expired and only a gentleman's agreement among the countries has prevented complete chaos in the broadcasting field. But during this period there has been progressive deterioration in the service rendered U.S. listeners. It may not be known generally that even a low-powered station in Cuba, Mexico, or Canada can cause interference to stations in the United States if the assignment of broadcasting frequencies is not regulated by international agreement.

Two treaties aimed at correcting this situation have been buried in the Foreign Relations Committee of the Senate for years. They are the new NARBA and a similar agreement between the United States and Mexico. The new NARBA was submitted to the Senate by President Truman in 1951 and the Mexican treaty by President Eisenhower more than 2 years ago. The Senate has not acted. Now the Federal Communications Commission has urged the Foreign Relations Committee to act as soon as possible, saying in its request: "Until the treaty is ratified the United States receives most of the limitations imposed by the treaty but enjoys few, if any, of the considerable benefits which would redound to it under the treaty." The State Department has also gone on record for prompt ratification. The Senate should rescue these treaties from the pigeonhole and give its advice and consent now.

Several Senators addressed the Chair.

Mr. MORSE. Mr. President, I yield first to the Senator from North Dakota [Mr. YOUNG] and then I will yield to the Senator from New York [Mr. JAVITS].

Mr. YOUNG of North Dakota. Mr. President, I was much interested in the explanation of the treaty by the distinguished Senator from Oregon [Mr. MORSE].

The smaller daytime stations in my area of the United States are tremendously important and do perform a wonderful service. The people are greatly concerned that if the treaty is approved the stations' chances of broadcasting longer hours in the future will be nonexistent—that there will be no opportunity to do so. Does the Senator feel that adoption of the treaties would foreclose any possibility of extending the period of broadcast?

Mr. MORSE. I wish to make very clear to the Senator from North Dakota and to other Senators that in my judgment the approval of these treaties today, for the period of time of the life of the treaties, will reduce almost to a complete zero any right for the daytime broadcasters to expect an extension of their time. However, they do not have that right now. They are bound now by the rules of the Federal Communications Commission. The Federal Communications Commission does not allow them to do that now.

The testimony makes it perfectly clear that the Commission does not have any intention of allowing the broadcasters to do that, because of the great interference with the clear channels which giving them that permission would create. So the approving of the treaty this afternoon will not change any of the rights of the daytime broadcasters, as they exist at the present time. They will not be allowed to interfere with the clear channels.

Mr. YOUNG of North Dakota. They would have less hope, looking forward to the future? There would be less chance that they could get a longer period of broadcasting, if the treaty were approved, would there not?

Mr. MORSE. There would be less chance, on the theory that it is theoretically possible for the Federal Communications Commission to reverse itself. For the life of the treaty the treaty would be binding, anyway.

I will say to the Senator from North Dakota, my colleagues on the committee are present in the Chamber and they know the position the Senator from Oregon took for a long, long time, to see to it that the daytime broadcasters had every possible opportunity to establish their case, because I was sympathetic with their plight. I ended up by saying, "After all, we cannot repeal the law of physics, and this happens to be a matter which involves the law of physics."

If we extend the broadcast time we create an interference, and there is nothing we can do about it. We then create trouble between countries. There is bound to be trouble created in the relationships with other nations of this hemisphere. We then open wide the

door of no control between Mexico and the United States, and put Mexico in the position where, if her stations are going to be interfered with, then she at least would have the right to take the position, or would be tempted to take the position, of engaging in reciprocity by way of interference with our stations. That is not the way to build up good international relations.

I also wish to say that the last hearing we had, in January, brought forth evidence even from some daylight stations that they recognize the paradox in which they find themselves and are reconciling themselves to it.

Mr. JAVITS and several other Senators addressed the Chair.

Mr. MORSE. Mr. President, I promised to yield next to the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, I wish to commend the Senator from Oregon for his leadership in this matter. We from New York—as my colleague [Mr. KEATING] has stated—have had expressions of interest from smaller and independent stations which have themselves understood the influence upon them, as the Senator says, of international physical facts, and the fact that this problem does surmount even the boundaries of our great country and must be dealt with by international agreement. They have indicated their understanding of and ardent desire to lend themselves to this kind of international concord.

I think this is an extremely constructive development, especially since it has enlisted so much support from smaller independent stations. I am very pleased the treaty is before us for ratification today and that we shall have the privilege of supporting it.

Mr. MORSE. I thank the Senator from New York very much.

I wish to address one other comment to the Senator from North Dakota [Mr. YOUNG].

So far as Mexico is concerned, we have been operating under a so-called gentleman's agreement, or an informal understanding with Mexico since 1950. There has always been the request that we put it down into a formal executive document.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield for a moment more?

Mr. MORSE. I yield.

Mr. YOUNG of North Dakota. In the years gone by, before the advent of television, the people in my part of the country listened to and depended upon the high-powered radio stations miles away from home. Since we have had television, the people have come to depend upon the local stations for the important weather and news and other information which they must have. These daytime stations are more important now than they have ever been before, for that reason.

Mr. JAVITS. Mr. President, will the Senator yield to me so that I may ask unanimous consent to have printed in the RECORD a list of the independent stations which have communicated with me in favor of approval of the treaty?

Mr. MORSE. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may have such a list printed.

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

STATIONS

WHEN-TV, Syracuse.
WRUN, Utica.
WHEC, Rochester.
WQXR, New York City.
WNEW, New York City.

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

Mr. MORSE. I yield to the Senator from Kentucky.

Mr. COOPER. I address to the Senator from Oregon some questions to secure information about the effect of the treaty on daytime stations. I have had the inquiries from some operators of daytime stations in Kentucky, and I want to record their objections, and I want to ask the Senator to give some guidance regarding their objection.

I have received a copy of a letter addressed to you, from the association of daytime operators opposing this treaty.

I am sure the Senator is familiar with the first statement I desire to quote, for it is a part of the letter written to the Senator:

> Paragraph 8 of the United States-Mexican agreement firmly finds a U.S. daytime class II station (265 of them) to sunrise to sunset hours at the location of the U.S. daytimer. For instance, during some months, sunset in our State of Maine occurs approximately 2 hours before sunset at the location of the dominant station in Mexico, yet the U.S. daytimer in our State of Maine must go off the air at it's sunset, a full 2 hours before it could possibly cause interference to the class I clear channel station in Mexico.

I explain that it is a quotation from the letter written by the chairman of the board of directors of the Daytime Broadcasters Association, January 20, 1960, to the Senator from Oregon, I quote further from the letter:

> This is typical of the unreasonable and impractical restrictions imposed upon our U.S. daytime stations by this United States-Mexican radio broadcast agreement. This same restriction is of little significance to Mexico because they have very few daytimers on the clear channels assigned to the United States.

In order that the situation may be clear in the RECORD, I would like to ask the Senator certain questions. My first question is: Is it correct that class II stations are limited to sunrise to sunset hours?

Mr. MORSE. Yes. Those are the Federal Communications Commission rulings now.

Mr. COOPER. I know that it is the ruling of the FCC at this time but the daytime stations desire the rule to be changed.

Mr. MORSE. May I ask the Senator from Kentucky to take note of page 5 of the committee report, where we set forth the arguments and the point of view of those in opposition, and the answers to the opposition which the record brought out.

Then, at the top of page 8 of the report, I should like to read a paragraph:

> The committee also took note of the fact that the position of the Daytime Broadcasters Association was determined in part by a poll that it conducted of 225 daytime-only stations operating on Mexican clear channels. Of the 120 replies to the questionnaire, 99 favored continued opposition and 21 advised favoring the Mexican treaty. These figures must be viewed against the fact that there are over 3,600 broadcasting stations in the United States.
>
> 2. Effect of failure to ratify: Strong and convincing testimony was offered on the serious effects which would result in continued failure to ratify these treaties. According to the FCC witnesses, there have already been a number of so-called derogations—uses of channels by other nations which are not in accord with the proposed treaties. These can be expected to multiply in the future if the United States shows no disposition to ratify, and unless the treaties are ratified there are no legal means by which such derogations can be corrected.

In the rest of that section we discuss the bad international effects, we think, of a failure to ratify.

Lastly, in reply to the Senator, I would have him turn to the hearings, on page 319, where a chart will be found. The chart was submitted by the Federal Communications Commission. It shows the increase in interference which starts even 3 hours before sunrise, and lasts 3 hours after sunset.

We really could justify, on the basis of the interference, not letting those stations operate as long as they do, so far as their effect on interference is concerned. We think, on the basis of preponderance of evidence submitted to us, that the Commission has fixed a rather fair time when the stations must go on and go off the air, namely, from sunrise to sunset, because of all the scientific and engineering testimony put into the record as to the effect of allowing them to broadcast either before sunrise or after sunset.

Mr. COOPER. I am familiar with the careful workmanship of the Senator from Oregon. I have served on committees with him, and I know how exhaustively he goes into every subject over which he has jurisdiction. I should like to ask him further questions.

If the treaty is ratified—it will be in force for 5 years. Is that correct?

Mr. MORSE. It will be a treaty for 5 years.

Mr. COOPER. It will become the law of the land.

Mr. MORSE. It will become the law of the land. In my judgment—and this is only my personal opinion—the daytime broadcasters have no chance of getting any change in their broadcasting schedule during the life of the treaty.

Mr. COOPER. At present the broadcasters have a forum—the FCC—if they can make a case supporting an extension of service.

Mr. MORSE. They have been in that forum for a long time; and if they have not exhausted all their remedies in that forum, and if they have not presented every possible argument in support of their position, all I want to say is that, after three hearings to which I have listened, and after studying the long

record they have made, I do not know what they could say that they have not already said to the Federal Communications Commission.

Mr. COOPER. I want their position shown in the RECORD. Up to the time of the ratification of the treaty, daytime broadcasters can go before the Federal Communications Commission, and, if they can make a case, a decision extending broadcasting hours could be made.

Mr. MORSE. They have been before the Commission.

Mr. COOPER. If the treaty is ratified it will become the law of the land, and they could not then secure relief.

Mr. MORSE. That is correct. That is why I insisted upon a series of postponements of action so as to be sure that they could be given every possible consideration and have their day in court.

Mr. COOPER. Their rights would be fixed under the treaty for at least 5 years.

Mr. MORSE. That is correct.

Mr. COOPER. What evidence did the committee receive as to the actual effect of this treaty on the small broadcasting companies—265 of them, or whatever the number may be? What would be the consequences if this treaty were ratified? How would it effect their operations?

Mr. MORSE. There would be a perpetuation for 5 years of exactly the same kind of operation they must conform to now. The treaty merely provides that the rules and regulations now binding on them shall become a matter of international agreement for a 5-year period. They must comply with every proposal set out in the treaty now, so far as their operations are concerned, because these are the rules of the Federal Communications Commission, as applied to daytime broadcasters.

Mr. COOPER. The Senator is saying that the ratification of the treaty would not put any additional burden on them. Do I understand that it will not change their present operating schedules?

Mr. MORSE. No. They want to improve their situation. They say, "If we could get the situation changed it would be better for us economically." And it would.

Mr. COOPER. But the ratification of the treaty would not worsen their existing situation?

Mr. MORSE. It would not worsen their existing situation.

Mr. COOPER. As I understand their position they would like to be permitted to operate for a longer period of time.

Mr. MORSE. Yes. Of course, they wanted unlimited time. In their first case they asked for 2 hours before sunrise and 2 hours after sunset. That request was turned down. Then they asked for 5 a.m. or sunrise whichever is earlier to 7 p.m. or sunset whichever is later. That request was turned down. At one time they suggested the hours from 6 a.m. to 6 p.m. That proposal was turned down; and it is turned down, the Commission witnesses keep saying, because of a law of physics. It simply means that if we give them any of these extensions, the law of physics being what it is, we simply guarantee an interference with clear channel stations and with Mexican stations, and get into all the difficulties which arise from such a situation.

There are two further points. I want the Senator from Kentucky to know everything I know about the matter of procedure open to the daytime broadcasters. I brought this point out, as my colleagues in the committee will testify, and as will be seen from the printed hearings. There are pending in the House a couple of bills which would seek, by legislation, to guarantee these stations the right to broadcast for longer hours; but, in fairness to them, at our last hearing, as the record will show, they agreed with the chairman when he said, "I want you gentlemen to know that although I postponed action of this committee until this January, so that you could tell us what legal appeal you might take, so far as legal procedures are concerned, I am not inclined to give you any further extension merely because there is some bill pending seeking to change the law. I cannot give you a further extension on that ground." The broadcasters made it very clear that they did not expect it.

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

Mr. MORSE. I yield.

Mr. AIKEN. I must leave to catch a plane very shortly, but I should like to have the RECORD show that if I could be present to vote I would vote to approve the treaties.

Mr. MANSFIELD. Mr. President, perhaps we can conclude action on the treaties before the Senator must leave.

Mr. COOPER. Mr. President, will the Senator yield for a further question?

Mr. MORSE. I yield to the Senator from Kentucky for a question.

Mr. COOPER. The Senator from North Dakota [Mr. YOUNG] made a fine statement with which I agree calling attention to the great value of these smaller stations to the communities they serve. I ask the Senator if he believes this treaty would place the stations in a worse competitive viewpoint, in a bad position, compared with the larger American broadcasting companies?

Mr. MORSE. The situation would be no different from that in which they are now. They are in exactly that same position now.

The second point which I said I was going to raise, but did not raise, is this: There is testimony in the record from witnesses which points out that there are certain changes which some of the stations can make in their broadcasting techniques, such as directional antennas, which some of them do not now have. Of course, they are expensive, they say in reply. But there are certain scientific developments which are occurring within the radio industry which might possibly, in the years immediately ahead, be so reduced in cost that they might be able to conform to the Federal Communications Commission requirements, so that they would not create interference. But the Federal Communications Commission makes it perfectly clear that without those perfecting scientific devices, they cannot approve allowing these stations to go ahead with the interference.

Mr. COOPER. I thank the Senator. I have wanted very much to see these daytime stations protected in every way, and I have so informed the Committee on Foreign Relations. I wish it had been possible to write a reservation to give them opportunity to pursue their claims. The Foreign Relations Committee, after hearing the proof, has reported that this treaty is necessary for the entire broadcasting industry, and that it does not believe the daytime operators will be injured. I hope this is true. I urge the Federal Communications Commission and the State Department and the committees of Congress to see that this is done.

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

Mr. MORSE. I yield to the Senator from Washington.

Mr. MAGNUSON. I wish to say very briefly that I am not unconscious of the great amount of work the Senator from Oregon and other Senators have done on these treaties. However, I shall have to vote against them, only for one reason. It is not because of the judgment of the Senator from Oregon, because I think he and the committee judged this case in about the best way they could, considering the fact that for years the Federal Communications Commission has protected so-called clear channels, almost to the extent of being unreasonable in some cases. They have frozen them to the detriment of the smaller stations. The clear channels in other countries—Canada and Mexico—have used the clear channel argument, because in this case they want to protect the clear channels clear through the United States, and that was turned down, I believe wisely. These were problems of interference. I note in the report that it was agreed—Mr. Hyde agreed—to the transfer of a station in Alaska because it would interfere with a clear channel in Mexico. That is in the report. Well, there may be sometimes at night when interference would be caused in such a situation, but I know that engineeringwise there would be no interference. I know of stations that have been held up on hours on channel frequencies because of the clear-channel problem within the United States and in Mexico and in Canada. We use our clear channels to a great degree. In Mexico they are not used to that same degree. After all, there are good reasons for that situation. In the first place, they do not have as many stations.

What the Senator from Oregon has said is correct. However, I will cast my vote against it. I am sure in my mind that engineeringwise this problem can be whipped within 5 years. Of course, I understand that Mexico probably would not agree to anything unless a freeze were put on it of about 5 years.

I am not against what the committee has done. I say we cannot whip the problem now. Of course, the cost is too great for the little fellow who is operating what we call a peanut grinder. I am sure within 5 years or so that problem can be taken care of. I have that hope. That is why I wanted to explain why

I shall vote against the treaty. I know it is a very difficult problem.

Mr. MORSE. Mr. President, I wish to say to the Senator from Washington that in our hearings, when we started to get the evidence on the possibility or the expression of hopeful expectation that the problem of interference might be solved from the standpoint of reducing transmitting difficulties, I raised the point, "Well, then, would we be bound by the 5-year period?"

My attention was called to the fact—and I wish to call this to the attention of the Senator from Washington—and this appears at page 13 of the treaty, that the treaty states:

> This agreement shall remain in force for a period of 5 years unless before the end of that period, it is terminated by a notice of denunciation pursuant to paragraph B of this article or replaced by a new agreement between the contracting parties.

Paragraph B provides:

> Either contracting party may terminate this agreement by notice of denunciation to the other party. The denunciation shall take effect 1 year after the date of receipt of the notice thereof—

And so forth.

Mr. MAGNUSON. That might clear up my problem. I had not read that part of the treaty. If, engineeringwise, this problem could be solved at little cost, so that the little fellow could get hold of it and could operate without additional expense, and without interfering with clear channels locally or in Mexico or in Canada, then we could say within a year we would like to look at this treaty again, and if we could give proof to Mexico that it would not interfere with them, we would be all right.

Mr. MORSE. I raised that point myself in the hearings.

Mr. MAGNUSON. It is essentially an engineering problem.

Mr. MORSE. Yes; it came up when we discussed the subject of some stations wanting to improve their stations and do less interfering, which they could do if they had, for example, directional antennas. However, they are very expensive. A small station naturally cannot afford such antennas. Nevertheless, there is the hope that it will be possible to get the cost down. I may say that that is one reason why the committee considered my suggestion, and we were able to get a unanimous vote to send Commissioner Hyde our letter, making it perfectly clear to him—if Senators will read the letter they will see that that fact is self-evident—making it clear to him and to the rest of the Commission that because we had turned down the daytime broadcasters on this matter we did not expect the Federal Communications Commission to accept that as an indication that we thought these broadcasters should not get every possible consideration from the Federal Communications Commission in regard to any request they asked of the Commission that could stand up on the merits.

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

Mr. MORSE. I yield.

Mr. PASTORE. Do I understand the Senator from Oregon to say that the term of the treaty is for 5 years, but that unilaterally either party could denounce it and the treaty could be terminated within 1 year?

Mr. MORSE. That is correct.

Mr. PASTORE. Without any consent from the other side?

Mr. MORSE. That is correct.

Mr. PASTORE. In fact, then, the agreement is for 1 year.

Mr. MORSE. Yes; except that I should say that denouncing a treaty is a great rarity, as the Senator knows.

Mr. PASTORE. I understand. However, the purpose of the denunciation provision in this treaty is for the purpose of recognizing the fact by both sides that there are certain engineering obstacles that possibly could be overcome, and for that reason we reserve that right.

Mr. MORSE. That is a fair statement.

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

Mr. MORSE. I yield.

Mr. ERVIN. What agency of Government would be empowered to do the renunciating?

Mr. MORSE. It would be done through the State Department.

Mr. ERVIN. Yes. In other words, when we ratify this treaty, we part with the legislative power to do anything about it prior to the expiration date. Is that correct?

Mr. MORSE. Certainly, we would have—and I am now thinking off the top of my head, so to speak—I believe that if we had evidence in Congress which we thought showed a great injustice was being done, we could adopt a resolution expressing the sense of Congress to the State Department that this treaty ought to be denounced. That resolution would be subject to hearings, and the Foreign Relations Committee would have the State Department officials appear before it, and we would present our evidence, and we would see what we could do about it. After all, it is up to the executive department to initiate the denunciation.

Mr. ERVIN. Yes. If I understand, the main object of this Mexican treaty is to allocate to the United States certain clear channels for the use of our broadcasting stations, and to allocate to Mexico certain clear channels for use by Mexican stations. Is that correct?

Mr. MORSE. That is correct. We have many times what we should have in that allotment as compared with what Mexico received.

Mr. ERVIN. The central object of the treaty is to make certain that each nation shall enjoy the use of certain clear channels without interference.

Mr. MORSE. That is correct.

Mr. ERVIN. Is there anything in the Mexican treaty which would interfere with the daytime broadcasters other than in paragraph 8?

Mr. MORSE. That is all I know of.

Mr. ERVIN. These restrictions would apply to daytime broadcasters, and this treaty would place those restrictions on daytime broadcasters only to the extent of preventing interference with Mexican stations. Is that correct?

Mr. MORSE. Before sunrise and after sunset.

Mr. ERVIN. As to any other matters in this field, relating to the clear channels allotted to the United States, Congress would still reserve its legislative power, would it not?

Mr. MORSE. Congress reserves its legislative power to all and everything not specifically covered by the agreement.

Mr. ERVIN. The part of the agreement which would be binding upon us as a Nation under the Constitution, of course, would be the part in which the United States obligates itself to Mexico.

Mr. MORSE. That is correct.

Mr. COTTON. Mr. President, returning to Executive I, I should like to ask the Senator from Montana a question.

Does "scientific materials" include scientific instruments and tools?

Mr. MANSFIELD. Yes, indeed. Annex D is as follows:

ANNEX D

SCIENTIFIC INSTRUMENTS OR APPARATUS

Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research, provided:

(a) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions;

(b) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation.

Furthermore, these types of instruments amount to very few in number.

Mr. COTTON. My second question is: Under "educational materials," does "books" include textbooks?

Mr. MANSFIELD. Yes.

Mr. COTTON. There is one more matter which is of serious importance to me. I understood from the Senator's answers to inquiries made by the distinguished Senator from Maryland [Mr. BUTLER] that if the Agreement on the Importation of Educational, Scientific, and Cultural Materials is ratified today, other countries, including Iron Curtain countries, may become signatories to it later without further formal ratification or action by the Senate. I understood the Senator from Montana to say that unquestionably the Committee on Foreign Relations would be notified of the proposed addition of such countries, and that in turn that committee would notify the Senate, but that the action of such signatories would not require any formal ratification of a further agreement or treaty.

Mr. MANSFIELD. Except insofar as any matters might come up threatening U.S. producers, such as those stoneworkers of Vermont. I do not mean Vermont's marble exclusively, but I refer to the possibility of invoking the protocol of reservation.

The implementing legislation would go before the Committee on Finance, so that committee would have a hold on the subject and could take control also.

Mr. COTTON. I am much more interested in books and textbooks than in other materials which might be imported. Am I correct in my understanding that

if an Iron Curtain country desired to become a signatory to this agreement, provided the Senate ratified it today, the only way in which Congress could actually prevent it would be to repeal the implementing legislation, and that would require affirmative action by both the Senate and House of Representatives and signature by the President, and could even necessitate the passage of such a measure over the President's veto?

Mr. MANSFIELD. That is correct. But neither the Soviet Union nor any other Iron Curtain country has as yet, after the passage of 10 years, even signified a desire to join in the agreement. The agreement now under consideration is one which has been agreed to by 31 nations.

Mr. COTTON. I appreciate the Senator's answer. I am not suggesting for one moment that it is the intention of anyone, within or without Congress or the executive department, to leave a loophole for new signatories, and thus open the door to an influx of literature from those countries.

If the Senator from Montana will forgive my saying so, I cannot escape the conclusion that actually this agreement opens the door for such action in the future without any further ratification on the part of the Senate. I am compelled, for that reason, reluctantly to vote against Executive I.

Mr. MANSFIELD. The Senator from New Hampshire has a point. I think he has reinforced that point by what he has just said his vote will be on the agreement.

Mr. MORSE. Mr. President, I shall take but half a minute to place in the RECORD the gist of a private conversation I have had on the floor with the Senator from Kentucky [Mr. COOPER] and the Senator from Washington [Mr. MAGNUSON].

The Senator from Kentucky suggested that we should make it very clear that if the daytime broadcasters find that they can install the equipment which in effect eliminates interference, then they will be in a position to go before the Federal Communications Commission and get authority to broadcast without causing any interference.

A part of the problem is to make certain that they get equipment—although then they are not in fact going to be what would amount to daytime broadcasters, because a characteristic of a daytime broadcaster is that before sunrise and after sunset—because of the kind of radio station he operates, he creates interference, and the regulations of the Federal Communications Commission prohibits him from operating at a time when he creates interference.

Mr. MANSFIELD. Mr. President, I should like to read, for the edification of the Senator from New Hampshire, article 5 of the proposed agreement, Executive I:

> Nothing in this agreement shall affect the right of contracting states to take measures, in conformity with their legislation, to prohibit or limit the importation, or the circulation after importation, of articles on grounds relating directly to national security, public order, or public morals.

That would be done under the supervision of the Secretary of the Treasury. I believe this provides an additional safeguard.

Mr. COTTON. The Senator from Montana having mentioned my name, I may say that it is still my understanding that, once the Senate has ratified this agreement, a situation can actually arise in which, if Congress desires to prevent the importation from new countries—perhaps Communist countries—it would still require an act of Congress to amend or repeal the act of implementation, through action by both Houses of Congress and signature by President, or the passage of such repealing legislation over the President's veto. That is still the fact, is it not?

Mr. MANSFIELD. Except that, as in the case of other treaties, we can give a year's notice to bring about the denunciation of the agreement.

Mr. COTTON. But it would require the desire of the executive department to do that.

Mr. MANSFIELD. That is correct.

Mr. COTTON. We, as the Senate of the United States, will have given a blank check by our action today, so far as we are concerned. If some future President and some future State Department should see fit to take these steps, they may do so.

Mr. MANSFIELD. I would not agree with the Senator, because I do not think we will give them a blank check. We will give a check which is very circumscribed, although there are loopholes which could bring about such a situation.

Mr. JAVITS. Mr. President, I shall vote to ratify the agreement on the importation of educational, scientific, and cultural materials, because I believe it is very important in the interests of our country that we do so. Unless nation-states learn how to surmount their national boundaries in matters which are universal in their import, then I fear for the future of nation-states.

Disarmament is one matter; intellectual communication is another. We will probably find that ethics and religion are yet others in which we shall somehow or other have to surmount our national boundaries if we are to survive in the category of nationhood.

I believe the negotiators of the agreement have fully protected the legitimate national interests about which any of us could be solicitous in a hardheaded way by the two caveats which have been included: First, as to prohibiting or limiting the importation or circulation after importation of items on grounds relating directly to national security, public order, or public morals; second, that the protocol of reservation would permit the United States to suspend, in whole or in part, any of its obligations under the agreement if, as a result of those obligations, any materials covered by the agreement are being imported in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of similar or directly competitive products.

It seems to me that the interests of the United States are fully protected by such hardheaded consideration. As a great leader of the free world, we say that we, by way of surmounting national boundaries, when we have to surmount them in the interest of the free world, are fully covered by this agreement.

I shall vote to support the agreement.

Mr. MAGNUSON. Mr. President, I do not want to delay the vote; I shall simply take a minute to speak apropos the agreement with Mexico. I appreciate that the Committee on Foreign Relations has dealt only with the technicalities concerning channels, and would have had nothing to do with this subject except perhaps to call to the attention of the countries with which they make agreements some other facets of the problem.

I hope the Mexican Government will be a little more cognizant of the establishment in Mexico of stations which use the airways to broadcast into the United States at night, so that Mexico will revive, or at least establish, some kind of code of ethics for the kind of advertising which is presented to the Mexican people and the American people.

As everyone knows, we are in the process of taking a good, hard, long look at some of our domestic practices in radio and television. But any Member of the Senate who has listened to some of the programs which come from Mexican states, and are beamed at night toward the United States, will have found that many requests are made for contributions to cure-alls, and in that connection there is misleading advertising to the *n*th degree. Senators will find that on almost all of the programs of that sort, there are requests that money contributions be sent to addresses in the United States. I know of thousands of Americans who have literally been "fleeced" by some of the groups that advertise on such programs which come from south of the border. They are not sanctioned by the government there, and I suppose the government is trying to do something about them.

I am hopeful that by means of this treaty the Government of Mexico will take another look at such programs, because at times the programs on the Mexican stations advertise almost everything from shares of stock to cancer cures, and invariably the programs include requests to send money contributions to addresses in New York, Denver, San Francisco, or somewhere else in the United States; and, upon investigation, it generally is found that at such an address there is located only one person who is using a typewriter in a one-room office.

In short, not one of such programs could ever be put on the air in the United States, because the advertisements are so misleading and they result in so much "fleecing" of the people. That is why the programs are broadcast from the Mexican stations.

I hope that as a result of the ratification of this treaty, the Mexican Government will take more cognizance of the content of the programs which are beamed into the United States, and are directed toward the American people who listen at night.

Mr. JOHNSON of Texas subsequently said: We have entered into an agree-

ment to vote on the treaties en bloc. I am informed that some Senators would like to vote on the two treaties, Executive A and Executive G, en bloc, but that they would like to vote separately on Executive I.

Therefore, I ask unanimous consent that, instead of having one rollcall vote on all three treaties, we have two rollcall votes, separating Executive I from Executive A and Executive G.

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

If there is no further debate on Executive I, the treaty will be considered as having passed through its various parliamentary stages, up to the point of adoption of the resolution of ratification, which the clerk will report.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement on the Importation of Educational, Scientific, and Cultural Materials, which was opened for signature at Lake Success, N.Y., on November 22, 1950, entered into force on May 21, 1952, and was signed in behalf of the United States on June 24, 1959, with a protocol of reservation.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification?

On this question the yeas and nays have been ordered.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Are all three of the treaties now before the Senate; or is the Senate to vote on them separately?

The PRESIDING OFFICER. The three treaties have been divided, for the purpose of being voted on by the Senate. The Senate is now considering Executive I.

On the question of adoption of the resolution of ratification of Executive I, the yeas and nays have been ordered; and the clerk will call the roll.

Mr. MANSFIELD. Mr. President, is it not correct that the Senate is now in the process of voting on Executive I, which has to do with the Florence Convention?

The PRESIDING OFFICER. That is correct.

Mr. MANSFIELD. Is it not also correct that the subsequent votes will be on Executive A and Executive G, both of which have to do with radio conventions signed with foreign countries?

The PRESIDING OFFICER. That is correct.

The yeas and nays have been ordered on the question of adoption of the resolution of ratification of Executive I; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. HUMPHREY], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Minnesota [Mr. MCCARTHY], and the Senator from Wyoming [Mr. O'MAHONEY] are absent on official business. I also announce that the Senator from Oregon [Mr. NEUBERGER] and the Senator from Missouri [Mr. HENNINGS] are absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Oregon [Mr. NEUBERGER], and the Senator from Wyoming [Mr. O'MAHONEY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

On this vote, the Senator from Minnesota [Mr. MCCARTHY] and the Senator from Missouri [Mr. HENNINGS] are paired with the Senator from New Hampshire [Mr. BRIDGES]. If present and voting, the Senator from Minnesota and the Senator from Missouri would each vote "yea," and the Senator from New Hampshire would vote "nay."

The yeas and nays resulted—yeas 76, nays 14, as follows:

YEAS—76

Aiken	Gore	Monroney
Allott	Green	Morse
Anderson	Gruening	Morton
Bartlett	Hart	Moss
Beall	Hartke	Mundt
Bennett	Hayden	Murray
Bible	Hickenlooper	Muskie
Brunsdale	Hill	Pastore
Bush	Holland	Prouty
Byrd, W. Va.	Jackson	Proxmire
Cannon	Javits	Randolph
Capehart	Johnson, Tex.	Robertson
Carlson	Jordan	Saltonstall
Carroll	Keating	Scott
Case, N.J.	Kefauver	Smathers
Case, S. Dak.	Kennedy	Smith
Chavez	Kuchel	Sparkman
Church	Lausche	Stennis
Clark	Long, Hawaii	Symington
Cooper	Long, La.	Wiley
Dirksen	McClellan	Williams, Del.
Douglas	McGee	Williams, N.J.
Ellender	McNamara	Yarborough
Engle	Magnuson	Young, Ohio
Ervin	Mansfield	
Fong	Martin	

NAYS—14

Butler	Frear	Schoeppel
Cotton	Goldwater	Talmadge
Curtis	Hruska	Thurmond
Dworshak	Kerr	Young, N. Dak.
Eastland	Russell	

NOT VOTING—10

Bridges	Hennings	Neuberger
Byrd, Va.	Humphrey	O'Mahoney
Dodd	Johnston, S.C.	
Fulbright	McCarthy	

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification of Executive I is agreed to.

REPORT ON SMALL BUSINESS ADMINISTRATION

During Mr. EASTLAND's speech on proposed civil rights legislation,

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

Mr. EASTLAND. For a question only.

Mr. PROXMIRE. For a question only. I will wait.

Mr. EASTLAND. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Wisconsin provided it does not jeopardize my right to the floor and that it will not count as another speech at the time I resume speaking.

Mr. PROXMIRE. Mr. President, I further ask unanimous consent that my remarks may not appear in the RECORD during the remarks of the Senator from Mississippi.

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

Mr. PROXMIRE. Mr. President, as chairman of the Small Business Subcommittee of the Banking and Currency Committee, I called the attention of the Senate on January 28, 1960, in a speech on the floor, to a letter to me from the Comptroller General recommending a strengthening of certain policies of the Small Business Administration. I also placed in the RECORD a letter from me to Mr. Philip McCallum, the Chairman of the SBA asking him what action he had taken to comply with the recommendations of the Comptroller General calling for closer supervision over regional offices and recommending independent audits as a prerequisite to loan authorization on larger loans.

I have just received a reply from Mr. McCallum. He writes me that the SBA has taken steps to provide closer supervision of field activities and that "a great improvement" has been achieved since the date of the audit by the General Accounting Office.

With regard to audited statements on larger loans, McCallum writes that the SBA usually requires annual audits if outstanding balances on loans exceed $100,000, unless circumstances, in the discretion of the Regional Director, justify a waiver of the requirement.

Mr. President, I intend to pursue this matter further. I ask unanimous consent that the letter to me from Mr. McCallum be printed in the RECORD at this point.

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

SMALL BUSINESS ADMINISTRATION,
Washington, D.C., February 20, 1960.

The Honorable WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: Thank you for your letter of January 23, 1960, requesting to be kept informed of the action which we have taken as a result of the recommendations made by Mr. Joseph Campbell, Comptroller General, in his report to Congress of his review of the financial assistance activities of the Small Business Administration.

The basis for the recommendation that the Administrator take action to provide for closer supervision over the regional offices, with a view to obtaining compliance with the Small Business Administration's own regulations, was a survey of five of our field offices made more than a year ago. Our own audits had disclosed substantially the same delinquencies which the General Accounting Office discovered and, prior to receipt of Mr. Campbell's recommendations, we had taken the following actions to insure compliance with regulations and to provide closer supervision over the regional offices.

Early in 1959, a separate Office of Loan Administration was created responsible to the Deputy Administrator for Financial Assistance. This office is charged with the servicing of all outstanding SBA loans and the liquidation of those on which resort to collateral must be made for collection. In order to strengthen field performance in both these areas, separate loan servicing and loan liquidation staffs also have been set up in all regional offices and in those branch offices where the workload is large enough to justify this degree of specialization. At the time of the survey by the General Accounting Office,

most SBA field offices were understaffed insofar as loan servicing activities were concerned. The tremendous growth of the Agency's financial assistance workload had necessitated utilization of most personnel on th loan processing activity. Atlhough it has been difficult to fill loan servicing positions with people qualified to assume a full workload, our offices have been training loan servicing examiners as rapidly as possible and we believe most of our offices are now adequately staffed.

In addition to setting up separate offices of loan administration and liquidation, both in Washington and the field, and recruiting sufficient people to perform the functions of these divisions, we have attempted to provide a closer working relationship with our field offices by bringing into Washington, each for a week at a time, the Chiefs of the Financial Assistance Division in the regional offices and the chiefs of the loan administration and loan processing sections in the regional offices. During this period in Washington, these field chiefs are reindoctrinated in policy and procedural matters and are given an opportunity to become familiar with the way other regions are operating through actual assignments in the review of reports forwarded from other field offices for Washington action.

Washington office staff members also have held a series of area work conferences attended by personnel from the field offices in various parts of the country. A similar series of such conferences is being planned for this month and early in March of this year. A regular program of annual meetings in Washington of the Chiefs of the Financial Assistance Divisions has been initiated. Further, the Deputy Administrator for Financial Assistance has recently appointed to his staff a field liaison man who will make regular visits to the field offices, both regional offices and branch offices, in the area assigned to him in order to:

1. Provide continuing indoctrination in policy and procedural matters for people actually working in the field;

2. Promote greater uniformity in field operations; and

3. Provide liaison between the field offices and the Washington offices of financial assistance.

Regular field audits are also made by personnel of the audit staff of the Small Business Administration's Controller and by personnel of the Office of Program Analysis—both responsible to the Deputy Administrator for Administration. Copies of these audits are furnished to the Deputy Administrator for Financial Assistance in order to keep him informed of the performance of the field offices in the area under his jurisdiction and permit him to take action for correction and improvement.

It is my belief that the steps we have taken and are taking will provide for closer supervision of our field activities and for compliance with our own regulations. Our own internal audits have shown a great improvement in these matters since the date of the audit made by the General Accounting Office. We expect that their future audits will confirm this improvement.

You have also asked that I inform you of the results of my study of the question whether we should require independently audited financial statements in connection with applications for loans in amounts over $100,000. The cost to small businesses of obtaining independently audited statements is considerable. To require them in connection with applications from firms who do not regularly obtain them for their own purposes would increase the expense of applying for SBA loans for successful and unsuccessful applicants alike. For the applicant otherwise well-qualified who has not made a practice of obtaining annual audits, the time involved in having a special audit made for purposes of the SBA application would provide further discouragement.

We do ask for audited statements annually from borrowers whose loans have outstanding balances in excess of $100,000, unless there are circumstances which, in the discretion of the Regional Director, justify waiver of this requirement. We also request audited statements in connection with applications for loans of any size where the prospective borrower customarily obtains such statements for his own use and has one available to furnish us. In such cases, we accept a copy of the last annual audit plus an interim statement verified by a company officer.

We are attempting to obtain figures on the average expense which imposition of a uniform requirement for audit statements would impose upon our borrowers and to ascertain the practices of banks which make commercial term loans. We are also reviewing our own experience to determine whether it can be shown that any substantial portion of losses has resulted from failure to require audited statements. When our studies are completed, we shall weigh the delay and the expense to which the prospective borrower will be put against the risks to the taxpayers' funds attendant upon our present practices to determine whether imposition of the requirement is reasonable. We shall be pleased to furnish you with the results of our study and with information as to our decision as soon as we have reached it.

If the foregoing report leaves any questions unanswered, please communicate with me and I shall attempt to answer them for you. Your comments and suggestions will be most welcome.

Sincerely yours,

PHILIP MCCALLUM,
Administrator.

CLASH OVER INTEREST RATE POLICY

Mr. PROXMIRE. Mr. President, there has been a great deal of heated controversy over the interest rate policies of the Federal Reserve Board. And I am sure there will be much, much more before this session is over. This debate can serve the public interest provided it is as constructive and informed as possible. This monetary policy-interest rate field is technical and complex. It is very easily misunderstood. It is also immensely important. No one can question that decision made by Government officials in this area very seriously affect the prices we pay, the jobs Americans have, the prospects for building homes and buying cars, and the State, local, and Federal taxes we pay.

For these reasons, Mr. President, I feel that Senators may learn much from the recent appearance of Gov. George H. King, of the Federal Reserve Board, one of the Nation's seven money managers, before our Banking and Currency Committee, where he came for consideration of his nomination for reappointment for a 14-year term. The views expressed by Governor King contradict mine in many important respects, but they are exceedingly pertinent and interesting. And so, Mr. President, I ask unanimous consent that the full text of the hearing before the committee on the King nomination be printed in the RECORD at this point.

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

STATEMENT OF GEORGE HAROLD KING, JR.

Mr. KING. Thank you, Senator. I do not have a prepared statement I would like to simply say it is a privilege to come over here before this committee. I felt very privileged last year to be here, and I will say that when I was a little boy I never dreamed I would have the privilege of appearing before a Senate committee, and particularly one such as the Banking and Currency Committee, two times. So I am proud of it, and I appreciate the opportunity to come over here.

I think that as to anyone in my position who might possibly be projected into the future as far as 14 years in a field as important today as the money and credit field of our country, Senators certainly have a right and a responsibility to look into the person being projected that far in advance. So, as I say, I am very happy to be here. I feel it is a privilege.

Senator SPARKMAN. Thank you, Mr. King.

We have been furnished a biographical sketch. Without objection, it will be printed in the record.

(The biographical sketch of Mr. King follows:)

BIOGRAPHICAL SKETCH OF GEORGE HAROLD KING, JR.

General: Born August 18, 1920, at Oakdale, La.; father, George Harold King (see Who's Who In America); Mother, French Freeman. Graduated Glenmora (La.) High School, 1937: best athlete award, 1936; activities award, 1937; attended Louisiana State University, 1937–41; member Sigma Chi Fraternity; member "L" Club (varsity letter club); graduated in 1941 with Bachelor of Science in accounting; also attended University of Colorado Summer School 1939, 1940, 1941.

Military service: Entered active duty in U.S. Naval Reserve as ensign on May 1, 1942; released to inactive duty February 2, 1946, with rank of lieutenant.

Family: Married Daudrille Elaine Hollaway of Melville, La., on May 15, 1942; children, Linda Elaine King, born November 30, 1944; George Harold King III, born November 21, 1945; Lisa Hollaway King, born February 3, 1955.

Commerce and industry: Treasurer of King Lumber Industries, Canton, Miss., from 1946 to 1949; executive vice president 1950–58, president 1958. King Lumber Industries operates lumber, oak flooring, woodworking, and wood-preserving plants in Mississippi and Louisiana; presently employs over 500 persons in manufacturing; engaged in commerce through extensive marketing of wood products; has extensive timber holdings and timber leases in Louisiana; domestic and foreign shipments of lumber and oak flooring; also engaged in mineral leasing of lands.

Agriculture: Started herd of purebred Hereford cattle in 1948 known as King Herefords, Canton, Miss.; farm size, 405 acres; 125 brood cows. In January 1957 exhibited champion Hereford bull at National Western Livestock Show, Denver, Colo. This animal bred and raised by King Herefords, Canton, Miss. Produce of herd sold throughout the United States and Mexico. Received commendation from Mississippi Legislature on March 26, 1956, for accomplishments in cattle breeding; director, American Hereford Association 1956 to date; director, Mississippi Hereford Association 1949 to date.

Federal Reserve System: Appointed director of New Orleans branch of Federal Reserve Bank of Atlanta in January 1956; served as chairman of New Orleans Branch Board, 1958; appointed to Board of Governors March 25, 1959.

Miscellaneous: Deacon First Presbyterian Church; Director, Mississippi Economic Council (State chamber of commerce); member Rotary Club; member Jackson Country Club; member, Madison County Country Club.

Senator SPARKMAN. Senator PROXMIRE.

Senator PROXMIRE. Mr. King, you were appointed on March 25, so you have served a little less than a year.

Mr. KING. Yes, sir.

Senator PROXMIRE. What is the responsibility of the Board of Governors? By that, I mean, do you feel that the Board of Governors is responsible primarily to the Congress? Do you feel there is any degree of responsibility at all to the administration, the President, or do you feel the responsibility is inherent in the statutes that have been set up and you have a responsibility to serve the public interest, by your own lights, without a direct responsibility to either Congress or the President?

Mr. KING. I feel, sir, it is near your last suggestion, although I feel that the responsibility is really to all segments of the American interest, as I understand it. I think the Board must be completely mindful at all times of the interest of the public.

Certainly, the Federal Reserve System is a creature of the Congress and Congress has the right and responsibility to oversee it and to alter it if they see fit in any way. This imposes on a member of the Board an extreme trust and responsibility to conduct that office in such a fashion that it will truly serve the best interests of the American people.

Do I make myself clear?

Senator PROXMIRE. Yes; that is a nice general statement.

I would like to be a little more specific. What kind of consulting obligations do you feel a member of the Board of Governors might have? Do you feel it would be desirable or useful that he should consult with, for example, the Secretary of the Treasury or the Assistant Secretary of the Treasury? Do you feel that it would be useful for him to consult with, say, the chairmen of the Banking and Currency Committees of the House and Senate or not?

Mr. KING. Yes, sir; I think a member of the Board should feel free to consult with anyone and everyone whom he felt could give him some thinking that might benefit the public interest. That is, to permit him to become enlightened, so that his decisions might be sounder ones for the country.

Senator PROXMIRE. Let me move into a little different area.

As a member of the Board, do you regularly try to acquaint yourself with the views of the Secretary of the Treasury and with the chairmen of the committees of the two Houses of Congress on monetary policy?

Mr. KING. No, sir. I have not tried to become familiar with the views, specific views, in regard to any specific question, of the Secretary of the Treasury or of the chairmen of any committees. I have not tried to find any specific answers to any specific questions from any of those people, and I will say that I have had no one even suggest to me what I should think.

Senator PROXMIRE. Then, I take it your advice comes primarily from the employees of the Federal Reserve Board, who have a responsibility as monetary experts to advise you and other Board members on actions taken with regard to our monetary policy. Is that correct?

Mr. KING. Sir, I have received the benefit of, not advice, but what I would consider enlightenment on any subject that I have cared to discuss at the Board with the staff. I have found that the staff of the Federal Reserve Board helps on both sides, pro and con. And, as far as I have been able to see, they are very, very much concerned that any subject in any decision is developed in an objective manner. I have found that they will pursue, not argue, but pursue either side of the question in order to satisfy themselves that that member of the Board may really make an objective approach to any question that comes up.

Senator PROXMIRE. Do you try to follow the thinking of the professors of monetary policies at leading universities or the leading economists of banks and of industry and so forth?

Mr. KING. No, sir; I do not try to follow the thinking—

Senator PROXMIRE. I am not saying you try to follow their thinking. What I am trying to say—I put it badly—is: Do you follow the discussions, the controversies, that are going on in this area so that you can enlighten yourself on what the thinking is, and what developments are going on, so you can arrive at decisions based on the best and most competent and expert authority?

Mr. KING. Yes, sir; I do. I follow their opinions and views and read them all I can, in the amount of time that I have, with a great deal of interest. It is one of the things, to me, in trying to find the right answer for the country, and I am very happy to take access to all of the information and informed points of view that I can find.

Senator PROXMIRE. I want to go back a little bit because I want to be completely fair. I wonder if you follow the expressions of the views of leading Members of Congress who have opinions and express them in the CONGRESSIONAL RECORD or express them in committee reports and so forth?

Mr. KING. Yes, sir; I do.

Senator BENNETT. Mr. Chairman, will the Senator yield?

Senator PROXMIRE. I yield; yes.

Senator BENNETT. I wonder if the matter would be clearer if we all understood what you mean by "follow." "Follow" can mean two things—either keep in touch with or be guided by.

Senator PROXMIRE. I thank the Senator from Utah for a clarification. Of course, I meant, and I am sure the nominee meant, "keep in touch with," and not "be guided by."

He made his position emphatically clear a little earlier in saying he was not guided by the opinions of either members of the administration or the Congress.

Senator BENNETT. "Follow" has that dual meaning.

Senator PROXMIRE. I think that is an excellent clarification.

Mr. KING. I meant "keep in touch with." That was the essence of what I was trying to say.

Senator PROXMIRE. I would like to inquire as to your relationship with the Chairman of the Board. Do you usually consult with him before you arrive at your own decision?

Mr. KING. No, sir; I do not.

Senator PROXMIRE. You arrive at your decision independently?

Mr. KING. Yes, sir.

Senator PROXMIRE. You do not consult with other members of the Board either before you arrive at specific decisions——

Mr. KING. No, sir; we do not. I will say that due to the procedure that is used at the Board, which I think is a very good one, the four junior members express their opinions on a certain subject, or other matter up for decision, first. Thereby, you have no way of knowing what the Chairman or the other two senior members of the Board think.

Senator PROXMIRE. So it is kind of reverse seniority?

Mr. KING. Not completely in the sense that——

Senator PROXMIRE. As far as speaking out.

Mr. KING. Some of the more senior ones speak before I do, as a general rule, although, on certain occasions, I will be called on to speak first and without any knowledge of what anyone else thinks. As I say, I think this is a very healthy procedure.

Senator PROXMIRE. During the last several months the Joint Economic Committee has had a series of hearings on all aspects of our economy. One of the most significant, I thought, was their hearing on monetary policy. They had four outstanding experts on monetary policy appear, one of whom was Professor Friedman of the University of Chicago. Professor Friedman, as I understand it, is recognized as an outstanding conservative monetary economist. But he had rather drastic views on the Federal Reserve Board.

As I recall, his views included the opinion, for example, that the country might be better served if the Federal Reserve Board surrendered its power over both the rediscount rate and varying reserve requirements. How do you feel about this opinion of Professor Friedman?

Mr. KING. Well, sir, the Congress, in the original Federal Reserve Act of 1913, stated that one of the purposes was to provide rediscounting for commercial banks. This has been continued in the law as one of the System's tools of monetary policy, and it has been used.

If the Congress felt that it should be removed, that would be in the Congress' discretion to remove it. As to any automatic surrender of a tool that has been bestowed on the Board by the Congress, I would not think that would be a wise approach.

Senator PROXMIRE. You feel that these two tools have been useful and are necessary and desirable for the Federal Reserve Board to do the job it should perform?

Mr. KING. Yes, sir; I think the Federal Reserve Board should have as many tools as it can to try to accomplish its true purpose.

Senator PROXMIRE. The principal conclusion of three of these four economists, as I understood them, was that the Federal Reserve Board ought to follow a policy of what might be called policy neutrality.

In other words, they felt that the Board might expand the money supply at a regular rate, the regularity being in accordance with the growth of our country. That is to say, make the expansion of the money supply conform with the increase in the gross national product, roughly. Professor Friedman suggested an annual increase of about 4 percent. He said it would be 3 percent if the money only included demand deposits and currency, 4 percent if it included time deposits, too.

He argued this very persuasively, in my judgment, and Professor Seldon seemed to agree. Professor Wiesner took a little different tack, but he felt that this general policy might be desirable.

How do you feel about this?

Mr. KING. I think that is very good point, Senator. The money supply of the country has grown more or less through the years, and that is a very, very healthy thing. However, it is my understanding that in recent years people have learned how to use money and turn it over more rapidly, increasing what is commonly referred to as the "velocity of money."

With this increase in velocity, I do not believe that it has been necessary to increase the money supply, itself, as much as would have been necessary if the velocity had not been increasing so much. And I think it is conceivable that the country may be reaching more or less a plateau on its velocity, that people have really learned to use their funds and keep them busy just about as much as they possibly can.

In fact, they have more or less perfected this velocity of money and that might call for additional increases in the money supply.

As to trying to govern the money supply by any exact percentage per year, I think this would be attempting to substitute some formula for judgment. My own opinion is that the subject is a complex one and is of a kind that is better left to judgment,

rather than to try to make some such formula that would apply year in and year out.

Senator PROXMIRE. The position of Professor Friedman and Professor Seldon was that the record of the Federal Reserve Board has not been very good. He argued that there is a lag between the action of the Federal Reserve Board and its total reaction on the economy. He argued it might vary from 4 months to 20 months. The Federal Reserve Board for instance might fail to take action to increase the money supply as rapidly as the GNP will increase. Interest rates tend to rise, but the evil effect on the economy would not be felt for quite a period. And at the time it is felt, we might be in a period of recession rather than in a period of prosperity.

He did not question the sincerity and expertness of the Federal Reserve Board. He just felt nobody has been able to predict. If you could predict where the economy was going to be 6 months or 18 months from now, you could make fabulous amounts in the stock market and lots of other ways. But this is something that is unpredictable. And the safest and fairest way to operate under these circumstances would be to have a regular monetary increase and let the market forces, the free play of supply and demand and so forth, work its way on the economy without an attempt to look into a crystal ball and foresee what the economy is going to be like several months from now.

Mr. KING. Well, sir, I think if the Board took that approach, that it would be——

Senator PROXMIRE. What this goes to, and I think the only technical question I can ask on this is: Do you think that there is such a lag? Do you think that the effect of an action by the Federal Reserve Board, using any of its three weapons, is fairly immediate, or do you think there is a lag of 6 months to a year and a half before it really is effective?

Mr. KING. I think there is, certainly, some lag in effects of actions by the Federal Reserve. But, as I have understood it since I have been on the Board, we have not been contracting the money supply. It has been, to me, more a matter of some restraint on credit expansion.

What was your question?

Senator PROXMIRE. The question was on the lag. That was the thing I was focusing on here.

Mr. KING. So, naturally, there is some time that elapses from the time any additional restraint might be placed on the credit markets, for example, and the time that it manifests itself through carloadings from a manufacturing plant.

I am very conscious of this because I have been in the manufacturing business, and I am cognizant of the fact that the effect on an order file of a manufacturing plant that is built under today's circumstances, may not manifest itself or show itself in the statistics for as long as 4 to 6 months. So I am well aware of the time that elapses from the time an action is taken, say, to restrict credit in any way, and the time that it really makes its impact in a statistical form.

Does that answer your question?

Senator PROXMIRE. It does.

Then, you agree with Professor Friedman that there is a lag. There is and, therefore, Federal Reserve policy does require prognostication. It does require a prediction as to what the economy is going to be like 6 months or 18 months from now.

The only question is on the basis of your experience both as a member of the Board and before you were a member of the Board. Do you feel that the Board has a capacity to look clearly in the crystal ball?

Mr. KING. Well, sir, I can only say that the Board, to my knowledge, does try to the best of its ability to see ahead as far as possible. People naturally become more familiar with this process as they work at it. And it would be my opinion that this ability to forecast would improve, perhaps not greatly, but would continue to improve as time goes along.

Senator PROXMIRE. Many of us, of course, are familiar with what happened in 1956 and 1957 and feel that the Board was much too slow. We feel we can go back and point out many, many cases where, in our judgment, the Board was increasing the rediscount rate, for example, at a time when the recession either had already started or was, obviously, in our judgment, going to follow and did, indeed, follow afterwards, as happened in 1957.

I would like to refer quickly to a speech that was made very recently by an adviser to the Board of Governors, Woodlief Thomas, a splendid gentleman with great ability. His speech was distributed to all members of this committee by the chairman of the committee, the Senator from Virginia.

There are three points he made that particularly concern me, and I would like to ask your opinion on them.

Mr. Thomas, in the course of his speech, argues that interest rates are not really high now; that they are high as compared with what happened in the 1930's and 1940's but that was an artificial situation.

I think he is right about being artificial, but, as compared with the 1920's and the period before World War I, they are not particularly high, that they are comparable. I am disturbed by this comparison; I feel the economy has changed enormously since the 1920's and the comparison is not very apt with the period of 1890, to go back that far. Obviously, there have been serious, critical changes in our economy. The fluctuations have been ironed out very greatly. We do not have the kind of depressions we did. We do not anticipate having them.

I wonder whether or not the interest rates at the present time could be regarded as high or about right on a long-term basis; or low.

Mr. KING. Well, sir, trying to say whether they are high is just a matter of saying something in relation to something else.

Senator PROXMIRE. That is right.

Mr. KING. My own view is that I think interest rates that are somewhat lower than the present level are desirable for the country if we do not, thereby, risk inflation and endanger our reserves. And I particularly have in mind our gold reserves. Or we do not damage the purchasing power of the currency.

In other words, I think that the Board as a whole, and the System as a whole, does not have any desire to have interest rates at any certain level, but that their desire is to protect the integrity of the dollar and possibly, as the Joint Economic Committee report has suggested, that it has had to use monetary policy to too great a degree because of not using fiscal policy enough. I would certainly hope that fiscal policy would be used to a greater degree.

Therefore, by lessening the necessity for the amount of judgments that are and have had to be exerted in the monetary policy field——

The CHAIRMAN. Off the record a moment.

(Discussion off the record.)

The CHAIRMAN. I would like to make the statement that the chairman is glad to welcome Mr. King again before our committee and to tell him that he is following his work on the Federal Reserve Board. The chairman has received high commendation from other members of the board of Mr. King's services as a board member. And, personally, the chairman feels that the confidence imposed in Mr. King when he voted his confirmation last March was not misplaced.

Senator PROXMIRE. Mr. Chairman, I have a series of questions, and I realize other members may have, too. Perhaps it might serve the interests of the committee better if I yielded to other Senators and then came back at the end. I am extremely interested in this whole question.

I have great respect for the nominee. I think his answers have been responsive so far, but I want to proceed at greater length. Some of the members may have other appointments, so I will defer to them.

Senator SPARKMAN. Other members of the committee?

Senator BENNETT. Thank you, Mr. Chairman. I simply want to follow the chairman in expressing my faith in the nominee and my appreciation of the record he has made and my faith in the basic judgment of the Federal Reserve Board in these trying times.

I recognize that my friend from Wisconsin and I have a completely different approach to the economic principles involved in this situation. I cannot believe that there is any reason to have a Federal Reserve Board if we have an automatic money supply and attempt to maintain a fixed rate of interest. There is no use having men with judgment. We might just as well turn the thing loose and let the consequences come. And they will come, and that will be a retreat, that will be a loss in the fundamental faith in the American currency.

Senator PROXMIRE. Will the Senator yield at that point for one clarification?

Senator BENNETT. Yes, surely.

Senator PROXMIRE. I want to make it absolutely clear I do not believe in pegging the rate of interest at all. I oppose that very strongly. As I understand Professor Friedman's suggestion, it would not do that at all. But what it would do is increase the money supply at a regular rate. The rate of interest would fluctuate, depending on market forces.

Senator BENNETT. I think the effect of Mr. Friedman's program might be to permit the market to operate freely. But it would operate, in my opinion, to produce a constantly increasing rate of inflation and a continued diminution of the value of the dollar.

The Senator from Wisconsin and I, having worked together on these problems, recognize the differences that exist between us. But the Senator from Utah is disturbed a little bit, frankly, at the use of this hearing as a means of discussing, of bringing up again, this technical controversy. It seems to me the problem before us is whether or not this gentleman has the capacity to serve on the Board under the existing laws. If we in Congress feel that the present setup, the present program, in which the Federal Reserve Board is engaged by law should be changed, we should talk about changing the laws.

I want to express my confidence in the ability of Mr. King to carry out his responsibilities under the existing law.

That is all I have to say, Mr. Chairman.

Senator SPARKMAN. Senator FREAR.

Senator FREAR. I will not delay the Senator from Wisconsin as I am interested in his questions, also, but I do appreciate this opportunity, Mr. Chairman. I voted for the President's nominee to be a Governor of the Federal Reserve Board when he appeared before this committee the first time. Like the chairman, my confidence, I think, at that time was well founded, and I expect to vote for his confirmation again.

Perhaps this is not the time to discuss and debate the merits of the Federal Reserve System. I might have views that would coincide or differ from those of the Senator from Wisconsin or the Senator from Utah. But I must agree that if we are going to keep the Federal Reserve System and, at the moment, I see no strong reason to discard it, that we should back the System and its Board of Governors. Perhaps it may be a legislative matter in many respects, as I

gathered from the questioning this morning. I commend Governor King for his answers, whether I am in total agreement or not.

The System has performed a very necessary function, and I doubt if we could have maintained our position in domestic and world economy without its services. I hope that as conditions change, which might necessitate legislative action regarding the System, the Members of Congress will not hesitate at any time to recognize this and make what, in their opinion or desire, changes are needed.

But may I say to you, Governor King, that I am very happy that I had this privilege of coming back and listening to you and again have the opportunity of voting for your confirmation. This may expose my vote in advance, but I think it is no secret. I shall do it, sir.

Mr. KING. Thank you, sir.

Senator SPARKMAN. Senator WILLIAMS?

Senator WILLIAMS. I have no questions, Mr. Chairman.

Senator SPARKMAN. Senator PROXMIRE?

Senator PROXMIRE. Thank you, Mr. Chairman.

I think when I was questioning you, Governor King, we were talking about interest rates, whether they were low or high, with reference to the period back in the 1920's and before. You said that the international situation would influence you to some extent in your judgment on the level of interest rates. I would like to follow that up with one question with regard to Mr. Thomas' statement. And that is that he points out that interest rates are lower in America than they are in other countries. This has been true. And they have been lower for a long time; and substantially lower.

I think the question you raised on international balance of payments and so forth goes to the heart of this.

I am just wondering if, in your judgment, it may be necessary for us to have a higher rate of interest, and whether we might consider it desirable if we gave emphasis to the much higher rate of interest that other countries have.

Mr. KING. I am not sure I understand exactly the question, Senator. I think I understand the subject, but I don't know exactly what specific point you want.

Senator PROXMIRE. Do you feel the higher rate of interest in other countries is one of the factors which should be taken into consideration in determining our own programs?

Mr. KING. Yes, sir; I think it is one that we must be aware of, just as we must be aware of many, many other things. I think that any changes in policy by the Federal Reserve Board, as long as it is maintained in its present form, will have to be made in the light of all of the circumstances prevailing at that particular time. I do not think it is really possible to project into the future and then say that a person absolutely will or will not do a particular thing. It depends on the circumstances at the time.

As I said, it is a tremendous trust and responsibility that the Congress has placed on the Board, and I hope that I am—I believe that I am—well aware of this trust.

I do not think that the international rates would be the controlling factor, necessarily, at any time. However, it is conceivable that some action at some time would be necessary, purely because of the international structure. I have no desire to maintain interest rates at any particular level.

My personal feeling, being a borrower rather than a lender, is for rates to be as low as possible without damaging our currency or without inflicting any inflation on the country. But, from my personal standpoint, I would rather pay, if necessary, some higher rate than to accept the consequences of the inflation that would go along with a more or less unlimited release of credit.

Senator PROXMIRE. It is a fact, though, is it not, that we have had that lower rate of interest than other countries for many years and that during most of this period, far from an unfavorable balance of payments, we have had a favorable balance of payments. There are many, many factors affecting the balance of payments other than interest rates. Is that not a correct conclusion?

Mr. KING. I think so, sir.

Senator PROXMIRE. So it is perfectly possible there is nothing inconsistent with our having a lower rate of interest than other countries have and having a responsible and thoughtful and effective international monetary policy.

Mr. KING. Yes, sir; I think that is partly a result, too, of the stability of this country relative to other countries of the world——

Senator PROXMIRE. That is an excellent point.

Mr. KING. Of their respect for our ability to face and meet our problems in a head-on and realistic manner. I think this confidence is a factor that is terrifically important in our maintaining as low a level of interest rates as possible and in maintaining the reserves that we need for this country to go ahead on.

Senator PROXMIRE. My good friend from Utah has indicated that my line of questioning may not be appropriate for the consideration of a nominee to the Federal Reserve Board. I feel it is important, not only to get the caliber of your thinking, but also to get your views and your opinions and your feelings and your convictions on our monetary policy. We do have the power of acting on your appointment, of course, and, as many, many speeches on the floor of the Senate have indicated, we have a very deep interest. I think if we are going to criticize the Federal Reserve Board, we should know what we are talking about.

We have before us this morning an expert on Federal Reserve policy. You are a Governor of the Federal Reserve Board. Therefore, it seems to me it is very useful to get your viewpoint.

I have an open mind on these things. I am learning as I go along, and I am sure I am going to learn this morning. That is one reason why I ask you these questions.

Mr. Thomas made this statement in his speech to a group of mortgage bankers recently. He said:

"It seems to be believed that interest rates could be prevented from rising by legislation which places ceilings on rates that the Treasury can pay or on those that lenders can charge on mortgages."

I do not think that anybody seriously, at least no Member of the Senate, thinks we can prevent interest rates from rising generally by legislation. We think that we can, if not prevent, have an influence, though. Would it not seem logical to you that if the Federal Government, for example, should hold down interest rates on long-term Government bonds, admitting this may not be a wise policy—I think it is a wise policy for us to do that, but many people disagree—that one consequence would be that the Government would not enter in the long-term competition for limited funds and, therefore, that policy might have the effect of keeping interest rates—might have the tendency, at least, of keeping long-term interest rates—down. Is this not a correct conclusion?

Mr. KING. Senator, I am sorry, but I am not sure I get the specific point.

Senator PROXMIRE. Let me ask it again.

We have, as you know, a 4¼-percent limit on the interest rate the Government can pay on long-term bonds. My question is: If we should eliminate that limit, as the President has asked us and as the Chairman of your Board has said we should do, would not one consequence be to permit the Federal Government to get into the long-term Government bond market to bid up the price of money because they are borrowing money? The Treasury says they would borrow $20 billion. Would this not have the effect of increasing interest rates generally for schools, for hospitals, for corporations, for various others, who are also in that market now, just having another big competitor get in. The demand for money would go up. Therefore, the price of the money would go up.

Is that not logical? Would that not follow?

Mr. KING. Well, sir, at the present time, we have more of the demand concentrated in the short term.

Senator PROXMIRE. I recognize that. I am not asking you about that. That is true, and right now I am not asking whether r not this would be a wise policy or unwise overall. I am just asking because I want to get a reply to the statement that Mr. Thomas has made or implied. I want to know if it is not true that by legislation we can tend, at least, in some areas, to prevent interest rates from increasing.

Mr. KING. By legislation?

Senator PROXMIRE. In other words, by legislation, which restrains the Government from entering this field. Is there not a tendency to keep the demand for long-term funds lower and, therefore, diminish the pressure on interest rates for long-term Government bonds?

Mr. KING. I do not believe that the mere lifting of that particular ceiling would produce higher interest rates.

Senator PROXMIRE. Long-term interest rates? You do not think that another $20 billion of demand for money by the Federal Government in that area would have a tendency of creating of long——

Mr. KING. It would relieve that amount of demand from the short term.

Senator PROXMIRE. I recognize that. We are talking just about long term now. I think you are right about short term.

Mr. KING. And I do not know, sir, as it depends on so many things. I do not believe it would make it rise. If it did, I do not believe it would be appreciable. It would be of a very, very minimum nature, if it did. It could conceivably go either way, a little bit, but I think it is more a matter of the economic structure as a whole than of any certain sector.

Senator PROXMIRE. You have answered the question. We disagree, perhaps.

The final conclusion by Mr. Thomas—this is the last question with regard to his speech—was:

"It may be concluded that attempts to control the level or the structure of interest rates by direct governmental action is likely to meet with failure and to have disastrous consequences."

Is it not direct governmental action when the Federal Reserve Board raises the rediscount rate, when it lowers reserve requirements, when it engages in open-market operations? This is a Government agency which is acting. Heaven knows, it is acting directly. Does it not have an obvious effect on interest rates?

Mr. KING. Yes, sir. I would think it would have an effect on interest rates. What Mr. Thomas may have had in mind would be if Government policy were to try to maintain interest rates at a certain level, at an exact level, and the only means through which this could be accomplished would be through the creation of more Federal Reserve credit, which would undoubtedly lead to more inflation.

Senator PROXMIRE. He does not say to peg interest rates. I agree that is a bad policy. He says, "attempts to control the level or the structure of interest rates."

It seems to me if the Federal Reserve Board is not doing that, I am a little puzzled by what they are doing. At least one of the consequences of their action is to vary the

interest rate, to vary the level and the structure of interest rates and its direction, and it is a Government agency.

Let me move on to another area.

Senator BENNETT. Before you leave that area, may I ask the witness one question which I think fits into it?

Senator PROXMIRE. Very happy.

Senator BENNETT. Does the Federal Reserve Board lead or follow the general level of interest rates when it changes the rediscount rate?

Mr. KING. Well, sir, I can only speak from the time that I have been on the Board, which has been about 10 months. I do not think the Board or System tries to particularly or necessarily lead or follow. It tries to deal with the developments on a day-to-day and a month-to-month basis with the decisions made in the best interests of the country as a whole.

Since I have been on the Board, the System has increased some restraint on credit. It has not been a contraction of credit or money, but rather a fairly mild restraint. I think this is a good thing.

Senator BENNETT. Has the Board raised the rediscount rate since you have been on the Board?

Mr. KING. Yes, sir. The Board has raised the rediscount twice in that time. In both instances, this was done subsequent to the raising of the prime rate by the commercial banks.

Senator BENNETT. So in both instances, the Board followed rather than led the market?

Mr. KING. That is correct.

Senator BENNETT. Thank you.

Senator PROXMIRE. I thank the Senator from Utah. He may have a very good point there. He usually does have an excellent point. Maybe with regard to rediscount rate, it is more or less a passive instrument.

It would certainly seem, however, that the Federal Reserve Board has active instruments, to wit, open-market operations. And I would assume that usually, not always, but usually, fluctuations in the reserve requirements are not forced by any discrepancy in interest rates. They are simply an action taken because they feel more money is needed in the economy. Is that not your judgment?

That when the Federal Reserve Board reduces reserve requirements, and therefore increases the money supply, this is not taken to follow anything that has happened in the supply and demand for money. This is simply taken because, in their judgment, the economy needs additional money as it grows.

Mr. KING. That is right. That is one method of increasing the money supply. The other one, of course, as you know, would be through open-market operations.

Senator PROXMIRE. Yes.

I call attention of the nominee to the present situation. The Federal Reserve Board, according to your own words, has followed a moderate policy of not contraction but of restraint. They have expanded the money supply, but less rapidly than the economy has grown, perhaps. Do you think it is a good policy for the Federal Reserve Board and its advisers to pay attention to such elements as in the economy of the stock market?

In other words, as I understand it, the stock market has a fairly good record, certainly not a perfect record, but a fairly good record of preceding industrial falls or drops preceding it by corresponding rise in stocks or fall in stocks.

Is it your judgment that this is a factor that should be noted, observed, and evaluated?

Mr. KING. Yes, sir; I think so, definitely. I think that every bit of information that we can get is of help in trying to arrive at an intelligent decision.

Senator PROXMIRE. Is it not true that the stock market is the best judgment of the Nation's investors on what is going to be the future level of profits and industry? At least, this is one element of what goes into making stock rises.

Mr. KING. It is a good element, but I think, at times, it is extremely difficult to understand.

Senator PROXMIRE. Sometimes it is completely wrong, too. But by and large the record, as I have seen it compared, is fairly good. They are right more than they are wrong.

The stock market dropped in January very very sharply. As I understand it, it wiped out the entire gain of 1959, and we are virtually back to the level of early 1959—the stock market indexes. Would you consider this to be, at least, one factor which would persuade you to consider the possibility of a change in monetary policy?

Mr. KING. It would certainly influence my thinking, yes, sir.

Senator PROXMIRE. You are familiar with the National Industrial Conference Board? You have heard of that organization?

Mr. KING. No, sir; I do not remember it. I might have heard of it, but I do not recall.

Senator PROXMIRE. The National Industrial Conference Board is a large business organization, economic organization, which attempts to appraise what is going on. One of the things they do is to make periodic surveys of the plans of executives.

The National Industrial Conference Board recently tried to assess the impact of so-called credit restraint on the plans and programs of American business. They interviewed some 228 manufacturers, and it was interesting to me to discover that they concluded that credit restraint has had virtually no effect, in the judgment of 228 manufacturing concerns, which I presume were typical because this is a very responsible and careful organization, on their plans for the future—the plans for expansion and their plans for growth and their plans for pricing. It had no consequence whatsoever.

Would this kind of finding influence you in your judgment as to the efficacy or effectiveness of monetary policy?

Mr. KING. Yes, sir. I would be affected and take all of that, any information I could get, into consideration. I think that it is inconceivable, though, that there would not have been some reduction in expansion of industrial output because of interest rates.

I have personal friends that I know that are in business that put off——

Senator PROXMIRE. I agree. There are some individuals that are affected.

I will call your attention to the fact that during the period of credit restriction between 1955 and 1957, we had a tremendous expansion in business plant, business equipment, business expansion. And the U. S. News & World Report, in the current issue, makes this finding: What is tight money doing to business operations? Not much, according to a survey of 228 manufacturers by the National Industrial Conference Board.

And then they go on to say that international financing is expected to take care of investment plans by 90 percent of the firms in the National Industrial Conference Board list. These are the big firms, the firms that really make the big investments and constitute the biggest factor in our economy.

Mr. KING. I would say this, sir, that to the best of my knowledge, the System's intention is not to stop anybody from doing anything per se, but rather one of not expanding credit so that it inflicts more inflation on the Nation. That is the basic approach that I take to the problem of——

Senator PROXMIRE. So that you do, you would, recognize that it appears to be a fact that many of the bigger business firms are not affected. They do not postpone their expansion plans. They do not limit their operations on the basis of monetary policy.

I think you and I perhaps could agree that smaller firms do. I had a small printing firm, for example. We expanded in 1955, but if we had waited a little while later, we probably would not have done it. And I think that is true of the smaller firms. The big firms, the big element in the economy, however, on the basis of this evidence of 1955–57 seem to go ahead regardless of——

Senator BENNETT. May I make a comment?

Senator PROXMIRE. I wish you would.

Senator BENNETT. I think it is healthy that American business can expand out of self-generated income rather than putting additional pressure on the credit market.

Senator PROXMIRE. I would agree 100 percent with the Senator from Utah.

Senator BENNETT. I am sure that is true of many small firms as well as many big firms.

Senator PROXMIRE. I think it is true, too. My point was, however, if one purpose of credit restraint is to bank the fires of inflation by discouraging borrowing, the effectiveness is very questionable in view of the fact that the manufacturers pay no attention to it and expand anyway.

Senator BENNETT. They do not expand by borrowing. Your article says they expect to expand from internal capitalization, which I think is good.

Senator PROXMIRE. I think it is good, too. I simply argue that credit restraint or tight money, which ever you want to call it, has not been effective and seems to be not effective on the basis of the very latest judgment of manufacturing executives in stemming the borrowing of manufacturers.

Mr. KING. Well, sir, I do not think monetary policy can affect everything and accomplish the ideal in everything at all.

Senator PROXMIRE. I think you are right. It has a devastating effect on the cost of financing schools and hospitals and municipal activity generally, although that is questionable, too.

Let me come to this point. The Federal Reserve made a study last summer which was just made available, a study of State and local bond financing during the first half of 1958. And one of the purposes of the study was to determine what effect high interest rates had in postponing construction.

This might be a very important effect in diminishing the pressure on prices by encouraging people to postpone construction to a later date. That may be very desirable in a period of inflation. What they found was very startling to me. They studied some $2,685 million in dollar volume of issues during the first half of 1958. And it was a very competent, fine survey by your own organization, the Federal Reserve Board. They found of these $2,685 million, only $45 million in construction was delayed, State and local.

What does that mean? Does it not mean that, once again, this tight money policy is not having the effect of diminishing the pressure on prices by discouraging borrowing and business activity?

Mr. KING. As I said earlier, I think really the purpose of the System has been to restrain inflation more than to try to slow anything down or to stop anybody from doing anything. I think——

Senator PROXMIRE. If you do not stop them from doing anything, how do you stem the pressure on prices?

Mr. KING. Well, sir, it is up to each individual to make his own decision as to whether he will or will not do something according to the interest rates. Frankly, I do not think that the rates that are in general effect now are prohibiting anybody with a legitimate demand for credit or legitimate loan from getting credit.

Senator PROXMIRE. As I understand it, there are just two ways that the higher interest rates can mollify the effect of inflation. Number one is by tending to discourage borrowing. Number two is by encouraging saving.

We have been discussing borrowing. And on the basis of the evidence that I have been able to find—these are just two examples and there are many—as you know, there seems to be very little effect in discouraging borrowing. People pay more when they build their hospital or build their school or build their plant if they have to borrow money for it. There is a selective kind of inflation, but they do not postpone it. They still do it, and it still has this same effect on inflation as it would have if interest rates had not been increased.

So the borrowing aspect of this thing, it seems to me—the saving would be something else. I want to come to that in a minute—but the borrowing aspect, it would seem to me that the evidence is clear that credit restraint has not been successful in inhibiting borrowing.

Mr. KING. I think it all points up the limitations that monetary policy has and points up the need, as the Joint Economic Committee report has shown, for greater use of fiscal policy.

Senator FULBRIGHT. Will the Senator yield for questions?

Senator PROXMIRE. I would be delighted to yield.

Senator FULBRIGHT. Maybe you have covered this, Mr. King, but what do you think would be the effect if the budgetary surplus were $12 billion instead of $4 billion?

Mr. KING. A budgetary surplus?

Senator FULBRIGHT. A Federal budgetary surplus. The budget recently submitted to Congress provided a $4 billion surplus, which is much less than our deficit last year. In other words, if this year's surplus balanced last year's deficit, instead of only a $4 billion surplus, what would have been the effect upon the interest rates; this problem you are speaking of?

Mr. KING. I think that would tend to lower the interest rates, Senator. I would think that would be the normal consequence.

Senator FULBRIGHT. Do you think it would be beneficial to our whole fiscal policy, including this matter which is causing so much concern now, the balance of international payments, if we had a budgetary surplus of $12 billion?

Mr. KING. Yes, sir; I think it would be a very, very healthy thing for the country.

Senator FULBRIGHT. Did the Federal Reserve Board recommend to the administration that they have a $12 billion surplus instead of a $4 billion surplus?

Mr. KING. No, sir; I do not think the Board, since I have been on it, has recommended anything along that line to the administration. I mean, we really do not, to my knowledge, include in recommendations to the administration in that particular field. We feel that our own——

Senator FULBRIGHT. The point the Senator was making illustrates the limitations of monetary policy. If the Board is interested in keeping the level of our economy on a reasonable basis, why does it not make a recommendation that it believes a budgetary surplus of $12 billion would be beneficial to the economy?

Mr. KING. Well, sir; I would certainly be glad to recommend that to anybody, but I am a junior member of the Board and, as such, have not been called upon by the administration for an expression along that line. I would be glad to give anyone that thinking of mine, but I would not presume to advise the President about——

Senator FULBRIGHT. Do I understand that the administration does not consult the Federal Reserve System on important matters such as how the budget should be balanced and how our Government's fiscal policies are set up? I do not mean you personally; I mean the Federal Reserve System and the Board. They are not consulted?

Mr. KING. There is certainly some contact between the administration and the Federal Reserve Board. I personally have had very, very little. I make up my mind and cast my vote on each matter in an entirely independent manner.

Senator FULBRIGHT. The administration is in a very critical situation, it seems to me. It would be perfectly proper if the Board feels this way that they make a recommendation to try to straighten the administration out. It is in bad shape apparently.

Mr. KING. Well, sir; I think the Board has been more concerned with trying to deal with its own direct statutory responsibilities.

Senator FULBRIGHT. But it is tied in with this other problem. I know the other members of the Board's staff I have heard, thought that we ought to take off this ceiling on the interest rates in behalf of the Government's bond policy, in behalf of a better fiscal situation. You do recommend that, do you not, that we remove the 4¼-percent ceiling?

Mr. KING. I think it would be in the best interests of the country to remove it, at least on a temporary basis.

Senator FULBRIGHT. It is my understanding you all recommended that. I think you recommended it to this committee.

In answer to questions, you said, "Yes," you think that it is a good thing. Is that not so?

Mr. KING. Yes, sir.

Senator FULBRIGHT. I do not see why you are being so backward about recommending to the administration some more sensible policies with regard to its budget.

Mr. KING. Well, sir, I think the Board has had no desire to appear to be suggesting or advising the Congress or to the administration as to what they should do.

Senator FULBRIGHT. In answer to my question, then, you would recommend, if you were asked, that there be a larger surplus?

Mr. KING. Yes, sir.

Senator FULBRIGHT. Of course, there are two ways to do that. One is to cut expenditures, if they can; and, if they cannot, they ought to increase taxes, should they not?

Mr. KING. That is correct, sir.

Senator FULBRIGHT. Do you think an increase in taxes is justifiable, assuming they cannot find any way to cut expenditures?

Mr. KING. That would be a matter that I am glad the Congress would have to decide, Senator.

Senator FULBRIGHT. I know we need advice. I am asking your advice. You are here to give us advice.

Mr. KING. I would not recommend it is as long as we could maintain something like a $4 billion surplus.

Senator FULBRIGHT. Now you are backing up. You said $12 billion would be much better, and it would be good for the country. Why not 12.

I think it would be perfectly proper for you to answer. You are supposed to give us advice, both the Congress and the country. You are experts on this. You have nothing else to do, but contemplate these problems.

Mr. KING. I think a $4 billion surplus would be a fine thing. I think $12 billion would be better. But I would not recommend raising taxes to try to increase the surplus from 4 to 12.

Senator FULBRIGHT. Why not?

Mr. KING. Because I think, in the light of the circumstances that we are in today and what the country is trying to do and the position it is in trying to get and provide a climate for people to go ahead and develop their full capabilities and possibilities, that it would be undesirable.

Senator FULBRIGHT. Is it true that the net Federal takeout of our gross national product is no more now than it was in 1953? Is that not true?

Mr. KING. In the form of taxes?

Senator FULBRIGHT. Yes.

Mr. KING. I thought it had gone up, Senator. I do not know the exact figures.

Senator FULBRIGHT. Your staff, I think, can tell you that the percentage of the gross national product today is no more than it was in 1953.

Is that not right, Mr. Young?

Mr. YOUNG (Ralph A. Young, adviser to the Board). That is about right, yes, sir.

Senator FULBRIGHT. And we have a growing economy. Why would you hold it back to the same level as 1953?

Mr. KING. I do not think it would be a matter of holding anything back. I think that the lower the taxes are in general, the more it stimulates people to go ahead with business enterprises that benefit, in my opinion, all of America. I do not think there is any such thing as saying that this level or that level is too high or too low. But I think that there is some point there where it does discourage people from going ahead.

So I would approach tax increases—although, as I say, that is not in my field. But since the Senator has asked me about it, I want to tell him what I think to the best of my ability. I think that increases only discourage this type of thing. And I think that it is fine for this country when people are encouraged to go ahead and are able to profit if they risk. Through the risk, they provide jobs for people of this country and, of course, that will be one of the tremendous problems that we have in this next several years ahead. It is consideration for the employment in the country that there are jobs for all these people that will be here.

Senator WILLIAMS. Mr. Chairman, will the Senator yield?

Senator PROXMIRE. I yield to the Senator.

Senator WILLIAMS. I wonder, in this connection, Mr. King, what you consider a healthy rate of growth in this country?

Mr. KING. Well, sir, I will admit that that is one that has me slightly buffaloed. I do not know exactly how it would be measured. I have heard people measure it in terms of gross national product, and I think that is certainly an important thing. But I think growth is something to be achieved through a climate of as much freedom as possible for the citizenry to go ahead in, rather than to try to artificially achieve any certain rate of growth. I think in producing the climate for expansion of the country, in producing a climate that will permit its citizens to be encouraged to try to expand their investments and their plant and operations, that we will truly achieve more growth than in trying to more or less, through governmental means, force a certain amount of growth.

Senator WILLIAMS. Are you now satisfied with the climate and the opportunity for growth at this time?

Mr. KING. No, sir. I confess, I am never completely satisfied with anything, I am afraid. I am more inclined to hope that we can continually perfect our system. I think that we have been having a reasonable growth in this country.

As I go about the country and into other cities and observe industries, such as aircraft, and I see the tremendous expansion that we have had in this country in the last few years, I think that we really have had considerable growth. Now, I do not know exactly how I could measure that in any percentage, for example. But from what my eyes tell me, we have had a considerable amount of growth. I am not against more growth, because I am for the Government providing the most favorable climate possible, conducive to its citizenry to go ahead and provide this growth.

Senator WILLIAMS. Thank you.

Senator PROXMIRE. I want to return in a minute to the effectiveness of monetary policy. But before I do that, I want to follow up the questioning of Senator FULBRIGHT.

The Chairman of the Board of Governors of the Federal Reserve System, Mr. Martin,

speaks out frequently and with great effectiveness on the editorial pages of America. Also, of course, we listen to him. I read everything he says. He is a very persuasive man when he speaks out. Does he speak out as an individual, or does he consult you and clear what he says with you and the other six members of the Board?

Mr. KING. Well, certainly, sir, he is free to say many things on his own by virtue of his position. Official Board matters, though, such as any policy decision or any action, including replies to the congressional committees and the like, of course, come before the Board for its inspection, criticism, or alteration.

Senator PROXMIRE. He makes his recommendations to Congress, which he has done frequently on various policies, including the 4¼-percent limit, after consultation with you and other members of the Board, or does he do that as——

Mr. KING. Oh, no, sir. He does that in consultation with the Board during regular Board meetings.

Senator PROXMIRE. You have had an opportunity to pass on that with your approval or disapproval?

Mr. KING. Yes, sir.

Senator PROXMIRE. Can you tell me, or is it private, as to how that vote went? Was it unanimous?

Mr. KING. Well, sir, I would not think it was proper for me to——

Senator PROXMIRE. That is all right. Just say it was an executive decision.

Mr. KING. That is right, sir.

Senator PROXMIRE. You say that you thought we should have a surplus of $4 billion, which it just happens is the figure that the President recommended. Do you favor the President's recommendation for an increase in the gas tax and the postal increase that he recommended?

Mr. KING. I am sorry, Senator, but I am not qualified on those. I know nothing about those particular fields.

Senator PROXMIRE. That is the only way we can have the surplus, unless you say we ought to have other taxes.

Mr. KING. Well, sir, I really do not know anything about those particular taxes. I think it is outside my field.

Senator PROXMIRE. When you said a $4 billion surplus, you apparently meant we ought to have as big a surplus as possible. Whether we have those taxes or do not have them is a matter of——

Mr. KING. That is right.

Senator PROXMIRE. To return to the effectiveness of monetary policy, you agree that it has its very substantial limitations? I would like to turn to the savings aspect and call your attention to a Wall Street Journal article just yesterday which had this to say:

"The best overall gage of savings is the Commerce Department's figure for personal savings. This is the difference between personal after-tax income and personal consumption expenditures. The Department's figures for the full year of 1959 are not complete, but the President's Council of Economic Advisers estimates they will show personal savings last year totaled $23.3 billion down from $23.5 billion in the previous term. (Very close to the same, but a slight drop.) The 1959 figure would amount to 7 percent of after-tax income down from 7.4 percent in 1958 and the lowest percentage for any year since big spending 1955."

The fact is that this year we have the highest interest rates we have had in 30 years. Yet, the evidence is overwhelming that people are saving less.

This article goes on to point out that most savings executives—they talked with a number of bank executives—doubt that higher interest rates induce consumers as a group to save a larger percentage of their income. Therefore, it would seem that if high interest rates do not discourage borrowing, if they do not encourage savings, what real effect do they have in dampening the flames of inflation?

Mr. KING. Well, sir, they have a limited effect on it, I think, as there are so many other factors bearing on the problem. I think, though, how bad it would be if it had not been for what dampening effect it does have. I think I recognize limitations of monetary policy, but I am very happy that the System has done what it has done to try to maintain the integrity of our currency.

I am inclined to think that if the rates had been lower in general, how much less the saving would perhaps have been and how much more inflation we would have had. I think the Federal Reserve System certainly does not try to make a case for stopping inflation, but rather of doing what it can to keep the value of the dollar as stable as possible.

Senator PROXMIRE. Is not this the same thing? What is the difference between stopping inflation and doing what it can to stabilize the dollar?

In other words, if it is not taking any action that is going to stop inflation, then it is not doing anything that is going to stabilize the dollar.

Mr. KING. Yes, sir, as I say, I think their ideas are to do what we can to be helpful, realizing that we cannot do the complete job. But the realization that we cannot do everything is no reason to do nothing.

Senator PROXMIRE. What effect can the monetary policy have if it does not substantially discourage borrowing and if it does not encourage savings?

Mr. KING. I think it is the alternative that we have to think about which is the result of what would follow from releasing credit in greater and unwarranted quantities through open-market operations or through reserve requirements.

Senator PROXMIRE. Mr. King, this is a matter of degree and, of course, when we speak as polemicists—I am not accusing you of being one, but what we do is accuse our opponents of having a very extreme position, and we attack that. I have never advocated any sudden, huge expansion of the money supply. I do not think Senator DOUGLAS has or those of the rest of us who disagree with the Federal Reserve have done so. What we have advocated is that we have a moderate expansion and keep pace with the growth in the gross national product.

Why do you think that this would tend to be inflationary?

Mr. KING. I think it is just a matter of common experience that the more credit that is turned loose—and even on pure economy theory—the more money there is to buy the same amount of goods, and that is necessarily going to produce a certain amount of increase in prices that are not related to increase in productivity.

I am, frankly, in favor very much of providing what increases are proper for the money supply to be able to go ahead and do its part in the achievement of the maximum growth and development consistent with as much stability of the currency as possible. It is a very inexact thing, and I am reminded of the Radcliffe report issued in England this past year.

They studied for 2 years, and 100 of the most learned people on the subject participated. When I got through it, I came out with the conclusion that they, too, realize it was a complicated subject, and that they had not been able to really say anything absolute, either—that it is more a matter of whether human beings are to be entrusted with the responsibility to make these decisions or whether there is a way of doing it by a machine of some kind to grind out answers and policies.

I am aware of the frailties of humanity and of the frailties of my own mental faculties. I merely hope to do the best I can for the country, and I can assure you, Senator, that my devotion is to this country more than anything else. I intend, if I am confirmed, to do the best I can for the country. I am not an expert, Senator. I have been on this job for about a year, and I have tried to apply myself, and I have done the best that I know how.

With your permission and the permission of the Senate, I will continue to try to learn with, I think, a very, very open mind, based on the dedication for what I feel is a great sense of responsibility to the American people as a whole, not just to the American people today or those of us that are occupying this room or those that are on earth today, but also to those that will come along in the future. I think in having this sense of responsibility, it is awfully hard to say that this, that, or the other is absolute in the field of monetary policy.

I just propose to do the best I know how to do and to try to continue to learn. I do not pose, as I say, as an expert. If I stay on the Board for possibly several more years, then perhaps I might be considered as being one. At least, I should hope to become more expert than I am now. But that is simply my intention. It is just to do the best that I know how to do.

Senator PROXMIRE. I think that is a very commendable statement of intentions.

I realize there are no final definitive answers. But this is one of the reasons why, with human frailty, with its tendency for agencies to become the satraps of the industry they are supposed to regulate—that is why some of us are thinking about the possibilities of limiting the power of the Federal Reserve so we would have a regular increase in the monetary supply rather than have one that is subject to crystal-ball gazing and guesses and one that seems to be resulting in higher and higher interest rates.

I would like to call your attention to some figures that I have noted over the past 8 or 10 years. The fact is that our money supply has increased between 1952 and 1959 at a fairly regular rate from $129 to $140 billion. At the same time, the gross national product has increased from $347 to $480 billion.

In order to make this simple, the fact is that the ratio of the money supply to gross national product has declined sharply from 37 percent in 1952 to 36 percent in 1953 and went back up to 37 percent in 1954 as the Federal Reserve Board tried to expand monetary supply to meet the recession problems. Then, they contracted it again to 34 percent in 1955 and 33 percent in 1956 and 31.5 percent in 1957. They let it go up a little in 1958—not much—to 32.7. Now it is down to 29 percent. It is the lowest relationship that we have had in 30 years.

The result of that has been to increase interest rates on Treasury bills from 1.8 percent in 1952, 1.9 the next year, and so forth, up to 4.6 percent today.

It has had the effect of increasing AAA bonds from 2.96 to 4.6 percent.

My question is: Is this policy of keeping the money supply stringent in relation to the gross national product wise in view of the very sharp increase in interest rates over the past 8 years?

Mr. KING. Well, sir, I think generally that the monetary policy has been wise over the past 8 years. While I have not been there for that period and thus am not qualified to say, I nevertheless think that it is entirely possible that the Board, the System, has done some things that it would have been somewhat better in retrospect to have done in a different way.

Senator PROXMIRE. Let me go to some more specific points on this. When the interest rate increased from roughly 2.1 percent up to 4.1 percent on long-term bonds,

municipal bonds, it meant that the cost of interest in financing the building of a school, a $1 million school, went up by $300,000 if it is financed over a 30-year period. It went up by that much without providing another brick, and without providing a dollars' increase in salary for the people working on it. It did provide great discouragement for school builders, a great burden on property taxpayers in various local districts. This is an enormous price to pay for a monetary policy which a Governor of the Federal Reserve Board admits is very limited in its impact, a monetary policy which cannot point to any specific benefits it has had in dampening the effects of inflation.

The school example that I pointed to is exactly the same with regard to hospitals. It is the same with regard to all kinds of things which this country urgently needs. The effect has been to increase the price very greatly, to some extent to discourage building or to result in building only at very great cost.

Mr. KING. Well, Senator, I can say that I do not believe I have any bias toward high interest rates or toward the institutions that we regulate. I would say, rather, if I had any, it would be on the other side because of my personal background, which I cannot erase in any way. I cannot get rid of the fact that I am from industry, primarily, before I came on this Board to which I now devote my full time. That industry is directly connected through its operations, its profits or losses—and we have had losses—with the construction business. So I certainly have no desire to dampen construction.

As I say, if I had a bias, it would be in that direction. I certainly——

Senator PROXMIRE. You recognize, then, the very adverse consequence on school construction and on education in America? The fact is that this high-interest-rate policy has greatly increased the cost of school construction to local school districts.

Mr. KING. Well, Senator, the only schools I am familiar with are the ones in my home State. And even in spite of monetary policy of the past several years—as I say, I do not propose to defend every action of the Federal Reserve System back into history, but only that I have approached it from the standpoint of trying to do what I can while I am on the Board in the interests of the country. But in our State, our schools are going ahead very well.

There are some cases, naturally, where the people in our municipalities want to do all at once everything that they could reasonably do in a period of several years. They would like to constrict it all into one period. Naturally, if they do this it will put a load and a strain on the credit markets, which has a tendency to—not a tendency—but rather, which certainly adds to the cost of the buildings.

But I believe, frankly, that what restraint has resulted to that particular field, it has been worth it to the community to bear that amount of restraint rather than to have borne the alternative, which would have been Federal Reserve creation of inflationary credit in larger and larger amounts.

Senator PROXMIRE. No. Supposing they simply followed a policy beginning, say, in 1954–55, of maintaining a ratio of 34 percent, a moderate ratio much lower than it has been during most of the past 30 years—a little bit higher than the 1920's, but not a monetary stringency so that interest rates are now at the lowest level since——

Mr. KING. Well, Senator, I think you will have to recognize that the velocity of money during that period, the rate at which people have found it possible to turn money over——

Senator PROXMIRE. Of course. The velocity of money cannot do anything else if the money supply is low and the gross national product increases. By definition, the velocity of money is bound to go up. By definition it cannot do anything else. It is bound to follow. If you diminish the money supply, cut it in two, and if the gross national product somehow maintained its level, then you just have a doubling in velocity. It is just automatic. So when you say velocity takes care of it, sure, it does.

The way you can tell the effect of this velocity taking care of it is in the interest rates and what happens to the interest rates. What has happened is, as I have shown, it has increased enormously, not only for Treasury bills and the taxpayer's costs, but also for people who want to build schools, hospitals, and for individual companies or businesses.

Senator BENNETT. Will the Senator yield?

Senator PROXMIRE. Yes.

Senator BENNETT. I have been following the Senator's reasoning. If we carry it to a logical conclusion, the solution of the problem is to supply all the money the market demands in terms of——

Senator PROXMIRE. May I answer my friend from Utah by saying the "logical conclusion" is ridiculo ad absurdum. You can make any argument ridiculous by then saying, "provide an infinite amount." What I am saying is we should simply have a moderate policy of fairly neutral action by the Federal Reserve Board, not pegging interest rates, but keeping the supply of money at a level so it keeps pace with the growth in the economy.

Senator BENNETT. To me, there is a very definite necessary relationship between the supply of money and the savings of people. I have been listening to your questioning of the witness, and it seems to me you have put the whole burden on that amount of increase in the supply of money for credit.

As a matter of fact, money and credit are not wealth, and the people who borrow money to build school buildings or buy houses are limited, eventually, by the amount of actual savings, wealth, that the people are willing to contribute to the process. If we doubled the supply of money tomorrow, we would not increase wealth by $1. But eventually, we would double the price of everything we put out.

This concentration on the fiscal supply of money as the solution of this problem seems to me to be essentially fallacious.

Senator PROXMIRE. May I answer my good friend from Utah by saying that the only element in the economy over which the Federal Reserve Board, in my judgment, has any degree of control is the money supply. I would agree 100 percent with my good friend from Utah that this is not the whole answer at all. I am saying it is an answer that affects interest rates. It is an answer that affects inflation very slightly on the basis of the best evidence we can find that has not been contradicted. But it is an answer which has very serious consequences on the American people in many, many very serious ways. And I am trying to get from the nominee his thinking about the consequences, not only on the economy as a whole and in general, but the consequences on our schoolchildren and the consequences on people who want to buy a home and build a house.

Senator BENNETT. The thing that bothers the Senator from Utah is that you set up your premise which, to me, is not stable or sound, that the failure to increase the actual supply of credit is the sole reason for the rise in the interest rate. Then you finally bring yourself to the point, as I have tried to follow you, that the monetary policy of the Federal Reserve is to bear the whole responsibility for the situation you feel is bad.

Actually, I think over the last 3 or 4 years the supply of available credit in this country has substantially increased, as has the supply of savings. I do not agree with the premise of the Senator that the policies of the Federal Reserve Board have not increased savings and therefore, they have no effect on that phase of the inflation problem and they have not dampened down borrowing. Actually, we have no way of testing what the situation would have been like if the policy the Senator proposes had been followed out. But, looking back at history, generally, when those conditions existed, we have had high inflation. I feel the record should not be based entirely on the idea which I think the Senator, probably unintentionally, is putting into the record that the Federal Reserve, by failing to increase the money supply at a rate consonant with the increase in the gross national product, has somehow been solely responsible for the rise in the interest rates and this, in turn, has choked off, or has helped to choke off, our growth.

Senator PROXMIRE. May I reply to my good friend from Utah by saying that perhaps the word "solely" would not be correct and, as the Senator from Utah said, this was unintentional.

Let me say it is intentional on my part to say that the one conscious agency in our society that has been influencing in a planned way, in an orderly and thoughtful way, the rate of interest has been the Federal Reserve Board. Perhaps the Treasury to some extent, but I think—the Federal Reserve Board has primarily done this. Let me show you that in 1952 the ratio was 37 percent of money supply to gross national product. The interest rate on bills was 1.8. The next year, the ratio dropped, interest rates went up—36 percent and 1.9. The next year—this was a recession year, 1954—the ratio went up again. The money supply was increased and interest rates dropped. They dropped all the way down to 1 percent.

The next year, the ratio was diminished as the money supply failed to increase as gross national product increased. What happened to the interest rates? They went up sharply. The next year the same thing happened. Money supply was maintained almost static. As the gross national product grew, interest rates shot up to 2.7 percent.

The next year, exactly the same thing happened. The ratio dropped down to 31.5; interest rates went up to 3.3. The next year the Federal Reserve Board followed the policy of credit ease. They increased the money supply. The gross national product remained about the same. That was the recession year of 1958. Interest rates dropped to 1.8.

And this year, 1959, during the middle of the year, the ratio was 29 percent. It is even less now, I believe, and interest rates went up.

I say this is direct, immediate; this is as explicit and specific as we can possibly get. This is one agency which has amazing control over the element in the economy that they are supposed to control, and that is the interest rate. I do not know how anybody can dispute that in view of these figures.

Senator BENNETT. I think they are not charged with control of the interest rate; they are charged with the management of the money supply, and the interest rate changes as an automatic result. I think that is one of the basic differences between me and the Senator from Wisconsin and one of the things that I think is the basic fallacy in his assumption that the Federal Reserve Board is charged with the responsibility of fixing interest rates.

Interest rates are an effect; they are not a cause.

Senator PROXMIRE. They are an effect that follows inevitably, I think, from this policy.

I do not want to detain the nominee too long. You have been very, very patient as well as responsive in your replies. I would like to call your attention, however, to two other things. One is the front page of the Wall Street Journal just 2 or 3 days ago. George Shea who wrote this is a very fine

financial writer, and I think we can agree the Wall Street Journal is one of the leading financial papers in the country. Mr. Shea in the Journal has just pointed out our economy is well below capacity in most industries. Automobiles will be far below the 8 million capacity which they achieved in 1955. Machine tools will be below two-thirds of capacity. Steel is about 95 percent of capacity now, but they are replenishing inventories because of the strike situation, and they are expected to operate during most of the year at 80 or 85 percent of capacity. So we do not have a situation which has excess demand putting pressure on capacity and driving up prices in that sense.

Also, I would like to call your attention to the point that the most recent figures we have on employment is that 5.2 percent of the work force, far more than 3 million men, are out of work now, looking for work, bidding for work. There is an excess labor supply.

Under these circumstances, it is apparent that we do not have a shortage of human resources, and we do not have a shortage of factory capacity and the argument that we have an excess of demand that is likely to cause an inflationary situation, it seems to me, is answered by the cold, hard facts of life that show, on the contrary, we have an excess capacity and an excess labor force.

Under these circumstances, the argument for further credit restraint is answered fairly conclusively by the facts of life, particularly in view of the fact that the stock market appears to be anticipating a further diminution in industry activity toward the end of the year and in view of the fact of the National Industrial Conference Board and others suggesting that they are going to taper off industrial activity.

I would like your reaction to that.

Mr. KING. Senator, those are all factors I would take into consideration in arriving at a decision. There are, of course, many other factors that would have to be considered in connection with that. I will say to you, sir, that I very strongly dislike seeing people out of work.

As a matter of fact, the business that I came from—and I am not an official any more—has a plant in Monroe, La., that manufactures oak flooring. The plant is shut down right now. Normally there are about 125 people there, and I hate to see those people out of work, Senator. I have had a very close relationship with them. They are not numbers on a piece of paper to me. They are real people. So I have a very, very keen awareness of people that are out of work. But that has happened on occasions.

I suppose that my main interest in being on this Board was to attempt, within the framework of my capabilities, to help make decisions that would minimize unemployment and would permit the country to go ahead on an even keel toward sustainable growth as much of the time as possible, because the ups and downs of the economy can have very, very terrible effects on business, and that has an effect on unemployment.

So I am probably more interested in this job because of an awareness of these things that you talk about. As I have indicated I certainly oppose unemployment. I do not think, though, that the answer to all of the ills that we have is for the Federal Reserve to grind out more and more credit.

In fact, Senator, I think it is really an unreasonable position to say that the Federal Reserve is responsible for all this problem that we are in. I think that the Congress must take its full share of the responsibility. And my hope is that if I am permitted to continue in the Federal Reserve that we can conduct our policies in harmony with the Congress toward a concerted effort to give the American people more stability.

Senator PROXMIRE. I would like to ask you about two specific problems. One is the 3-percent limit on time deposits for national banks, which the Federal Reserve has maintained. There is a feeling on the part of many people that this may be a concession to the industry, that, obviously, the national banks have an interest in limiting competition among themselves and limiting the amount they have to pay out to time depositors. And I am wondering, in view of the very sharp increase of interest rates generally, in view of the feeling that the Federal Reserve Board has expressed that Congress is delinquent by not taking the 4¼ percent interest off long-term bonds why the Federal Reserve Board does not permit the national banks in this country to be competitive, too, and not maintain this artificially lower pegged interest rate which is in the interest of the banks, certainly, and not the general public.

Mr. KING. Senator, I can give you only my own thinking on that. The subject has been discussed pro and con at the Board on many, many occasions.

The Congress, in what I consider its wisdom, has required the Board to place a maximum limit on the interest that member banks may pay on time and savings deposits. And the Board increased that maximum about 3 years ago, I think. That was before I came on the Board. It was then moved from 2½ to 3 percent, and the FDIC took the same action for nonmember insured banks.

I agree very wholeheartedly that, if the present general interest-rate structure continues, there is no reason to deny people a higher rate of return on savings deposits unless it might involve some danger by placing the banks in competitive positions of having to bid too highly to get deposits. The mere moving up of the maximum, however, would not require the banks to pay higher rates since the maximum rate, whatever it is, is only permissive. But, then, if the maximum permissible rate were ever moved down as the general structure of interest rates moved lower, that would be a harder action in the sense that it would require banks that were paying the maximum to reduce their rate. Therefore, the movement of the rate up can be said to be an easier thing than a movement down in the ceiling.

My belief is that an increase in the past, and I am not speculating on the future because I will have to decide that in the light of the conditions at the time, but in the past, though, it has been my belief that an increase in it might help to shove the whole structure into higher ground, which I think could have the effect of making the next drop a sharp drop and, therefore, contribute to a more rigorous up and down.

As I said earlier, I am more concerned with trying to straighten out these ups and downs or make them as little up as possible and also as little down as possible and to let the economy ride along on as much of an even keel and with as much stability and sustainable growth as possible.

Senator PROXMIRE. This is your province. It is something which you should have a conviction about what Congress should do. Would you recommend that Congress just knock off this Federal Reserve power to determine, fix, the maximum limit on time deposits and let it be competitive?

Mr. KING. No, sir; I would not.

Senator PROXMIRE. If we did eliminate this power, you would not have to worry about the argument you are making now that you have trouble lowering it. It would be competitive. That would be it.

Mr. KING. I would rather have the trouble of doing it, Senator, than to have it left wide open. You would risk too wide open competition. I think the legislative history shows that a reason for enactment of the law was to attempt to eliminate wide open competition of banks for savings deposits, and I am aware of the fact that today this places commercial banks in rather poor competitive position with other savings institutions and also even with——

Senator PROXMIRE. Why should they not be competitive?

Mr. KING. Sir?

Senator PROXMIRE. Why should they not be competitive?

Mr. KING. Well, sir, I think that they should be. I think it is really more a question, though, of whether it is better to throw down safeguards or to keep them where they can be maintained in the absence of safeguards in other fields. I think it is entirely true that the scramble for the funds of other people in the form of this fellow bidding more and this one bidding more and this one bidding more contributes to a subsequent drop in the economy that is very, very hard on people.

Senator PROXMIRE. You have a scramble now with savings and loans bidding it up.

Mr. KING. Yes, sir; that is right.

Senator PROXMIRE. This is just one artificial limitation. One area does not provide a blanket overall limitation for all institutions.

Mr. KING. That is correct, sir.

Senator PROXMIRE. It seems to me inefficient and, in a sense, it handicaps the national banks although I can see why they would be interested in maintaining it.

Mr. KING. I will say this, too: If I thought this developed to a critical enough point, I would probably conclude I had to vote to raise that minimum. The Board has not voted on this. I am expressing an opinion here that has not been an official position I have taken on the Board. We have discussed it as I indicated earlier.

Senator PROXMIRE. You have an open mind on it?

Mr. KING. Yes, sir.

Senator PROXMIRE. All right.

I just have one further area of questioning, and that is with regard to reserve requirements. There has been criticism which may or may not be well founded of a policy the Federal Reserve Board follows, which is mighty profitable for the banks and mighty expensive for the taxpayer. This is to increase the money supply whenever the Federal Reserve increases it, by lowering reserve requirements.

On the other hand, the way the Federal Reserve contracts the money supply when it does this is by engaging in open-market operations. If open-market operations were used as a means of increasing the money supply, it would be done by the Federal Reserve Board going into the bond market, buying bonds and receiving the income that private banks now receive from those Federal bonds. And if they did this over a period of 8 or 10 years, it would mean a very substantial procurement of Federal bonds. It would mean a sharp reduction in service on the national debt, and it would be in the great interests of the economy for our Nation. We could reduce our Federal cost by hundreds of millions if the Federal Reserve followed this policy of expanding the money supply by open-market operations instead of reserve requirements, although the banks might not enjoy profits that they enjoy under present Federal Reserve policies.

How do you feel about that?

Mr. KING. Well, Senator, I feel that they are both tools for a flexible monetary policy. I think that it is very advisable to leave the Board, if the people who are appointed to it are considered competent to make reasonable decisions—that it is better——

Senator PROXMIRE. Let me just interrupt at this point to say it is my understanding that the members of the Board feel they ought to be 10 percent down from 16 percent now. That would mean a very great in-

crease in the supply of money over a period of many years. It would mean a great improvement in bank earnings. It would also mean that the Federal Government would be foregoing a mighty substantial revenue it should be enjoying. So it is a matter of whether you are for the taxpayers or the bankers.

Mr. KING. Well, Senator, I can assure you I have no bias toward the reserve requirement route of increasing the money supply. I think that it is——

Senator PROXMIRE. Why does the Board always do it this way? Why does it not ever do it by open-market operations?

Mr. KING. It has not been done since I have been on there, sir. Reserve requirements have not been—I am not competent to defend the Board and the System for all of their actions in the past.

In fact, I might disagree sometimes with some of the actions——

Senator PROXMIRE. May I say that we passed a bill last year. I was the author of a similar bill. The bill we passed was the chairman's bill, but my bill was similar, to permit banks to count vault cash. This bill meant that credit could be expanded. This was my understanding. But we made it clear that the new law should not be used for this purpose. The law was simply a means of correcting inequities and permitting the country banks to take advantage of their vault cash and thereby create a more equitable situation.

However, it is my understanding also that the Federal Reserve Board has permitted banks to count some degree of their vault cash now in accordance with the law and has not contracted reserves when they did it. So the effect has been to expand bank reserves. The Federal Reserve expanded the money supply by following this route in recent months. Is this not correct?

Mr. KING. Yes, sir; that is correct, although the increase in relation to the total is rather small. The Board felt that it was desirable to make a start in implementing the act, although an ideal time to implement that feature of the act would be in a time of decreased activity. The Board had a very strong feeling of not wanting to do anything through vault cash to affect the overall economy one way or the other. Consequently, the action, which was of a seasonal nature, was rather small and was, I should say, a start toward effectuating the purposes of the act.

Senator PROXMIRE. Your answer is what worries me because it implies that, given a period when you think the money supply might be increased, that you are going to follow a policy of permitting vault cash to be counted as soon as you can, which is a matter of expanding bank reserves and thereby the money supply by permitting the banks to increase their loans and enjoy more profits.

It is not the way of expanding the money by increasing the Federal Reserve Board purchases of Government bonds.

Mr. KING. Senator, my own proposal and plan which I presented to the Board—even though I was junior and I recognized my neophyte status, I did present a plan to the Board. My plan called for increases in reserve requirements to offset the vault cash permitted to be counted. My plan was not accepted, and it did not hurt my feelings at all because I realize that I was very, very junior. And, on further thought, I realized that possibly any action to permit the counting of vault cash in large amounts and offsetting with reserve requirements might have an adverse effect on the economy as a whole, and that it would possibly be better, in the light of the views of those with more experience with the subject than I, to more or less abandon my approach to the matter at the time.

But I think that should be fairly strong evidence that I do not lean toward increasing the money supply in that direction alone.

Senator PROXMIRE. So your method of increasing money supply would be by open-market operations?

Mr. KING. Well, sir, I would not want to make a statement as to what I would do in the future in the light of the then existing circumstances.

Senator PROXMIRE. You feel on the basis of what the current situation is that that might be a wiser way. You would certainly consider as an advantage of open-market operation that it is a way of reducing the cost of servicing the national debt. That would be an important consideration for you?

Mr. KING. That would be an important consideration.

Senator PROXMIRE. I think that is all I can ask.

Mr. KING. Yes, sir; it would be.

Senator PROXMIRE. Thank you.

Mr. Chairman, I would like to make one correction for the record. I inadvertently used the index of AAA bonds with corporations before, and I should have used the Standard & Poor Municipal Bond Index, which is even more decisive in the point I wanted to make.

Between 1952 and currently, the interest rate has gone up from 2.19 to 4.2. And, as I calculate, the cost of a $1 million school over a 30-year period, it has increased by $300,000 or nearly one-third of the total cost because interest rates have increased as they have since 1952.

I would like to tell the nominee that he has been most patient. I did not mean to make a marathon interrogation, but it appears I have done so. You have been very kind and thoughtful in your answers. I certainly did not mean to do anything improper in questioning you about your views. I do think when a man is appointed to the Federal Reserve Board to be one of the seven money managers of this Nation for a 14-year period, that we have a duty to find out your views, your opinions, and, in doing so, of course, attempt to evaluate your ability as well as to just get the facts about your biography.

Mr. KING. I agree with you entirely, Senator. I have really enjoyed today. I think I have enjoyed this more than any day I have been in Washington, frankly.

Senator PROXMIRE. I'm glad to hear it. Thank you very much.

Senator SPARKMAN. Mr. King, I shall not detain you longer. The hour is late. Let me see if I can more or less summarize your view as stated in the early part of your questioning.

That is when you were discussing guidelines you would use. You consider the acts of Congress, the laws passed by Congress, as being your guidelines?

Mr. KING. Yes, sir.

Senator SPARKMAN. But that does not mean that you disregard opinions of others such as Senator PROXMIRE? You would take these as advisory and consider them along with other factors?

I believe from your comment that you must have read the report of the Joint Economic Committee issued recently?

Mr. KING. Yes, sir.

Senator SPARKMAN. You are familiar with the various recommendations made in it?

Mr. KING. Yes, sir.

Senator SPARKMAN. Senator BENNETT, anything further?

Senator BENNETT. No further questions.

Senator SPARKMAN. Thank you very much, Mr. King.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Mississippi for so graciously yielding to me.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, while the Members of the Senate are present in the Chamber I should like to query the majority leader a little.

First, I should like to ask about the length of the sessions for this week and what the Senator visualizes for next week. This is particularly important because of the hope that we can make some progress on the civil rights bill. I do not mind saying I have suggested that while I certainly do not want to be offensive or extreme in the matter I believe somehow we are going to have to lengthen out the sessions and that all Members ought to be put on notice to that effect, so that there will be no inconvenience and the Members will have a chance to cancel engagements both in Washington, D.C., and at home, if that is necessary.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield.

Mr. JOHNSON of Texas. Mr. President, earlier in the day, shortly after we convened this morning, I informed the Senate that I had conferred with the minority leader and with other Members of the Senate and that we would expect a session on Saturday, the majority of the Senate being willing, and we would run late each evening this week. I would hope, if the majority of the Members concur, that we can stay in session at least as late as 10 o'clock, or 10:30, in the evenings this week.

Beginning on Monday of next week I would hope we could come in early in the morning, say at 10 o'clock, and unless and until we are able to obtain votes on the pending amendment, which can be divided into seven parts, we should stay in session throughout the evening, if necessary, until we are able to obtain the votes, if the membership of the Senate is willing to do that in order to obtain a vote.

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

Mr. DIRKSEN. Mr. President——

Mr. JOHNSON of Texas. I yield to the Senator.

Mr. DIRKSEN. I have the floor. I yield to the Senator from Pennsylvania.

Mr. CLARK. The Senator from Pennsylvania is happy to hear what the majority leader has said. It occurs to me that many of us who are vitally interested in the proposed civil rights legislation are being put in a position where we go on day after day after day in, it seems to me, interminable debate. We do not bring the matter to a conclusion.

There are certain procedures under the Senate rules which could be adopted, which I know the majority leader would be loath to see adopted.

We have come to the Senate Chamber to pass a civil rights bill in the Senate, following the understanding that we would take the matter up on the 15th of February. For one, I certainly am willing to stay in session all night, as many

nights as is necessary, or to invoke the rules with regard to cloture, in order to bring this matter to an early conclusion.

I want to congratulate the majority leader for having indicated he is prepared to keep the Senate in session until we pass a bill.

Mr. JOHNSON of Texas. Mr. President, first I want to say to the minority leader that how long we stay in session and what we consider will depend entirely upon the wishes of a majority of the Members of the Senate who are present, for a majority can adjourn the Senate at any time they desire to do so.

I do not think we ought to be hasty in the matter, and I do not intend to be. I want to see each Senator provided with a full and adequate opportunity to speak at length on each amendment, and I have no doubt that many Senators will avail themselves of that right.

I think that each Senator should know it is my judgment that a majority of the Senate desires to reach a vote on the Dirksen amendments and that Senators are willing to stay in session until a vote is reached. I know that the Members will be understanding, and willing to spend many hours waiting for that vote.

We shall have concluded 2 weeks of time since the Dirksen amendments were taken up for consideration when we finish our deliberations Saturday evening.

I would not want to run late night sessions this week, but I hope that each Member will survey his own commitments, and if a majority of the Members are willing to come to the Senate and to be readily available for what I expect will be many suggestions of the absence of a quorum, then I would expect to ask the Members to stay until we can at least obtain some votes in the matter.

Mr. DIRKSEN, Mr. RUSSELL, and Mr. ELLENDER addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIRKSEN. Mr. President, let me amplify a little my own feelings in the matter.

I recall the colloquy between the distinguished Senator from Florida [Mr. HOLLAND] and the majority leader this morning. I rather inferred from that colloquy that if other matters were submitted to the Senate and if it were requested that the pending business be temporarily laid aside there would undoubtedly be objection. At least I was so advised. If that is the case, it of course implements the conclusion that the Senate is somewhat immobilized, in a sense, that the pending business is before the Senate and it will take quite some time to dispose of it.

I should like to query the majority leader a little further. When the majority leader speaks about late sessions this week, I am mindful, of course, of the fact that every Senator has dinner engagements. I think there are some on my book for every night, but the book is simply going to have to be thrown overboard.

At the same time, we do not want to take undue advantage of the Members of the Senate without giving a prior notice. That is why I am suggesting now that perhaps this is a good opportunity to give prior notice with respect to next week, so that Members can get their calendars in order and so that by next week, when we shall have spent 2 full weeks on this matter, we can think seriously about round-the-clock sessions.

Mr. JOHNSON of Texas, Mr. RUSSELL, and Mr. ELLENDER addressed the Chair.

Mr. DIRKSEN. I yield to the Senator from Texas.

Mr. JOHNSON of Texas. Mr. President, I would not anticipate any round-the-clock sessions this week. I would expect, if we have not been able to vote by Monday evening, that we would go around the clock Monday night, the majority of the Members being willing.

I substantially made that announcement earlier in the day, and I repeat it now, so that every Member can be on notice.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIRKSEN. Mr. President, I desire to address a further inquiry to the majority leader, so that we shall have a complete and clear understanding of what is in the mind of the majority leader.

Contingent, of course, on the will of the majority of the Senate, there will be late sessions the rest of this week.

Mr. JOHNSON of Texas. That is correct; until 10 o'clock.

Mr. DIRKSEN. And in the absence of further progress, and perhaps no votes on the pending matter, we can look forward to sessions around the clock, or nearly so, starting next week?

Mr. JOHNSON of Texas. I have been informed by a number of Members that is their desire, and I believe a majority of the Members want to bring the matter to a vote. Therefore, I think all Members should be on notice that their presence may be demanded at any time during any evening, or the early hours of the morning, all night around the clock, every night next week or the following week, until a vote is obtained.

Mr. DIRKSEN. And can this colloquy now be considered as notice to Members of the Senate that that is the kind of schedule which will be contemplated for the rest of this week and starting next week?

Mr. JOHNSON of Texas. If that position is supported by a majority of the Members of the Senate.

Mr. DIRKSEN. I yield the floor, Mr. President.

Mr. RUSSELL. Mr. President, I am under no illusions as to the situation which prevails in the Senate of the United States at the present time with respect to this proposed legislation. I am fully cognizant of the peculiar charm which attaches to any bill in a presidential election year—such as we have this year—which bears the title of "civil rights."

I shall not complain about the very onerous schedule which has been outlined to us. I will say that in other circumstances, in connection with other proposed legislation, I have seen debate continue for 3 or 4 weeks before the Senate was threatened with round-the-clock sessions and with all other kinds of punitive measures to force us to vote before the Members who are opposed to the proposed legislation have debated it as fully as we wish.

I realize, Mr. President, that a good many Members of this body will vote for any measure that bears the label of civil rights, and that they are thirsting for the opportunity to do so. I appreciate the fact that it has been stated that the majority, if it saw fit, might adjourn the Senate at some future date. That provision happens to be in the rules.

Of course, I am fully aware of the fact that I and those associated with me in resisting this force legislation, this unwise legislation, this unnecessary legislation, do not have a majority to adjourn the Senate. I will state to the distinguished minority leader that I do not have any dinner engagements, and that I shall undertake to be here through the evening sessions; and when we start the round-the-clock sessions, perhaps two or three of those who are opposed to this legislation will be present.

If we are to be subjected to this kind of legislative regimen this early in the discussion of the pending bill, I notify the Senate, and I notify the majority, that there are other Senators who know how to play that kind of game. I put Senators on notice that there will be quorum calls. There will be quorum calls at awkward times if we are to be subjected to this kind of legislative procedure. In my judgment, Senators might as well get their cloture petition ready now if they propose to ramrod this measure through by starting all-night sessions and round-the-clock sessions when the measure has not been before the Senate for 2 weeks, and especially when much time has been taken in discussing other issues. All of the debate has not been conducted by Senators who are laboring under the present legislative disability of being called southern Senators.

We will resist to the limit of our ability, within the provisions of the rules. I think I can speak for the majority of those associated with me in resisting this legislation when I say that we will use every legal means at our command to undertake to prevent this legislation from being passed until it has been thoroughly and fully discussed and explored.

Some very able speeches have been made. Senators do not seem to attend sessions of the Senate as they once did. I doubt whether they read our colleagues' speeches, as they have done in times past, in the RECORD. Perhaps we will catch enough Senators as they flit in and out answering quorum calls and voting upon whatever collateral motions may be made, to bring home to them the vices, the inequities, and the very grave injustice not alone to the South, but to the United States, in undertaking to adopt some of the provisions contained in the so-called Dirksen amendments.

Mr. TALMADGE. Mr. President, will my colleague yield to me?

Mr. RUSSELL. I am glad to yield.

Mr. TALMADGE. Is it not true that the Senate spent 2 full weeks on a so-called clean elections bill, which was of very little import to the country, with no threats about round-the-clock ses-

sions, no duress of any kind, and no compulsion? The bill was deliberated very leisurely for a period of 2 whole weeks, even though the legislation was of very little moment to the United States.

Mr. RUSSELL. There may be a difference of opinion as to whether it was a matter of moment to the United States. Personally, I thought it was a very bad bill, but it certainly was discussed for 2 full weeks, without there being any all-night sessions or any sessions late into the evening.

Mr. TALMADGE. I thank my colleague.

Mr. ELLENDER. Mr. President, I regret very much the position taken by the majority and minority leaders. For the past week I have been holding hearings on public works measures. Next week I had hoped to hold hearings on the so-called wheat bill. I think it is important that the Congress do something in respect to wheat legislation. But I give notice now that if what the majority leader and the minority leader have said comes to pass, that is, the holding of round-the-clock sessions of the Senate beginning next Monday, I am going to stop holding hearings on public works, and I am going to object to any committee sitting next week and the week after during sessions of the Senate, so long as this condition exists.

I happen to serve on five of the subcommittees of the Appropriations Committee, which subcommittees handle almost 90 percent of the budget which will confront us this year.

I understand that the Appropriations Committee has the right to sit during sessions of the Senate. It has obtained unanimous consent to do so; but so far as I am concerned, I intend to see to it that a quorum is present at each meeting of the subcommittee, and that a quorum is maintained.

Those of us who are opposed to this legislation hope to speak at length on it. We need a little rest in between. I do not want to spend my rest period holding hearings on public works, on wheat legislation, or on any appropriation measures which come before the Senate.

Mr. EASTLAND. Mr. President, I ask unanimous consent to yield the floor to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator does not have the floor. The Senator from Louisiana has the floor at this moment.

Mr. EASTLAND. Are we not operating under a unanimous-consent agreement?

The PRESIDING OFFICER. The unanimous-consent agreement was that the treaties would be disposed of; but the treaties have not been disposed of as of this moment.

Mr. ANDERSON. I wonder if the able majority and minority leaders might answer a question that is in the minds of a great many Senators as to this evening. I am sure that half the Members of the Senate have accepted dinner engagements this evening, all of them in the same place, and I wonder whether it is the purpose to have repeated quorum calls while that dinner is in progress, whether we would better all cancel our engagements, or what we should do. A great many of us accepted this engagement months ago, and I wonder what is going to happen if Senators on both sides of the aisle plan to go. I should like to see if there is some way of getting a clarification as to what to do.

Mr. JOHNSON of Texas. Earlier in the week I stated—and I have repeated it to each Member who asked me each day—that we expected evening sessions each night this week. We do not expect these evening sessions to run later than 10 or 10:15 or 10:30, but we do expect evening sessions this week. I have said that to a number of Members on both sides. There is hardly a day when some Senators do not have evening engagements. I believe the minority leader has told Senators on the other side of the aisle the same thing.

Mr. ANDERSON. I know that the Senator from Florida [Mr. HOLLAND] and the Senator from Washington [Mr. JACKSON], have the same engagement. We are all perfectly willing to get out of it if that is desired and desirable. We would like to go, but we may all be called away from the dinner. I should like to find out if it is possible for us to keep this engagement.

Mr. JOHNSON of Texas. We ran out of speakers last evening earlier than we anticipated. We have been continuing sessions into the evening all this week, and we have given notice that we expected to have late sessions this week. I have said that publicly and privately to every Senator who has asked me. It has happened that some time after 7:30 or 8 o'clock a Senator has concluded his speech earlier than he expected. The other evening I was told that a Senator desired to address the Senate for 35 or 40 minutes, but he addressed it for only 2 minutes. We cannot always make the correct guess in that respect, but I have said that we expect to have late evening sessions all this week.

I will not suggest the absence of a quorum, but I am sure other Members, in the light of what they have said, will suggest the absence of a quorum. I have been informed that there may be quorum calls this evening.

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

Mr. ELLENDER. I yield, provided I do not lose the floor.

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

Mr. HOLLAND. I wish to address myself to the distinguished majority leader and to the distinguished minority leader along the same lines to which my distinguished friend the junior Senator from New Mexico has addressed himself. The meeting tonight is no ordinary meeting. In the first place, it is made extraordinary by the fact that one of our distinguished orators in the Senate, the senior Senator from Alabama [Mr. HILL] is to be the principal orator.

In the next place, it seems to me, with notice given only this morning, we could well afford to extend enough of the quality of mercy in connection with the planning of the leadership to allow Senators who have accepted the dinner engagement—and some had accepted it as much as 4 to 6 months ago, not only for themselves but for their wives as well—some assurance that they will be able to attend this meeting, which is a meeting of grand masters of Masons from various countries as well as from many States of the Union. We might thus have some assurance that we can attend that meeting without being disturbed by quorum calls, which would have no useful purpose anyhow, since we are not yet even approaching being able to understand the issues on which we are to vote.

I invite the attention of the Senate to the fact that there are 54 separate bills in the lap of the Senate on the so-called civil rights subject. In addition, numerous amendments have been offered. There has been not the slightest indication as to what form the bill will take which the leadership will decide upon. There are a great many differences between the various bills. I am hopeful that the two leaders—I will desist until I may have the attention of the majority leader——

Mr. TALMADGE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HOLLAND. I hope that the two leaders will allow the quality of mercy to prevail, if not with reference to the Senators who are involved, at least with reference to the wives of the Senators who are involved, so that we may attend the meeting tonight, and that we may have the drastic rule, to which I have no objection at all, start to apply tomorrow, rather than this evening, since we have had no notice of it except that given this morning.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. ELLENDER. I will yield, provided I do not lose my right to the floor.

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

Mr. JOHNSON of Texas. Mr. President, the Senator has had notice. He has had ample notice. The Senator has had two or three notices. I read from the CONGRESSIONAL RECORD of last Friday:

> I should like all Senators to be on notice that we may have evening sessions next week, including rollcalls, and that we expect to have a Saturday session next week.

The Senator from Texas does not propose to make a point of no quorum being present this evening. If the Senators who desire to discuss the bill have a speaker who will speak for 2 or 3 hours, and if he does not yield for the purpose of the quorum call, every Member of the Senate can attend the dinner this evening. I have no desire to bring Members of the Senate back to the Chamber. However, other Senators have said to me that I should be on notice that quorum calls may be had, and therefore, I transmit that information to the Senator from Florida.

I shall be here, and I will not make a point of no quorum being present. I am sure the minority leader will not do so either.

I said last week that we expect to have evening sessions. So there has been adequate notice. The only reason for

making the announcement now about sessions next week, when so many Senators are present, was so that every Member may have full and adequate notice.

So far as this evening is concerned, with respect to the question raised by the Senator from New Mexico, the majority leader will say that he will not make a point of no quorum being present. I understand there are several Senators who desire to speak at length. If they do, the Senators who attend the dinner this evening will not be inconvenienced. I know that the minority leader will not make a point of no quorum being present.

Mr. HOLLAND. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield, with the understanding that I do not lose the floor.

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

Mr. HOLLAND. I am sorry that I was not on the floor when the distinguished Senator from Texas made the announcement he said he made last week. I have no doubt that that is the case. But at that time I was, in fact, holding hearings, on the urgent suggestion of the Senator from Texas, on an appropriation bill, so that it may be brought before the Senate for its consideration. Yesterday, on Washington's Birthday, I held two meetings, a markup meeting before the subcommittee, and a meeting also by the whole committee. We held these meetings until late. I was trying to carry out the urgent request, if not the direction, of the majority leader.

This is the first intimation I have had that there has been notice given with respect to the possibility of a night meeting for this night, Tuesday night.

I say again that Members of the Senate must live under the rules of the Senate. They are not always easy rules to live under. I will be perfectly prepared to proceed under the schedule announced by the distinguished majority leader, tomorrow night. So far as I am concerned, I have had no notice other than that given this morning. I hope that we will be able to keep the dinner engagement this evening which is of great importance to many Members of the Senate and to many of the citizens in their States.

Mr. DIRKSEN. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield, provided I do not lose the floor.

Mr. DIRKSEN. I should say to the distinguished Senator from Florida that open announcement was made by the distinguished majority leader. He made no exception as to any nights; it was to apply equally to all nights and at all times. I believe all Senators had to presume that they were on notice with respect to every night in the week. I do not complain. I suppose that one could attend a dinner every night. I say to the majority leader that I shall make no point of no quorum. So, if the Senator from Florida can prevail upon some of his associates to do likewise, Senators can attend the dinner tonight. If we are still in session at the end of the dinner, perhaps they can return to the Chamber.

Let me say to the distinguished Senator from Louisiana that his situation is not unlike my own. I had to say at a meeting of the Subcommittee on Monopoly and Antitrust Legislation today that I preferred that it did not meet after the Senate was in session. I notified the distinguished Senator from Tennessee [Mr. KEFAUVER], when he had a roomful of witnesses over in the caucus room, that I would do what I could do to be on the Senate floor. If my distinguished chairman—the chairman of the Monopoly and Antitrust Legislation Subcommittee—carries out what he said he would do, he will hold hearings tonight 1 hour after the Senate adjourns. At least that is how we left it. Therefore I may find myself listening this evening with tired ears and dim and dreary eye to testimony until 1 or 2 o'clock in the morning. So I find myself immobilized. I do not quarrel. I am like the distinguished Senator from Georgia [Mr. RUSSELL] on this point. I do not complain. I accept the necessities of this situation.

The present condition, however, cannot continue, because the Senate is not going to come up with a constructive record if we are going on week after week in exactly this fashion without getting a vote on some of the proposals which are presently pending before the Senate. It is that simple.

Can any Senator suggest any other way of doing this job except to keep the Senate in session and give everyone an opportunity to make the speech he wants to make on the civil rights question and then have a vote?

If Senators are willing, we can set a date on which to vote. If they are willing to do that, I am entirely willing. Let them tell me what they have in mind, and we will discuss various dates, and we will try to appoint a day certain. If the Senators will agree to do that, we can say, "That is the date on which we will start voting on this proposal, section by section, until it is disposed of." I am agreeable to following that procedure. I am confident that the majority leader is likewise.

Mr. ELLENDER. I may say to the distinguished Senator from Illinois that in the past the Committee on Appropriations has been permitted to meet during the Senate sessions under a standing unanimous consent agreement.

Mr. DIRKSEN. I understand.

Mr. ELLENDER. But Appropriations Committee subcommittees are required to have a quorum present in order to transact business. I hope to make certain that at all such hearings a quorum is present, so that the rules of the Senate are properly observed. I will say that, for my own part, if efforts are made to horsewhip the South, I am prepared to return the compliment. I hope I will be successful.

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

Mr. ELLENDER. I yield, provided I do not lose the floor.

Mr. MAGNUSON. I wanted to ask the majority leader a question. On the calendar are several bills of a minor, noncontroversial nature. Some of them are urgent as to time. Second, there are on the calendar bills to provide funds for the committees, to enable them to make payments to personnel by March 1. The Senator from Alabama [Mr. HILL] has one such bill; I have one for my own committee. There are several other bills on which a time element is involved, and which do not go beyond a couple of weeks.

I wonder if we are to understand that so far as those bills are concerned, there will be no opportunity to set aside, temporarily, the so-called civil rights measure for a period of perhaps 2 or 3 hours, in which the calendar might be called or in which to debate bills which are of a noncontroversial nature.

Mr. JOHNSON of Texas. Not unless the Senator could obtain unanimous consent to take up any resolution and temporarily lay aside the pending business, with the understanding that it will be for a definite length of time, an hour or two. I have been informed that such consent could not be obtained.

Mr. MAGNUSON. This deals with what the Senator from Louisiana suggested. Are the majority leader and the minority leader so informed that if any committee desires to meet during next week, now that we are to meet at 10 o'clock, objection will be made to the committee meeting?

Mr. DIRKSEN. There is likely to be objection; it will depend on the subject matter.

Mr. MAGNUSON. It is my understanding that many committees have set hearings. My own committee has set several hearings. In order not to disappoint witnesses who are concerned with important proposed legislation, perhaps we had better tell them that there will be no committee meetings for at least the next two weeks.

Mr. ELLENDER. The Senator is optimistic, I would say the time involved might be more like 4 months. [Laughter.]

Mr. MAGNUSON. The Senator from Louisiana says 4 months. That is satisfactory to me, if I simply know what is planned. But the Committee on Interstate and Foreign Commerce expects between 200 and 300 witnesses to come from all over the country to testify on different bills—not on one bill only. I want to be able to notify them not to come, and to call off the hearings, unless we may meet at 10:30 at night.

Mr. DIRKSEN. It breaks my heart to concede that the distinguished Senator from Washington is probably correct; but there will probably be objection to having committees meet during the sessions of the Senate.

Mr. MAGNUSON. The chairman of the Committee on Banking and Currency suggested that a motion might be made to enable committees to sit. Would the majority leader and the minority leader entertain a motion to that effect? I suppose it would be necessary to get unanimous consent to move for that purpose.

Mr. DIRKSEN. Oh, no.

Mr. MAGNUSON. To move that the committees be permitted to meet.

Mr. JOHNSON of Texas. It is my information that unless unanimous con-

sent is given, no committee, except the Committee on Appropriations, may meet during the session of the Senate.

The PRESIDING OFFICER. The Senate, by majority vote, may authorize a committee to meet.

Mr. RUSSELL. But such a motion is debatable; is it not?

The PRESIDING OFFICER. The motion is debatable.

Mr. MAGNUSON. I thank the majority leader and the Members of the Senate. I announce for the RECORD tonight that unless there is some change in the situation, all hearings scheduled by the Committee on Interstate and Foreign Commerce during the next 2 weeks will be called off and postponed to a later date.

Mr. HILL. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield to the Senator from Alabama, provided I do not lose the floor.

Mr. HILL. I very much appreciate the statement of the Senator from Florida to the Senator from Alabama. The Senator from Alabama had for many weeks hoped and planned and expected to attend a meeting tonight. It will be a very auspicious gathering, but the Senator from Alabama is not the speaker.

Mr. HOLLAND. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield, provided I do not lose the floor.

Mr. HOLLAND. Unhappy as I am to lose the opportunity to attend the meeting tonight, my grief has been assuaged somewhat by the information that the orator will not be the distinguished senior Senator from Alabama.

I did want to say, in reply to the Senator from Illinois [Mr. DIRKSEN], who raised the question a while ago, that my suggestion would be that he postpone his drastic plan until tomorrow, in view of the fact that so many Senators had accepted long ago these invitations.

I also want the Senator to know that I am relieved that he will not ask for live quorums. The majority leader has already said that he will not ask for quorum calls. So perhaps it will be possible to get some sort of consent which will enable us to keep our engagements of long standing.

Mr. DIRKSEN. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield, provided I do not lose the floor.

Mr. DIRKSEN. Mr. President, I simply wish to give the Senator from Florida my solemn word now that I, for one, will make no request for a quorum call, live or otherwise. I will personally suggest to every one of my colleagues not to do so. If the Senator from Florida can prevail upon his associates to do the same thing, he can, with a blithe heart and a disengaged mind, go to that dinner tonight.

Mr. DOUGLAS. Mr. President, will the Senator from Louisiana yield?

Mr. ELLENDER. I yield provided I do not lose the floor.

Mr. DOUGLAS. I, too, would like to assuage the anxiety of the distinguished Senator from Florida. I think I may say on behalf of what is loosely called the northern Democratic civil rights bloc that we will not ask for any quorum calls tonight, and the Senator from Florida can go to his dinner, happy in the knowledge that if quorum calls are requested, it will be on the initiative of associates of his, and that he may, therefore, properly address his doubts, trepidations, and desires to them.

I am also quite certain that when committees meet, we will not insist on quorum calls. Furthermore, we will not make any obstructive quorum calls.

To the distinguished Senator from Washington [Mr. MAGNUSON], I may say, with respect to his desire to expedite the business of the Senate, that we will not object to the laying aside of the civil rights question for short periods of time in order to transact necessary business. In other words, we will try to facilitate the orderly business of the Senate in every possible way. If obstructive tactics are used, they will not be carried on by us.

In closing, I congratulate the majority leader for the position he has taken in the whole matter of procedure.

Mr. HOLLAND. Mr. President, will the Senator from Louisiana yield for one more comment, with the same understanding?

Mr. ELLENDER. I yield, provided I do not lose the floor.

Mr. HOLLAND. I thank the distinguished Senator from Louisiana, who is always patient in the superlative degree.

I wanted to thank the Senator from Illinois for his graciousness, except in one regard. The Senator from Florida does not like to be excluded from the ring of his friends and associates. [Laughter.] I am certain the Senator from Illinois did not intend to exclude the Senator from Florida and I mention this only in a spirit of good will.

RELATIONS WITH LATIN AMERICA

Mr. ELLENDER. Mr. President, even while the President of the United States is visiting Latin America, events are once again demonstrating that improved relationships between the United States and the countries to the south of us are dependent upon more than merely another good will tour, more than merely having our Chief Executive pronounce the appropriate platitudes, more than promises of large scale U.S. economic and technical aid on a government-to-government basis.

In his farewell speech to the American public before departing, the President coined a new phrase—"good partners." This is evidently the administration's terminology for a policy which may replace the historic good neighbor policy of prior years.

And yet, Mr. President, aside from coining another phrase, the President gave us no indication that anything specific to implement that policy has actually taken place within our State Department or elsewhere.

I do hope that Uncle Sam is not still without any policy vis-a-vis our Latin American friends, save the drift and falter lack of policy which already has disrupted and damaged the relationships which in the past have linked, and which must, again, in the future link, all nations of the Western Hemisphere.

It is time, Mr. President, to remove our relationship toward the nations of Latin America from its present context, to examine and appraise it in the light of today's conditions, today's needs, and tomorrow's probabilities, and to mold a policy toward our sister Republics, based on the results of such an examination.

Despite the President's trip, despite his speech, there is no sign that such is being done.

It is to be hoped that the State Department is not too busy doing other things, not too busy with the details of diplomacy, to give consideration to the foundations upon which a successful relationship with the nations of Latin America must rest.

It is passing strange, to say the least, that even while American prestige in Latin America sinks to an alltime low, even while the byproducts of a policyless half-decade appear with alarming rapidity and regularity, we find the Office of the Assistant Secretary for Inter-American Affairs needlessly meddling in the affairs of one of our States, sending a telegram to the Governor of California pointing out dire consequences if a reprieve is not granted to a man convicted of such heinous crimes that good taste prevents the press from describing the details thereof.

Two thoughts immediately come to mind:

First, as the chairman of the Foreign Relations Committee has already pointed out, if the Government of Uruguay—whose views apparently prompted the State Department's telegram—was either unwilling or unable to accord the proper welcome to our President, despite any disagreement with the Chessman case by the people of Uruguay, then perhaps the President should not have gone to Uruguay. The President of the United States is spokesman for the entire free world, not a huckster, not a hat-in-hand traveling salesman who is bound to knock at every door, even those before which the family mongrel sits growling at him. It is a tragic parody upon the prestige of the Presidency and the reputation of our Government that when a family dog bares his teeth, the President of the United States must abjectly be compelled to go around to the back door.

Second, the Government of Uruguay should be intelligent enough to know that the knife it has sought to wield cuts both ways. If the Government of the United States is to use its influence to affect and change the course of justice within one of our States, in response to pressure of public opinion in Uruguay, is the Government of Uruguay prepared to use its authority to change and modify conditions within Uruguay which may prompt complaints from Americans? If our Governments are to deal as equals, then what is sauce for the goose is sauce for the gander. Our Government is just as free and just as proud, as the Government of Uruguay, or, at any rate, it should be, although the telegram of the Department of State obviously leaves that point dangling.

I find it alarming, too, that even while circumstances in Latin America require that we demonstrate our firmness, our strength, and our resolution, we find the Department of State supinely apologizing to the Red-tinged, viciously anti-American government of demagog Fidel Castro because a privately owned aircraft departed from its previously filed flight plan and flew from Florida to Cuba, where the aircraft was destroyed and its occupants were killed.

In this connection, it is interesting to note the Castro government's reaction to Uncle Sam's humbling himself at the feet of the Cuban dictator. Reaction to our apology in the government-controlled Cuban press was immediate and forthright: Uncle Sam had not bowed low enough, the Cubans proclaimed; Uncle Sam must prostrate himself further, was the gist of the demand.

Mr. President, will the State Department never learn that free men gain nothing by capitulating to rogues of Castro's ilk? What is needed to make the State Department understand that appeasement of two-bit dictators by major powers merely whets the appetites of such dictators for more appeasement? Have the results of appeasement at Munich been so quickly forgotten by our once-proud Republic, which once proclaimed "millions for defense, but not 1 cent for tribute?" I remind the Department of State that tribute can be paid in more ways than in dollars—that the sweetest kind of tribute, insofar as Castro and his cohorts are concerned, is that occasioned by having a sorely aggrieved Uncle Sam appear as a supplicant at their feet, abjectly apologizing for the flight of a civilian aircraft.

Along with a much-needed spine-strengthening on the part of the State Department must come the realization and appreciation that factors presently operating within South America and Central America should be viewed and measured against standards which, thus far, the Department of State has apparently not been disposed to apply.

It strikes me that many of our diplomats, along with a considerable segment of our national press, persist in viewing governments within the Americas as either dictatorships or democracies. The decisive factor seems to be the presence or absence of a strong executive. Thus, for example, Trujillo, in the Dominican Republic, and Somoza, of Nicaragua, are generally lambasted as dictators. Their downfall is often demanded on the basis of their individual strength alone—simply because they are strong men, and thus, according to some, ipso facto, bad men. The same was once true of Batista, in Cuba. Castro was welcomed by much of the national press, and, consequently, by a large number of individual Americans, because he was anti-Batista. This element, alone, was apparently sufficient in the minds of many to justify his ascending to the leadership of the government of Cuba. The causal link was apparently as follows: Castro is against Batista; Batista is a dictator; dictators are bad; thus, necessarily, Castro is good.

It is syllogistic reasoning of this variety which, in a large measure, accounts for our present decline, and will result in our ultimate fall, in Latin America, unless we change our way.

I suggest that a major element in any American policy toward the nations of Latin America should involve more than merely the personalities and personal policies of those who may, at a given time, head the government of our sister Republics. Consideration must be given to what kind of government, what leadership, would succeed any existing regime should we permit it to fall, or, even worse, assist in its destruction.

As a correlative, a sound policy should also consider the long-range impact of domestic policies pursued by any government whose demise vigorous elements of our public, our press, or even the Congress, might be demanding at any given time. I refer specifically to such things as compulsory education, improved sanitation, diversification of industry, internal tax reform, improvements in agriculture, and related factors.

I wish to note that this is a very important consideration. It is appealing to suggest that all the people of the globe should have the right of self-determination; that democracy—that is, the right of full and complete suffrage—should be available to all who may reside within a political organism; that the right of the ballot should be freely available to all the citizens of a state or nation.

And yet, Mr. President, the right to vote is accompanied by the duty to use that right wisely. How much, if any, thought is given to whether or not the residents of a given area may be qualified to use the ballot wisely should the right of such ballot be, often practically overnight, extended to them? How much consideration is given to the fact that an anti-American dictatorship can be maintained and perpetuated by the votes of an illiterate, unschooled, ignorant electorate with even more ease than upon the existence of a military junta?

I might also comment at this point upon the obvious inconsistency of those who, under the guise of proclaiming the need for self-determination by various peoples across the globe, couple this proclamation with the cry for our Government to initiate changes in existing governments. After all, if the objective is, indeed, self-determination, the initiative for removing existing governments should rest with the local people, free from outside influences. The removal of any government from power is basically a matter for the local people to determine for themselves; and, to the extent our press, our people, our Government, may take the initiative in "tightening the screws" on any such government, to that extent we are imposing our own views on that country—in derogation of the objective which may be proclaimed, namely, the right to self-determination.

Let me revert for a moment to my own reactions obtained during a trip through practically all of the Latin American countries in late 1958. As my report shows, I found the highest standard of living, the most emphasis upon education and hospitalization, the cleanest food markets, and the best-organized agriculture in the Dominican Republic. I took pains to point out in my report that I was not qualified to pass judgment on the caliber or quality of the government in power there, and that my reactions to conditions as I found them in the Dominican Republic were the products of personal inspections, and were not offered as a means of either endorsing or condemning the present regime because, quite frankly, I did not feel myself qualified or authorized to sit in judgment on that regime.

I offered similar comments with regard to Nicaragua.

If I were to base a judgment solely upon what I saw by way of progress, by way of the services available to the people in those two countries, then I would say that Trujillo and Somoza are doing a good job. Our own representatives there say so, as well as many others who have visited those countries and who similarly attempted to make objective studies of conditions existing there.

Of course, I received quite a lot of editorial abuse because, upon my return, I confined my reports to facts, to reporting the visible circumstances of daily life within those countries, as opposed to general or philosophical comments upon the kind of government which then prevailed.

The fact is, Mr. President, that the Department of State, the national press, indeed, the public as a whole, must begin giving some consideration to not only where we stand today, but where we may be at a given time in the future. The existence of strong, stable, pro-American governments in Latin America must be encouraged. True, these governments, whenever possible, should be encouraged to found their existence upon the will of the people of such countries, but we must nevertheless recognize that advocating the deposition of governments which, at long distance, seem to be autocratic, can often result in disaster to our own Government's relationship in Latin America unless adequate weight is given to what kind of government may fill the political vacuum which removal of a strong autocracy may create.

American prestige, American interests, the urgent requirement for hemisphere solidarity, cannot survive many more Cubas. We must not permit the Cubanizing of the Dominican Republic and Nicaragua, just because of the wailing of Castro and his cohorts. From indications, they are at the bottom of the troubles that have been recently visited upon those two countries.

And, by the same token, we are going to face more such situations, or even worse, unless we formulate and pursue a long-range policy toward our friends to the south of us.

Latin America needs our help, but this help must be made available in such a manner that the people of our neighbor countries are not compelled to exchange their pride for our dollars. For this reason, I am opposed to economic grants to Latin America. The people there are able to repay loans made on reasonable terms. The area is a storehouse, a virtually untapped treasure chest, of natural wealth. This wealth must be developed, as a joint endeavor, by the Latins

themselves, with U.S. assistance, as a means of benefiting the people of Latin America, not further enriching the ruling classes.

Primary reliance should be placed upon private enterprise to accomplish this task. This, of course, will require the cooperation of local governments, a willingness on their part to forgo often nationalistic ambitions in order to better serve the long-range good of their peoples. In return, our Government should assure the countries wherein American enterprise may operate that the profits derived from such developments will be utilized in accordance with the following priority:

First, the payment of reasonable taxes, with the bulk of such taxes used to benefit the masses of the people—for schools, roads, housing and medical care, to name only a few.

Second, providing decent job opportunities at a fair wage to the local people employed.

Third, and last, assurance of a reasonable return on capital to investors.

Only in the case of extreme emergencies, only if private enterprise is unable or unwilling to do the job, should U.S. Government capital financing be injected—and even then, only on a loan basis. I might remark that it is folly for us to foster and aid the creation of socialized industries within some of our neighbor nations when private enterprise can and will do the job, subject to the three considerations I have outlined.

Furthermore, and reverting to my original theme, such policies as I have outlined in this address must be pursued on a long-term basis. Our friends to the south deserve to know our intentions, our objectives, and the manner in which such objectives are to be obtained. They are entitled to rely upon assurances of continuity in our policies, in return for which they must be willing to cooperate with the people of the United States in achieving mutual growth, and mutual betterment.

Perhaps the President used the right words when he called for a partnership of neighbors; in fact, I am convinced he did.

I say this because over a year ago, upon my return to this country in late December of 1958, from an inspection trip through the countries of South and Central America, I called for an economic partnership between the nations of Latin America and our country.

In my report of findings on this trip, filed with the Committee on Appropriations and entitled, "A Review of U.S. Government Operations in Latin America," I said:

> Truly, the two continents of the Western Hemisphere are neighbors, and neighbors we must remain. The factors of geography alone so dictate.
>
> Our aspirations are similar; our origins are essentially the same. We are joined by a common bond of history and a common desire for freedom. Our ideals are founded on a spiritual concept of man. Our belief in the rights of the individual is so sacred that we willingly sacrifice our all to protect them.
>
> These concepts, of themselves, offer assurance that no part of the Western Hemisphere is likely to succumb to a totalitarian state.
>
> Above all, just as the United States and our Latin American neighbors share a joint past, so must we share a joint future. As neighbors, linked by common bonds of friendship, history, tradition, and culture, we must join hands today, as partners in tomorrow.

In addition, I recently made available to television stations of my State a four-part filmed report of my trip through South and Central America, drawn from more than 8,000 feet of film I personally took at my own expense. I also showed these films to interested Members of the Senate, and their staffs.

In each of these four segments, I discussed the crying need for the creation of an economic partnership between our countries for the good of all of the Americas.

From the first show, which dealt with the countries of Central America, I said:

> It is my feeling that if we extend a helping hand to our friends in Latin America, they will become our stanch friends and most worthy allies. I believe that if we stand by Latin America, they will stand by us in any emergency, for the countries of the Americas have a great deal in common. First, we have a common heritage of the settlement of a new world. Second, we have a common faith in God, and, third, we are contiguous—we are geographically close to one another.
>
> If we but stand together, we can be of mutual benefit to one another. The United States must take the lead in molding an economic partnership of the Republics of North and South America.

In the second film, which covered the countries of the west coast of South America, I said:

> It is nothing less than pure folly for us to ignore our friends to the south. I can visualize a great partnership between our country and the nations of Latin America, if only the United States will take the initiative.
>
> We have a surplus of industrial products. They have a surplus of raw materials. We could be one another's best customers, if only we made the effort.

The third segment was concerned with the countries of the east coast of South America. Of this area I said:

> I have said on many occasions that we should not, under any circumstances, countenance exploitation of the laboring classes, nor of the natural resources of the countries to the south of us. Care should first be taken of the local people. Even after the huge tax take, there will be much left over to feed the hungry industries of our own economy. Great markets can be created for our goods, but we must first dispel the idea that our object is to help ourselves first and then provide for the local needs.
>
> We must strive for a fair and equitable partnership with our good friends to the south.

My last stop before returning to the United States was the Caribbean. In the show dealing with this area, I said:

> We must realize that the future of all our countries are closely linked. In the face of the ever-growing economic battle with the Communist world, we must grow closer together.
>
> Latin America has a wealth of raw materials. It also has a crying need to raise the standard of living of its common people.
>
> If we can help the countries of Latin America develop those raw materials—through judicious investment of private capital with the guarantee that profits will not be drained out of the country—then we will raise their standard of living.
>
> In turn, the United States has an ever-increasing need for raw materials. It also faces the question of who will buy the tremendous output of our expanding industry.
>
> In my judgment, if we but work together, both of our problems can be solved. Latin America can offer us the raw materials we need, and the market our industry must have. We, in turn, can help Latin America develop itself and improve the way of life of its people. But, we must work together—and we must work together peacefully, in friendship, as partners.

These statements point out very clearly that as long as 1 year ago, I was calling for exactly what the present administration is just now considering for the countries of the Americas—a partnership of nations. And I coupled my suggestions with specific recommendations for implementing those suggestions, because it will take much more than merely pronouncing platitudes to implement such a partnership.

We need more than glossy phrases; more than Presidential appearances in four nations to bring this partnership into being.

I only hope, Mr. President, that the President's words are quickly followed by appropriate action, for, in Latin America, as elsewhere, our actions do speak louder than words.

REQUEST OF NETHERLANDS GOVERNMENT FOR COMMERCIAL AIR ROUTE TO LOS ANGELES

Mr. MAGNUSON. Mr. President, for the past several weeks our State Department has engaged in a consultation with the Netherlands Government on its request for a commercial air route to Los Angeles.

The negotiations have been concluded. The State Department did not grant the Los Angeles route to the Netherlands airline KLM. I commend the State Department for this action. No other course of action was justified, in my opinion.

The other day I read an Associated Press dispatch from The Hague to the effect that Joseph Luns, Dutch Foreign Minister, in discussing our refusal to grant them landing rights at Los Angeles, said Holland was being punished by the United States for having "what he called a small and insignificant Communist Party."

Mr. President, that is a perfectly asinine remark and I am amazed that a high official of the Dutch Government would make it. The State Department, I am sure, decided this route matter entirely on the merits, and that the facts of the case justified the action they took.

I have a very high regard for the Dutch people. I am distressed that one of their top officials would attempt to berate us into giving them something to which they are manifestly not entitled, and I deeply resent the methods they have used and the pressures which have been applied through diplomatic channels to force a decision favorable to them.

KLM is a very fine airline, I am told. The Dutch have a right to be proud of it.

But we also have some very fine airlines. I think they are the finest in the world; I am mighty proud of them. I am particularly proud of the fact that operating as a part of our free-enterprise system they are able to compete so effectively with the airlines of the world, such as KLM, that are government controlled, whose resources are unlimited, who do not have to be too concerned if their balance sheet is in the red at the end of the year.

However, our airlines cannot continue to operate very long as a part of our private enterprise system if we proceed, without rhyme or reason, to hand to their foreign competitors valuable landing rights in this country.

Mr. President, again I want to say that I think the State Department has proceeded wisely and prudently in this matter. In the past the Senate Committee on Interstate and Foreign Commerce has been sharply critical of the State Department for some of its actions with respect to international air agreements. So I am particularly happy that today we can give them a pat on the back for a job well done.

I hope the Department will continue to show the same courage and immunity to pressure with respect to any other attempts which may be made by foreign airlines to secure landing rights or other concessions inimical to the best interests of the U.S. carriers.

I ask unanimous consent to have printed in the RECORD at this point two news items concerning the Los Angeles case and the attitude of the Dutch Government, an excerpt from a report which the Committee on Interstate and Foreign Commerce submitted to the Senate in the 84th Congress entitled "International Air Agreements"—Senate Report No. 1875—and a statement prepared by the Department of State giving the background of this recent consultation.

There being no objection, the articles, excerpt, and statement were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 7, 1960]

DUTCH RAP U.S. STAND ON KLM BID

THE HAGUE, February 6.—Joseph Luns, Dutch Foreign Minister, said today Holland was being punished by the United States for having what he called a small and insignificant Communist Party.

In a nationwide TV broadcast Luns discussed U.S. refusal to grant Los Angeles landing rights to the Dutch KLM Airline.

He said there is the greatest unanimity in Holland on the value of close ties with the United States.

But, asserted Luns, the Americans feel they can treat Holland with less consideration than other countries "which have to enjoy certain benefits from the United States to prevent a political attitude which might be unpleasant to the United States."

He added that the affair is not closed as far as his government is concerned.

[From the Washington Post, Feb. 16, 1960]

DUTCH MIFFED AT UNITED STATES OVER AIRLINE REJECTION

Netherlands Ambassador J. H. van Roijen told Secretary of State Christian A. Herter yesterday that his government was disappointed at U.S. refusal to permit the Royal Dutch Airlines (KLM) to fly an Amsterdam-to-Los Angeles route.

Van Roijen gave Herter a copy of a resolution passed recently by the Dutch Parliament expressing deep displeasure. It said this country's action discriminates against the national interests of the Netherlands and is not in keeping with the friendly relations between the two nations.

He also gave the Secretary a copy of a statement, critical of the U.S. refusal, made to the Parliament by Dutch Foreign Minister Joseph M. A. H. Luns.

In his statement, Luns said that American aviation policy is aimed plainly at the most complete protection of the short-term interests of American domestic airlines.

While relaying his country's displeasure, Van Roijen did not lodge any formal protest. He also apparently did not ask Herter to take any action personally in the controversy.

The American refusal was based on the fact that the Netherlands could not offer U.S. airlines landing rights in their country in return for establishment of a KLM Amsterdam-Los Angeles route.

[Excerpt from S. Rept. No. 1875]

CONCLUSIONS AND RECOMMENDATIONS

A. GENERAL OBSERVATIONS

There is no desire on our part to see the United States unfairly or artificially restrict the growth of our foreign-flag competitors, large or small, providing they are engaged in traffic recognized as primary under the worldwide system of agreements into which the United States has freely and generously entered. They are to be respected and allowed to share in a prosperous international airline industry. Under the system of regulated competition recognized for over a decade in these many agreements, they can prosper in relation to the volume of traffic between their country and ours. Indeed, many of them are extremely formidable competitors, not only because of their inherent ability but because of their low wage rates and the support accorded them by their respective governments.

However, no foreign-flag airline competitor to the United States-flag carriers should be allowed to prosper at the expense of the United States by engaging in traffic to which it does not have a primary entitlement. The United States has a legal and moral right to regulate competition of this variety, and such action cannot be considered as contrary to the general principle of liberality in international trade to which the United States properly adheres. The United States, as the leader of the free world, has a duty both to itself and to others to maintain a strong international air transport system, and at reasonable cost to the taxpayers. Under the American system, this should be accomplished by private enterprise companies which pay salaries and wages commensurate with the American standard of living.

It would be no contribution to the welfare of the free world, and certainly not to the welfare of the people of the United States, if America's international air transport system were to follow the deplorable downward path of the United States-flag maritime industry. A sound basis for avoiding such a catastrophe has existed since 1938 in the Civil Aeronautics Act, and since 1946 in the so-called Bermuda-type bilateral air transport agreements. It is only necessary to apply these two resources in accordance with their basic principles and in the light of the economic realities which will confront us over the next decade. Nothing fundamental needs to be changed, but the policy direction, and the day-to-day decisions of those responsible for handling these matters in our Government, need to be sharply reoriented. If they are not, United State-flag carriers' now declining participation in the world air market will continue. We have tended to bargain away too frivolously the value of the United States market; this poor bargaining has resulted in the loss of American dollars to American-flag carriers. This criticism is not chauvinistic; it is based upon just plain good business sense.

B. SPECIFIC RECOMMENDATIONS

1. The committee has not found any occasion to criticize the Bermuda principles. The United States is committed to the Bermuda principles; the airlines endorse them; and no feasible substitute has been suggested either in the committee or subcommittee hearings.

2. Having committed itself to the Bermuda principles, the United States should see to it that they are enforced with respect to the operations of foreign carriers, consonant with the discussions in the body of the report.

3. The United States should not make route grants which cannot economically be operated without violating Bermuda capacity principles.

4. The record before the committee pointed up the inadequacy of preparation for the German negotiations, and the great necessity for careful, thorough preparation and use of economic data in the future.

5. Under the Civil Aeronautics Act, the CAB is the agency of Government vested with the responsibility to develop an air transportation system properly adapted to the present and future need of the foreign commerce of the United States. This requires the Board to assert fully its responsibility as the principal aviation adviser to the executive branch of the Government on international air agreements.

6. Many of the inadequacies of the German agreement, we believe, result from the failure of the Government to confer with and to allow sufficient participation by representatives of the airline industry. It is important that our Government avail itself of the expert assistance within the air transport industry. The committee recommends the following principles for Government consultation with U.S. air carriers in connection with air transport negotiations:

(a) Interested carriers should be advised by the Government prior to any discussions with respect to negotiations for air transport agreements.

(b) Full and complete opportunity for discussion between interested carriers, on the one hand, and the Government, on the other, should precede any formal negotiations respecting air transport agreements.

(c) Prior to any discussions with foreign countries respecting air transport agreements, representatives of all interested carriers should consult fully with U.S. Government representatives.

(d) Prior to the formal negotiations on air transport agreements, a representative of interested carriers should be made a duly accredited member of any delegation appointed to negotiate such agreements. As a duly credited official representative of the delegation, a carrier representative should be included not only in all negotiating sessions but also in all U.S. delegation meetings, and be given a fair and reasonable opportunity to consult with his principals before any ultimate decision is made.

(e) Also, throughout the negotiations, the interested carrier representative should be consulted. We cannot emphasize too strongly our view of the necessity of our Government's securing the benefit of the comment of such representatives at every stage of the negotiation.

7. Based upon the hearings to date and additional data studies by the committee, it appears that the German route exchange is economically unsound. In the absence of a satisfactory renegotiation the Government should insist upon performance of the basic principles of the agreement and make full use of the agreed rights to consultation under article 12, or even termination under article 16 if abuses develop.

8. The Department of State should create appropriate and adequate facilities to handle the negotiation of air transport agreements and consultations under them. This undertaking by the Department of State should result in the creation of posts of rank and responsibility commensurate with those of foreign governments, and qualified Foreign Service officers should be selected to fill them. With the development of international aviation, it seems clear that it would be necessary to have several persons, some able to travel abroad and some to remain in Washington, to cope with the many negotiations and consultations which will be required in this field.

The subcommittee should continue to function in order (1) to observe the development by the Government of a procedure for working with the carriers, (2) to insure that such procedure is satisfactory, and (3) to watch the formulation of an effective program for enforcement of the Bermuda principles—all in all, so that we can be certain at this important transitional stage, of the maintenance of the deserved preeminence of the United States in world air transport.

BACKGROUND STATEMENT ON THE RECENT UNITED STATES-NETHERLANDS CIVIL AVIATION CONSULTATION CONCERNING THE NETHERLANDS REQUEST FOR A ROUTE TO LOS ANGELES

A civil aviation consultation was held in Washington between January 7 and February 3, 1960, to consider the request of the Netherlands for a commercial air route to Los Angeles. On February 3, the Netherlands delegation was told that the executive branch, after considering all of the factors put before the U.S. delegation, was unable to give a commitment to grant the route to Los Angeles.

In its consideration of this route request, the Department of State and the Civil Aeronautics Board made every effort to comply with the policy which was set forth in the administration's report on Civil Air Policy of April 20, 1954, which was brought up-to-date in 1959. In that connection, reference is made to the following statement: "In determining the routes to be included in bilateral air transport agreements, the United States will continue its objective of establishing, insofar as possible, an equitable exchange of economic benefits."

The above statement of policy was enunciated as a result of a study by the executive branch of the Government through the Air Coordinating Committee. On April 10, 1956, a subcommittee of the Senate Committee on Interstate and Foreign Commerce issued a report which was subsequently adopted by the full committee (Rept. No. 1875, 84th Cong., 2d sess.). In that report it was emphasized that in granting routes to foreign countries for operation by their airlines, the United States should obtain an equitable exchange of benefits and in this connection should recognize fully the great amount of business which the air carriers of other countries obtain through the ability to serve traffic points in the United States.

After this brief summary of the policy considerations involved, it would be appropriate to review the history of our civil aviation relations with the Netherlands. Prior to the conclusion of a bilateral air transport agreement with the Netherlands in 1957, service by the airlines of both countries was conducted on the basis of unilateral operating permits issued to them by the respective aeronautical authorities. U.S. airlines were operating to Amsterdam, Surinam, the Netherlands Antilles and points beyond. KLM, on the other hand, was serving New York and Miami from Amsterdam and the Netherlands Antilles, respectively. The routes involved represented a reasonably equitable exchange of rights although even then the Netherlands airline derived greater revenue from its routes than did the United States airlines from their routes.

During the negotiations which took place in March and April 1957, the Netherlands Government pressed hard for the grant of three new routes by the United States in addition to those already served by KLM. The first and most important was the route from Amsterdam to Los Angeles, the second from Amsterdam to Houston, and the third from the Netherlands Antilles to New York. In the light of the great value to the Netherlands of its existing services to New York and Miami, the Department of State and the Civil Aeronautics Board did not believe that the grant of all three of these routes was warranted. However, the routes from Amsterdam to Houston and from the Netherlands Antilles to New York were granted but the route to Los Angeles was denied.

The Netherlands Government recently renewed its request for an additional route to Los Angeles. It submitted certain information in regard to the broad trade relations between the two countries and attempted to show that on aviation grounds alone there was sufficient reason to grant the route. However, the justification for the request differed little from that exhaustively considered in 1957, which led to the decision to grant additional routes, but not Los Angeles. Since 1957, the Netherlands' carrier has benefited greatly from its operations over the new routes.

One of the basic principles of U.S. aviation policy as expressed in 50-odd air transport agreements, including that with the Netherlands, provides that the primary purpose of operating a route shall be to carry traffic between the two parties to the agreement rather than to third countries. There is considerable doubt in this country that the operations of the Netherlands airline over existing routes are fully consistent with this principle. The data available to the U.S. delegation led us to the conclusion that while there would have been some movement from Los Angeles with an ultimate destination in the Netherlands, the great majority of the traffic, while moving through the Netherlands because of the direct route, would in reality have been destined for other countries in Europe. The United States also has bilateral air transport agreements with those other countries, i.e., the Scandinavian countries, the Federal Republic of Germany, France and the United Kingdom among others. The airlines of the named countries already are or will shortly be operating direct services between the U.S. west coast and their respective countries in addition to the services of the U.S. international airlines concerned. Under our air agreements with those countries, their airlines and ours have the primary right to carry traffic between the respective countries. KLM, therefore, sought access to a larger volume of traffic to which it had only a secondary claim under the agreement, as well as further access to the traffic between our two countries. In addition it was seeking traffic rights between Los Angeles and Montreal.

Further, the traffic on the west coast is not considered to be a type of pool available to the airlines of any country upon request. International airline traffic rights are subject to bargaining on the basis of an equitable overall exchange of economic benefits for the airlines of each country. In the case at point, there was currently no comparable traffic or other advantage that could have been obtained for U.S. airlines in return for the grant of the valuable right involved. In the absence of proof of a definite need for the service, combined with the extensive rights already open to KLM under the existing agreement, the addition of a further carrier would have diluted the market to the disadvantage of the carriers already authorized to operate direct services. The persons who might travel directly to the Netherlands will not be greatly inconvenienced by the absence of direct service to Amsterdam in view of its short distance from London and Paris. The U.S. delegation knew that Air France intended to commence operations very shortly and that British Overseas Airways Corp. would follow soon.

This department, of course, did not minimize the importance of our overall relations with the Netherlands, both in the economic and political spheres. However, these aspects had to be weighed against other factors such as the interests of our own domestic and international airlines. The final position of the executive branch was of necessity influenced by the various considerations and elements of U.S. aviation policy discussed above.

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

Mr. MAGNUSON. I yield.

Mr. FREAR. The Senator from Washington has made a statement pertaining to the KLM line, which has requested an air route to California.

Mr. MAGNUSON. Yes.

Mr. FREAR. I assume that the Senator from Washington wants the status quo held, rather than the right granted?

Mr. MAGNUSON. No; not necessarily the status quo. I do not think this means the status quo must be maintained.

Mr. FREAR. KLM has applied for certain cross-country flights, has it not, in connection with the round-the-world flights?

Mr. MAGNUSON. That is correct.

Mr. FREAR. As I understand the position of the Senator from Washington, he hopes this will not be granted?

Mr. MAGNUSON. The State Department refused to grant the request.

Mr. FREAR. Then I want to associate myself with the remarks of the Senator from Washington, now that I am sure of his position.

THE NORTH AMERICAN REGIONAL BROADCASTING AGREEMENT: THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES CONCERNING RADIO BROADCASTING IN THE STANDARD BROADCAST BAND

The Senate, as in Committee of the Whole, resumed the consideration of the North American Regional Broadcasting Agreement (Ex. A, 82d Cong., 1st sess.); and the agreement between the United States of America and the United Mexican States concerning radio broadcasting in the standard broadcast band (Ex. G, 85th Cong., 1st sess.).

The PRESIDING OFFICER. If there be no further debate on Executive A or Executive G, the treaties will be considered as having passed through their various parliamentary stages, up to the point of adoption of the resolutions of ratification, which will be stated.

The legislative clerk read the resolutions of ratification, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate

advise and consent to the ratification of The North American Regional Broadcasting Agreement and the Final Protocol Thereto, which were Signed in the English, Spanish, and French Languages at Washington on November 15, 1950, By the Respective Plenipotentiaries of the United States of America, the United Kingdom of Great Britain and Northern Ireland for the Territories in the North American Region (Bahamas and Jamaica), Canada, Cuba, and the Dominican Republic.

Resolved (two-thirds of Senators present concurring therein), That the Senate advise and consent to the ratification of The Agreement Between the United States of America and the United Mexican States concerning Radio Broadcasting in the Standard Broadcast Band, which was Signed in the English and Spanish Languages at Mexico City on January 29, 1957.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolutions of ratification?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Virginia [Mr. BYRD], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Michigan [Mr. HART], the Senator from Minnesota [Mr. HUMPHREY], the Senator from South Carolina [Mr. JOHNSTON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. O'MAHONEY], and the Senator from Georgia [Mr. RUSSELL] are absent on official business.

I also announce that the Senator from Missouri [Mr. HENNINGS] and the Senator from Oregon [Mr. NEUBERGER] are absent because of illness.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD], the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Michigan [Mr. HART], the Senator from Oregon [Mr. NEUBERGER], and the Senator from Wyoming [Mr. O'MAHONEY] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Indiana [Mr. CAPEHART], the Senator from Nebraska [Mr. HRUSKA], and the Senator from Kansas [Mr. SCHOEPPEL] are detained on official business.

I further announce that the Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

I further announce that, if present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Indiana [Mr. CAPEHART], and the Senator from Nebraska [Mr. HRUSKA] would each vote "yea."

The yeas and nays resulted, yeas 76, nays 8, as follows:

YEAS—76

Allott	Cannon	Curtis
Anderson	Carlson	Dirksen
Bartlett	Carroll	Eastland
Beall	Case, N.J.	Ellender
Bennett	Case, S. Dak.	Engle
Bible	Chavez	Fong
Brunsdale	Church	Frear
Bush	Clark	Goldwater
Butler	Cooper	Gore
Byrd, W. Va.	Cotton	Green
Gruening	Long, La.	Saltonstall
Hartke	McClellan	Scott
Hayden	McGee	Smathers
Hickenlooper	McNamara	Smith
Hill	Mansfield	Sparkman
Holland	Martin	Stennis
Jackson	Morse	Symington
Javits	Morton	Talmadge
Johnson, Tex.	Moss	Thurmond
Keating	Mundt	Wiley
Kefauver	Murray	Williams, N.J.
Kennedy	Muskie	Williams, Del.
Kerr	Pastore	Yarborough
Kuchel	Prouty	Young, Ohio
Lausche	Randolph	
Long, Hawaii	Robertson	

NAYS—8

Douglas	Jordan	Proxmire
Dworshak	Magnuson	Young, N. Dak.
Ervin	Monroney	

NOT VOTING—16

Aiken	Hart	Neuberger
Bridges	Hennings	O'Mahoney
Byrd, Va.	Hruska	Russell
Capehart	Humphrey	Schoeppel
Dodd	Johnston, S.C.	
Fulbright	McCarthy	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification of Executive A and Executive G are agreed to.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the President be notified that the Senate has agreed to the three resolutions of ratifications that have been agreed to.

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

LEGISLATIVE SESSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to; and the Senate resumed the consideration of legislative business.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it stand in recess until 10:30 o'clock tomorrow morning.

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

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

LEASING OF PORTION OF FORT CROWDER, MO.

The Senate resumed the consideration of the bill (H.R. 8315) to authorize the Secretary of the Army to lease a portion of Fort Crowder, Mo., to Stella Reorganized Schools R–I, Missouri.

Mr. EASTLAND. Mr. President, section I of the Eisenhower administration's proposed civil rights bill creates a new Federal crime—a felony, punishable by a fine up to $10,000 or imprisonment of not more than 2 years, or both. This crime was conjured up by the minds of the legal beavers in the Department of Justice to apply only to the narrowest possible area of alleged obstruction to Federal court orders—the alleged interference with school integration decrees. Not satisfied with the terrible, awesome power inherent to deal with violation and interference with orders and decrees by criminal contempt proceedings, where under certain circumstances citizens can be denied even the right or privilege to a trial by jury, it is now proposed to make alleged interference with these integration orders an infamous crime.

Slightly more than 2 years ago, in testifying on civil rights proposals made to Congress in 1957, the Attorney General then categorically stated that the last thing that was needed, or even wanted, in the area of civil rights, was additional criminal sanctions of any sort. He said that the statute books were filled with criminal penalties for alleged civil rights violations that were useless because the Government could not get grand juries to indict or petit juries to convict. What he then wanted, and got to a marked degree, was new and novel authority to invoke certain civil sanctions. Now his then Deputy Attorney General comes to Congress and says that what they then requested is not enough. What we now need in addition is for Congress to enact this monstrous, and to me patently unconstitutional, new criminal definition and place it on the statute books and in the arsenal of the Department of Justice to combat the lawless activity of the white people in the South who object to having their children forced by the Federal Government to attend the same public school with Negro children.

Just assume a situation where an irate white female parent should happen to shove or push a U.S. marshal who was accompanying a Negro child on the first day of attendance at the newly integrated school. This lady would be guilty of violating the State law regarding assault and battery and could be tried and sentenced for that offense. The Federal judge could throw her into jail for 45 days and fine her up to $300 for criminal contempt of court without her having the benefit of a trial by jury. The U.S. attorney could indict her under the newly proposed criminal statute, and she could, upon a guilty finding, be sentenced again, by the same judge who threw her into jail for contempt, to 2 years in the penitentiary and fined an additional $10,000. Finally, since she assaulted a U.S. marshal, she could again be indicted and tried under the present obstruction-of-justice statute, 18 U.S.C. 1503, as one who injures an officer on account of the performance of judicially connected duties. For this alleged crime she could be subjected to a fine of not more than $5,000 and a penitentiary sentence up to 5 years, or both. This series of charges and sentences is in the teeth of the eighth amendment to the Constitution, which provides that:

> Excessive bail shall not be required, nor excessive fines imposed, or cruel and unusual punishment inflicted.

And the fifth amendment, which provides, in part, that—

> No person shall be subject for the same offense to be twice put in jeopardy of life or limb.

But the language itself, in defining this newly proposed crime, provides:

No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

Thus, the judge still retains his weapon of criminal contempt and can fine and sentence for this. Recent decisions of the U.S. Supreme Court have made it crystal clear that double jeopardy is not involved when different offenses are charged which arise out of the same act.

I believe that the Senate, upon calm consideration, will be forced to delete this section of the proposed amendment out of a sense of what is fair and right. On all of the Federal crimes described above, the same judge who threw the book at the poor lady for criminal contempt could preside at the trial for obstructing the desegregation decree and injuring an officer on account of the performance of judicially connected duties.

Mr. President, I have drawn an extreme example, but the example is laid squarely on the law as it is now written and interpreted, and will so be if this new crime is created by Congress. Is there a Senator, knowing that what I have described could in fact result from one simple assault, who could be a party to such an unconscionable piece of legislation? It is no answer to say, but the Government would not ask for such to be done and the judge himself would not inflict such punishment. If Congress gives to the Federal Government and the courts the bald power to be a party to such a travesty of justice, the guilt for such an act will equally rest on the shoulders of the legislative branch as well as the other two. If anything, the guilt of the legislative branch will be the greatest, for without this newly proposed crime being declared the courts cannot possess and exercise the power.

Let me explain further, Mr. President, exactly what is proposed for this new crime. Where any integration decree of any kind has been rendered by a Federal district court, the bill proposes that—

Whoever corruptly, or by threats or force, or by any threatening letter or communication, willfully prevents, obstructs, impedes, or interferes with or willfully endeavors to prevent, obstruct, impede, or interfere with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States which (1) directs that any person or class of persons shall be admitted to any school, or (2) directs that any person or class of persons shall not be denied admission to any school because of race or color, or (3) approves any plan of any State or local agency the effect of which is or will be to permit any person or class of persons to be admitted to any school, shall be fined—

And so forth. This language is so tight, comprehensive, and all inclusive that nothing is left to doubt or imagination. As I read and interpret it, it is the most colossal gag that has ever been proposed on the constitutional rights of freedom of speech, freedom of the press, the right of the people peaceably to assemble, and the right to petition the Government for a redress of grievances.

If it were not for section 6, article I, of the U.S. Constitution, even a Member of this Senate or a Member of the House of Representatives would be effectively gagged under this proposed bill from any comment or criticism of integration decrees on the floors of these respective bodies. Nothing in the old alien and sedition laws contained such an overpowering threat to freedom of the press and freedom of speech.

Just what is a threat by letter or communication which might prevent, obstruct, impede, or interfere with an integration degree, or endeavor so to do? A newspaper editor, sincerely and conscientiously opposed to a decree forcing Negroes and whites in the same school, would clearly be guilty of a felony if he publicly voiced in print his objections to and criticism of the decree. A private citizen writing a critical letter to a newspaper for dissemination to the public protesting such a decree would certainly be guilty of the crime. Parents and teachers, or parents alone, assembling to discuss what was to be done with their children, now that the Court had spoken, would be guilty of committing a crime, even if they used the sign language to communicate with each other their intention to resist, even by all lawful means, the implementation of the decree. Any remarks that I might have to make, or those of any southern Member of Congress, would have to be made right here. Anything I might say against one of the court orders would have to be said right here. Why, Mr. President, when one stops to think what I have said in the past about these school integration decisions of the Federal courts, if the sentence were 2 years for each statement, not enough years to serve out the sentences would lie ahead for me.

Proposed criminal legislation of this kind and character does more than anything else to point up the terrible situation that develops when the Supreme Court usurps legislative power, bends and breaks the Constitution with decisions clearly outside its scope, and heedlessly attempts, on the grounds of sociology and psychology, to force the integration of the white and Negro races in the public schools. I add that it has done that at the behest of the Communist Party, and has used Communist literature and Communist propaganda as authority for its decisions. An original course of illegal action must of necessity be compounded with even grosser and more illegal acts and unconstitutional proposals to buttress it. Would there be any reason for Congress today to be even remotely called upon to consider such heinous legislation as that now proposed if the Supreme Court had not rendered the original unconstitutional decision in the case of Brown against Topeka and the related cases?

In his testimony before the Senate Constitutional Rights Subcommittee, in support of the proposal to enact new legislation to make such action a crime under the Federal statutes, the Attorney General said:

The problems that arise when individuals act by force or threats of force to obstruct desegregation decrees issued by a Federal court are national in scope. They must be met promptly and vigorously, and this proposal has been drafted with this thought and objective in mind.

Mr. President, how could the problem be national in scope? Where have there been, or where can there be, desegregation decrees other than in sectional areas where there is a high concentration of white and Negro populations? What the Attorney General is actually seeking is class, criminal legislation of the grossest sort. Why not have it apply to any and every Federal court order and decree? If he had asked for such general classification of obstruction of court orders, the power and influence of organized labor would have seen to it that the proposed bill would never have been discussed on the floor of the Senate or on the floor of the other body. Unions and individual members of the labor movement have attempted, more than any other class of interference known in this country, to obstruct, impede, and interfere with Federal court injunctions. But the political power of organized labor is sufficient to hold it immune from any possible Federal sanction such as that now directed against the southern people for the alleged obstruction of desegregation orders.

Mr. President, section II of the Dirksen civil rights proposal would amend the Federal criminal code, so as to punish and prohibit, and make subject to prosecution for the commission of a criminal offense, whoever flees in interstate or foreign commerce, with the intent of avoiding prosecution or custody or confinement, after conviction under local law for willfully damaging or destroying by fire or explosives any real or personal property used primarily for religious or educational purposes.

I share the concern of all our citizenry over the epidemic of hate bombings that has broken out in the last several years. I condemn any bombing, be it of a church, a school, an auditorium, a plant, a home, or any place used as an assembly place by persons, with the consequent danger to life and limb occasioned by such action by wanton and reckless hoodlums.

All agree that any investigations into any of the so-called hate bombings correctly fall within the authority of the State and local police powers. Nowhere have I heard it said that in this regard there is a lack of enforcement of State and local statutes. I personally am of the opinion that State and local law-enforcement officials have adequately dealt with and can adequately deal with these bombings; and therefore I feel that our State laws are adequate in order to have the perpetrators of these heinous crimes investigated and brought to justice. So a Federal statute on the subject is unnecessary. For that reason, I say that section II of the Dirksen proposal is unnecessary.

While I feel that State authorities can adequately police the field at which this proposed Federal statute is directed, I say that if the proponents of this legislation want an antibombing statute enacted, I believe it should apply across the board, and not be limited solely to bombings of educational or religious structures.

The Attorney General, in testifying on the administration proposal before the standing subcommittee on constitutional rights, of the Committee on the Judiciary, stated, in speaking of the proposal to confine antibombing legislation to measures dealing with the destruction of educational or religious structures:

This important problem, we believe, requires additional legislation, particularly as it relates to bombing of schools and places of worship. All decent, self-respecting people are shocked by these incidents of lawlessness. They are manifestations of racial and religious intolerance that are of extreme concern on both the domestic and international scene. While the perpetrators should be dealt with primarily under a local law and by local law enforcement officers, supplemental aid from the Federal Government is needed.

While I agree with the Attorney General that all decent, self-respecting people are shocked by these incidents of lawlessness, I feel that all decent people certainly are also shocked by the dynamiting of individual homes or the dynamiting or destruction of other buildings or facilities; and certainly any bombings should be of concern to all. In line with the comment of the Attorney General that decent people are shocked at these manifestations of racial and religious intolerance, Mr. Charles J. Bloch, an eminent Georgia lawyer, when testifying before the House Judiciary Committee on civil rights legislation, raised questions in which I heartily concur, when he asked:

I ask you, would not decent, self-respecting people be shocked if any building, structure, facility or vehicle were wantonly damaged or destroyed by fire or explosives? Are manifestations of racial and religious intolerance the only manifestations that are of extremely serious national and international concern?

Why is not our Government equally concerned with bombings of hospitals, courthouses, city halls, auditoriums, highway bridges, underpasses, overpasses, piers, railway bridges, mining facilities, factories, business houses of all sorts?

Why limit the scope to religious or educational structures?

If a State government building were bombed, I should think that would be a manifestation of anarchy which ought to be of national concern, though it might not be of international concern.

Should one be permitted to bomb a State capitol or a courthouse or auditorium, or even a building owned by private capital, and flee with impunity?

I share the views of Mr. Bloch that it is not enough if there must be a Federal statute to limit its scope to the bombings of religious or educational structures, and I repeat that the approach should be to make this legislation apply across the board uniformly to cover all bombings and wanton and malicious destruction of all buildings or other real or personal property in violation of State law.

One only has to pick up the newspaper and read of instance after instance of willful and wanton destruction of property other than religious or educational institutions. I recall seeing an Associated Press dispatch some time age concerning the dynamite explosion at the Harriet-Henderson Cotton Mills in Henderson, N.C. The dispatch stated:

I ask unanimous consent that it be placed in the RECORD at this point in my remarks.

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

A dynamite explosion ripped up a section of earth inside the North Henderson plant gates during the night, but there was little damage to the buildings. Occasional rifle shots shattered windows and splattered against plant walls late last night.

Mr. EASTLAND. Mr. President, that explosion was one of more than a dozen that have occurred in the course of that long and bitter labor dispute in North Carolina. It has become a common occurrence to learn of bombings during the course of long and drawn-out labor disputes, and it seems sensible to me that if there is to be Federal legislation implementing the State police powers on this subject, these bombings incident to labor disputes should fall within the purview of any proposed legislation.

Mr. President, I think it is pertinent to ask why the scope of this bombing proposal should be limited to religious or educational structures when one can note in the newspapers, day after day, items describing bombings of plants, homes, and personal property during the course of bitter labor disputes. Here are a few newspaper items that I have noticed which point up a strong necessity for a broadened and unlimited bombing bill, if there is to be such legislation.

I ask unanimous consent that these quotations be placed in the RECORD at this point in my remarks.

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

An Associated Press dispatch dated April 10, 1959, states: "A Dearborn, Mich., carwash operator who was bombed out of business after a dispute with the Teamsters' Union appealed to the Senate Rackets Committee today for help."

The New York Times for December 8, 1957, carried this item: "A Senate committee heard evidence today that tended to link Tennessee Teamster Union leaders with unsolved dynamitings."

The Daily Labor Report for December 6, 1957: "Mrs. Lola Freels, bookkeeper of local 621 in Knoxville, Tenn., from 1953 to December 1956, testified that one Teamster business agent accidentally shot another during a midnight shooting at two nonunion trucks; she paid bills for dynamite used in blowing up nonunion places."

The Daily Labor Report for December 5, 1957: "The Senate Labor Rackets Committee starts off a new round of hearings with charges that a goon squad built around Teamster officials with long police records was responsible for at least 173 acts of violence in connection with union organizing campaigns over the last 4 years in Tennessee.

"The 173 acts listed by the committee include 10 dynamitings, 35 assaults, 3 arsons, 24 shootings, and 33 instances of putting sirup in truck crankcases to ruin the motors. The committee investigator estimates that these actions caused $2 million damage to property and in lost business."

From the Wall Street Journal of December 4, 1957: "A Teamster Union member told the Federal court that he knew of at least three companies that were dynamited by his union."

The New York Times for November 27, 1957, reported from Tulsa, Okla., that "Marvin Ralph Hall, a convict, testified today that Robert W. Bryant, business agent of the Tulsa Teamsters' Union, had hired him for 'destructive goon work.' He said that he had been hired to dynamite two Central States Steel trucks in 1954."

A New York Times dispatch of December 10, 1957, stated: "A Senate committee piled up more evidence today of unpunished assaults, dynamitings, and sabotage visited on Tennessee employers, who had refused to take orders from local officials of the International Brotherhood of Teamsters."

An Associated Press dispatch from Whitesburg, Ky., dated April 29, 1959: "A nonunion loading plant, the B. & H. Coal Co., was dynamited out of commission in neighboring Knott County."

A United Press International dispatch from Frankfort, Ky., dated April 24, 1959: "Governor Chandler of Kentucky sent 2,000 Kentucky National Guardsmen into southeastern Kentucky's coalfields today. The Governor said the immediate cause of his decision was the dynamiting of a tipple at Viper early today, the dynamiting of a road at Combs, and the massing of an unruly crowd of some 500 pickets at the Ashlo Coal Co., also at Combs."

A United Press International dispatch from Henderson, N.C., dated June 6, 1959: "The strike at the Harriet-Henderson Cotton Mills entered its 30th week today. A dynamite blast last night added another item to the record of violence that has marked the strike. The blast rocked downtown Henderson but was not definitely located. There was no report of damage."

A United Press International dispatch from Lexington, Ky., dated April 30, 1959: "Six dynamite sticks exploded underneath a nonunion coal-weighing house in the tense eastern Kentucky coalfields last night. A mine guard suffered leg bruises."

An Associated Press dispatch from Hazard, Ky., dated April 26, 1959: "National Guardsmen with fixed bayonets patrolled trouble spots in the eastern coalfields today, as more dynamite blasts occurred. One explosion took place outside the home of an operator of a nonunion loading ramp. Another was at Chavies, near a ramp facility."

An Associated Press dispatch from Daingerfield, Tex., dated October 30, 1957: "An explosion tonight shook an area near the United Steelworkers union hall 6 miles south of Daingerfield, scene of a strike against the Lone Star Steel Co."

An Associated Press dispatch from Henderson, N.C., dated July 23, 1959: "A North Carolina judge sentenced three textile union leaders today to prison terms of from 6 to 10 years as the ringleaders in a conspiracy to blow up vital installations at the Harriet-Henderson Cotton Mills."

The New York Times for August 19, 1958, carried this item: "Barbershop Rocked by Explosion. An explosion rocked a cut-rate barbershop in the Firestone district near Huntington Park yesterday. Operators of the shop at 7713 South Pacific Avenue told Sheriff's deputies the source of the explosion was either a small homemade bomb or a large firecracker."

An Associated Press dispatch from Scranton, Pa., dated August 1, 1957: "Four labor leaders, convicted of conspiracy in the dynamiting of a house being built with nonunion labor, were sentenced to 1 to 2 years in prison and fined $500 each. Judge Otto P. Robinson denied a defense motion to free the four in bail pending a motion for a new trial."

The New York Times for April 16, 1959, carried this story: "Blast Wrecks Home in Coal Strike Area. Fire and an explosion wrecked a home in this strike-bound eastern Kentucky coal area today and destroyed a coal loading ramp. There were no injuries.

"The estimated $100,000 damage was far greater than that caused in any other of the 15 explosions that have occurred since union miners walked off their jobs a month ago."

Mr. EASTLAND. Mr. President, I cite these newspaper reports of bombings in labor disputes in support of broadening the coverage of any bombing bill so as to include all bombings, whether in labor disputes or destruction of religious or educational institutions, plants, or any facility. All acts of violence arising out of bombings should be curbed and brought within the purview of any legislation along this line, and should not have limited scope, but should apply to all wanton acts of violence in whatever fields they occur. If such a provision is enacted, I shall strongly insist that it not be limited to religious or educational institutions, but extend to all bombings of real or personal property.

As I have stated, it is my firm conviction that the detection of criminal acts, regardless of how reprehensible, is the primary duty, responsibility, and obligation of law enforcing officers at the local level. However, if there is to be Federal intervention in the field, the legislation should apply uniformly across the board to cover all bombings in whatever field they may occur.

Mr. President, it is an irony of legislative futility for this Congress to try to make a new Federal crime in regard to the bombing of churches and synagogues while this selfsame Congress is charged with the sole constitutional responsibility of maintaining some semblance of law, order, and security of person and property here in the District of Columbia. Assaults, muggings, robberies, homicides, and rapes—and let me emphasize the crime of rape—has grown so prevalent here in Washington that private citizens are forced to form their own vigilante groups in self-protection.

Dogs are being added to the police force because the human guardians of the law are unable to cope with rampant crime. The Women's District Bar Association is contributing its private funds to send policemen to faraway England for additional training in the utilization of police dogs. There is no safety or security for the women of Washington from criminal assault and rape, either on the streets or in the home or apartment. Washington, and the same can be said for most other of our large cities, is a literal cesspool of crime and violence. But Washington is the responsibility of this Congress and not that of some other sovereign element of government.

I deplore as much as anyone this wave of crime and violence that is sweeping our cities. By and large, our southern cities and our Southern States are as peaceful and law abiding as are those in any other area of the United States. Crimes are promptly detected and swiftly punished. We have less of a juvenile delinquency problem, both among the white and Negro population, than does any other area. If we are going to create new Federal crimes and get the law-enforcing agencies of the Federal Government to work on them, they should be general crimes for all of the United States.

In a recent article appearing in the American Weekly, former President of the United States, Herbert Hoover—who is a good Republican—had some very sensible comments and a feasible solution to make on this whole subject of crime. He said:

The Bill of Rights guarantees to all Americans the right "to be secure in their persons."

Surely that must include the right of our people to walk the streets free from holdups, muggers, murderers, hoodlums, and teenage gangs.

Mr. President, any white woman walking on the streets of Washington tonight is a prey to vultures. There are rapes here that, in the judgment of the Senator from Mississippi, run to the number of several a day, when one counts those that are not reported. That is a matter for Congress to handle.

President Hoover said further:

Our people also should have protection from racketeers, blackmailers, extortionists, kidnapers, forgers, embezzlers, bank robbers, and auto thieves. Our children need protection from rapists.

But in actual fact, how secure are we? What do we know about the crimes being committed in our country? What happens to these criminals? And, what can we do about it?

He suggested that a commission be established to take a crime census and make an overall study of the entire field. He added:

The census could show as far as possible what races the offenders come from.

I quote further:

It might stir the leaders of the various racial groups to action and we might be surprised as to where the great fault lies. It would show the weakness or strength of the present parole systems. It might show the failure of the courts to give adequate confinement in cells so that people could no longer trespass on our constitutional rights.

There is much merit to these suggestions and the plan of doing something about crime as made by our distinguished former President. Congress could make much better use of its time in "looking after Washington" and looking for sane solutions to the crime problems generally rather than now attempting to create these new and novel Federal crimes directed solely and exclusively against the people of a handful of Southern States.

Mr. President, there was a former gangster named Roger Touhy who was assassinated on the streets of Chicago. He had a bodyguard, who was also wounded, who was a retired police lieutenant. According to the newspapers, this police lieutenant made a statement before he was taken to the hospital that there was a secret supergovernment in the State of Illinois, and everybody knows that the syndicate controls and dominates the State of Illinois. We could better spend our time by looking into the activities of the old Capone syndicate and its powers in Illinois.

Mr. President, section V of the proposed Dirksen Civil Rights Act would provide for the education of children of members of the Armed Forces on active duty in communities where the public schools are closed, or where, in the discretion of the Commissioner, such school facilities as are available to those children are not, in his judgment, "suitable."

The section offers Federal aid to children of members of the Armed Forces in communities where the public schools have either been closed by local authorities, or where, in the opinion of the Commissioner of Education, the public schools available do not meet his ideas or determination of what is "suitable facilities" for public schooling to the children of members of the Armed Forces.

This section would also provide that wherever a school is erected, in whole or in part, with Federal funds, and such building is closed, or when the manner in which the local authorities close it, it becomes "unsuitable" in the opinion of the Commissioner to serve the educational needs of pupils for whom such schools are provided and among which pupils are children of the Armed Forces on active duty in that area, then this proposed legislation would empower the Commissioner to take over physically such school building or such school facilities, if Federal funds were used to construct it, and through use of such building furnish what, in the judgment of the Commissioner, is "suitable" public school facilities to children of members of the Armed Forces as long as he deems necessary. If the Commissioner takes over school property under this section he must pay rent to the school district on a basis of comparative amount of funds furnished by Government and State agencies to construct the building, including other acquisitions and capital costs.

At the outset let me say that I am in favor of providing for education of children of members of the Armed Forces in areas where it is needed. I would not deny to members of the Armed Forces serving on active duty any rights and privileges that they need, including education for their children.

However, I do oppose tacking this proposed legislation on to a civil rights proposal where it does not belong. I see no rhyme nor reason that a proposal relating to the Armed Forces should be intertwined with the question of civil rights.

Obviously, the only reason it is offered as a part of this proposal is to add a little frosting to this cake and make it more palatable.

This provision of this section vesting power in the Commissioner of Education to take over school facilities in a school district of a State and, by taking over those school facilities, to furnish what in his judgment, would be "suitable" public school facilities for these children, is objectionable because it is taking from local school boards any authority whatsoever over their own educational system and placing it in the hands of officials in Washington. Here again is another demonstration of efforts to centralize control in Washington and away from the separate sovereign States.

These public laws enacted by the 81st Congress were considered by the respective committees having jurisdiction

over matters relating to the field of education, the Committee on Labor and Public Welfare. When a similar bill, S. 959, was introduced in the Senate, it was referred to the Senate Committee on Labor and Public Welfare by the Senate Parliamentarian, and very properly so. Subsequently, S. 959 and another measure in this related field were re-referred to the Senate Committee on the Judiciary because it was suggested that they should be considered as a part of the so-called civil rights package.

I see no reason why this proposal should be tied in with civil rights at all, and orderly procedures would call for the committee having jurisdiction over the subject matter to consider the proposed legislation and get it to the floor and have it considered on its merits.

Once again we see the extreme efforts used to get votes by attempting to offer a pleasant package of civil rights tidbits.

Why play politics with education for children of the members of the Armed Forces? What connection does this provision have with any so-called civil rights bill?

No reason exists why this bill should not be considered on its own merits and not tied in with extraneous matter.

During the hearings conducted by the House Judicary Committee on the so-called civil rights proposals, the Secretary of Health, Education, and Welfare, Mr. Flemming, in addressing himself to this provision, and in attempting to justify the inclusion of such language in the context of civil rights, stated:

Title VI of H.R. 4457 recognizes that the Federal Government has a unique responsibility with respect to the education of children of military personnel. Members of the Armed Forces serve in communities under orders, and public education is normally available to their children only as it is provided in the communities in which they live.

During the recent closure of certain secondary schools in Norfolk, Va., about 10,000 children were deprived of free public education for a full semester. Of the 10,000 children affected, about 2,500 were school-age children with a parent on active duty in the Armed Forces, assigned to military installations in the Norfolk area. Of the 2,500 such children, only about 350 lived on Federal military posts. And these 350 children, under existing Federal law, would have been the only ones for which the Federal Government could have provided schooling if the public schools had remained closed.

The proposed legislation, if it had been in effect, would have permitted the Government to provide education for the other 2,150 children of military personnel who live off Federal property.

I am informed there are at the present time six States in which no integration has taken place where the laws either require or permit the closing of public schools that are under orders of a Federal court to accept one or more Negro children for enrollment in previously all-white schools. These States are Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina.

If all the public schools in these States were closed by State or local authorities, which is of course unlikely, it is estimated, on the basis of data supplied by the Department of Defense, that about 70,000 school-age children of active-duty military personnel might be affected.

Potentially, then, the proposed legislation may be regarded as insurance for some 70,000 children of military personnel against the denial of educational opportunity in such circumstances. • • •

Title VI of the administration bill provides a practical and promptly usable method, on a standby basis, for meeting a serious problem if it arises. It gives assurance that military personnel ordered to duty in certain States will not be placed in the impossible situation of having to undertake emergency and makeshift arrangements for the education of their children, with the Federal Government powerless to assist.

Senators will note that the Secretary concedes that it is highly unlikely that all of the public schools in these States would be closed by State or local authorities, and that this proposal is advocated as being necessary for only a standby basis; that the situation does not require legislation such as this at the moment but that they want to have the authority to use this if the occasion ever arises. These statements by the Secretary of Health, Education, and Welfare support my contention that legislation such as this cannot be characterized as "must" legislation and can be considered in the ordinary course of events by the appropriate committees of the Congress having jurisdiction in the field of education and considering this type of legislation on its own merits and not trying to make this a part of any so-called civil rights package.

Mr. President, in the normal and customary practices of Congress, whenever new legislation is proposed that touches on controversional provisions of constitutional law, opportunity is given for long and careful scrutiny of the proposal, both as a whole, and in its minute and separate parts. Long and exhaustive hearings are held by the appropriate committees of both the House of Representatives and of this Senate, giving to both proponents and opponents every possible opportunity to present every conceivable argument both for and against the proposal. When the Constitution of the United States is at issue, the people of this country, particularly those against whom the proposed legislation is directed, have the right to expect and demand that Congress discharge this responsibility by permitting the fullest and freest discussion and examination.

The voting referee provisions of the Dirksen civil rights bill, as delineated in section 207 of the proposed amendments to H.R. 8315, involve drastic, and even revolutionary, applications of so-called principles of constitutional law to the present balance of Federal and State relations under the Constitution of the United States. The basic bill, S. 3001, which contains this revolutionary plan, was only introduced on February 8, 1960, and properly referred to the Committee on the Judiciary. The subject matter involved is clearly and unquestionably within the legislative responsibility and jurisdiction of the Judiciary Committee. As chairman of this committee I have a right, not only to expect, but to demand that the Senate give the committee an opportunity to consider this proposed legislation. But in view of what has transpired on the floor of this body in the past 10 days I fully well realize that this would be a futile and useless gesture.

But, Mr. President, in the name of common decency and fairplay, will some Senator, either on this side of the aisle or the other, tell those of us who are opposed to this voting referee business just what is the form, character, and provision of legislation that we are supposed to oppose?

The Attorney General submitted the so-called voting referee plan that appears in the Dirksen amendments first to the Senate Rules Committee on February 5, 1960. He said that this is what the administration wants. I now hold in my hand six pages of mimeographed matter that was transmitted to me, at my request, from the Office of the Deputy Attorney General of the United States, Judge Lawrence E. Walsh. I have been informally advised that these sheets have also been given to the Judiciary Committee of the House of Representatives and to the Rules Committee of this Senate. The sheets are purported to contain: "A bill to amend the Civil Rights Act of 1957 by providing for court appointment of U.S. voting referees, and for other purposes."

The substance is involved, detailed, complicated, and different in many respects from the Rogers plan. Apparently this is not an attempt to suggest amendments to the Dirksen amendments to H.R. 8315. This is an entirely new bill that the Attorney General is now apparently suggesting be substituted for the original plan he proposed. What purpose can possibly be served, Mr. President, by me and others speaking against and attempting to analyze matter that is now formally before this Senate if tomorrow, or the day after, this new, now only mimeographed, abracadabra is going to be substituted for the language now in the voting referee amendment? Mr. President, if ever there was a time when this Senate was engaged in more disorderly procedures than we are now witnessing I do not know when it could have been. I am opposed to the appointment of U.S. voting referees, period, but I am entitled to know just how, and on what basis, it is proposed to go about appointing them, and how the referees will operate if they are appointed.

I have made a sincere attempt to unravel this maze of legislative legerdemain, but the solution is far beyond my poor power to comprehend or resolve. I suggest in the place of the presently confusing plans and projects by Rogers, Dirksen, McCulloch, Walsh, House Judiciary, and Senate Rules, we substitute the Eastland plan of nothing and just forget the whole business.

As near as I can tell, Mr. President, what happened is this. The Attorney General, Mr. Rogers, was the last witness to appear before the Senate Rules Committee, then taking testimony on the Civil Rights Commission's recommendation No. 5, concerning the so-called Federal registrars of voting in national elections. He then and there dumped in his Federal judge appointed voting referee plan and no one had time to consider the details of the proposal and take any exceptions to it. But my great and good friend, the distinguished minority leader, went ahead

and bought the package and put it before the Senate. But meanwhile, over in the other body, the House Judiciary Committee, which was the proper committee to have this type of legislation, was giving some concentrated thought to the Rogers plan and asked the Department of Justice to send a representative to "enlighten" them in regard thereto. Judge Walsh received the assignment from the Department. His testimony was taken in "executive session" of the full House Judiciary Committee. Since these hearings were closed, and printed copies have not been made available to me or the Senate Judiciary Committee, I do not know exactly what transpired. Some fascinating beams of light are cast, however, on what must have happened in the executive session, by reading the transcript of hearings in an open session of the House Judiciary Committee which was held on February 16, 1960. The only witness for that hearing was that great American, one of our most distinguished Southern sons, a leading luminary of the American Bar, and one of the outstanding authorities, living or dead, on the Constitution of the United States, the Honorable Charles J. Bloch, of Macon, Ga. The transcript of this single hearing covers 144 printed pages without the inclusion of the numerous exhibits that were offered during the course of the testimony and colloquies. I might add for clarification that Charlie Bloch was opposed to the Rogers voting referee plan.

The first reference to Judge Walsh appears at page 22 of the transcript.

Mr. President, I ask unanimous consent to have the excerpt from the transcript printed in the RECORD at this point.

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

I have had the opportunity of reading the testimony of Deputy Attorney General Judge Lawrence E. Walsh before this committee on February 9, 1960.

With the deepest respect for my distinguished friend for whom I have the utmost respect, I suggest that in the fervor of his advocacy he has overlooked what he would not, as a judge, have overlooked.

For this bill to be valid, it must be appropriate legislation under the 15th amendment. No other provision of the Constitution could possibly warrant it. To be appropriate legislation under the 15th amendment, congressional legislation must be limited to the prevention of denials or abridgements by a State of the right of a person to vote by reason of his race or color or previous condition of servitude.

In this adroit bill, the scheme is to empower a Federal court to decree that State officials are generally guilty of acts depriving a person of his 15th amendment rights, and then by reason of that decree to compel the State to permit other persons, not parties to the suit, to vote at its elections.

The fundamental vice is the confusion of prevention of discrimination with mandatory provisions compelling the State to permit voting at its elections.

It overlooks the fundamental proposition of law that the privilege of voting is not derived from the United States but is conferred by the State. (*Breedlove* v. *Suttles* (302 U.S. 277, 283). See also *Lassiter* v. *Northampton Board of Elections* (360 U.S. 45, 79 S. Ct. 985).)

If a person proves to the satisfaction of a proper court that he has been deprived of voting rights contrary to the provisions of the 15th amendment, a court, in a proper case, may have the right to redress that deprivation by compelling the State to permit that particular person to vote. But that is a far cry from the attempt of this bill. Here, if A is prevented from voting on account of a studied practice contrary to the 15th amendment, the court may confer the privilege of voting in State elections on B, C, D, E, F, G, and X, Y, and Z.

Under its power to enact legislation to prevent denial or abridgement by a State of a citizen's right to vote, Congress may not convert Federal courts into registration boards supplanting State officials.

The questions propounded by the chairman of this committee to Judge Walsh (record, pp. 44 et seq.) show that he, as a trained lawyer, recognized the gravity of this very question.

In response to the chairman's searching questions, Judge Walsh said:

"Well, if you found a pattern and practice against Negroes, and he is a Negro, I think Congress is justified in jumping the gap and establishing a conclusive presumption that that is the reason for his trouble" (record, p. 45).

"The CHAIRMAN. You mean that Congress can justify that presumption?"

Mr. Walsh answered:

"Yes, sir. I think it is a reasonable presumption. I think, if you have a pattern found, the likelihood of any other reason for refusing to let him register even though he was qualified is nil. So I think there is a reasonable basis for such a presumption. Not only is it reasonable, but it is necessary, because for an individual to prove each case that he had been a victim of prejudice [sic] is very difficult. Therefore, I think he needs Congress, help in that regard."

Here we have a striking example of what Justice Hugo Black was warning against when he recently said:

"The concept that the Bill of Rights and other constitutional protections against arbitrary government are inoperative when they become inconvenient or when expediency dictates otherwise is a very dangerous doctrine and if allowed to flourish would destroy the benefit of a written Constitution and undermine the basis of our Government" (*Reid* v. *Covert* (354 U.S. 1, 14, June 10, 1957)).

Here we have the Deputy Attorney General of the United States seeking to justify a "presumption" not on the basis of its constitutional validity but because forsooth it is in his opinion reasonable and necessary.

This is what Congress is being asked to do:

In the opinion of the Attorney General, a person has engaged or there are reasonable grounds that a person is about to engage in acts or practices which would deprive some other person of his right to be entitled and allowed to vote at an election. He institutes a civil action in the name of the United States for preventive relief (U.S.C., title 42 1971(c)). The Court finds that under color of law or by State action persons have been deprived of those rights on account of race or color. It finds that such deprivation was or is pursuant to a "pattern or practice." The statute is silent as to how this question of "pattern or practice" vel non, is to be put in issue. Whose "pattern or practice," we do not know. The language is not limited to a "pattern or practice" established or sanctioned by the State. It may be just anyone's pattern or practice. All that the Court is required to find is that "such deprivation was or is pursuant to a pattern or practice." Then it is authorized to appoint voting referees to receive applications from any person claiming that he has been deprived of his right to register and qualify to vote. It is presumed that such other person is also the victim of such pattern or practice.

The Department of Justice would have the Congress legislate on this basis: In the State of A, there is a pattern or practice of denying or abridging the right of Negroes to vote. X is a Negro and has been refused registration. Therefore X has been unconstitutionally deprived, and the State must let him vote.

In seeking to justify the "Attorney General's proposal," Judge Walsh says first that it is "a bare facilitation of an ancillary procedure by that court to make its decree effective."

Just after the language just quoted, it is said. "The Civil Rights Act does not say the only thing a court can do is to enjoin the registrar. It says it can make such other orders as are desirable."

The action which the Civil Rights Act permits the Attorney General to institute for or in the name of the United States is: "a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order."

That is the exact language of 42 U.S.C. 1971(c).

The Attorney General is limited to seeking "preventive relief" which may be granted by the Court by means of a "permanent or temporary injunction," a "restraining order, or other order."

And says the Department of Justice, "and all Congress would be doing in the Attorney General's proposal, really, would be making a statutory presumption to avoid one element of proof, that causal link which is so difficult to prove. So it could be justified constitutionally that way."

This overlooks the fact that the Constitution of the United States does not permit such facile leaping of hurdles.

"It is not within the province of a legislature to declare an individual guilty or presumptively guilty of a crime." (*McFarland* v. *American Sugar Co.* (241 U.S. 79, 86, 36 S. Ct. 498, 501, 60 L. Ed. 899).)

Cited in *Manley* v. *State of Georgia* (279 U.S. 1, 6), holding that a statute creating a presumption that is arbitrary or that operates to deny a fair opportunity to repel it violates the due process clause of the 14th amendment. (See also *Bailey* v. *Alabama* (219 U.S. 219, 233 et seq., 31 S. Ct. 145, 55 L. Ed 191).)

"A statute creating a presumption that is arbitrary, or that operates to deny a fair opportunity to repel it, violates the due process clause of constitutional amendment 14, since legislative fiat may not take place of fact in judicial determination of issues involving life, liberty or property." (*Western & A. R. Co.* v. *Henderson* (279 U.S. 639, 49 S. Ct. 445(3).)

Legislation providing that proof of fact shall constitute prima facie evidence of main fact in issues satisfies requirements of due process of law when the relation between the fact found and presumption is clear and direct and is not conclusive. (*Adler* v. *Board of Education* (72 S. Ct. 380(16) 342 U.S. 485).)

The presumption there involved was upheld because it was "not conclusive but arises only in a hearing where the person against whom it may arise has full opportunity to rebut it." (342 U.S. at p. 495.)

It is suggested that "maybe * * * a State is entitled to less protection because it is not a person under the 14th amendment" and perhaps the due process clause of the 14th amendment does not apply to a State.

This suggestion overlooks the fact that a "person or persons" are the defendants in an action under 1971(c). It is those "persons" to whom the Attorney General will

transmit the "supplementary decree" proposed to be issued under the amendatory act, it is those persons—election officials—who are subject to prosecution for contempt.

During the questioning of Judge Walsh by Representative WILLIS, he was asked: "Then this voting referee, however, would have a right to protect, according to the pattern of the bill, not only persons named in the original action, but anybody in the area who feels that he is the victim of the pattern?"

The answer was: "Yes, sir, anybody who is a member of the same race" (record, p. 48).

The bill, H.R. 10035, does not confine the reception by the voting referees of "applications" to those of the same race as those for whom the original suit was brought.

Page 2, lines 5 and 6, empowers these voting referees "to receive applications from any person claiming such deprivation as to the right to register."

"Applications" for what? For what do the applicants apply? Was the fact that what these "applicants" will be seeking is a registration certificate designedly omitted?

Perhaps, the drafters of the bill gagged at the idea of so patenty converting a Federal court into a registration board.

At page 50 of the hearings, Mr. Willis asked Judge Walsh if he was familiar with the jurisprudence that under clause (b) of rule 53, the adverse party could insist upon a showing that an exceptional situation existed before a master could be appointed. Judge Walsh replied: "Yes, sir, and that was because he would have to pay one-half of the cost of the master, whereas here no one is going to pay the cost of the master except the Government."

I respectfully suggest that that is not the real reason for the extreme reluctance which exists on the part of Federal judges to appoint "masters."

The real reason is that by its nature and consequence the procedure of reference to a master "nullifies the right to an effective trial before a constitutional court."

See "In re Tom R. Watkins, praying for a Writ of Mandamus," decided by the U.S. Court of Appeals, Fifth Circuit, November 24, 1959, 271 F. 2d 771.

The quoted language is at page 775, and reference is there made to the case of *Beacon Theatres, Inc.* v. *Westover* (1959, 359 U.S. 560, 79 S. Ct. 948, 3 L. Ed. 2d 988).

In that case, at pages 508–509, Justice Black speaking for a majority of the Court says:

"Our decision is consistent with the plan of the Federal rules and the Declaratory Judgment Act to effect substantial procedure reform while retaining a distinction between jury and nonjury issues and leaving substantive rights unchanged."

Then follows language which is summarized in 79 S. Ct. 948, headnote 18, as follows:

"In Federal courts, equity has always acted only when legal remedies were inadequate."

As Justice Black points out, that rule is derived from a long line of cases one of the earliest of which is *Hipp* v. *Babin* (60 U.S. 271, 19 How. 271, 15 L. Ed. 633). Note: See Equity, Supreme Court Digest, Key No. 46.

Despite these ancient rules of law, despite the limitations upon the judicial power of the United States as set out in the Constitution, despite the 10th amendment; the Attorney General would have a Federal court become a registration board, and permit the claims of thousands of "applicants" who have never submitted those claims to proper State tribunals, to be adjudicated in a proceeding said to be "ancillary" to a pending proceeding, an ex parte proceeding, and to be adjudicated by a so-called supplementary decree. Prepared statement of Judge Walsh before the committee, page 6.

The "applications" which would be filed by those who were not parties to the original action would in no sense be such a "complaint" as is required by Federal Rules of Civil Procedure No. 3 for the commencement of a civil action in a Federal court.

A civil action in a Federal court is commenced by the filing of a complaint with the court. Rule 3.

Other rules provide for the issuance of process, the service of process, the filing of defensive pleadings. Rules 4, 5, 8 and 12 for example.

Unless those rules are complied with there is no suit in the Federal court. There being no suit at all, there is no ancillary suit.

But even if we can denominate this strange new "application" as a complaint, a suit it is not in any sense heretofore adjudicated by the Federal courts ancillary to the civil action which, filed by the United States of America, had preceded.

That action created by the Civil Rights Act of 1957 permits the United States of America to institute a civil action for preventive relief against persons who may be depriving other persons of certain rights.

Now, it is proposed after there shall have been a decree granting such preventive relief, and declaring a pattern or practice to exist, to permit "applicants not parties to the original suit to be granted mandatory relief, to be by a Federal court registered as voters at all elections, State or Federal."

Up to now, it has been the law that even a real case or controversy, as distinguished from an "application" cannot be regarded as "ancillary" so that jurisdiction can be made to depend upon the jurisdiction in the original suit unless it has direct relation to property or assets actually or constructively drawn into the court's possession or control by the principal suit. (*Oils, Inc.* v. *Blankenship* (145 F. 2d, 354, 356).)

Even if these so-called applications could be dignified with the title of "supplemental bills," they would be unauthorized under presently existing and adjudicated principles of law and equity and equity practice in the Federal courts. (*Walmac Company* v. *Isaacs* (220 F. 2d, 108, 113–4). *Dugas* v. *American Surety Co.* (300 U.S. 414, 428, 57 S. Ct. 515, 521, 81 L. Ed. 720).)

The bill provides for the issuance of a "supplementary decree" by the court after these proceedings before the voting referees which proceedings Judge Walsh characterizes as "ex parte," his statement, page 6.

The phrase "supplementary decree" is not recognized or defined in the Federal Rules of Civil Procedure nor in title 28 of the United States Code.

Heretofore an action in equity has ended with the final decree adjudicating the rights of the complainants and defendants in the cause.

A court of chancery has had jurisdiction of course to effectuate its decree by appropriate process. (19 Am. Jur. Equity, Sec. 420.)

Heretofore, in the United States and in England, that effectuation has been confined to the enforcement of the rights of and relief granted to the parties to the case.

Never before has it been thought that a "supplementary decree" could be promulgated by a court granting relief to "applicants" who were not parties to the case in which the decree was promulgated, and granting relief of an entirely different nature from that prayed or granted in the main suit.

The only "supplementary decrees" known to equity practice in the United States and England as it heretofore existed resulted from "supplemental bills" founded upon matter arising after entry of the decree. (See for example, *Root* v. *Woolworth* (150 U.S. 401); *Independent Coal & Coke Co.* v. *United States* (274 U.S. 640); *Looney* v. *East Texas R. Co.* (247 U.S. 214).)

The so-called supplementary decree here sought to be authorized would be nothing more or less than what in some countries have been called ukases—which in czarist Russia were "imperial orders or decrees, having the force of law."

Mr. EASTLAND. Mr. President, it is not my purpose today to argue the legal and constitutional issues involved in the voting referee plans. The arguments here advanced by Mr. Bloch need no comment by me. I do say that before this debate is concluded plenty will be heard about Judge Walsh's amazing assertion that this Congress is constitutionally justified in jumping a gap and establishing a conclusive presumption by legislative fiat. I am also further suggesting that we find from this portion of the House transcript one of the reasons why it is now necessary for the Attorney General to send to Congress this newly proposed bill that is now contained in these six mimeographed pages.

The hearings were resumed in the afternoon at page 77 of the transcript.

Mr. President, I ask unanimous consent that Mr. Bloch's testimony at page 77 be printed in the RECORD.

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

The real bite, the real sting in this proposed legislation—we might as well meet it head on—the real bite and sting is that a Federal judge is given the opportunity, is given the privilege, is given the right to appoint Federal referees to supplant the State registrars upon certain conditions. The last in the chain of those conditions is that he must have found that a pattern or practice exists.

The CHAIRMAN. Now, what is unusual about that? We have that in our statutes already—pattern or practice. We have it in the antitrust laws.

Mr. BLOCH. Well, I saw where Judge Walsh said that is where they got it from. He alluded to that. But that does not make it right, because it is in some other law.

The CHAIRMAN. Well, it has been in the law for a great many years, and nobody has seen fit to attack it.

Mr. BLOCH. Well, Negroes were forbidden to vote in white primaries in Georgia, in the Southern States, for a great many years, but that did not make it legal, according to the decision of the Supreme Court. It will be attacked if it is ever put into the law—it will be attacked.

The CHAIRMAN. When you have words of that character, they become words of art. They become imbedded in the statute, and the courts are rather loath to change those words or change the practice that has developed as a result of those words. The burden is on you to show that they are so unusual that they should be changed.

Mr. WILLIS. Will the gentleman yield at that point?

The CHAIRMAN. I will yield.

Mr. WILLIS. It is not my recollection at all that the antitrust law uses the word "pattern" at all. If we are trying to put a meaning of a word of art on the word "pattern," what the antitrust law provides is a scheme somewhat like this—and I have not read it in quite a number of years. I see counsel is here.

The CHAIRMAN. Course of conduct.

Mr. WILLIS. That if there is a prosecution for violation—alleging combination or conspiracy to violate the antitrust law, and the corporations or companies involved are held to have conspired or combined, then the very people involved and who have been hurt are given the benefit of that holding in question in connection with a damage

suit that flows from it. But there is no reference to the word "pattern" in that statute.

The CHAIRMAN. The word "pattern" is not used, but the Supreme Court, in interpreting the antitrust laws, indicated where a course of conduct prevailed and has endured for a considerable length of time, that may be deemed a combination in violation of the Clayton and/or Sherman Act.

Mr. BLOCH. I noticed, Mr. Chairman and Mr. Willis, and I wondered where that phrase "pattern or practice" came from. Judge Walsh testified before this committee on February 9. I did not see his testimony until about February 11. I noticed in reading it that he said that phrase "pattern or practice" was used in the antitrust laws.

Mr. WILLIS. No, I do not think he used that phrase.

Mr. BLOCH. Well, he said something which gave me the idea that he had gotten it from the antitrust laws.

Mr. WILLIS. I think he was trying to find a precedent for this procedure, but I do not think he used the words.

Mr. BLOCH. I would be very glad to have the opportunity to supplement my memorandum with a written memorandum to the chairman for insertion in the record.

Mr. WILLIS. I ask, Mr. Chairman, and that will be done, I know, shortly, that the gentlemen give some study to the precedent, so-called, of the antitrust laws, and let's dig into it.

Mr. BLOCH. He said something about the antitrust laws. I never had an opportunity to look into it. As I say, it has not been but 5 days since I read it.

But my point is this, sir——

The CHAIRMAN. I just want to make an answer to that request. You have a right to insert in the record anything you want to put in there concerning so-called precedents under the antitrust laws.

Mr. BLOCH. Yes, sir.

But what I was talking about was this: Assuming that that is a good phrase, and assuming for the sake of the argument merely that a pattern or practice means something and gives somebody a right to do something—now, here is my point—under this bill, 10035, the Federal judge is given a right to appoint Federal referees whenever he finds that a pattern or practice of discrimination exists.

Now, my point is this, sir: Even if that Federal judge finds that a pattern or practice of discrimination exists, that that pattern of discrimination, or prejudice, as Judge Walsh at one time calls it—that that pattern or practice cannot be considered or cannot be deemed as synonymous with a denial or abridgement by a State until a State—the State in which that pattern or practice is carried on—has had the opportunity to correct that pattern or practice by decisions of its own courts.

That is my point.

The CHAIRMAN. You say Judge Walsh maintains that?

Mr. BLOCH. Sir?

The CHAIRMAN. You did not say Judge Walsh maintains that, did you?

Mr. BLOCH. I said that was my view. That even if a pattern or practice on the part of registrars exists, that that does not mean anything unless that pattern or practice can be legally—is legally synonymous with denial or abridgement by a State. And that that pattern or practice cannot become synonymous with denial or abridgment by a State until the courts of the State have had a right to adjudicate with respect to that pattern or practice.

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

Mr. EASTLAND. I yield for a question.

Mr. THURMOND. Is it not correct to say that the plan testified to by the Attorney General of the United States and presented before the Hennings subcommittee has been revised again and has never been presented to the Senate by him or anyone else?

Mr. EASTLAND. The distinguished Senator is correct.

Mr. THURMOND. It has not been considered by the Judiciary Committee of the Senate, of which the able Senator from Mississippi is chairman. Is that correct?

Mr. EASTLAND. That is correct.

Mr. THURMOND. It has had no opportunity to consider it. We are going to be called upon here to act in the Senate itself, in the Senate Chamber, upon far-reaching legislation, which has received no consideration, no discussion, and no observation before the Judiciary Committee of the Senate, which is the appropriate committee which has jurisdiction over consideration of such a measure.

Mr. EASTLAND. That is correct. The Committee on Rules and Administration has held hearings on the Civil Rights Commission program for Federal registrars.

The Attorney General, Mr. Rogers, testified before that committee as the last witness. The Governors of the various States of this Union and the attorneys general were not given an opportunity to appear before that committee to state their objections to the referee plan, or to point out the defects in the Rogers plan. There have been no hearings held, but we are asked to legislate on a vital matter which would take over the elections and federalize the elections of this country, without any hearings being held before a Senate committee.

Mr. THURMOND. Notwithstanding the fact that the question of elections is reserved to the States under the Constitution of the United States.

Mr. EASTLAND. Yes. That is correct.

Mr. THURMOND. I should like to commend the able and distinguished Senator from Mississipi for the magnificent presentation he is making. I should like to commend him for pointing out to the people of this Nation that amendments are being offered which contain far-reaching provisions and raise serious constitutional questions without affording to the Judiciary Committee of the Senate an opportunity to study the new proposal. That it has received no consideration and study by the appropriate committee, which should make a recommendation to the Senate before this body should be called upon to discuss these amendments and to act on them.

The distinguished Senator from Mississippi is rendering this Nation a great service in presenting this matter so effectively here in the Senate, and again I wish to commend him.

Mr. EASTLAND. I thank my distinguished friend from South Carolina. Let me add that the Deputy Attorney General of the United States has sent up six mimeographed pages of a bill which is different from that which was presented by the Attorney General. Evidently they decided that the Attorney General's proposal was not sound, so they have sent up a new version. It has not even been introduced. It may be the administration's referee bill.

Mr. THURMOND. This new proposal is not even before the Senate.

Mr. EASTLAND. This new proposal has not even been introduced. It is different from the first one that was sent up.

Mr. THURMOND. That is right. Yet they want us to take action in this field on an important measure on which the Attorney General himself has changed——

Mr. EASTLAND. On which they themselves are not in agreement.

Mr. THURMOND. On which they have changed their mind several times.

Mr. EASTLAND. Yes.

Mr. THURMOND. I wish to thank the Senator.

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

Mr. EASTLAND. I yield for a question.

Mr. SPARKMAN. I was interested in the discussion as to the proposed legislation before us. I know what the pending business is. I understand there is only one amendment. I do not know yet upon what we shall be called to act, in other words.

Mr. EASTLAND. I have in my hand the last thing they sent up that the Department of Justice wants considered. It is the latest version. It has not even been introduced.

Mr. SPARKMAN. I started to say that it has not even been introduced.

Mr. EASTLAND. No. It has not been introduced.

Mr. SPARKMAN. Are we certain as to what they want or what they expect? We are not certain as to what the proposed legislation that is to be before us actually will be. I have read in various newspaper accounts, statements to the effect that it is being used more or less as a stalking horse, if I may use that expression, until some other proposed legislation is finally drafted and is brought before us. Therefore, I have been quite puzzled all along as to just what finally we are going to be called upon to act.

Mr. EASTLAND. I would like to know what we will be called upon to act on. I think the present bill is dead. It flies in the face of the Constitution of the United States. What we are going to be called upon to act on, I do not know. There is some vague referee plan—it is vague and shadowy—but I do not think they know themselves what they want.

Mr. SPARKMAN. Mr. President, will the Senator yield for another question?

Mr. EASTLAND. I yield.

Mr. SPARKMAN. The Senator is chairman of the great Committee on the Judiciary. He has very close association and affiliation with the judicial system of this country. He has a high admiration for the judicial system, and for the purpose and intent for which the courts were established. Does he believe——

Mr. EASTLAND. I think the present Supreme Court is a disgrace.

Mr. SPARKMAN. I am not talking about that. I am talking about the courts generally—the district courts and the court system, and the judges who are appointed to serve, and the jurors, and so forth—and the Senator is familiar, is he not, with the history of the referees under the old Reconstruction Act which was passed back in 1871, and how it brought disdain upon the courts themselves.

Mr. EASTLAND. The Senator from Mississippi is familiar with the act to the extent that it was an instrument of the Republican Party to control the elections principally in the North, particularly in New York State, and that it was a vehicle of fraud. It was repealed by honest men when they got control of their Government.

Mr. SPARKMAN. Several days ago I inserted in the CONGRESSIONAL RECORD an editorial from the New York Times which was written on the occasion of the repeal of that act in 1894.

Mr. EASTLAND. Does the Senator not agree with me that it wac a vehicle of fraud?

Mr. SPARKMAN. Completely. I was just going to ask the Senator from Mississippi if by any chance he had read the editorial.

Mr. EASTLAND. No; I have not read the editorial.

Mr. SPARKMAN. It pointed out that it became completely unbearable and impractical and unworkable, and became, as the Senator said, a vehicle of fraud, and brought contempt upon the courts themselves; and the judges, regardless of how honorable they were, were bound to share some of the criticism that came about by reason of the referees that they had been called upon to appoint.

Mr. EASTLAND. Does the distinguished Senator from Alabama—and he is truly one of the distinguished Members of this body—agree that if the referee plan is enacted in any form, it will be used as a vehicle for intimidation and to control elections in this country?

Mr. SPARKMAN. That was the experience before. The New York Times editorial said that the 1871 plan had been enacted for the purpose of controlling elections in the South, but that it had been turned against the North and had been used there actually to enable the leaders to go down into the wards and the beats and the precincts in order to control elections. Of course, it will be used again. The temptation will be too great not to do so.

Mr. EASTLAND. It will be used again.

Mr. SPARKMAN. Certainly it will. I strongly believe that the country ought to be made aware of just what is the potential of the so-called referee system. Goodness knows, if people would only go back and read history, it seems to me that that ought to be sufficient reason to cause them to steer away from such a proposal completely.

Mr. EASTLAND. I hate to think that the Democratic Party would be gullible enough to fall for this proposal, because it is a Republican proposal to control elections and to fool Democrats.

My prediction is that regardless of the higher motives of those who present the proposal, it will be a vehicle of fraud and corruption in the future. I believe I am speaking correctly in the light of history.

Mr. President, I regret having to pass over the opportunity to comment on the points raised by the participants in the colloquies, but my present purpose is to unravel Judge Walsh's relation to the House hearings and the reasons or justifications for these six mimeographed pages. So I will just rest here for the present.

At page 102 of the transcript Mr. MEADER, of Michigan, asks a question of Mr. Bloch which involves Judge Walsh's previous testimony.

Mr. President, I ask unanimous consent that that portion of the testimony be printed at this point in the RECORD.

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

Mr. MEADER. Mr. Bloch, if I may return, I had some misgivings, if you read the record, about some passages of this legislation, which I discussed with Judge Walsh when he was before our committee a week ago today. One of them was whether or not the order of the Court, or the decree of the Court, would run against persons who were not parties to the proceeding, and it seems to me you have just, in your reply to Mr. WILLIS, indicated that you believe that the order of the Court might run against persons who were not defendants in the suit.

Is that your belief?

Mr. BLOCH. I said in my prepared statement that that might be possible. I have not studied it sufficiently to say even whether the Court, in a supplemental proceeding, could be authorized by the Congress to register people. My view is—I said there that it might be legal. I conceded it.

My view is that it would not be legal. I say legal—that it would not be constitutional, because even in the case of one person named in the bill, for the sake of example—named in the suit—that Congress would be conferring upon the Court a nonjudicial power.

Now, I am not as strong on that—I am frank to admit I am not as strong on that as I am on the general provisions of the bill. But that question also, Mr. MEADER, was raised in the Raines case.

Mr. MEADER. Let me read a passage from the hearings a week ago, from page 36, the top of page 36.

Mr. BLOCH. What are you reading from, sir?

Mr. MEADER. The hearings a week ago, with Judge Walsh.

"Mr. MEADER. So the whole effect of this referee provision is confined to the parties to an action. Is that correct?

"Mr. WALSH. Confined to the parties to the original action. But those are the parties in their official capacity. In other words, the parties to the original action would be in your case;" and so forth.

"Mr. MEADER. And any of this business of serving the supplementary order would affect only parties to the original action.

"Mr. WALSH. Yes, sir, and their successors in office."

So in any case brought by the Attorney General, under subsection (c) of 131, according to the Attorney General's representative before this committee, was intended to affect only the parties named as defendants to the action or their successors in office.

Mr. BLOCH. Yes, sir.

Mr. MEADER. It would not apply to the whole State, as you just said, in your answer to Mr. WILLIS.

Mr. BLOCH. Well, that is what he says. But what does the bill say?

Mr. MEADER. I am perfectly willing to concede that the present phraseology of this legislation we have been talking about, the bill pending before the committee, might lend itself to the interpretation you have made of it and then it seems to me the problem is for the committee to draft language which says only what the Attorney General says he wanted it to say; namely, that the parties to the action were the only ones intended to be affected; that is parties to the action or their successors in office intended to be affected by the decree.

I think it should be perfectly feasible to draft phraseology to limit it in that respect; don't you?

Mr. BLOCH. It would be feasible to draft it; yes. I don't know whether I would like it when it was drafted.

Mr. MEADER. But if it were not so limited, Mr. Bloch, I apprehend that others not party to the action might very well be denied due process on their day in court if they were to be affected by decree in which they had no participation, in which they had not been permitted to produce evidence, cross-examine witnesses, and make their arguments before the court.

Do you agree with me on that?

Mr. BLOCH. Yes; I notice I have not had the opportunity to read this printed report of the hearing. I had not seen one of them.

I did have the mimeographed copy and I noticed your questions of Judge Walsh along that line. But I was struck with the fact that in the time that I had had to read it that there was considerable discussion as to the effect on certain parties defendant, but I didn't see much discussion, if any, as to what the meaning of the phrase "receive application from any person claiming such a deprivation."

What was the meaning of that phrase "any person"?

Mr. WILLIS. Will the gentleman yield?

Mr. MEADER. Just for one question.

Mr. WILLIS. Judge Walsh made that perfectly clear. I didn't know there was any apprehension or misunderstanding about it, that the real purpose of the bill is an effort, honest effort upon the Department of Justice to provide a right to vote and to provide a means to enforce the right to vote of persons not in the original action at all.

That is the whole idea of the bill; the third party, not the parties to the action, as the parties to the action are protected by injunction.

The whole idea of this bill is to give opportunity to people not in the original action, but in the whole area, the whole county supposedly affected by the pattern of discrimination, to come in and say, "I want the right of a certificate to vote" and accorded the conclusive presumption that I know I have to prove that I am discriminated against.

Mr. MEADER. I don't yield further because I think the gentleman has assumed.

The CHAIRMAN. Wait a minute, Mr. MEADER. I want to correct the gentleman.

There is nothing conclusive about the presumption. It is a rebuttal presumption, not conclusive.

Mr. MEADER. I took exception to Mr. WILLIS' statement that the people deprived of the right to vote were parties to the action.

I thought we had that stage behind us because the party to the action is the Attorney General, whether he is required to name individuals or not, they are not parties to the action.

Mr. BLOCH. Well, Mr. MEADER, I think you called it 111–C and I called it 1971–C—what power does it give to the Attorney General?

Would you mind reading that to me again? I thought I had a copy of the statute.

Mr. MEADER. I just got through reading it a few minutes ago, but the action is on behalf of the United States by the Attorney General and it doesn't require him to name individuals.

Mr. BLOCH. What does it say?

Mr. MEADER. It says, "Whenever any person has engaged or there is reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b)."

Mr. BLOCH. What comes next?

Mr. MEADER. "The Attorney General may institute for the United States or in the name of the United States, a civil action or other proper proceeding for prevented relief."

Mr. BLOCH. Preventing what?

Mr. MEADER. "Including an application for a permit or temporary injunction or other restraining order."

Mr. BLOCH. How would you get the injunctive order preventing such practices unless the persons were named?

Could you just get a general antidiscrimination order under that?

Mr. MEADER. Well, as far as the statute is concerned, I believe that is what is contemplated. It doesn't say that you have to get an injunction restraining you from discriminating against Susie Jones.

It doesn't say that you have to name the person, but at any rate I think we should go on to another point, whether these people are parties or not.

I would like your comments on this question. If this legislation authorized the district court to issue a writ of mandamus to a State registrar compelling him or ordering him to register a certain person, would you have objection to that on constitutional ground?

Mr. BLOCH. If the statute left the registration process to the State registrars and then issued a writ of mandamus commanding the State registrars to register a certain person——

Mr. MEADER. Without any reference to this referee?

Mr. BLOCH. I have objection to that.

Mr. MEADER. What would it be?

Mr. BLOCH. It would contravene the 10th amendment.

My objection secondly would be until the action of those registrars had been reviewed by the State courts, that there hasn't been any abridgement or denial on the part of the States and that the district courts of the United States, as said in this recent case, that the district courts of the United States ought not to interfere with the State processes until the State courts have had an opportunity to rectify any errors which have been committed; but if a person claims to have been unconstitutionally deprived of his right to vote on account of his race or color, that the district courts of the United States ought not to be granted the power to compel a State body by writ of mandamus to register that person without that person having first exhausted his State judicial remedies, but until he does that, that isn't any abridgement or denial on the part of the State.

Of course, that is the question upon which Mr. MCCULLOCH stated the opposite view a while ago so it gets down to the basic question.

Mr. MEADER. There is nothing in the 15th amendment that says the United States has to wait until the States have completely failed in their judicial process for remedies for these people who are guaranteed the right to vote.

If I agree with Mr. MCCULLOCH that the United States can act right now without waiting until the States have failed in their duty, then your argument wouldn't apply.

Mr. BLOCH. But Mr. MEADER, how can Congress ever determine—this is more or less a rhetorical question—how can the Congress ever determine that the States have failed in their judicial process when the States have not been given an opportunity to apply their State laws so far as the record shows and where there is a case in Georgia where a Negro voter claiming that he has been denied the right to vote, or that his constitutional rights have been abridged, has ever appealed to the State courts.

Mr. EASTLAND. These passages, Mr. President, seem to be most confused and confusing. Only the witness seems capable of steering a straight and accurate course through the labyrinth of legalism. But in addition to further tracing Judge Walsh's course before the House committee, I ask this question: If the brilliant legal minds who constitute the membership of the House Judiciary Committee are having so difficult a time, as they obviously are, making legislative and judicial sense out of the referee voting plan advanced by the administration, how can this Senate, acting in effect as a committee of the whole, possibly attempt to write up a bill from this floor? It simply cannot be done, Mr. President.

Consider these passages carefully and bear in mind that Mr. MCCULLOCH is the House sponsor of the administration's voting referee plan. His bill, H.R. 10035, is now identical language to the Dirksen amendment to H.R. 8315, presently before the Senate.

Mr. President, I ask unanimous consent that a further portion of the testimony be printed at this point in the RECORD.

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

Mr. BLOCH. Mr. Chairman, where is there anything in the book that says that is a rebuttable presumption?

The CHAIRMAN. Nowhere does it say that.

Mr. BLOCH. Where is there anything in the bill giving anybody an opportunity to introduce evidence to rebut that presumption?

Mr. MCCULLOCH. Mr. Chairman, might I comment at that point?

The CHAIRMAN. Yes.

Mr. MCCULLOCH. The matter generally is approached on lines 14, 15, 16 and 17. It is on page 2 of H.R. 10035.

It, of course, declares the finding or report shall be accepted by the court unless clearly erroneous.

Well, the very phrase "clearly erroneous" implies that evidence might be submitted under proper conditions which would show that the report was clearly erroneous. Furthermore, it is a very simple matter to write an amendment into this bill whereby there may be exceptions filed to the report and where witnesses may be called on behalf of those exceptors and where there may be a final supplemental decree which is based upon evidence in the case after people have been given the right to be heard.

Later on in these hearings, I shall make a statement saying that two bills to cure many of these defects which has taken a great deal of time and properly so, will be cured by an opportunity to have witnesses called and examined by the persons to be charged.

Mr. BLOCH. Does it say so?

Mr. MCCULLOCH. Not in this bill, except as I said where the phrase "clearly erroneous" is used, there is a clear implication that evidence might be submitted to disprove that or there would have been no use for that phrase.

Mr. BLOCH. Mr. MCCULLOCH, I was more apprehensive about the presumption which is a component part of the bill before you ever get to lines 14 and 15 and about which Judge Walsh testified.

The CHAIRMAN. I am sorry I can't make it stronger, Mr. Bloch.

Mr. BLOCH. It wouldn't do me much good.

Mr. MEADER. Mr. Bloch, if I could help you, I would like to have you read what Mr. Walsh said on page 14. It is not a rebuttal presumption but a conclusive presumption which Congress is enacting into law and that is why he wants this bill.

Mr. MCCULLOCH. Mr. Chairman, I do not agree with that statement and Judge Walsh and the language of the bill does not justify that statement, in my opinion.

Mr. MEADER. That is what he thinks the bill does.

Mr. BLOCH. What page, Mr. MEADER?

Mr. MEADER. Page 14.

Mr. WILLIS. I will bring that out, Mr. Bloch. I underscored passages along that line.

Now may I call this to your attention. On questioning by the chairman and Mr. LINDSAY of this committee. Mr. Walsh brought out that the registrar proposal was vulnerable on constitutional grounds.

For example, on page 18 of the printed record Mr. LINDSAY said, "I am not clear on your argument about the registrars proposal. Is it not true that the 15th amendment would also cover the registrar proposal insofar as State elections are concerned in the event that the registrar proposal were broadened to include State elections."

Mr. Walsh said, "I think the problem you would be confronted with there is the supplanting of a State officer with a Federal officer without a judicial finding and that the 15th amendment conditions have been met."

Mr. LINDSAY said, "I understand. Do you think that raises a clear constitutional question?"

Judge Walsh said, "I think it does, yes."

Then on page 19 Mr. LINDSAY said, "What I am trying to figure is what is the authority for making the distinction under the 15th amendment between the referee proposal and the registrar proposal. Again talking about State elections, I want to see if I understand you clearly."

Judge Walsh said, "Well, the basic distinction is the analogy of a due process problem."

I am just making that statement so that my questions will follow, Mr. Bloch.

Then, having raised that question of constitutionality, he tried to bring out the virtue of his proposal and he was the one who introduced the question of presumptions, and I have underscored some of his statements which I now read before I will ask you a few questions.

For instance, he brings out the idea of the presumption on page 14 as Mr. MEADER developed and then on page 15 also.

Mr. MEADER. You better read that.

Mr. WILLIS. I will read those passages:

"The voting referee, I would not make that determination. That is the whole purpose of the statute to avoid the need for that determination in each individual case; namely, the termination of individual discrimination."

Then again on page 16 Judge Walsh says, "The Congress, if this bill prevails and passes, will have made a legislative finding that the probability is so high that that is the only reason for not letting Negroes register; that it may be assumed a conclusive presumption or statutory rule that therefore need not be found in each individual case."

Mr. BROOKS. What page was that?

Mr. WILLIS. Pages 15 and 16.

Mr. BLOCH. That is the part I was talking about.

Mr. WILLIS. Well, if you found a pattern and practice of Negroes, and he is a Negro, I think Congress is justified in jumping the gap and establishing a conclusive presumption that that is the reason for his trouble.

In other words, he said that five times. Now isn't he treading on due process there, on constitutional grounds as of serious import as is his criticism on the registrar proposal?

Mr. BLOCH. Yes, and I call attention to that in my original statement and that was just what I was about to point out to Mr. McCULLOCH when I said I was troubled, apprehensive about the presumption that was created before you ever got to lines 14 and 15, up at the top of the page.

I called attention in my written statement to that language on pages 45 and 46 of the mimeographed copy and it is on page 21 of the printed record where Judge Walsh said, "Well, if you found a pattern and a practice against Negroes, and he is a Negro, I think Congress is justified in jumping the gap and establishing a conclusive presumption that that is the reason for his trouble."

The chairman said, "You mean the Congress can justify that presumption?"

Mr. Walsh said, "Yes, sir. I think it is a reasonable presumption. I think if you have had a pattern and found the likelihood of any other reason for refusing to let him register even though he is qualified, I think there is a reasonable basis for such a presumption."

Then he goes further and says, "Not only is it reasonable but it is necessary because for an individual to prove each in each case that he had been a victim of prejudice is very difficult. Therefore, I think he needs Congress' help in that regard."

Now I say that that presumption as construed by Judge Walsh violates the due process clause of the Constitution.

Mr. MEADER. Will you yield for just a minute?

Let we ask you if you wouldn't add it is a judicial determination and not a legislative determination.

Article III says the judicial power of the United States shall be vested in the Supreme Court and such inferior courts as Congress may ordain and establish. The finding that a particular act or practice has occurred is a judicial function, not a lawmaking, legislative, policymaking function.

Mr. BLOCH. There is another subparagraph of that article, a little below that, that refers to cases and controversies and I say that we are going back to the supplemental proceeding now in getting away from the presumption and I take it that that supplemental proceeding would not be a case or controversy and I say further that a registration proceeding is not a judicial function under the judiciary clause of the Constitution.

But to go back to the presumption section, I further contend in response to Mr. Willis' suggestion that that presumption that is created there, as irrebuttable presumption or if rebuttable, nothing in the acts give any body the right to rebut it, giving nobody the right to introduce evidence to rebut it, giving nobody the right to appeal to the court, is a violation of the due process clause.

Now as I said to Congressman FORRESTER at lunchtime, it seems to me that it is akin to this other situation.

Suppose that the registrars in my county were about to register a group of people of any race, white, colored, or red, from the lower 20th District, we will say. I will say the lower 20th because there isn't any such and I don't want to step on anybody's toes.

Let's say there were 100 people there seeking to register and the board of registrars asked 20 of them various questions about the Constitution of the United States under the registration statute and all 20 of them couldn't answer.

The registrars could then say that creates a presumption that the rest of you are ignorant, that all 80 of you are ignorant and we won't register any of you. That is what the bill does.

Mr. WILLIS. Let's pursue what Judge Walsh's interpretation of the proposal is.

Mr. McCULLOCH. Might I add something there?

Mr. WILLIS. I am sorry. I want to nail this down because I think we are talking about two bills. I have been talking about 10035 and Judge Walsh in his testimony on page 21 of the record is talking about his mimeographed bill.

Mr. WILLIS. What page?

Mr. McCULLOCH. Page 21 of this printed record. Isn't Judge Walsh talking about his mimeographed bill and not about the printed bill which bears my name, 10035, and if he isn't then the record ought to make that unmistakably clear.

Mr. WILLIS. Page 21?

Mr. McCULLOCH. Yes.

Mr. WILLIS. Of course not. Well, I say of course not, from reading it, it doesn't say so, it doesn't say he is speaking of his mimeographed proposal. He said it five times.

Now may I pursue it further?

Mr. McCULLOCH. All right, if you will limit your questioning to this bill so there is no mistake in the record, then I shall be pleased.

Mr. WILLIS. All right. On page 29 in my colloquy with Judge Walsh I said, "Then you say this different element of proof is the one which the statute would eliminate; namely, proof of individual discrimination. Congress would, in effect, provide that where the court has found a pattern of discrimination against Negroes it is so obvious that this pattern is the only cause for the denial of registration to a fully qualified Negro applicant, that the applicant need not prove this casual thing."

Judge Walsh said that was the heart of the bill.

Mr. BLOCH. Yes.

Mr. WILLIS. Now Mr. WILLIS said this: "That is what I understood it to be and we are talking about the 15th amendment which talks about the lack of power of the Federal Government or of a State to deny or abridge the right to vote on account of race, color, or previous condition of servitude which is in the constitutional provision, but this very thing that the 15th amendment protects, the individual is not required to prove."

Judge Walsh said that is the purpose of this statute. He said, "That is my construction of what we are after."

Now coming to rule 53 of the "Rules of Civil Procedure," this proposal would only take one of the five subsections of rule 53, namely, subsection (c) which vests in the masters or the referees certain powers.

Now those powers in this bill are given to this referee. But the protective features of subsections (a), (b), (d), and (e) are not included. In other words, in normal master in chancery references, in exceptional cases, the Federal judges have a right to name masters and referees, but then rule 53 doesn't stop with giving them powers but spells out that in proceedings that they ought to conduct that they are required to give notice to parties; that the parties are entitled to counsel, to consultation, to cross-examination, confrontation, and then following these protective measures, subdivision (e) says that the findings of a master with these protective features shall be binding on the Federal judge except when shown to be "clearly erroneous.

In this proposal, the findings of the referee, the voting referee, are dignified with that evidentiary weight to the effect that the judge is bound by them without requiring confrontation and so on.

Now isn't it true that under all matters referred to a subsidiary officer, whether it be a referee or an examiner under this Civil Procedures Act, that before the report of an examiner or of a referee is dignified with that presumption, it is supposed that it has that weight because of these due process standards, and can this Congress dignify the report or the actions of a referee without any constitutional standards to giving the parties interested an opportunity to appear, a notice to appear, the right to cross-examination, the right to counsel.

Now can that stand, that provision?

Mr. BLOCH. I don't think so.

Mr. WILLIS. Can it stand constitutionally?

Mr. BLOCH. In my opinion, no.

Mr. WILLIS. I wish you would express yourself on that a little further.

Mr. BLOCH. I think there too that you have a presumption of correctness.

There is a presumption of correctness attributed to the referee's findings; presumption of correctness that just can't stand up in the law when the persons against whom that presumption of correctness is to be used have had no opportunity to offer evidence, to swear witnesses, to cross-examine witnesses or even have notice of the hearings.

Going back to that, Mr. WILLIS, going back before the district judge is authorized under this bill even to appoint those referees or masters of whatever they are going to call them, he must find a pattern that there exists a pattern or practice of discrimination.

Now analyze that phrase—"pattern or practice of discrimination."

A pattern or practice of discrimination on the part of whom—the State of Georgia, the State of Louisiana, or certain individuals?

Where it is your State action, unless there is a pattern or practice of discrimination on the part of the State involved—aside from that and as a matter of procedure, how is that question of whether or not there is a pattern or practice of discrimination to be put into issue?

The first time that that phrase "pattern or practice" appears in the bill is in line 3, on page 2, "in the event one of those proceedings under 1971–C, that the court finds that such deprivation was or is pursuant to a pattern or practice."

Now what is going to be the basis for the district judge's deciding that there is a pattern or practice? Is the court simply to reach up into the air and say there is such a pattern or practice, or is the Attorney General, representing the United States, going to be required to allege and prove that there is such a pattern or practice with the right on the part of the defendants in that main case to introduce evidence to the contrary?

Where is that determination of whether or not there was a pattern or practice to come from? How is it to get into the case?

That is one of the basic questions.

Mr. WILLIS. One final question as I don't want to prolong the hearing.

Judge Walsh answered most of my questions along this line by saying that it is to be assumed that the primary party to the initial proceeding, let's say the registrar of voters, could somehow come in, although the bill doesn't require a rule to show cause and file exceptions to the findings of the referee, voting referee, but as I see it, since the referee proceeded on a presumption of discrimination which the individual voter doesn't have to prove and secondly, that his findings are given the weight of being right unless proved erroneous, wouldn't it follow that the registrar, if he does have a right to file an exception, and be placed in the analogous position of having to disprove or to prove disqualification rather than the individual affected having the right to prove that the right to vote has been denied or abridged.

Wouldn't that be an analogous position to put a person filing an exception into?

Mr. BLOCH. Yes.

Mr. WILLIS. Do you follow my point?

Mr. BLOCH. Yes.

Mr. WILLIS. In other words, the problem of proof would shift and the registrar would have to prove disqualification in order to challenge the report or to file an exception.

Do you know of any such comparable proceeding?

Mr. BLOCH. I know of none, sir. This is about as far reaching as any proposal that I have ever heard of and you might add to the statement that you have just made that you will notice that under that proposed supplemental proceeding, that there isn't any time limit on it.

Now what I mean by that is that that was the reason for my calling the attention of the committee to the fact that we have a law in Georgia which requires the registration books to close 6 months before the general election so that there is a period of 6 months in there when the rights of persons who may or may not be on that list can be adjudicated.

Now under this law, under this bill if it is passed into law that supplemental decree could be issued 3 days before the general election and that supplemental report issued the next day and the registrars be compelled to include those names and permit those names to vote at an election held on say the 4th of November when they had absolutely no opportunity to appeal that ruling.

Mr. WILLIS. I see that counsel is shaking his head. Maybe the Federal judge wouldn't do that, but the bill does not stop him from doing it.

Mr. BLOCH. Let's not fool ourselves. Whatever rights Federal registrars in the South get have got to be spelled out in the law.

Mr. MCCULLOCH. Mr. Chairman, last week, after Judge Walsh's excellent presentation, I suggested to members of the staff that an attempt be made to redraft the voting referee bill in order to take advantage of the points which came out in Judge Walsh's discussion.

In particular, I was interested in protecting the rights of local and State officials, while at the same time providing an effective measure to assist the district judge in his task of providing effective relief for all members of the class of persons who have been denied the right to register and vote.

I now have drafts of two separate bills which, I wish to emphasize, are still in the draft stage; but which I believe overcome most of the major objections raised by Mr. Bloch to H.R. 10035, H.R. 10034, and H.R. 10018.

I request that these drafts be included in the record at this point and that Mr. Bloch be given an opportunity to submit a statement within the time fixed by the chairman.

I might add that the committee profited greatly from the views of Judge Walsh and I am sure that the committee will equally profit from the views of Mr. Bloch on this subject.

The CHAIRMAN. Will the gentleman yield?

Mr. MCCULLOCH. Yes.

The CHAIRMAN. Is that the draft of which the original was sent to me?

Mr. MCCULLOCH. That is right, together with additional drafts that I have.

Mr. EASTLAND. Mr. President, I do not know whether these six mimeographed pages contain the original answers, the supplementary answers, or substitute answers from the Department of Justice to the problems that Mr. McCulloch or, and, others may have experienced in working over the Federal district court voting referee plan. But obviously, somebody has been doing some work, somewhere, and we now have a clean bill proposed only on six mimeographed pages and having no official sanction of any kind or character, that is, to my knowledge. The Minority Leader could render substantial assistance merely by answering this simple question: What plan or plans does the administration propose that Congress adopt to further the voting referee scheme? The one in his proposed amendments? The one contained on these six mimeographed sheets? Or another or others?

Mr. President, time limitations, in addition to my physical capacity, prevent me at this time from discussing other important aspects of the proposed Civil Rights Act of 1960. I have not forgotten, neglected, or overlooked the FEPC provision, and the one requiring State officials to preserve and make available to the Attorney General the State registration and voting records. In due course I propose to speak against them, and at length.

According to actual count, and disregarding amendments, 54 original so-called civil-rights bills have been introduced in the Senate and 110 in the House of Representatives during the course of the 86th Congress. With few exceptions, all of these bills are suspect to a greater or lesser degree insofar as their constitutional validity is concerned. While these bills avowedly plan to punish and humiliate one geographic area of the United States, history has demonstrated time and time again that this type of punitive legislation has a tendency to backlash and do the greatest harm and damage to people and areas far removed from the intended victims.

In closing, let me again say that since all of the proposed civil-rights legislation so inextricably involves constitutional issues, I ask each and every one of my colleagues to consider once more Mr. Justice Story's injunction regarding the Constitution of the United States:

> What is to become of constitutions of government if they are to rest, not upon the plain import of their words, but upon conjectural enlargements and restrictions, to suit the temporary passions and interests of the day? Let us never forget that our constitutions of government are solemn instruments, addressed to the commonsense of the people, and designed to fix and perpetuate their rights and their liberties. They are not to be frittered away to please the demagogs of the day. They are not to be violated to gratify the ambition of political leaders. They are to speak in the same voice now and forever. They are of no man's private interpretation. They are ordained by the will of the people and can be changed only by the sovereign command of the people.

Mr. President, I withdraw my motion.

Mr. SCOTT. Mr. President, has the Senator from Mississippi concluded his address?

Mr. EASTLAND. Yes.

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

The PRESIDING OFFICER (Mr. MUSKIE in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCOTT. 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. THURMOND. Mr. President, I move that the Senate take a recess until tomorrow, at 10:30 a.m.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina. [Putting the question.]

The motion was not agreed to.

Mr. THURMOND. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is requested.

Mr. THURMOND. Mr. President, I withdraw the request.

Mr. SPARKMAN. Mr. President, perhaps the most dangerous section of the proposed so-called civil rights legislation is that having to do with the court appointment of U.S. voting referees. This matter was dealt with quite thoroughly by the distinguished Senator from Mississippi [Mr. EASTLAND], the chairman of the Judiciary Committee, in the course of the remarks he has just now concluded. However, I wish to add to the discussion of this particular subject.

In brief, this bill—suggested by the Attorney General of the United States—would authorize the district court to appoint voting referees upon a finding that under color of law, or by State action, any person or persons have been deprived of the right to vote on account of race or color, and that such deprivation was or is pursuant to a pattern or practice.

These court-appointed referees would receive applications from any person who claimed he had been deprived of the right to register or otherwise qualify to vote at any election; then the referee would take evidence and would report to the court his findings as to whether the applicant was qualified to vote at any election and had been deprived of the opportunity to register or otherwise to qualify to vote or had been found by State election officials not qualified.

The court would then review the referee's report and findings, and it would have to accept the findings contained in the report unless they were clearly erroneous.

Note here, Mr. President, that there is no provision for notice or for hearing by the court. Indeed, the report could be made to the court at any time or at any place, without any notice; and unless the court found the report to be clearly erroneous, the court would be required by this measure to accept the findings.

Once the findings were accepted, the court would issue a supplementary decree naming which person or persons named in the report were qualified and were entitled to vote.

Pursuant to the decree, the Attorney General of the United States would then transmit to the appropriate election officials of the State certified copies of the original decree appointing the referees, and any supplementary decrees.

In the event the election officials refused, for any reason, after having received the notice from the Attorney General of the United States, to permit the named persons to vote or to have their vote counted, such officials could be proceeded against for contempt under other provisions of the Civil Rights Act.

Senators will remember that that act authorizes a district court to try for criminal contempt any such person without a jury, so long as the punishment imposed does not exceed imprisonment for 45 days or a fine of $300.

In addition, the district court may require the referee to issue to any person named in the court's decrees a certificate identifying the holder as a person qualified to vote.

Not only could a district court be used in this way, but the court would also be authorized to give the miscalled referees—actually, they are nothing but Federal police officers—the right to be present at the polling places and to oversee the counting of the votes and to report back to the court the results of their supervision of State officials in the discharge of their duties.

It is also interesting to notc that the court would not be limited to the use of its so-called referees in this snooping in State affairs, but would be authorized to appoint any other person or persons—including, I suppose, the military forces of the United States.

The bill goes further, and would arm the miscalled referees with the powers of a Federal master, as defined by rule 53(c) of the "Federal Rules of Civil Procedure."

Mr. President, it is my intention to show conclusively how mischievous is this proposal and how menacing it is to the traditional concept of State and Federal relations—a concept which is basic to the survival of this Republic.

Let us examine this proposal. Note carefully the use of the language "any elections." I presume this would be applicable to all primary and general elections of State, local, and national contests. While such a proposal is far more reaching than the Federal election law which was passed as a part of the Reconstruction Act of 1871, the principle is the same: the usurpation of a State function by the Federal Government.

Accordingly, I think it would be helpful to all of us to review the effects of the Reconstruction Act of 1871 upon the relationships between the State and the Federal Government. I believe Senators will also be interested in the widespread abuses disclosed.

I wonder how many Senators have had an opportunity to read the record of the debates on the proposed repeal of that iniquitous law, as recorded in the CONGRESSIONAL RECORD, volume 26, part 1 and 2, December 4, 1893, February 8, 1894. All Senators would find that RECORD to be interesting and helpful in connection with their consideration of the legislation now proposed.

At this time, I wish to speak for a while about that debate. I want to quote some of the things which not only Senators from the South, but also Senators from all other sections of the country had to say about the Reconstruction Act of 1871.

Mr. President, I want my colleagues to think back to the situation which existed at that time. During that debate, Senators had the benefit of the very recent experience with the application of that act. They had the advantage of having witnessed the effects of that act, which was so similar to the legislation that is proposed today. Let us profit from their experiences, and let us heed what they said.

December 19, 1893, the Senator from Arkansas, Mr. James H. Berry, said on the floor of the Senate, as reported in the CONGRESSIONAL RECORD, volume 26, part I, page 382, for December 19, 1893:

> I propose to advocate the repeal of these laws and the passage of this bill, for the reason that I believe the laws now on the statute book to be vicious in principle and bad in policy, passed for an unjust purpose, and tending in their character to defeat the very object for which it is claimed they were enacted—that is, free and fair elections.
>
> I take it for granted, Mr. President, that each Senator upon this floor is anxious to secure honest elections everywhere, and that each ballot cast by the citizen should be honestly counted, and any assumption upon the part of the Republican Party, the Republican press, or Republican Senators that we desire the repeal of these laws in order that fraud may be perpetrated in elections is unwarranted by the facts, unjust to us, and an insult to all honest men. We are American citizens equally interested with you in the preservation of free institutions, and equally anxious to maintain the purity of elections. The only real question at issue is, can this purity and this fairness be best secured by the General Government or by the several States.

Mr. President, this comment of Senator Berry's is an extremely important one. For the alleged purpose of the bill passed back in 1871 is the same purpose which proponents of the bill now before us claim for it; that is, free and fair elections. But what were its effects?

Senator Berry said further, and I quote his words from the same citation of the CONGRESSIONAL RECORD that I gave a moment ago:

> I do not speak of the period of reconstruction for the purpose of reviving the bitter passions, prejudices, and contentions engendered by those acts, but that period is intimately connected with the passage of these laws.

Nor do I. However, for all the tragedy of that period—and there are few today who would describe it differently—there must have been some advantage; and if there were, it is in the hard lessons we learned—lessons which I hope and which I believe the people of this Republic shall never forget.

And what are those lessons? In clear and forceful language, Senator Berry described it thusly, and again I quote from his speech as reported in the CONGRESSIONAL RECORD:

> It is a dark period in American history, a blot upon the name of the Republican Party. It can never be forgotten and ought not to be forgotten. It should serve as a warning not only to us but to those who come after us against the fatal policy of centralization of power in the General Government, against the policy of attempting to exercise by Federal authority that control and direction of local affairs which was intended by the framers of the Constitution to be regulated by the States alone. Its evil effects upon the Southern States and upon the country at large ought to serve as an overwhelming and unanswerable argument for the repeal of the laws connected with it and all others of a kindred character.

Let me repeat this one clause:

> It should serve as a warning not only to us but to those who come after us.

How meaningful is this phrase today. At a time when it is proposed to go full circle—to reinstate that which has been discarded as useless and mischievous—how important it is that we take heed of the counsel and advice available to us from men whose expertise in respect of what they say comes from hard experience—not fancy or premise or theory—not supposition, but knowledge—a knowledge to which I hope the Senate will give consideration and from which it will profit.

Ours is not a perfect government, but it is the best that man, through Heavenly guidance and inspiration, has been able to devise.

We take pride in our form of government. We take pride in the fact that ours is a government of laws, and not of men. We realize that what has made our country great is its representative form of government. We know that the administration of laws is best handled by people close to and directly answerable to those who will be affected by the administration of those laws.

If we are to preserve our electoral process, we must not wrest control of it from those who in the final analysis will determine whether it shall operate. As Senator Berry said:

> In the nature of things it will always follow that the purity of elections can be better secured by officials appointed by the State government than by those appointed by the General Government. The election officers of the State are invariably selected from the immediate locality where the elections are held. They are as a rule reputable citizens who have homes and families in the country. They know that any fraud upon their part will inevitably blacken their character and lose them the esteem of their neighbors. They know that all such frauds sooner or later produce ill-feeling and tend to destroy the peace and good order of society and threaten the security of their property.
>
> Where the entire responsibility rests upon them local pride will be a strong restraint upon any inclination they may have to falsify the returns. They know that it is absolutely impossible that practices of this character can be carried on to any great extent without detection, and however strong a partisan a man may be, it is only the basest of men who would be willing for their neighbors to know that they had deliberately stuffed a ballot box or falsified a return.
>
> On the other hand, officers appointed by the Federal courts, supervisors and deputy marshals, do not bear the same responsibility to the local authorities and to the immediate community where the election is held as would judges of election and deputy sheriffs selected by the authority of the State government. The Federal courts are comparatively few in number, and the presiding judge cannot have an intimate acquaintance and knowledge of men in every portion of the State, and therefore do not have it in their power to make the best selections for these officials. And the same may be said of the marshals of the United States, whose authority extends over many counties, while that of the sheriff is confined to the county in which he resides.
>
> These, it seems to me, are unanswerable reasons why the power to hold and supervise elections for all officials, including Members

of Congress, should be conferred upon the States themselves and not the National Government. While these laws which it is now proposed to repeal remain upon the statute books there is something of a divided responsibility and a divided control, which in the very nature of things produce jealousies, suspicions, and antagonisms which are liable at any time to bring about conflicts between the authority of the General Government and that of the State, and which in many instances will tend to defeat the will of the people as expressed at the polls.

Supervisors and deputy marshals appointed by the Federal authority to overlook and direct State officials in the discharge of their duty carries with it a suspicion of the integrity of the State officials, and tends to diminish the causes that induce men to do right for the sake of right, and to destroy that confidence and respect which all good citizens should have toward the officers of both the State and Federal Governments. A man is far more likely to be honest when he is trusted and placed upon his honor, and where he will get full credit for his good deeds, than where he is placed under suspicion and supervised by the officers of the General Government.

Mr. President, that rather lengthy quotation from Senator Berry is to be found on page 383 of the CONGRESSIONAL RECORD, the volume of which I gave previously.

Mr. President, I have quoted at length from Senator Berry because it seems to me he very well sized up the situation. His language is restrained. There is no heat in it. There is no heat of passion and no hatred. It is restrained. It is based upon experience. This is not something he is predicting for the future. He is not making wild predictions about what will happen. He talks about a law which had been in force for more than 20 years, for a little more than 22 years. The people had seen it at work. Elections had been held under it. The people had seen the frauds which had been worked in the elections.

It is rather strange to say, Mr. President, as was so well stated in the editorial of the New York Times which I placed in the RECORD a few days ago, although this bill was enacted into law directed at the South, it was turned upon the North. That was where were found the terrific frauds which were perpetrated in the elections. As the New York Times said in its editorial condemning the law and praising Congress for repealing the law, in effect, there was no one to lament the passing of this law. The Democrats, against whom it had been used, against whose opposition it had been originally enacted into law, were, of course, in favor of repealing it, but even the Republicans could not find a good word to say for it.

The Senator was describing the situation all of us know so well when we think of our own communities. Those of us who have practiced law in the county courthouse know something of the workings of the court, and know something of the difference between the workings of the State courts and the workings of Federal courts.

In my State we have three Federal districts. We have a very fine set of Federal courts. However, as Senator Berry said in the article, the Federal judge, serving over the district which covers a great number of counties, cannot possibly know intimately and well the people of all those counties, as the circuit judge sitting over one county or one circuit knows the people within the county or within the circuit.

I think Senator Berry made a good record in stating the experience actually had during 22½ years under that law.

The New York Times editorial concluded with a statement which I want to emphasize particularly, because it is a prediction the New York Times made based upon some 22 to 23 years of experience with this obnoxious law, the very same law which it is sought to write on the statute books of the United States today. The New York Times said:

We have probably seen the last for a long time of attempts at extending Federal action and influence to the details of government in the States, and from our past experience we have no reason to regret the fact.

It is most unfortunate, Mr. President, that the prediction of the New York Times did not continue to hold good. Of course, it is a long time since 1894—it is 66 years, almost exactly, since the editorial was written. However, I think it is most regrettable that even 66 years later a reconstruction measure like the one we are discussing should be brought up in an effort to write it into the laws of the land. After the terrible experience which was had with its forerunner, which the reconstruction Congress wrote into law in 1871, the attempt should not be made.

Mr. President, the whole purpose of the proposals is to remove from the States the right and the power and the authority to control and to supervise their elections. This carries with it a suspicion of the people of the sovereign States.

I will say it carries not only a suspicion of the people of the sovereign States, but it also represents a breakdown of the sovereignty of the States. It violates the Constitution of the United States, which clearly gives to the States the right to control and to supervise elections and the qualifications of electors.

There is another danger in the kind of legislation proposed. Its purpose is to subvert the control and supervision of elections by State officials. Its purpose is to substitute for State authority over State elections the full power and authority of the Federal Government.

Its proponents argue that things are moving too slowly in the South. Its proponents would hurry them up. In this respect, Senators will be interested in what the Honorable John M. Palmer, Senator from Illinois during the 53d Congress, had to say during the debate regarding the repeal of the obnoxious Reconstruction Act of 1871. He pointed out how he had supported legislation giving the colored man the right to vote.

I quote from the speech made before the Senate, as found in the CONGRESSIONAL RECORD for the 53d Congress, page 868:

I favored giving to the Negro the ballot. I felt that it was a great educational agency and by that means I would assist in hastening the time when the races in the late slave States would live in harmony and would consult their mutual interests. Those were my views.

Mr. President, remember that the Senator speaking is not a southern Senator. The Senator speaking is the Senator from Illinois. The Senator says that his prime purpose, his main objective, was to see the two races live in harmony with one another. Continuing, the Senator said:

I was not unmindful, though, that legislation which secured the rights of the black men might dangerously affect the rights of other races and the rights of the free people of the States in which slavery had never existed. I may state as another personal matter that from February 1865, to May 1866, I was the military commander of the Department of Kentucky under martial law. I saw the dissolution of slavery in Kentucky, that State having been excepted from the operation of the Proclamation of 1862.

That was the Proclamation of Emancipation.

I saw there that under the legislation of the times, in the temper of the times, while the power held by a military commander was necessary, perhaps, for a state of war, it was subversive of all just conceptions of popular liberty. Although I exercised the powers of a Department Commander for some 15 months, I declare today when I think of the enormous powers that were conferred upon military commanders as the necessary logic of the war, I tremble that so much power was conferred upon any single individual.

It was not that circumstance alone which was startling. It was that large powers were not only conferred by military orders but they were maintained and supported by a public sentiment all over the United States.

The next quotation from Senator Palmer's statement is, I think, perhaps one of the most significant of them all:

The people had become so accustomed to the swift and decisive methods of the government of the bayonet that they were impatient of the slow processes of civil government. This feeling was not confined alone to the loyal people of the States lately in insurrection or rebellion, for they were maddened by local strifes, and it was not strange that they should seek to employ force to overcome their immediate neighbors and enemies, because such was the condition of most of the Southern States; but this sentiment prevailed over the whole North, and it is somewhat remarkable, too, that it had taken possession of the great Republican Party.

That quotation from Senator Palmer of Illinois is to be found in the CONGRESSIONAL RECORD, volume 26, part 1, of January 16, 1894, page 868.

It is true, Mr. President, that all too often our Government does move slowly. Sometimes it moves much more slowly than many people would have it move. I believe that this is the basis of the greatness of our form of government. Yet it is easy to understand that some people become impatient. In our impatience, however, we must not do damage to our form of government. As we see the Federal Government move more and more into control of the affairs of the States, we see more and more a diminution of the powers of the States and of local self-government.

In this respect, Senator Palmer, of Illinois, made this statement:

I believe, therefore, that those who insist upon the constant supervision and watchfulness of the people are the enemies of popular liberty. They must be aware of the fact that popular liberty depends upon the people themselves, and they must be aware that this exercise of extravenous force is degrading and demoralizing, and to demoralize the citizen is to destroy their high self respect which should characterize an American free man.

That is to be found in the same citation I gave above, on page 871.

Later, Mr. Palmer, of Illinois, said:

I am content to be judged by my own theory, and that theory is that the people of the United States, of the localities, the townships, the election districts, or whatever may be their municipal organizations, have the right themselves to control and regulate and conduct their own elections without the help of a watcher (CONGRESSIONAL RECORD, supra, p. 927).

In accord also was Arthur P. Gorman, Senator from Maryland, who made this statement:

Those of us who are in favor of repealing these laws are content to leave the regulation of elections to the people of the States, to trust them. If they cannot be trusted, as I said before, Mr. President, the whole theory of our Government is a failure (CONGRESSIONAL RECORD, p. 926).

These are not southern Senators I am quoting. They are Senators from other parts of the United States.

Mr. William D. Allen, from Nebraska, said:

If the Senator will permit me, why should the Government, by the intervention of marshals and deputy marshals, undertake to interfere with or to observe the elections held in the different States? What is to be gained by it? Is it not a confession that local self-government is itself a failure? Is it not a confession that the people of the different States of the Union cannot be entrusted with the election machinery of their own States? (CONGRESSIONAL RECORD, supra, p. 929).

And later Mr. Allen, of Nebraska, pointed out further:

The impression made upon my mind all the way through of the workings of this law is, that it has been a law to perpetuate in power the political party which happened to be in power at the time the election was being held, and that it is a virtual transfer of the election machinery of the different States into the hands of the National Government; and, as a rule, the persons who are charged with the duty of inspecting the registration and observing the polling of the vote are of a lower character than the persons over whom they are set to watch (CONGRESSIONAL RECORD, supra, p. 929).

I am quoting from history. It is history already made. It was made by placing upon the statute books of this country the obnoxious Reconstruction Act of 1871, which the Attorney General of the United States somehow has discovered, and has pulled out of those old statute books and brought up here, saying to the Congress, "Enact this. Call it civil rights." Members of Congress rush to get behind it to enact it into law, apparently oblivious of the history of this act, as testified to by Democrats and Republicans alike, including the northern Senators whom I have been quoting.

I wish to read the last quotation again, because I think it is significant. I think it should sink in.

The distinguished Senator from Pennsylvania [Mr. SCOTT] was formerly chairman of the Republican National Committee. It seems to me that what I am about to quote ought to sink into his mind. I consider him to be a fair-minded, very fine gentleman—unfortunately a Republican, but nevertheless a very fine gentleman and a fine Senator. I want him to listen to this. I am quoting Senator Allen, of Nebraska. I do not know what party Senator Allen belonged to, but knowing Nebraska as I do, and the history of Nebraska of those days, I would guess that he was a Republican. At least he was not a Southern Senator. I read what Senator Allen said especially for the benefit of my friend the Senator from Pennsylvania. I mean it when I say, "my friend." I am proud to count him as my friend:

The impression made upon my mind all the way through of the workings of this law is, that it has been a law to perpetuate in power the political party which happened to be in power at the time the election was being held, and that it is a virtual transfer of the election machinery of the different States into the hands of the National Government; and, as a rule, the persons who are charged with the duty of inspecting the registration and observing the polling of the vote are of a lower character than the persons over whom they are set to watch.

Mr. SCOTT. Mr. President, will the distinguished Senator yield?

Mr. SPARKMAN. I am delighted to yield to my friend formerly from the State of Virginia, who must believe in the theory of government that our forebears so well wrote into the Constitution—the division of powers between the Federal Government and the State government.

Mr. SCOTT. Mr. President, I am always happy to be enlightened. The Senate of the United States offers more opportunity than any other experience that I have had for enlightenment, although at times I think we do proceed in a state of chiaroscuro, whereby the enlightenment comes from darkness and different degrees of darkness. Whenever I can be enlightened, I hasten to welcome the opportunity.

I thank the distinguished Senator, my very good friend from Alabama, for having included me among his friends, since I happen to be at the moment, at this fairly late hour of the evening, entrusted with the responsibility on behalf of my party of maintaining vigilance over the rights of the citizens of the Republic.

I do want to say that I had not intended to participate in the discussion, since my sole purpose in being here is to wait patiently for the time when Senators will come finally to recognize the rights of all Americans of voting age and residential requirements to cast their ballots in all elections. Being a true Jeffersonian and, as the distinguished Senator has said, by birth a Virginian, of which I am proud, and by long, long residence, longer than the age of some persons in this body perhaps, a Pennsylvanian, I have in myself an appreciation of the philosophies of Benjamin Franklin and of Thomas Jefferson; and I never knew Mr. Jefferson to espouse any cause other than that intended to expand the frontiers of man's dignity and of man's right to participate freely as a citizen in the conduct of his Government, though he may have recognized that the day was not immediately present when all good things could come for the welfare of the Republic. And surely, Benjamin Franklin, great egalitarian that he was, would, I am sure, if he were presently in this body, applaud the efforts of many Members to secure the free right of all American citizens to vote, regardless of race, color, or creed. And I do suggest to the Senator from Alabama that all else is diversionary; that all else is apart from that which we are met here today and perhaps for months to achieve, if we may—and that is to see that man in America is a free man; that a man and a woman in the United States will have the right to vote when qualified by age and residence, and that voting qualifications shall be made available to them, preferably by the States. When it becomes apparent that that cannot be accomplished by the States, then, reluctantly, but of necessity, we come to the measure now before us, as to which the Senator from Alabama and I disagree—and I have great respect for his opinion, for his personality, and for his conviction in the point of view which he holds, and I am sure the Senator from Alabama feels the same with regard to me. This is the greatest deliberative body in the world, and he appears to be intent on proving it.

Mr. SPARKMAN. Mr. President, I appreciate the participation of my distinguished friend from Pennsylvania in the debate. I am rather proud to have him refer to this body as the greatest deliberative body in the world. I hope it may always be that. I think it means a great deal to our democracy. I am very proud of the dual system of government which our forefathers set up when the States came together and surrendered certain sovereignty they had—some sovereignty, not all. It was not the National Government that came in and gave the States certain powers. It was the States that came together and gave certain powers to the centralized Federal Government. There was recognized by our forefathers the dual system whereby the States surrendered a certain part of their sovereignty to the National Government, and thereafter the National Government was to exercise that sovereignty. All the other powers were reserved to the States. As a matter of fact, after the proposed Constitution was drafted, and before it was adopted, a great many people, many down in the great State of Virginia, and I suppose some in the State of Pennsylvania—and that was before the time of my friend from Pennsylvania—questioned whether or not there had been sufficient safeguards set up for the reservation of those powers to the State and for the protection of the rights of citizens against the National Government and, in some instances, even against the State governments.

So it was our forefathers who got their heads together and decided on a bill of rights. The Bill of Rights became our first 10 amendments to the Constitution. It was agreed by the leaders of that time that if the States adopted the Constitution as written, at the first session of Congress under the new Government the Bill of Rights, consisting of those 10 amendments that were already drafted and advertised, would be added to the Constitution. Acting in good faith the people of the several States agreed to the draft of the Constitution. One of the earliest acts was to submit these 10 amendments to the Constitution, the 10th amendment saying clearly what was already implied, that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, were reserved to the States respectively, and to the people.

I am proud of that dual system of government of our country. I am just as eager that it be preserved as I am that we preserve this, the greatest deliberative body, and the principles of Jefferson and Franklin and the other Founding Fathers.

Mr. SCOTT. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I am glad to yield to the Senator from Pennsylvania.

Mr. SCOTT. Does not the Senator from Alabama agree that the 10th amendment to the Constitution has been affected in its operation by the adoption of the 14th and 15th amendments?

Mr. SPARKMAN. The 14th and 15th amendments contain certain provisions. I admit that there were some modifications in these particular amendments.

There is one other thing the Senator said to which I wish to advert at this time. It is not completely relevant to the remarks I was making, but I believe it is relevant to the remarks the Senator made about Jefferson and Franklin and the other Founding Fathers wishing to expand the freedoms and liberties, and so forth.

Yes; that is true. The Senator referred to persons who were of voting age, and to a certain other requirement which I do not recall at the moment. But there are certain qualifications which States are recognized as having the right to impose.

I call the Senator's attention to a report made not so long ago by the Southern Regional Council. The Southern Regional Council is a biracial organization. It has been working for a good many years toward bettering race relations in the South, and bettering conditions generally. It has been quite liberal in its views. It made the statement not very long ago—I think in reply to a suggestion which some organization made—to the effect that there should be millions of persons added to the 1960 voting list. The Southern Regional Council said, in effect, that to think anything like that was simply not realistic; that there was involved the matter of people having to be brought up educationally and economically to the level of being able to discharge their responsibilities as voters. That organization is not some southern conservative clique which is advocating that view. That is the Southern Regional Council, which is quite liberal in its views.

I think that is one thing which some of us sometimes forget. That was a thing which Senator Palmer, I believe it was, from whose remarks I was reading a few minutes ago, said that people forget. They become impatient. I think that is one trouble with a great many advocates of so-called civil rights legislation. The people become impatient. They do not realize the progress which has been made.

The Governor of Alabama, Hon. John Patterson, testified not long ago on the so-called registrar bill, the one which was being pushed at that time before the Senate Committee on Rules and Administration. The attorney general of Alabama, Mr. MacDonald Gallion, also testified. Both of them pointed out that over the past several years remarkable progress had been made in Alabama in the number of Negroes who were brought in as eligible voters. Most of those who speak about this subject would not lead one to believe that that was true at all. Yet it is true. They overlooked this fact.

I am sorry the Senator from Pennsylvania [Mr. SCOTT] has left the Chamber. I should like to read something which would be of interest to him. He made a statement as to some of the things which Mr. Jefferson might advocate. I do not happen to have a direct quotation from Mr. Jefferson on this subject, but Mr. Jefferson's thinking was usually in line with that of his neighbor and friend, Mr. James Madison. Mr. Madison is usually referred to as the Father of the Constitution. Here is a quotation from James Madison in the Virginia Convention. We all know that later Madison became one of the very able Presidents of the United States. In the Virginia Convention, when he was asked his opinion about the section relating to elections, Mr. Madison said:

> It was found necessary to leave the regulation of these—

That is, times, places, and manner—

> in the first place to the State governments as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and to prevent its own dissolution. * * * Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State legislatures, congressional control will very probably never be exercised.

In other words, Mr. Madison, while recognizing the right of Congress to step in if the dissolution of the General Government was threatened, if a breakdown of the republican form of government was threatened, said, at the same time, that in the absence of that, Congress would never act, and that it was a matter which ought to be left up to the State and the people living in the localities where these things were taking place. I do not see how anyone can differ with that line of reasoning so well stated by Mr. Madison, later President Madison, and generally known as the Father of the Constitution of the United States.

Mr. President, I was quoting from Senator Allen, of Nebraska, who spoke on the repeal of the obnoxious Reconstruction Act of 1871, which is being reconstructed or resurrected and brought before us in the form of a proposal which we are told ought to be enacted.

I may say to the able majority leader [Mr. JOHNSON of Texas], who is with us in the Chamber, that I am speaking now on one phase, the one relating to the so-called referees. I have dealt with a little history. The Senator from Texas, of course, knows quite well that this proposal is pulled out, almost bodily, from the law books of 1871, when it was enacted as one of the vicious Reconstruction acts. It became so bad, so impractical, so unworkable, so fraudulent in its application, that the people of the United States simply would not have anything more to do with it and insisted upon its repeal.

So in 1894, with almost solid Democratic support from the North and the South, and certainly with no grief on the part of the Republicans themselves, that law was wiped off the statute books, and the New York Times said, in effect: Let us hope that it may be a long, long time before any effort is made again by the Federal Government to encroach on the rights of the States in the field of elections.

I have been quoting from some of the Senators who took part in the debate of 1894. The Senator from Texas, I am certain, knows that the act of 1871 was aimed at the South. It was a Reconstruction Act. It was aimed at the control of elections in the South, but it was turned against the North. The Republican Party used it as a means of perpetuating itself in power. They raided New York City and other areas of the North. I do not know whether some of them believe that this may be their only means of retaining power during another quadrennium or not. Be that as it may, that is the history of the act.

I have been quoting from Senator Allen, of Nebraska. I quote further:

> The General Government should never reach its hand into any State or Territory to control its elections, unless there be a controlling necessity for it, unless the people of that State or Territory have shown themselves manifestly incapable of having a fair election. In my judgment, the experience of this Nation under the law now under consideration has been that the elections are infinitely worse, as a rule, in the hands of Federal supervisors than those in the hands of the local authorities.

What a truth he spoke, Mr. President.

Mr. George G. Vest, Senator from Missouri, gave an example of the effect of the Reconstruction Act of 1871 in the State of Missouri. Senator Vest, I suppose, is best known because of the speech he made in paying tribute to the dog. I think perhaps he is known better for that than for any other one thing. But he participated in the debate on the Reconstruction Act of 1871 and had some words of good advice to say. This is what he said:

> I understand matters better in regard to the State of Missouri than any Senator here

possibly can except my colleague. I know with absolute certainty what has occurred in Missouri.

In 1876 the necessities of the Republican Party (and I will prove this from the sworn testimony of their own witnesses) demanded that three congressional districts in Missouri should be carried for the Republican ticket. A determined effort was agreed upon here in Washington to carry the U.S. House of Representatives for the Republicans. Mr. W. D. W. Bernard was the confidential friend of General Grant and the chosen instrument of the administration to do that thing. He was the national bank examiner of the State of Missouri, appointed by Grant. The U.S. marshal in the St. Louis district was H. W. Leffingwell, whom I know very well, a real estate man of high character and a very old citizen. Leffingwell was an honest man, conservative and patriotic.

Bernard carried the instruction of Mr. Taft, the Attorney General of the United States, to the Republicans of St. Louis that those three districts must be carried for the Republican Party by the use of the instrumentalities provided in the Federal election law. He carried the instructions of the Attorney General to Leffingwell, the U.S. marshal, and they both swear to it. Leffingwell said, "Why, there is profound peace in Missouri; there is no danger of any tumult or riot here in the city of St. Louis. The calm is profound politically, socially, and otherwise." Bernard said to him, "Here are your orders. Who made you marshal?" "Well," said Leffingwell, "you had a good deal to do with it. You are very near the President." "Well, sir," he said, "the man who made can unmake; and if you do not carry out these orders, I will put you out of this office." (CONGRESSIONAL RECORD, vol. 26–PA1, Jan. 18, 1894, p. 981.)

Mr. President, I call attention to the fact that Senator Vest, who made that speech, was not just talking. He said he could show affidavits to that effect. He did not say so, but I presume that what he quoted then was contained in the affidavits, and was not hearsay.

Then Senator Vest said:

It is hardly necessary for me to remark that the conspiracy was carried out and that the three districts were carried by the Republican Party. R. Graham Frost was beaten by a Republican named Metcalf on the return, though he was elected at the polls. Frost contested the election, and here is the testimony taken in that contest.

There was a recitation of part of the testimony; and then, later, Mr. Vest continued.

Mr. President, I have been quoting from the CONGRESSIONAL RECORD for January 18, 1894. That part of the CONGRESSIONAL RECORD contains the debate had at that time in this very Chamber, the Chamber of the greatest legislative body in the world. The CONGRESSIONAL RECORD includes all that debate; and in the course of it, Senator Vest further said:

Mr. Bernard goes on to state that he himself took the authority away from the chief marshal and appointed 1,028 deputies—

I take it that was in that one congressional election district. Nothing in Senator Vest's speech states that; but the contest related only to that one congressional district—

organized them into regiments, battalions, and companies; the captains reported to the majors, the majors to the colonels, and the colonels to him—

I suppose he was the generalissimo—

and he reported to the Attorney General of the United States. They put the city of St. Louis under a military organization under this law. (CONGRESSIONAL RECORD, supra, p. 982.)

Later, Mr. Vest pointed out:

Now, Mr. Bernard under this authority from the Attorney General, * * * proceeded to carry those elections. Mr. Bernard testifies that he disfranchised 5,700 voters.

Mr. President, I am sorry that my friend the Senator from Pennsylvania [Mr. SCOTT], who is so anxious to guard the voting rights of all citizens of the country, is not now in the Chamber to listen to my reading of this part of the debate in this very Chamber in 1894. I would that he were here now to listen to my reading of that part of the debate, which was had on that occasion in this very Chamber.

Mr. President, I am delighted to see that my friend the Senator from Pennsylvania has returned to the Chamber. Let me state, for his benefit, that I have been referring to the referees proposed to be appointed under the provisions of the pending amendments to the bill now before the Senate. Previously, the Senator from Pennsylvania spoke of those provisions as a means of assuring that some citizens have the right to vote. I have been reading part of the history of this subject.

I am sorry the Senator from Pennsylvania was called out of the Chamber for a few minutes. I hope that tomorrow he will read the part of today's CONGRESSIONAL RECORD in which I have quoted from the debates which occurred in this very Chamber, the Chamber of the greatest deliberative body in the world, back in 1894, when the vicious anti-southern Reconstruction Act, which was directed against the Senator's forefathers and mine, back in 1871, was under debate, prior to its repeal. That vicious act is the original from which the proposal now before us has been copied.

In 1894 that vicious act was stricken off the statute books; and I have been quoting from the debate which occurred in the Senate Chamber at that time. I shall read again a portion of that debate, inasmuch as the Senator from Pennsylvania has now returned to the Chamber.

Mr. SCOTT. Mr. President——

Mr. SPARKMAN. Mr. President, if the Senator from Pennsylvania will promise me faithfully that tomorrow morning he will read in the CONGRESSIONAL RECORD the remarks I have recently been making, I shall not repeat what I said a few minutes ago.

Mr. SCOTT. To the best of my capacity, I shall devour what the Senator from Alabama may have said.

Mr. SPARKMAN. I know the Senator from Pennsylvania can do it.

Mr. SCOTT. I think there may have been some misunderstanding in regard to the use of the word "expanded." My concern is that every man and woman who is qualified to vote shall be protected in the exercise of that right; but I believe the exercise of that right is denied in many parts of the country. So the question is one of the protection of the right to vote.

I do not believe that a play on the word "expand" fully represents what I was trying to say.

I apologize to the distinguished Senator from Alabama for leaving the Chamber. However, in this world there are demands for other kinds of nourishment, aside from intellectual nourishment, which is best to be had on the floor of the Senate. I am sure that under those circumstances the Senator from Alabama will forgive me.

Mr. SPARKMAN. Mr. President, I was not being at all critical of the Senator from Pennsylvania. I really want him to hear me read this part of the historical account. I am very glad that he has returned to the Chamber at the right time.

The pending amendment is a resurrection of the vicious Reconstruction Act which was on the statute books from 1871 until approximately February 9, 1894, when it was repealed by Congress. Even the Republicans were glad to have it repealed, because the Democrats had then come into power; and after the Republicans had used the Reconstruction Act to take away the voting right of many citizens and to run the elections in the way the Republicans wanted them run, they naturally were afraid of what the Democrats were going to do with that act. So the Republicans themselves were really glad to see the vicious Reconstruction Act taken off the statute books. There was no weeping or gnashing of teeth or wailing when that statute was removed from the books.

In the debate in this very Chamber in 1894, Senator Vest, of Missouri, referred to a case which had arisen in Missouri.

I know the Senator from Pennsylvania is familiar with Senator Vest's remarkable tribute to a dog; and a few minutes ago I said that Senator Vest probably is better remembered for that tribute than for anything else he said.

Senator Vest then made a very fine, clear, and lucid speech on the floor of the Senate—in this greatest deliberative body in the world—in urging the repeal of the vicious Reconstruction Act; and in the course of that speech he related some actual experiences. I suppose we could dig up the records of them, although I have not done so, inasmuch as Senator Vest then presented the matter in a very clear way, as shown by the CONGRESSIONAL RECORD for that date.

In short, there was an election contest in Missouri; and the evidence showed that instructions went from the Attorney General of the United States to the State of Missouri. Remember, the man who got the orders swore to this. He swore that three congressional districts there were to go Republican—regardless. The orders were that they had to go Republican. Those who received the orders started to move to make certain they went Republican, and they went Republican—that is, they were counted Republican. They did not go Republican; they were counted Republican. They did it by carrying out the instructions of the Attorney General, and

the testimony was that this man appointed 1,028 deputies.

Let me repeat what Senator Vest said:

Mr. Bernard goes on to state that he himself took the authority away from the chief marshal—

Mr. Bernard was acting under the directions of the Attorney General of the United States—

and appointed 1,028 deputies.

Suppose in the congressional district which is so ably served by the now distinguished Senator from Pennsylvania there had been turned loose 1,028 deputies to watch over, supervise, control, regulate, and carry out the elections in the district. What chance would the Senator have had, if they had not been on his side? In this instance they were there for a certain purpose, and the purpose was to see to it that the district went Republican.

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

Mr. SPARKMAN. I yield. Remember where I left off, because I want to start there when I get back to my statement.

Mr. SCOTT. First, it is not necessary to turn 1,028 people loose in my district, because the Democratic political forces of the party bosses up there turn loose a great many more than 1,028 in every election, and they do the job, I am sure, with better results than those to which the Senator referred.

I never thought that this opportunity would come to me. The Senator has given me an opportunity to tell a little bit of untold history that, so far as I know, has never been told about the 1928 election. The Senator will recall, I am sure, in that election the official vote, in connection with the candidate of the Democratic Party, Mr. Alfred E. Smith, showed that he had carried the State of Alabama and had defeated the candidate of the Republican Party, Mr. Herbert Hoover.

Some few weeks ago a political scientist from a university not far from here, making a study of voting habits and trends in various parts of the country, secured permission to go to the Capitol Building in the State of Alabama. I hope the Senator from Alabama will not hold me too strictly to account for the accuracy of my statement when I refer to the building, but the facts I state are otherwise correct. He examined the dusty and musty and long since forgotten ballots cast in the 1928 election. I think the Senator will be immensely interested to know his count of the ballots showed that, not Alfred Smith, but Herbert Hoover, got the majority of the votes cast in the State of Alabama, many of which never saw the light of day until this alchemist, this researcher, went down there and discovered that fact. He told me the story.

I thought at this time, while we are speaking of voting difficulties, the Senator would want to share with me what I regard to be a refreshing little bit of unrecorded history. I thank the Senator for giving me that opportunity.

Mr. SPARKMAN. It is a most interesting tale—and that is all it is, an old wives' tale, because it is not a fact at all. I remind the Senator from Pennsylvania that it would be absolutely impossible for anyone to find the ballots in the State Capitol in Montgomery, Ala. The ballots are brought to the county seats and they are held there for the time required under law, for a longer time than usual in the event of a contested election, and then they are destroyed. They never go to the capitol in Montgomery.

Mr. SCOTT. Will the Senator yield further?

Mr. SPARKMAN. Yes.

Mr. SCOTT. I said I was not sure. It might have been the library.

Mr. SPARKMAN. Wherever it was.

Mr. SCOTT. Wherever they would normally go. I have the word of a distinguished researcher and author of many books.

Mr. SPARKMAN. He was merely having a good time.

Mr. SCOTT. He counted the ballots in the election.

Mr. SPARKMAN. I do not know who he was, but he was having a good time with my friend.

Mr. SCOTT. Oh, no.

Mr. SPARKMAN. The election in 1928 was close in Alabama, but I think it was very carefully checked. I remember the election. I was a much younger man then than I am now.

Mr. SCOTT. The Senator was certainly very young.

Mr. SPARKMAN. Mr. Hoover had his supporters in the State. There was not any question of someone stealing an election, because the votes were pretty well balanced. As a matter of fact, the State went Democratic by only 7,000 votes, or something like that. Anyway, it is an interesting story. But what I am reading comes from the sworn testimony that is in the records of the Congress of the United States, and it tells how, under this vicious Reconstruction Act relating to elections, the Republican Attorney General of the United States directed this man to see that three congressional districts in Missouri went Republican. And they did go Republican, and this is the way Senator Vest said they did it:

Mr. Bernard goes on to say that he himself took the authority away from chief marshal and appointed 1,028 deputies, organized them into regiments, battalions, and companies; the captains reported to the majors, the majors to the colonels, and the colonels to him, and he reported to the Attorney General of the United States.

They put the city of St. Louis under a military organization under this law.

And that is the law that many in this body are trying to write into the laws of this country today.

Mr. Vest went on to say:

Now, Mr. Bernard, under this authority from the Attorney General * * * proceeded to carry these elections.

This is what I wanted my friend from Pennsylvania to hear. That is why I particularly said I was sorry he was temporarily called out of the Chamber, because he had said that the purpose of these referees was to see that people who were entitled to vote got the right to vote. Let us see if they operated that way back in the time of this election. I believe it was in 1876. That was a notorious election, as we can all remember. But back in that 1876 election Mr. Bernard testified that he disfranchised 5,700 voters in that one congressional district.

Mr. Vest said:

He took the registration list and struck off 5,700 names; and amongst them were some of the most reputable and oldest citizens of St. Louis, men who had fought the Indians for sovereignty over their territory, men who had blazed the pathway of civilization with the ax in one hand and the rifle in the other. They were arrested on the morning of the election by these military deputy marshals, and terror seized the whole community. Many Democrats refused to go near the polls. Conservative businessmen remained at home during the entire day. Three Republican Congressmen were brought to the House of Representatives under that proceeding from three Democratic districts in my State. (CONGRESSIONAL RECORD, supra.)

That is the statement which Senator Vest made on the Senate floor back in 1894. Just 66 years ago, a couple of weeks one way or the other, Senator Vest stood somewhere in this Senate Chamber—I know not where—and told about this sworn testimony showing that 5,700 names were struck off the registration lists. They were not down there extending the right of suffrage to people who were entitled to it. They were taking suffrage away, in order to throw elections. That is history. We are supposed to profit from experience.

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

Mr. SPARKMAN. If so, who would advocate writing this kind of vicious legislation into the law of the land? It is hard for me to conceive of anyone—and particularly my friend from Pennsylvania—advocating any such thing as that.

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

Mr. SPARKMAN. I am glad to yield.

Mr. SCOTT. I am a little at a loss as to whether the Senator from Alabama is arguing that names are stricken from the list in his State at this time, or whether they are not stricken from the list, or whether the situation which existed in Missouri has or has not recently existed in Alabama.

Mr. SPARKMAN. No.

Mr. SCOTT. Perhaps it is because I have some difficulty in understanding, but I am not quite clear as to what the Senator is driving at.

Mr. SPARKMAN. No; names have not been stricken from the poll list in my State. We have had an orderly way of adding the names of people to the poll list through the years, until Civil Rights Commission representatives came to Alabama and virtually scared to death many of our registrars.

Do Senators know what one of the ridiculous things they did was? I want my friend the Senator from Mississippi [Mr. STENNIS], a former judge in the courts of his State, to listen to this. Does the Senator know what they maintained? They maintained that registrars, who are hired to serve in a county

for practically no pay, for very little pay, a small per diem, once appointed could not resign, or, if they did resign, were not released from the responsibility of office until somebody had taken their place.

Who in the world is going to serve as a registrar, threatened with the incoming Federal deputies, Federal marshals, Federal registrars, Federal referees, and all kinds of Federal interference—people coming in trying to harass them? They did harass them. The Civil Rights Commission did.

It is no wonder that there are bad spots with regard to registration in my State. There will continue to be some, so long as the Federal Government tries to interfere.

I have a further observation to make to my friend from Mississippi. We are getting a little off the subject, but since the Senator brought the question up, I wish to say that only 2 or 3 weeks ago I heard the attorney general of my State and the Governor of my State testify before the Committee on Rules and Administration of the Senate. We were following orderly procedure. The Committee on Rules and Administration was holding hearings with regard to proposed civil rights legislation, with the idea of reporting a bill, until all at once there came this terrific upsurge, and we were called upon to work on proposed legislation, though not a single Senator in this Chamber now can tell us what it is. We do not know with what we will be confronted. We are simply talking against certain things which have been proposed, not knowing what will be in the bill which will be finally submitted to us.

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

Mr. SPARKMAN. I should like to complete my statement, please, and then I shall yield.

The Governor of my State and the attorney general of my State testified at different times. I believe the Senator from Mississippi was present when one of them testified. They both made the same statement. Each of them made the same statement, separate and apart from each other. The statement was that under the laws of the State of Alabama—and this has been true all through the years—any person, regardless of race, color, or creed, can, at any time he feels he is aggrieved by action or inaction of a registration board, take his case to the court. It becomes a privileged case. Such a person can take the case to court without the payment of costs. Not only that, but the case has priority on the docket.

The former judge from the State of Mississippi knows what that means. The case has preference for action. And such a person can take the case forward without even having to pay the costs. He has 30 days in which to do that. All registration forms are preserved during those 30 days.

Yet in spite of all the "stuff" which has been thrown out by the Civil Rights Commission, and in spite of all the talk up and down about what has been happening in Alabama, not at one time has a single one of these people ever seen fit to take recourse to his rights in the courts of law, which, by the way, entitle those persons to an appeal on up to the Supreme Court of the United States, without payment of cost, if a person claims to be aggrieved.

Why is it no one has ever acted, if all of these things are as bad as it is said they are?

I am now glad to yield to my friend, the Senator from Mississippi.

Mr. STENNIS. Mr. President, I wish to say to the Senator from Alabama, amidst all the confusion with reference to the fact that there have been so many bills and proposals, with no reports, no explanations and, as yet, few, if any, speeches by the proponents of the measures, the Senator from Alabama has rendered a service to the Senate by pointing out some of the major provisions of these pending measures, by discussing them, and showing their application from the historical standpoint, and by applying his own personal knowledge to affairs as they are today.

If the Senator will yield to me further, I should like to specify one thing about these bills which I read in a reliable newspaper column Sunday. Though I do not have the column before me now, it was stated that at this Congress, the session last year and the session this year, there have been a round number of 100 bills introduced which are classified by the newspaper as being so-called civil rights bills. Of those 100, 29 of the bills have been introduced by 1 Member of this body.

Mr. SPARKMAN. Apparently he does not know what he wants.

Mr. STENNIS. I have not checked on the accuracy of that statement, but it comes from a responsible newspaper. If that report is anywhere near accurate, it seems to me, with all due deference to the Senator, that fact itself shows that there is an avalanche of emotion—almost hysteria—on the subject.

I believe this is the first time in the history of the Nation that a great number of measures have been brought to the Senate in regard to a serious matter and simply pitched into the lap of the Senate without any guidelines, without any recommendations, without any signals, without any reports of any kind, without any analysis and without any study.

I know—and it is not surprising—that Senators every day are discovering points in these bills about which they did not know and about which they had no way of knowing.

If I may give a personal illustration, I testified before one of the committees about one of these bills. I did not have my testimony written out. I went to the committee with some notes and I testified orally. The reporter took it down. Now I am unable to get a copy of my own testimony. I should like to read it. Perhaps I could improve on it a little. I feel slighted somewhat that the committee will not print any of that testimony.

Mr. SPARKMAN. I believe that testimony has been printed, and I think it was delivered to the offices of Senators, but there is a not a copy to be found in the Senate Chamber.

Mr. STENNIS. There is not a copy in the Chamber?

Mr. SPARKMAN. No; not a one.

Mr. STENNIS. I did not know the testimony had been printed.

Mr. SPARKMAN. I am not sure it has been.

Mr. STENNIS. There was testimony by the Attorney General of the United States?

Mr. SPARKMAN. That is correct. He testified concerning one piece of proposed legislation which many Members of this body have rushed very fondly to embrace.

Mr. STENNIS. That is correct. The Attorney General came before the committee and testified in opposition to a bill which had been recommended by another branch of the Government.

Mr. SPARKMAN. Of the same Government.

Mr. STENNIS. Which was expressly charged with and, in fact, created for the very purpose of making a study of this problem.

Mr. SPARKMAN. That is correct. The Attorney General said the proposal was terribly bad and was clearly unconstitutional.

Mr. STENNIS. That is one reason why I want to read my own testimony again, and I want to read the Attorney General's testimony, because he happened to agree to points I had made theretofore. That does not often happen; at least, on this subject.

I think the Senator has rendered quite a service to the Senate tonight. Again I wish to point out, as I did once before in the Senate last week, that, in spite of the fact that there are no reports for us, no guidelines, no recommendations, and no analyses of these bills, when we rise on the floor to discuss them, after preparation, almost no one is present to hear the discussion. The only way in the world we have to get the attention of the membership in connection with what is in the bills, and how it will apply, and what are the defects, is to speak on the floor of the Senate, after special preparation. That is exactly what the Senator from Alabama is doing tonight.

I am sorry to do this, but I must point out that, instead of speaking in a Chamber with 20 percent, 50 percent, 75 percent, or 100 percent of the membership present, out of 100 Members of the Senate only 5 are in the Chamber, at this moment, including the Senator from Alabama, the speaker. I point that out to show that the situation has become such that it is totally impossible to get the contents of the bills before the membership of the body.

Mr. SPARKMAN. I wonder if I may offer a suggestion to the Senator from Mississippi. He and I think exactly alike on the question of orderly conduct and procedure in the Senate, I believe. I feel that the Senator from Mississippi would agree with me that there is something to be proud of in the name so often given to this body, as the greatest deliberative body in the world. Does not the Senator agree?

Mr. STENNIS. That is correct—very much so.

Mr. SPARKMAN. Based upon what the Senator has just said, does not the Senator feel that perhaps we may be slipping away from that standard? Does not the loose—I will not say "careless"—but certainly the loose manner of bringing up legislation, such as we have before us at the present time, contribute to that deterioration, in the opinion of the Senator?

Mr. STENNIS. It certainly does. That condition is developing, not so much because of the fault of individual Senators, and not because of any reflection on their capacity, but we have an onrush of business, to such an extent that there is more to do than one person can get to in a day's time.

Another factor is the great volume of legislation which is attempted here, particularly on the subject we have under discussion now. I believe that this procedure represents one of the loosest, most lax, and I think most irresponsible ways of dealing with major legislation that I have ever seen.

Mr. SPARKMAN. Tonight I am speaking on only one subject, the subject of referees. I suppose that in the amendments before us, to say nothing about all those we read about, which are coming, there are at least 15 different items.

Mr. STENNIS. Oh, yes. A commission is proposed to be created.

Mr. SPARKMAN. We hardly know how to proceed.

Mr. STENNIS. On page 17 of the Dirksen amendments, so-called, we find the following language:

> SEC. 206. (a) There is hereby created a Commission to be known as the "Commission on Equal Job Opportunity Under Government Contracts", hereinafter referred to as the Commission.

Mr. SPARKMAN. Is that the FEPC?

Mr. STENNIS. That is a major aspect of what we used to see in the press so much, in connection with the FEPC bill.

The amendment continues, page after page, with six pages of powers proposed to be created and put into the hands of the Commission, including powers and regulations for the use of such powers.

Mr. SPARKMAN. Powers taken from the States and given to the Federal Government.

Mr. STENNIS. Yes; that is only one of the subjects. I do not believe that subject has been explained or discussed.

Mr. SPARKMAN. I do not believe it has been discussed. It has been mentioned from time to time, but there has not been a major speech analyzing the subject.

Mr. STENNIS. It has only been mentioned in passing. The subject has not been analyzed in any way.

There is serious complaint here tonight because we cannot get a vote on the bill. It seems to me that we have hit a new low in the Senate, and that it will not be long before we hit a new low beyond that, if this effort to crowd the proposed legislation through is continued.

Mr. SPARKMAN. Let me say, before the Senator moves on to another subject, that the Senator from Mississippi and I came to the Senate at very nearly the same time. He knows that I have a very high admiration for him. I know something about how he feels with regard to the Senate.

Does not the Senator feel that even during the 13 years we have both been here there has been a change in the procedure in the Senate? For my part, I have always had a very high regard for what we may call the committee processes.

Mr. STENNIS. So have I.

Mr. SPARKMAN. Because I have felt that through the committees we were able to go through bills clause by clause, provision by provision, sift them out, and bring a bill to the floor of the Senate with an explanation, a report, and a recommendation. Are we not a little lacking in that respect today?

Mr. STENNIS. I believe the Senator is correct. I think the longer we are here the more we appreciate both the necessity and the value of the committee work, the staff work, the analysis, the report, and the guidance, both pro and con, in our consideration of bills. That is particularly true as the volume of work increases.

I pointed out last week in debate that when I first came to the Senate in 1948 the then Senator from California, Mr. Downey, threw the Senate into consternation upon one occasion in connection with a bill known as the tidelands bill.

Mr. SPARKMAN. I remember it quite well.

Mr. STENNIS. He made a motion that, instead of the bill being referred to a committee, it be taken up immediately for consideration by the Senate. I believe the Senate finally voted on the motion, and the bill was placed on the calendar, but it was the news of the week and the talk of the Senate for many weeks, that such a procedure should be adopted, and the bill should not be referred to a committee.

Mr. SPARKMAN. Where it could receive careful screening.

Mr. STENNIS. Now we have adopted the procedure which the Senator has already outlined.

Mr. SPARKMAN. In this case the bill has not even been considered by the House.

Mr. STENNIS. The Senator is correct. That is a good distinction. In 1948 the bill which created such a furor was accompanied by a House report. There had been House hearings, and we had the benefit of all the testimony.

Mr. SPARKMAN. As well as the benefit of the debates in the House itself.

Mr. STENNIS. The complete debates. The bill came to us with all the trimmings of recommendations, and all that went with them. This time we cannot get a report. We cannot get a bill. We cannot get speeches. For a few days we had to bring newspapers along and read from them in the debate, in order to find out just what the provisions of the bill were.

So I think the Senator has well pointed out just how far we have gone in the consideration of legislation—and the direction has been down.

Let me say one word with respect to election registrars. The Senator from Alabama has touched upon that subject. He has referred to the small amount of pay they receive. I should like to point out in that connection that I remember that when I was a young man in Mississippi the managers of the election were not paid anything. The idea was that it was an honor to serve, that it was a community responsibility. Those officials were responsible in every way, under strict State law, for the conduct of elections, but it was a patriotic service, and a civic responsibility. It was an honor to be chosen by the county committee to manage elections within the precinct. A man put on his best clothes to go to the election. Later the services in that position became a great burden. There were many more ballots to count. Then a modest compensation was allowed. It is still true in the South, I believe, that the registrar serves for a very nominal sum, sometimes a small per diem, and sometimes a very small fee.

My major point is that when we pass all this Federal legislation, clothing men with all the powers which have been described, messengers clothed with such powers are sent out by 2's, 4's, 10's, and so forth. I believe in one case the figure reached a thousand.

Mr. SPARKMAN. There were 1,083 in one congressional district.

Mr. STENNIS. I think we destroy the attitude of civic responsibility and patriotism which has existed for so long, and has been such a fine contributing factor, when we follow such procedures.

Speaking of clean elections, those men were the kind of men who really conducted clean elections. That is another great power and a great good in government that we are attempting to kill here by one stroke.

Mr. SPARKMAN. The elections were controlled by the people in the localities, as intended under the Constitution.

Mr. STENNIS. That is correct. The process was carried on in that way.

Mr. SPARKMAN. I should like to have the Senator's help on this point, because he is a former judge and is a constitutional authority, and possesses, furthermore, one of the finest legal minds in the Senate.

Mr. STENNIS. The Senator is very generous, but I appreciate his statement.

Mr. SPARKMAN. The Civil Rights Commission came into our State breathing fire and brimstone, and scared some of our registrars practically to death. I remarked that one thing they held there was that the registrar could not resign, that he could not quit his job, and that he continued to be responsible even beyond his resignation. The Senator could see why a person would not take the job of registrar under those conditions. I believe that certainly the Senator would agree with me that that was simply a foolish contention, would he not?

Mr. STENNIS. I believe so.

Mr. SPARKMAN. That was just an attempt to bluff people.

Mr. STENNIS. An attempt to coerce and bluff people, particularly men of

small means and limited concept of the law, relatively speaking. It was an attempt to bluff, pure and simple.

Mr. SPARKMAN. I believe that this is something that the people might pay close attention to. A great deal of what the Civil Rights Commission has done has been directed against the State of Alabama, because there, it seems to me, is where they centered their attack. There were three Federal court actions growing out of what they had done in the State of Alabama. They initiated three actions in the Federal court. To date every decision made by the Federal court at the district and circuit level, has sustained the State of Alabama against the Civil Rights Commission.

Mr. STENNIS. I am glad to hear that. I believe that proves that the people who were in charge in the State and those who were advising them knew what they were doing. Those people were advised in the law and were trying to carry out their functions according to law. May I ask the Senator some questions?

Mr. SPARKMAN. I yield to the Senator from Mississippi.

Mr. STENNIS. With reference to registrars, we do not know whether we are dealing, under the registrar bill, with the referee bill, and I do not know just which one is going to be proposed.

Mr. SPARKMAN. We must fight all of them.

Mr. STENNIS. That is the only pattern that we can follow here.

Mr. SPARKMAN. Yes.

Mr. STENNIS. In the bill it is proposed that if a judge finds a certain pattern of conduct, he may take certain action. We have already found our pattern of attack, when we have these bills thrown at us in a group.

Mr. SPARKMAN. In the Navy that is called firing a salvo. We are confronted with a salvo.

Mr. STENNIS. I understand another bill is to be introduced. It is a combination of the registrar bill and the referee bill.

Mr. SPARKMAN. I have heard that, but I have wondered, since the Attorney General effectively torpedoed the registrar bill, if some of my friends will continue to advocate that bill.

Mr. STENNIS. I do not know what is coming.

Mr. SPARKMAN. I do not know, either. We must be prepared to fight them all.

Mr. STENNIS. It has been brought out that the Assistant Attorney General has served notice that he would have a still further version of the referee bill put before us. I know that one additional version has already come in. As I understand, however, they have served notice that there may be another version. Has the Senator had a chance to study it?

Mr. SPARKMAN. No; I have not. However, does the Senator remember that his senior colleague, in his presentation earlier today, presented a six-page mimeographed document which he said was the latest version of the administration's program, but that it had not yet been introduced?

Mr. STENNIS. I understood that a copy of it was available.

Mr. SPARKMAN. I have not seen it.

Mr. STENNIS. It had not been introduced. It is not available in print. Is that the Senator's recollection?

Mr. SPARKMAN. Yes. Here we are jumped upon for not being willing to vote, when we do not know what we are going to be called upon to vote upon before this question is disposed of.

Mr. STENNIS. The Senator has made some timely remarks about the judiciary. All of us respect the judiciary. After all, it is the most responsible and most necessary branch of the State government and of the Federal Government. As an instrumentality of government it is certainly entitled to the very highest regard of the people. Of course the men who are holding these high offices for the time being must demand that respect; otherwise it will not continue.

However, coming down to the operation of the proposed law, under which the judiciary would be called upon to appoint the election referees—we will now say that it is the referee bill, under which the referee is sent out by the judge, functioning as the judiciary branch of the Government—does the Senator know that under this provision the referee would take the testimony of the party who complained he had been illegally denied registration, and that the referee would take the complainant's statement ex parte?

Mr. SPARKMAN. Unless it is shown to be clearly erroneous, he must accept it as it is.

Mr. STENNIS. As the referee goes out, he can take this ex parte statement.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. Of this Mr. X, or Mr. Y, or Mr. Z, or whoever it may be. As soon as that ex parte statement is taken, that starts it on its journey to become a judicial conclusion, unless it is interrupted some way. Is that not correct?

Mr. SPARKMAN. The Senator is absolutely right.

Mr. STENNIS. Is that not the very reverse and is that not contrary to all judicial functions under our system of government?

Mr. SPARKMAN. From all the way from back at Runnymede down to the present date, every principle that has been engraved onto the Anglo-Saxon system of law has been contrary to what is proposed to be done in the bill.

Mr. STENNIS. Then when that is done, when this ex parte statement has been taken, the registrar is excluded from any opportunity to be heard, and that is done without any hearing. Is that correct?

Mr. SPARKMAN. That is correct.

Mr. STENNIS. Is that in accordance with judicial process?

Mr. SPARKMAN. The Senator is not talking about the Federal registrar, but about the local registrar. Is that correct?

Mr. STENNIS. The local registrar.

Mr. SPARKMAN. Who has been appointed under authority of the Constitution of the United States.

Mr. STENNIS. Yes. His statement is not even admissible.

Mr. SPARKMAN. Not at all.

Mr. STENNIS. It is therefore a decision rendered contrary to him, and without ever letting him testify. Is that correct?

Mr. SPARKMAN. The Senator is correct.

Mr. STENNIS. Is that in keeping with judicial processes?

Mr. SPARKMAN. It is completely contrary to what we know under the Anglo-Saxon system of fairplay.

Mr. STENNIS. The Senator is correct. This is the referee bill we are talking about, as proposed by the Department of Justice.

Mr. SPARKMAN. The resurrected Reconstruction Act.

Mr. STENNIS. The so-called mild bill which is going to be introduced.

Mr. SPARKMAN. Some may call it that.

Mr. STENNIS. The so-called mild bill.

Mr. SPARKMAN. It is vicious in more ways than one.

Mr. STENNIS. After the conclusion, based upon the ex parte statement, gets back to the courtroom, does the Senator find in the proposed bill the provision which states that it would prevail unless clearly erroneous?

Mr. SPARKMAN. I said that only a few minutes ago; yes.

Mr. STENNIS. I am sorry that I did not hear the Senator make that statement.

Mr. SPARKMAN. Yes.

Mr. STENNIS. Unless it is clearly erroneous, it takes another step forward in becoming a judicial decision.

Mr. SPARKMAN. Yes; still onesided, or ex parte.

Mr. STENNIS. Yes; largely ex parte, although I believe there is a provision for the State to be heard. Anyway, if that step does not happen——

Mr. SPARKMAN. That does not happen unless it is shown to be clearly erroneous.

Mr. STENNIS. They have opened the door, but they have hit the man in the face, and the burden is his to show that it is clearly erroneous. The next step is that, if the judge concludes from the ex parte statement that these facts represent a pattern, there would be set out an area, and that is where he could send out what in effect would be managers of elections, although they are called referees. Is that in keeping with the American concept of the judiciary?

Mr. SPARKMAN. It is more nearly in keeping with martial law than it is with peacetime judicial action.

Mr. STENNIS. Does the Senator believe that the facts we have related here, which we take from the bills, represent the kind of judicial power which the men who wrote the Constitution of the United States had in mind when they vested the judicial power in the courts?

Mr. SPARKMAN. I certainly do not. It is hard for me to believe that any Member of the Senate who will really study the bills, to learn what is in them, and who will think back to the days following Valley Forge and the welding of our Nation into the great, fine, strong Government it has been down through the years, could possibly subscribe to this kind of proposed legislation.

Mr. STENNIS. Does not the Senator further believe that this point is so plain and clear that a little study will convince a person of its purpose? One does not have to be trained in the law or be a lawyer to understand it.

Mr. SPARKMAN. The purpose is so apparent that he who runs may read.

Mr. STENNIS. One further question on the subject. The Senator from Alabama has been discussing referees. Is it not true that any person will, in a bona fide case, when referees are needed—election cases or any other kind—turn to existing law and have the court appoint the referee?

Mr. SPARKMAN. In Federal elections or in cases in which the rights of citizens are infringed, because of race, color, or previous condition of servitude.

Mr. STENNIS. Yes; they have the benefit of the present law.

Mr. SPARKMAN. That is correct.

Mr. STENNIS. So does not the proposed additional law show on its face, since the power already exists in bona fide cases, that this is a political beachhead, one might say, or a Federal beachhead, for controlling elections within the States where it is decided to interfere?

Mr. SPARKMAN. In controlling elections. I have often said that, to me, it is sad that in an election year we always see trotted out all kinds of so-called proposed civil rights legislation. Simply trot out anything and attach to it the label of civil rights. The Senator from Mississippi has heard it said on the floor, since the discussion began 10 days ago, that this is an election year, and that the chances of passing civil rights legislation in an election year are enhanced.

Mr. STENNIS. Yes.

Mr. SPARKMAN. It is political. I think it is most unfortunate; nevertheless it is true.

Mr. STENNIS. To sum up the whole matter, does not the Senator believe that this is not a judicial approach; that it is not really an effort to expand the judicial jurisdiction or power, at least, of the courts; but that it is a political plan, a scheme, so to speak, to handle these matters in the courts, and thereby to cloak the power with judicial robes? Does not the Senator believe that, in effect, it is a plan or a political scheme, or beachhead, as I call it, in the operation of local elections?

Mr. SPARKMAN. I believe the Senator is correct. I cannot help feeling that this is being done, in part, because it is felt that to place it in the hands of the judiciary will give it a cloak of respectability which could not be applied to the so-called Federal registrars. I believe that the Attorney General perhaps realized that people would rebel against the idea of sending Federal registrars into local areas to hold elections, so he decided to get around that objection by providing a cloak of respectability within the local district courts of the States.

Mr. STENNIS. As I said a while ago, it seems to sound better when we read about it in the newspapers. It looks a little better when we read the proposal in a bill. But when we analyze the registrar proposal, which is in the Committee on Rules and Administration and cannot get out—it has been condemned by the Attorney General—and then analyze the referee plan, we see very striking similarities. Essentially, the two proposals are the same, except that the referee plan provides a cloak of respectability.

Mr. SPARKMAN. Yes. I believe the Senator is exactly correct.

Mr. STENNIS. But in operation——

Mr. SPARKMAN. In operation the plan is exactly the same.

Mr. STENNIS. There will be an army.

Mr. SPARKMAN. The Senator heard me read a while ago how the act operated in the election of 1876 in St. Louis; how an army of 1,083 Federal marshals was created. They were set up in regiments, battalions, and companies. The captain reported to the major, the major reported to the colonel, and the colonel reported to the general.

Mr. STENNIS. The Senator from Alabama ought to enlighten the Senate further and bring out the historical record in that respect.

Mr. SPARKMAN. I have a good bit yet to relate.

Mr. STENNIS. I shall defer my questioning for the time being.

Mr. SPARKMAN. Before we get away from the subject of the judicial cloak of respectability, I wish to remind the Senator of something else. This is found in some of the discussions which the Senator may not have read.

When the Reconstruction Act was on the books between 1871 and 1894, and was operating through the courts under a cloak of so-called judicial respectability, the courts themselves became, not corrupted, but, shall I say, contaminated.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Contaminated by the actions on the part of the referees.

A statement was made about Federal judges sitting in a district. I do not know how many Federal judges there are in Mississippi. Alabama has three Federal districts and four district judges. One judge may cover 20 or 25 counties.

Mr. STENNIS. Yes.

Mr. SPARKMAN. The point was made that a Federal district judge could not possibly know intimately and closely the people of the whole area, whereas a circuit judge, presiding over one county, or even two counties, perhaps, at the most, probably knows personally practically every citizen in the area. If anyone is to be appointed, it ought to be the circuit judge who appoints him. If any question came up concerning an election, the State courts should decide the question. The Federal judges cannot possibly know the people.

The result was that when the act of 1871 was on the statute books, the judges would appoint persons who had been recommended to them. So the program became one of patronage—tremendous patronage. Think of the marshal who had to appoint 1,083 deputies. Think of the amount of patronage he had in one little district, or certainly not more than three, because only three districts were concerned.

Reference is made to election committees. Think of the 1,083 deputy marshals who were appointed. Does the Senator from Mississippi believe that the district judge could possibly have known personally those 1,083 to the extent that he was willing to vouch for their honesty, sincerity of purpose, and conduct?

Mr. STENNIS. He would not have had a chance.

Before we leave the question of the judiciary, I should like to say one further word. These bills ought to be voted down, defeated, and not permitted to pass for the sake of protecting the judiciary, if for no other reason, more so now than in the time of the cases from which the Senator from Alabama is now reading, because now, unfortunately, we know that things have swung around to the point where the Department of Justice has great power in selecting the Federal judges—we are talking about trial judges—who will have to carry the load.

Mr. SPARKMAN. Yes.

Mr. STENNIS. In addition to all the other litigation which the Department of Justice handles before those judges, it is now proposed by the Attorney General to vest the Federal judges with the power of appointing referees. So the same Department of Justice which initially brings the suit—and it more or less directs where it shall be brought—will control the operation of the so-called referees in conducting the elections and also in counting the ballots. Does the Senator agree with that interpretation?

Mr. SPARKMAN. I do.

The Senator referred to the part played by the Attorney General in selecting judges.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Of course he virtually puts his finger on the one he anoints, the one who is to be selected. But let us remember that that is also true as to the marshals and the attorneys.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Let me call attention to the case I read. The one through whom they worked was the U.S. marshal in St. Louis. His name was Leffingwell. According to the sworn testimony, the instructions went from the Attorney General of the United States to the U.S. marshal in St. Louis, Mr. Leffingwell. Mr. Leffingwell did not want to carry out the instructions; but Mr. Bernard said to him, "Here are your orders. Who made you marshal?"

Mr. Leffingwell replied, "Well, you had a good bit to do with it; you are near the President."

By the way, Mr. Bernard himself testified to this.

Then Mr. Bernard said to Leffingwell, "Well, sir, the man who made can unmake. And if you do not carry out these orders, I will put you out of office."

And Bernard testified that he took the authority away from the chief marshal and—acting for the Attorney General—appointed 1,028 deputies, and organized them into companies, battalions, and regiments, with the captains reporting to the majors, and the majors reporting to the colonels, and the colonels reporting to him; and he, in turn, reported to the Attorney General of the United States. That is the history of that matter, and that is how that act worked; and that is the very act that some persons would have Congress reenact into law today.

Mr. STENNIS. That is the pattern of conduct or behavior the Senator from Alabama found when he followed the history of that act; is that correct?

Mr. SPARKMAN. Yes; that is the pattern.

Furthermore, the advocates of the pending proposal contend that its purpose is to assure voting rights to more people. That is what my friend the Senator from Pennsylvania [Mr. SCOTT] contended a while ago—namely, that he wanted to have more people protected in their right to vote; and that was also what was argued as being the purpose of the Reconstruction Act of 1871.

Mr. Bernard testified that he disfranchised 5,700 voters, that he struck off the registration lists the names of 5,700 voters who would not vote for the Republican candidates that he wanted elected to Congress. That was Mr. Bernard's own testimony.

Mr. STENNIS. I am very glad the Senator from Alabama has brought that out.

Mr. SCOTT. Mr. President, will the Senator from Alabama yield?

The PRESIDING OFFICER (Mr. WILLIAMS of New Jersey in the chair). Does the Senator from Alabama yield to the Senator from Pennsylvania?

Mr. SPARKMAN. I yield.

Mr. SCOTT. I hope the Senator from Alabama will forgive me for injecting a note of skepticism, in connection with the ritual which has been going on—namely, one of affable query and amiable rejoinder.

Mr. SPARKMAN. Certainly I am glad to forgive the Senator from Pennsylvania, even in advance, because it is hard for me even to think that he would be skeptical.

Mr. SCOTT. I am impelled to recall the similarity between the exchanges which have been occurring here and some of the recent radio quiz programs, in connection with which both parties seemed to be aware in advance of what both the questions and the answers would be. Far be it from me to interfere with such a happy arrangement.

Mr. STENNIS. Mr. President, there has been no rehearsal of this debate.

Mr. SPARKMAN. No, Mr. President; nothing about this debate has been rigged. As a matter of fact, I am speaking right "off the cuff." I do have some prepared material, but I am not using it now—although I shall use it later.

Mr. SCOTT. I am sure the Senator from Alabama has at his command ample verbiage and sufficient material to last him a long time.

Mr. SPARKMAN. Yes; and soon I shall use some of that material.

As I said a moment ago, under the vicious Reconstruction Act of 1871, the names of 5,700 voters in St. Louis, Mo., were stricken from the registration lists; and the Republican candidates whom the Attorney General had directed should be elected were elected.

I hope my friend the Senator from Pennsylvania will listen to the statement I shall now make. A moment ago I said something about voting in Alabama.

Mr. SCOTT. Mr. President, let me suggest that I seem to be some sort of bouncing wall for the remarks of the Senator from Alabama.

Mr. SPARKMAN. A moment ago I said that the Civil Rights Commission had directed many of its shafts at the State of Alabama; and I referred to comments made by the Southern Regional Council, which said that it was necessary to proceed step by step, not all at once, in these matters. The Southern Regional Council said there had to be a gradual approach.

The Governor of Alabama, in recent testimony before the Rules Committee, said, in essence, in regard to the increasing number of Negroes in Alabama who are registered to vote and who are voting in both National and State elections, that this has not been because of any Federal legislation. He said that, indeed, it is true in spite of Federal activity.

Let me refer to the figures he quoted in that connection. The figures are taken from the report of the Civil Rights Commission:

In 1947, 6,000 Negroes were registered to vote in Alabama.

In 1952, there were 25,224; in 1956, there were 53,366; and in 1958, there were 70,000.

And the Governor of Alabama recently announced that 77,000 Negroes are now registered to vote in Alabama.

Mr. SCOTT. Mr. President, will the Senator from Alabama yield further?

Mr. SPARKMAN. I yield.

Mr. SCOTT. Is the Senator from Alabama contending that if all the civil rights laws were taken off the statute books and if the measure now proposed to be enacted were not enacted, in Alabama more Negroes would vote than the number of Negroes who now are entitled to vote there?

Mr. SPARKMAN. Certainly, because the history of this subject has been one of progress; and it will continue to be so.

Mr. SCOTT. If that is the case, why does not the Senator from Alabama agree to have all Negroes of voting age in Alabama allowed to vote? That would take care of the problem.

Mr. SPARKMAN. In Alabama we have certain voting qualifications, just as there are such qualifications in Pennsylvania. I am not sure exactly what the voting qualifications in Pennsylvania are; but the beauty of the arrangement is that, under the provisions of the Constitution, each State has the right to impose its own voting qualifications.

According to the statements made by the Southern Regional Council and also according to some of the statements made by Members of the Senate in 1894, one must not be too impatient; this field is one of gradual growth and development, both economically and politically, as the Southern Regional Council has said.

Mr. SCOTT. Mr. President, will the Senator from Alabama yield further?

Mr. SPARKMAN. I yield.

Mr. SCOTT. I said the States are not vested with the sole responsibility. Both the Senator from Alabama and I are advocates of States' rights, although our individual definitions of States rights may vary.

But the States do not have the unimpeded right to decide who shall vote and who shall not vote. They have that right under the qualifications which have been imposed.

Mr. SPARKMAN. They have the right to set the qualifications.

Mr. SCOTT. But one of the constitutional amendments provides that—

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

Mr. SPARKMAN. Or by reason of sex.

Mr. SCOTT. Yes; that is under the provisions of another constitutional amendment.

Mr. SPARKMAN. Yes, with the exception of those restrictions or violation of the rights inherent in every citizen, in connection with voting in Federal elections—for the Federal Government has some right in that connection, too. But aside from that, the States have the right to decide what shall be the qualifications of voters, and that is all we are requesting—namely, that the States continue to have that right.

We recognize the limitation relating to the holding of Federal elections and the limitation relating to any denial of the right to vote to women, because of their sex, or any denial of the right of a person to vote because he may be of a particular race or a particular color or may hold to some particular creed. Those are limitations which we recognize.

But we still do not believe the Federal Government should send snoopers, under the name of registrars or referees, or whatever other name may be used, into a State, to supervise the holding of elections which the Constitution of the United States says come within the jurisdiction of the individual States.

I was quoting from what Senator Vest said. He made this statement:

> Three Republican Congressmen were brought to the House of Representatives

under that proceeding from three Democratic districts in my State.

That was in the notorious election of 1876, which I believe all historians now recognize as having been Democratic, but counted Republican. I do not believe anybody disputes that fact now. In fact, I think it is rather historically admitted that President Hayes more or less agreed to serve only one term in order not to have the election further contested, or something to that effect, or friends agreed for him. But, be that as it may, I think all historians agree that the election of 1876 was a Democratic election, although it was counted Republican. In order to count it Republican, remember, U.S. marshals, and even commanding generals, military commanders, in certain Southern States, had to count the electoral vote of every contested State. Every single vote had to be counted for the Republican candidates, rather than for the Democratic candidates. The Democrats needed only one vote out of all the contested States. Tilden needed only one vote to win. What happened? The Republicans saw to it that the voting was counted in their favor. That happened at a time when this vicious Reconstruction Act, which some are seeking to reenact today, was on the statute books. Under it, the Republicans managed to take every single contested vote and to put in the White House of the United States a man who had not been elected by the people of the United States to serve there. That happened under the act of 1871. I do not say that act altogether made it possible, but it contributed.

Here we have the sworn testimony as to how three Republican Representatives were sent to Congress from Democratic districts, under the operation of that act, when an army of deputy marshals was appointed, 1,028 in number.

No wonder the people became sick of the law and that Congress repealed it as soon as it could.

Let me continue:

There was no pretense that there was any disturbance in the city of St. Louis. There was nothing but absolute peace and tranquillity. Mr. Bernard, as he himself swears, received his orders in Washington from the Attorney General to carry those three election districts, under the election law, and he went out to St. Louis and achieved the purpose, and then he had hardihood to avow it when a sworn witness upon the stand. But I leave to my distinguished friends on the other side to go through the testimony in detail. The conspiracy was successful. Five thousand and seven hundred men were disfranchised. Hundreds were arrested on the morning of the election. It was an ex parte proceeding.

I interject at this point to say that that is the kind of operation this country experienced under a law that we are asked now to rewrite into the statute books of this land. I cannot conceive of any Senator, with a mind that is not already made up reading the record and then being willing to vote for such a vicious act as is proposed.

Let me go further, still quoting Senator Vest:

The Senator from New Hampshire seemed to resent the idea yesterday that the deputy marshals were anything else than reputable citizens, angels of political light and purity. Mr. President, this man Bernard called from the purlieus and dens of vice throughout the great city of St. Louis every reckless and characterless mercenary who for $5 a day would take his marshal's badge and arrest men at the polls. There were appointed at $5 a day 1,028 men without responsibility, without character, willing for this pitiful sum to strike down the liberties of any man, no matter how old, how respectable, how influential. It cost the people of the United States $21,000 to consummate that infamy.

That is to be found in the same volume of the CONGRESSIONAL RECORD I mentioned a while ago, at page 982.

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

Mr. SPARKMAN. Yes.

Mr. SCOTT. Was Senator Vest complaining of the law being breached under the cloak of legality?

Mr. SPARKMAN. I do not know that I exactly get the meaning of the Senator's question, but I think it is very clear that Senator Vest was complaining of the operation of the act, which had been put on the statute books presumably for the purpose of helping people to get the right to vote, and then was used to strike names off the voting lists when they would not support the chosen candidate. It seems to me that is what Senator Vest was rightly complaining about. That is the kind of legislation that some persons would urge us to vote for today. I cannot bring myself to believe my friend from Pennsylvania would join a group that would urge that type of legislation.

I resume with the quotation. Remember, Senator Vest was representing the sovereign and majestic State of Missouri, and he had seen this law operate.

I may say to the Senator from Mississippi [Mr. STENNIS] that I am still quoting from Senator Vest. He had seen the law operating. I wish I knew which desk had been that of Senator Vest. It must be recorded somewhere which desk he had. Someday I am going to ask the Secretary of the Senate to ascertain which desk Senator Vest used. I want to see it. He was standing at that desk, talking, and he was telling what he had seen.

Will the Senator from Pennsylvania listen to this? He was talking about testimony that was on record in the files of the Congress of the United States, which was sworn to by Mr. Bernard himself, who, representing the Attorney General, had directed the deeds that had been committed.

Mr. SCOTT. Mr. President, if the Senator will yield, I was merely curious as to whether the Senator is considering recessing the proceedings for the evening, so that we can all look for Senator Vest's desk. I will be glad to help the Senator.

Mr. SPARKMAN. Let me say to the Senator that I have a good bit more, but if the Senator from Pennsylvania wants to recess——

Mr. SCOTT. No, no. I am not urging a recess to terminate any oratorical flow which the Senator feels impelled to relieve himself of.

Mr. SPARKMAN. No; I do not feel impelled.

Mr. SCOTT. The time is within the discretion of the Senator from Alabama.

Mr. SPARKMAN. I am trying to review the infamy brought about by this vicious piece of legislation that some persons would try to have us enact into law today, after it was tried so disastrously in the days of Reconstruction.

If the Senator from Pennsylvania wants me to quit, I can suspend for the evening and resume tomorrow. Perhaps in the meantime we can find Senator Vest's desk.

Mr. SCOTT. I will say to the Senator from Alabama, that I am gifted with a capacity for endurance and am long-suffering, though this has no relation to the Senator's speech, I assure him. I am certainly not suggesting, on my part, any recess or adjournment, because the Senator is demonstrating a fact of which he has spoken with considerable pride, which is that this is the greatest deliberative body in the world. If the Senator wishes to continue deliberating, with only two of us present, plus the Presiding Officer, I certainly want to accommodate the Senator.

Mr. SPARKMAN. No, I do not ask to at all. If the Senator from Pennsylvania is tired of hearing the sworn testimony, I should be very glad to accommodate him by suspending at this point and by asking unanimous consent that when we convene tomorrow I may resume. Would the Senator from Pennsylvania entertain that kind of suggestion?

Mr. SCOTT. Mr. President, the Senator from Pennsylvania has indicated entire complacence toward the interesting, entertaining, and voluminous discussion with which the evening has been brightened.

I will say that it is not for me to say how long the Senate shall remain in session. The Senator from Alabama has the floor. If the Senator from Alabama feels he is stuck with the floor, the Senator from Alabama knows what to do.

Mr. SPARKMAN. No, I do not feel stuck with the floor.

Mr. SCOTT. Or to it.

Mr. SPARKMAN. I will say to the Senator from Pennsylvania that I have material, and am capable of keeping the floor for a long time, and I feel that I have the physical ability to do it. I am not feeling bad at all.

I will say to the Senator from Pennsylvania, even though he has suggested we might possibly recess——

Mr. SCOTT. Oh, no. The majority leader, if the Senator will yield for a correction, made his statement. I am not now suggesting, nor have I suggested at any other time, that we recess. I simply asked a question as to whether the Senator from Alabama wanted to go hunt for Senator Vest's desk; and if he does, I will help him hunt. That was all I said.

Mr. SPARKMAN. Is that the point the Senator was making a while ago, when he referred to Senator Vest being interested in breaches?

Mr. SCOTT. I made some reference to Senator Vest and breaches and a cloak, but that was merely for the sake

of giving the Senator from Alabama an opportunity to draw in his belt or hoist his galluses, as the occasion and custom may call for, and to proceed with further elaboration of his subject.

Mr. SPARKMAN. The Senator from Pennsylvania has now corrected me by saying he really did not suggest a recess. He did say something about it, but I will not say he suggested it.

I was about to say to the Senator that the majority leader said to me earlier in the evening that he would like to have the session continue until around 10 o'clock. I think I can continue to quote Senator Vest and to read some other material I have.

Mr. SCOTT. If the Senator will yield further, the Senator has now made the statement, which I think we all recognize is very much to the point, that at the request of the majority leader he is prepared to continue to 10 o'clock. I accept that.

Mr. SPARKMAN. No. The Senator from Pennsylvania heard the majority leader and the minority leader in conjunction say, earlier in the evening, they thought we ought to continue until about 10 o'clock.

I will say that the majority leader—though I am not sure, perhaps the minority leader also—asked me how long a speech I had, and I said I had a very long speech, but I would be willing to terminate it at 10 o'clock if it was their wish to suspend at that time. So I shall be very glad to talk until 10 o'clock. When we reach the hour of 10 o'clock, I think I shall be willing to give up the floor.

I think the Senator from Pennsylvania realizes that I could yield the floor now and suggest the absence of a quorum, and we certainly would have a recess until tomorrow, because surely no quorum can be found very well at this time of night. However, I do not intend to take advantage of any of those parliamentary maneuvers, which we can take advantage of. I believe in playing it straight.

I will simply continue. I have the material available. It is good material. If I do not give it tonight I am going to give it at some other time, so I might as well proceed. If the Senator from Pennsylvania does not object, I will proceed.

Mr. SCOTT. The Senator from Pennsylvania does not object.

Mr. SPARKMAN. Good.

Mr. SCOTT. I wish to take note of the fact it is my information that the boys in the cloak room on the Democratic side of the aisle have been told to stay until 10 o'clock.

Mr. SPARKMAN. No; it was not done in the cloak room; it was done on the floor.

Mr. SCOTT. I am glad to hear it.

Mr. SPARKMAN. It was done on the floor. If the Senator from Pennsylvania was present, he heard the minority leader, the Senator from Illinois [Mr. DIRKSEN], and the majority leader, the Senator from Texas [Mr. JOHNSON], announce to the Senate as a whole that it would be proper to continue tonight until about 10 o'clock. Inquiry was made of me, when it was learned I was going to speak, as to how long my speech would be. I said I had a very long speech, but that I would be willing to suspend at 10 o'clock. That is all there is to it.

Of course, the majority leader, the Senator from Texas [Mr. JOHNSON], is available in case we need him. I do not know where the minority leader is. Anyway, it does not matter, since the Senator from Pennsylvania is guarding the floor for his side of the aisle. That is all right. We will get along.

I should like to quote a little more, and only a very little more, from the remarks of Senator Vest.

The last thing I gave was the quotation:

> There were appointed at five dollars a day 1,028 men without responsibility, without character, willing for this pitiful sum to strike down the liberties of any man, no matter how old, how respectable, how influential. It cost the people of the United States $21,000 to consummate that infamy.

Mr. President, I wish to remind Senators that it was said, a little before, that some of the oldest residents of the area, some of the most respected businessmen, veterans who had fought the Indians and had carried the frontier back, were arrested for even trying to vote, for presuming to vote. I presume they were among those 5,700 who were stricken from the rolls on that day simply in order to carry out the instructions of a Republican Attorney General, sitting in Washington, D.C., sending orders down, or sending his man down with orders to Missouri, saying, "You elect Republican Congressmen in these Democratic districts or, if you don't promise to do that, you will lose your job."

So there was appointed an army of deputy marshals, some 1,028, each paid $5 a day to put on a deputy marshal's badge and to arrest people, to turn them away from the polls, to supervise the elections, and to control the elections. That is what it amounted to, control of the elections. It was a day of infamy. It was made possible under that infamous Reconstruction Act, which is sought by some people to be reenacted into law now, to be resurrected from the days of Reconstruction and put back on the statute books of this great country of ours.

I wish to quote a little further from the remarks of Senator Vest:

> However, there was one precinct in that great city (St. Louis) in which the Democrats, notwithstanding all this fraud and force, secured a majority. Precinct No. 71, well known in the political history of my State. Bernard found it had gone Democratic, and our returning board, composed of the county judge and the county clerk and another State officer, under the Statutes of Missouri, met the next day or the day afterwards, the second day, to count the votes and make the return. Bernard, booted and spurred and armed, with an armed deputy marshal at his heels, went into the room in the courthouse where the State returning board, under our law, met.

I want the Senator from Mississippi [Mr. STENNIS] to listen to this, since it concerns the operation of the law in that infamous election of 1876. This was one district which, in spite of orders, had gone Democratic. The returning officers appointed under the State statutes, I hope Senators will bear in mind, met to give the returns. This Federal referee came in, with the marshal on his heels, armed to the teeth. He went to the returning board and this is what happened:

> He said, "I understand you are about to count precinct No. 71." The county clerk said, "What right have you in here, sir; this is a State board," and he ordered him out of the office—

As he ought to have done.

> Bernard said, "I am under Federal authority, and if you dare to count the votes in that precinct, I will put every one of you in jail before night." He swears that he did so.

This is the statement of Bernard. This is the testimony of the man who did it—

> And the county clerk then again told him that he must leave the office, and difficulty was averted by pushing Bernard out of the door.

That is what they ought to have done. Free men are not going to put up with that. These people were exercising their rights guaranteed to them under the Constitution of the United States. They pushed this man Bernard, the Republican order taken from the Republican Attorney General of the United States, sent out to these Democratic districts in a free State, the sovereign State of Missouri, who said to them, "You must elect Republican Congressmen in these Democratic districts." These three men had the spunk to say, "You cannot order us around." When he said "I will put you in jail"—and he admitted he said "I will put you in jail this night"—they got hold of him and pushed him out the door and went ahead and counted the vote and returned it Democratic. That is to be found in the CONGRESSIONAL RECORD, volume 26 of the 53d Congress, page 983.

> These facts are beyond any sort of controversy. They happened in my own State. They are recited here in a document printed by the Congress of the United States, and everything I have said is substantiated upon the sworn testimony of these men.
>
> Mr. President, I repeat that whenever the time comes that national coercion is necessary to secure the purity of elections in the States, it is a confession that the principles upon which our Government is based have failed, and that popular sovereignty has passed into history merely as an attempt upon the part of the people to secure personal and constitutional liberty.

That is Senator Vest speaking; and how well he spoke. He was speaking in 1894 here in this Chamber on the occasion of the repeal of the election law that the Republicans had written into the law as a part of the Reconstruction Acts—a program of hate directed to the South, but it turned out that it worked on the North, and under it were held such infamously bad elections as the one in 1876.

The Senator from Mississippi was called from the floor temporarily. While he was gone I made mention of the fact, I think, that all of the historians today admit that Tilden was really elected President in 1876. The Senator from Mississippi will recall that when the returns came in, there were four States, if I remember correctly, most of which, if not all, were still under military control. The electoral votes of these four States were turned in, if I remember correctly, for the Democratic candidate. But they were contested, and the Election Commission came up with the remarkable admission that every single contested vote should have gone Republican. The Democrats needed only one vote to win, but they could not get that one out of all the States whose votes had been contested. I believe that was one of the elections which really stimulated thinking in this country. By the way, 4 years later a Democrat was elected, very largely because of that.

Mr. STENNIS. Will the Senator yield for a point?

Mr. SPARKMAN. I yield.

Mr. STENNIS. The Senator said, I think, that it is very timely to bring out the repeal of that election law. It is very revealing, indeed, to read some of Senator Vest's speech and to read from the testimony of Bernard. With reference to the Tilden election, does the Senator recall that the Commission that made the final decision decided how those four States would go? Does he recall that the vote was seven to six?

Mr. SPARKMAN. Seven to six or seven to eight.

Mr. STENNIS. One vote was decided by the Commission, which was all that the four States would need to determine the way they would go.

Mr. SPARKMAN. The Senator is correct. One vote by a Republican decided that all four States went solidly Republican. Of course, the election that Senator Vest had been talking about was only one phase, but I suppose that situation could be multiplied a dozen times all over the country in the infamous election of 1876.

Mr. STENNIS. The Senator from Mississippi understands Senator Vest's reply. Senator Vest's testimony referred to three congressional districts in one State.

Mr. SPARKMAN. Yes; in fact, in the city of St. Louis.

Mr. STENNIS. This pattern of operation showed how severe the contest was for even one seat in the House of Representatives.

Mr. SPARKMAN. Now, Mr. President, is it any wonder that the 53d Congress of the United States repealed a statute which would permit this kind of thing to go on. Is one to say that this example would be a far-fetched one, when indeed these facts happened.

This is supposing; it is not predicting something that is to happen in the future. It is pointing to what actually happened in the past, as borne out by sworn testimony in the records of the Congress of the United States.

Now it is proposed, Mr. President, to put this kind of legislation back on the statute books. I have confidence that this Congress will not take any such action. Certainly I hope that this Congress will not say to the people of the United States that it has no confidence in the States of the Union, even the State of Pennsylvania, represented by my good friend who is acting minority leader at the present time. I mean every single State, all 50 of them, throughout the whole of the United States. Let us remember that this law would not be effective in the South alone. It would be effective all over the country.

When it was enacted in 1871, it was enacted for the purpose of being effective in the South, but it was used principally in the North, and there is where the great revulsion came against it. It turned on the people who intended to use it in the campaign of hate toward the South.

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

Mr. SPARKMAN. I yield.

Mr. SCOTT. The Senator from Alabama has spoken at great length about the operation of the law in 1876.

Mr. SPARKMAN. From 1871 to 1894.

Mr. SCOTT. He has made reference to occurrences of 84 years ago, and other occurrences.

Mr. SPARKMAN. Yes.

Mr. SCOTT. The measure which is the pending order of business, broadly speaking, involves, among other things, the jurisdiction of the Federal district courts. Does the Senator from Alabama seriously argue that the Federal judges who are themselves natives of their States or of their area, in the case of circuit judges, are so lacking in integrity, so lacking in familiarity with the laws and with the problems of the area that they would under any conceivable set of circumstances permit to exist in the 1960's the abuses to which the Senator from Alabama has so eloquently referred as having happened 80 or 90 years ago, under an entirely different law, nothwithstanding the desire of the Senator from Alabama to associate the law of that time with the pending business? Does the Senator contend that the Federal judges in the South are so untrustworthy that they cannot be relied on?

Mr. SPARKMAN. No. I am afraid the Senator from Pennsylvania was not listening when I discussed this point.

Mr. SCOTT. I have been listening most of the time.

Mr. SPARKMAN. No; some time ago in the exchange with the Senator from Mississippi, we talked about the cloak of respectability said to be thrown around this by having them appointed by the judges. Both of us spoke of the very high esteem in which we hold judges in our States and all over the country in the Federal courts. I cited some of the things that various Senators had said at that time. I pointed out, may I say to the Senator from Pennsylvania—and when he reads the RECORD in the morning he will read this full statement—that in my State we have three districts. We have the northern district of Alabama, the middle district of Alabama, and the southern district of Alabama. We have four judges. One of those districts has two judges. One district, I believe, contains 23 counties. In fact, all of them have approximately that number of counties, because there are 67 counties in the State.

I pointed out that a Federal judge could not possibly know the people all over the entire State very well and intimately, particularly with reference to whether somebody should be appointed referee or not appointed referee, especially if they are to be appointed in such armies as in St. Louis, where 1,028 were appointed in 3 congressional districts. If they were to be appointed in all the districts of Alabama, we would have an army of referees appointed. One of the bad things about it is that it would inevitably bring disrepute and a certain degree of condemnation against the courts, just as it did back there in St. Louis, even though the judges themselves were as honest and honorable and incorruptible as they could be.

Mr. SCOTT. Is there any requirement that Federal judges shall be personally acquainted with all their appointees?

Mr. SPARKMAN. If a judge appoints a man, that is a responsibility that comes to the judge. The Senator from Pennsylvania asked a moment ago whether I did not have confidence in the judges in my State, or whether they would know the people well enough that they would appoint.

Mr. SCOTT. I believe I should clarify that statement.

Mr. SPARKMAN. I believe that is what he asked me.

Mr. SCOTT. I had better clarify that for the benefit of the Senator from Alabama.

Mr. SPARKMAN. Let me suggest that after we have finished, the Senator from Pennsylvania look at the reporter's notes to clarify it there.

Mr. SCOTT. I am quite aware of what I said. I will now clarify it further for the benefit of my good friend from Alabama.

Mr. SPARKMAN. The Senator need not do that. I heard it distinctly.

Mr. SCOTT. I referred to the integrity of the district court judges. I later said that I knew of no law which requires a judge to be personally acquainted with the appointees. I will add this: Does not the Senator from Alabama think that Federal judges ought to have the capacity to consult with those in whom they have confidence; and in cases where they do not personally know all the appointees, do they not have the means by which they can ascertain the background and capacity of those appointees?

Mr. SPARKMAN. I can only say that down in my State Federal judges have their hands full trying to handle the dockets placed before them.

Mr. SCOTT. Almost all Federal judges have that problem.

Mr. SPARKMAN. Why place upon them the additional burden of appointing deputy marshals or referees, or whatever they are to be called, to go snooping around elections, which under the Constitution of the United States are to be controlled by the States?

Mr. SCOTT. The Senator has said something with which I heartily agree, that almost all our Federal judges have their hands full. If the Senator's party will get out the omnibus judges bill, which they have held up for some 4 or 6 years, we might very easily cure that problem.

Mr. SPARKMAN. How can that be done when the Senate is expected to hold sessions running around the clock starting next week? How will we be able to hold any committee meetings?

Mr. SCOTT. Perhaps one abuse engenders another. Perhaps an extension of discussion in one area might prevent discussion in another.

Mr. SPARKMAN. Let us remember, as I said a few minutes ago, that this law would be effective not only in the South, but all over the country. I hope that Members of the Senate and of the House will remember that this is the very kind of thing that can happen time and time again through the width and breadth of this land.

Mr. President, there is another side to this coin. Section 7 of S. 3001 proposes, as did the Reconstruction Act of 1871, to set up the courts as a lord of chancellor over State electoral processes. As the courts have been injected into the running of the public schools in the South, the courts would now be made virtual dictators over the implementation of State voting laws.

This was the situation, Mr. President, in 1894, when the Congress finally repealed the iniquitous reconstruction bill of 1871.

Mr. Turpie, Senator from Indiana, made this comment:

> A respect for law is always closely connected with the courts that administer it, and with the officers of the courts, the judges who have charge of that administration. A very large proportion of that decadence in respect for the law, for the administration of justice, and for the judges of the courts, especially in the Federal judiciary, is due to the enactment, in the first place, and the existence in administration since, of what are known as the Federal election laws, the repeal of which is the object of the bill now pending.
>
> I do not know anything better calculated to degrade the courts, to lower the character of judges, and to shake the confidence of the people in the administration of justice than to connect the judges and the courts closely with those animated contests, not always pure, not always honest, not always of the most scrupulous character, which political parties make as a part of the necessity of a free government in the various States and communities where they exist.
>
> As was said by the Senator from Missouri, Mr. Vest, the other day, we can judge most readily and most correctly of the operation of a system from the experience in our own States. I shall detail a slight experience and a very recent experience under the administration of these laws in Indiana.
>
> We have had a political judge in Indiana now in the succession, much distinguished for his rulings, pro and con, upon the subject of these laws, who has devoted very great attention to the practical administration of them. What is the consequence?

And Mr. Turpie continues:

> There never has been any ruling in favor of a political opponent indicted in our courts; always against him. There never has been any conviction of a Republican for any political offense in our court—not a single one. Eighty Republicans were indicted, indicted upon full hearings, upon lawful information, and upon full evidence, for violation of the election laws. The indictments were quashed, and what is known as the "general jail delivery" occurred in Indianapolis and all of the defendants were discharged.

Mr. President, that was a statement by Mr. Turpie, a Senator from Indiana, which is found in the CONGRESSIONAL RECORD, volume 26, part II, January 30, 1894, page 1663.

Mr. President, I believe the Senator from Mississippi will be interested in what I am about to say. I received a letter the other day from one of the best lawyers in the South, certainly in the State of Alabama; in fact, he is one of the leading attorneys in the United States. I refer to Mr. Forney Johnson, of Birmingham, Ala. What I am about to read is really from a memorandum which Mr. Johnson sent to me regarding this very proposal. He is an outstanding constitutional lawyer. He has been called upon to argue some of the outstanding constitutional cases in the Supreme Court of the United States. This is what he said:

> The proposal of the Attorney General for the appointment by Federal judges of miscalled referees would gravely distort the judicial function and immeasurably impair the instinctive and traditional respect for the Federal judiciary. The President of the United States has apparently approved this proposal, without understanding either its basic abuse of judicial theorem function, its inherent summary process, and its jubilant reincarnation of Reconstruction. But even more immediate and shocking to those who understand the vital background and the deserved respect for the judiciary is the certainty that the Attorney General's proposal would undermine that instinctive respect and would associate the district judge appointing these referees with direct personal responsibility for the process.

I hope the Senator from Pennsylvania will listen to this statement, because it comes from one of the finest constitutional lawyers in the United States. He is speaking about how this proposal would undermine our judges.

> Many would understand and attempt to explain that the appointment of these drumhead, police officials was required by a Federal law; but it would be impossible to disassociate in the popular mind the judges from direct responsibility and the damage would be immeasurable.
>
> It is inconceivable that any lawyer, even with the rudimentary sense of our system or the function of the judiciary and the dignity of judicial procedure, as well as the vital substance of due process, could propose a rump hearing at the voting booth by a court-appointed police agent, accompanied by and sponsoring a bumptious complainant demanding a vote.
>
> Election officials in the South, as elsewhere throughout the country, are volunteers. Sometimes, there is a small compensation, but it is very small indeed. Generally, these people are quietly performing a public duty, with no responsibility for the voting list. There can be no possible doubt of the inevitable and active resentment of election officials with no responsibility for the voting list at having a synthetic Federal official looking over their shoulders, snatching at their papers, and demanding names for process. It would be extraordinary if in any precinct in the South this resentment was not shared by the public.

That is the conclusion of the statement by Mr. Johnson.

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

Mr. SPARKMAN. I yield.

Mr. STENNIS. I am very much impressed with the statement. It is so true, so sound, so well expressed.

Mr. SPARKMAN. It is a restrained statement.

Mr. STENNIS. It is a judicial type of statement. I respect the gentleman for his very high concept. I honor him for his respect for the judiciary. I know Mr. Johnson by reputation, not personally. I know he is one of the truly great lawyers in the entire Nation. He is a man of high concepts and high responsibility. I believe the Senator from Alabama has made an excellent contribution to the debate. What Mr. Johnson has said is so very true. There is no way to distinguish in the public mind between the judge and the one who represents the judge.

Mr. SPARKMAN. The Senator is so correct.

Mr. STENNIS. That is a subject which is not understood by everyone. The Senator from Alabama and I come from a part of the country where the people tip their hat to a judge. I wish that were done everywhere. But that cannot continue if the judges are to send out emissaries of this kind to follow the elections.

Mr. SPARKMAN. I thank the Senator from Mississippi. He is so right.

I might say, Mr. President, that this same kind of resentment would not be confined to the South but would be general throughout the Nation, as is evidenced by the experience which our forebears had with respect to the Reconstruction Act of 1871.

Mr. President, I hope that Congress and the Senate will not be misled into becoming parties with the Attorney General of the United States into dragging the judiciary into disrepute as unwilling agents to a political plan to destroy the sovereign rights of the States in respect to voting.

Mr. President, I am reminded of another comment made by Senator Turpie, of Indiana, when he said:

> Now, take an election board organized under the law of the State with men of good repute, honest men, known to each other, law-abiding men of different political parties, having watchers and every other convenience for the safety of a vote cast, and the counting of it after it is cast.
>
> These men are organized under an oath of the faithful performance of their duty. Then, there are onlookers appointed by another power foreign to the jurisdiction of the State, not responsible to the State, not known in any way to the electors or to the

election board organized under the laws of the State. They are onlookers. I say, sir, that under such circumstances, the very look of these watchers is an insult. I say that the inspection of such characterless villains is an indignity. I say that the voice and presence of such an onlooker is an outrageous violation of the freedom of elections and of every other franchise which freemen have fought for and won.

This will be found on page 1637 of the same volume of the CONGRESSIONAL RECORD which I mentioned a moment ago.

That language, which is not unique, or as restrained as the language of Mr. Johnson, is the language of Senator Turpie, of Indiana, who was not a southerner. He was talking about conditions in Indiana.

Mr. President, those who are in favor of the pending proposal would invite such dissension and such conflict between the people of the South, other sections of the country, and the Federal Government so as to weaken the very foundation of our Republic. They would open a Pandora's box which would turn loose difficulties and problems so great that several generations would pass before all the damage was undone. Even today, Mr. President, we are trying to live down the disgraces which were committed against the people of the South during the dreadful days of Reconstruction. I have endeavored to show here what we can expect to happen if such a law is passed. It is not as if we have nothing upon which to judge the future. We do have. In this respect, I quote again from a speech which the late Senator from Illinois, Mr. Palmer, said during the debate of the repeal of the national election laws:

I oppose the law which it is now proposed to repeal. I perhaps have spoken of it as being an element of party agency. That is placing my opposition to it upon grounds entirely too low. I oppose it because it is an assault upon popular liberty. Believing as I do that the people of the United States are capable of governing themselves, believing that the interests of every community are safest in its own keeping, believing as I do that no man was ever capable of governing another man—of course, I make this statement with some proper limitations—that no man was ever good enough to be a master and that no man was ever base enough to be a slave, believing that this legislation is a mere menace, a useless, idle, insulting menace, to every community where it has been put in force, I cannot do otherwise than assert the duty of Congress to repeal it.

Mr. President, a moment ago I spoke about the dangers of this kind of legislation to the judiciary. I pointed out how the injection of the judiciary branch of the Government into matters of voting would result in a lessening of public support for the courts and would place the courts in a position of public disrepute. This is precisely what happened back in 1890. I think Senators may be interested in the comments of the late Senator Daniel, of Virginia, who on February 6, 1894, made the following statement on the floor of the Senate—page 1926:

Mr. President, there is another reason why this law should be repealed. It introduces the judiciary of this country into its political affairs. In my judgment, the judiciary should be as separate from the political elements of the Government as possible.

We should do everything to segregate the judge from the transient current of political agitation and ambition. This law interjects him into it "nolens volens." It stimulates and inspires partisanship in the very spot where partisanship is the greatest evil. In the next place, this law is very expensive to this Government. If good were obtained by the expense the argument would be nothing, but the expense is useless.

Mr. President, finally on February 7, 1894, the U.S. Senate came to a historic decision—one typical of its great tradition. The Senate passed the bill to repeal the iniquitous national election law. It did not do so hurriedly. The Senate, as we have seen, debated that matter at great length. Senators on both sides of the question discussed its merits fully. Senators were advised as to experiences which people in every State of the Union had had regarding the administration of such a law; and Senators came to the conclusion that it was not in the public interest, and should be wiped from the statute books.

Of course, the section of the country most affected by that act was the South; and the section of the country against which the pending bill is designed is the South. However, as an examination of the vote had then will show, Senators from all sections of the country appreciated the dangers of that act, and voted to repeal it. Senators found that legislation of that kind, although designed from the beginning to be used against the South, was used in all sections of the country to the detriment of the electoral process, to the danger of the judiciary system, and to the threat of increasing friction and discord between the States and the Federal Government.

At this point, I shall enumerate the Senators who either were recorded in favor of the repeal of that act or voted for its repeal: Alabama—John T. Morgan and James L. Pugh, two great Senators who lived in the same city—as a matter of fact, they lived directly across the street from each other; Arkansas—James H. Berry and James K. Jones; California—Stephen M. White; Delaware—George Gray; Florida—Samuel Pasco and Wilkinson Call; Georgia—Alfred H. Colquitt and John B. Gordon; Illinois—John M. Palmer; Indiana—David Turpie and Daniel W. Voorhees; Kansas—John Martin and William A. Peffer; Kentucky—William Lindsay and Joseph C. S. Blackburn; Louisiana—Donelson Caffery and Edward D. White, and I take it that that Edward D. White was the one who later became Chief Justice of the United States; Maryland—Arthur P. Gorman and Charles H. Gibson; Mississippi—James Z. George; Missouri—Francis M. Cockrell and George G. Vest; Nebraska—William V. Allen; Nevada—William M. Stewart; New York—David B. Hill; North Carolina—Matt W. Ransom; North Dakota—William N. Roach; Ohio—Calvin S. Brice; South Carolina—Matthew C. Butler and John L. M. Irby; South Dakota—James H. Kyle; Tennessee—William B. Bate and Isham G. Harris; Texas—Roger Q. Mills and Richard Coke; Virginia—John W. Daniel and Eppa Hunton; West Virginia—Charles J. Faulkner; Wisconsin—John L. Mitchell and William F. Vilas.

Mr. President, the majority leader is here. This is a convenient point at which to make an interruption in my speech. I have a great deal more material to present, and I could not possibly present all of it tonight.

Earlier in the evening the majority leader suggested, together with the minority leader, that the session this evening continue until 10 or 10:30. It is now 5 minutes past 10. If the majority leader wishes to have the session for tonight end at this time, that will be agreeable to me.

Mr. SCOTT. Mr. President, first, will the Senator from Alabama yield to me?

Mr. SPARKMAN. I yield to my friend from Pennsylvania.

Mr. SCOTT. The Senator from Alabama has even read to us the names of the Senators who voted for the repeal of the act in 1894 or were recorded in favor of its repeal. He has been discussing that situation with great ability. Many years have passed since that act was repealed.

Mr. SPARKMAN. Yes, 66 years have passed since then, for the act was repealed in 1894.

Mr. SCOTT. Yes. But the condition still remains, and has been a matter of most lively debate within the entire confines of the Republic. Does not that fact suggest to the Senator from Alabama that perhaps there is some merit on the part of those who believe that something should now be done about a situation which has lasted so long?

Mr. SPARKMAN. I do not agree with the Senator from Pennsylvania that the condition against which that act was supposedly put on the statute books has lasted so long. A while ago I referred to figures from my own State, to show the remarkable progress which has been made. Those figures were placed in the hearings of the Rules Committee by the Governor of Alabama, only a few weeks ago.

Human nature remains the same. That act was a hate act; it was a Reconstruction Act under a hate program back in 1871. But its effect was contrary to what it was assumed, in the beginning, its effect would be.

Today, the people behind the pending proposal may be absolutely sincere in their purpose. I am sure that a great many of those who were in favor of placing the 1871 act on the statute books were also absolutely sincere in their purpose. But human nature is the same. That act was used as a political weapon; and if it were on the statute books today, it would be used as a political weapon, and, as I have tried to point out tonight, it would tend to discredit the judiciary of the country.

Mr. JOHNSON of Texas. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I am glad to yield.

Mr. JOHNSON of Texas. Mr. President, I heard a good deal of what the Senator from Alabama had to say this evening. I commend him for his attention to duty. I wish every Member of the Senate could have heard him.

Alabama has sent to this body some of the greatest Senators it has ever known; but Alabama has never sent here two men who were more beloved or more admired than its present two Senators.

I take great pride in the fact that I served for many years in the House of Representatives with the junior Senator from Alabama [Mr. SPARKMAN], who this evening has addressed the Senate. I have enjoyed the fine friendship and association with him as a Member of the Senate.

I know that each Member of the Senate who was not privileged to hear the Senator from Alabama speak tonight will on tomorrow read with care his remarks, as they will appear in the CONGRESSIONAL RECORD, because he has approached this subject—as he approaches all subjects—with diligence, attention, sincerity, and a genuine purpose that is never excelled, and rarely is equaled.

I commend the Senator from Alabama for the statement he has made; and in the morning I shall read all of it in the RECORD—particularly the part I did not hear tonight.

Mr. President, if it meets with the pleasure of the Senator from Alabama, I shall now move—

Mr. SPARKMAN. First, Mr. President, I naturally would like to express my gratitude for the very kind remarks of the majority leader.

I wish to say that I believe there are real decisions to be made in connection with this proposed legislation, and certainly we should approach it very carefully and we should analyze it, to see what is in it.

Mr. JOHNSON of Texas. The Senator from Alabama certainly did that this evening.

Mr. SPARKMAN. If we do not profit by experience, we may be headed for trouble.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. SPARKMAN. Yes.

Mr. STENNIS. I have heard the Senator's remarks. He has brought out the legal and constitutional points involved, and has discussed our judicial system in a very learned way. I appreciate what he has said and commend him for his approach and for his analysis of the problems involved. The tragedy is that the ones who are going to vote on the question were not present to hear the Senator's remarks. I do not share the view of the Senator from Texas that they will read the speech tomorrow. That is one of our great troubles in connection with these bills. They are not going to be analyzed or studied or considered as they should be.

Mr. JOHNSON of Texas. If the Senator will yield, I did not underwrite a guarantee that every Senator would read them; I expressed the hope they would.

Mr. STENNIS. I share the Senator's hope, but I point out that this subject will not be analyzed or weighed or considered as the subject matter and the constitutional questions involved require. I commend the Senator highly for his fine address.

I have another point or two to make on the question of due process of law, but I will reserve them until the Senator takes the floor again.

TRAFFIC IN OBSCENE MATTERS AND MATERIALS — ADDITIONAL COSPONSOR OF JOINT RESOLUTION

Mr. SCOTT. Mr. President, at the next printing of the joint resolution (S.J. Res. 160) to provide for a conference consisting of Federal, State, and local officials, and members of public and private groups or organizations to consider and propose methods of, and to coordinate action for, combating the traffic in obscene matters and materials, introduced by me on February 15, 1960, and cosponsored by a number of other Senators, I ask unanimous consent that the name of the Senator from Colorado [Mr. CARROLL] be added as a cosponsor.

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

RECESS TO 10:30 A.M. TOMORROW

Mr. JOHNSON of Texas. Mr. President, pursuant to the order previously entered, I move that the Senate stand in recess until 10:30 o'clock tomorrow morning.

The motion was agreed to; and (at 10 o'clock and 12 minutes p.m.) the Senate recessed, under the order previously entered, until tomorrow, Wednesday, February 24, 1960, at 10:30 o'clock a.m.

NOMINATIONS

Executive nominations signed February 22, and received by the Senate February 23 (legislative day of February 15), 1960:

ATOMIC ENERGY COMMISSION

Robert E. Wilson, of Illinois, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1960, vice Harold S. Vance, deceased.

Robert E. Wilson, of Illinois, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1965.

U.S. AIR FORCE

Maj. Gen. Albert Meldrum Kuhfeld, 884A (brigadier general, Regular Air Force), U.S. Air Force, for appointment as the Judge Advocate General, U.S. Air Force, for a period of 4 years beginning April 1, 1960, in the permanent grade of major general in the Regular Air Force. This nomination is made under the provisions of section 8072, title 10, United States Code.

HOUSE OF REPRESENTATIVES

TUESDAY, FEBRUARY 23, 1960

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore, Mr. MCCORMACK.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

FEBRUARY 23, 1960.

I hereby designate the Honorable JOHN W. MCCORMACK to act as Speaker pro tempore today.

SAM RAYBURN,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Romans 12: 10: *Be kindly affectioned one to another with brotherly love.*

O Thou who art the God and Father of us all, grant that in this Brotherhood Week we may understand more clearly that the question, "Am I my brother's keeper?" must be answered conclusively in the affirmative.

We rejoice that in Thy great love Thou hast mercy and compassion upon our confused humanity with its bigotry and prejudice, its blindness and misunderstanding.

May we always look upon the frustrated souls of men and nations with sympathy and give us the insight to see the wonderful possibilities in those whom we so frequently misjudge and condemn.

Show us how we may walk and work together in the ways of friendship and build a social order in which there is blessedness for all mankind in its search and struggle for a freer and fuller life.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries, who also informed the House that on the following date the President approved and signed bills of the House of the following titles:

On February 20, 1960:

H.R. 8171. An act amending the act of February 20, 1931, as amended, with respect to a rail transit crossing across the bay of San Francisco; and

H.R. 9664. An act to stabilize support levels for tobacco disruptive fluctuations and to provide for adjustment in such levels in relation to farm cost.

MISSILE LAG

Mr. PRICE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

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

There was no objection.